

## RESOLUTIONS -- 2003

Resolution Number	Date Signed	Name
1-2003	02-24-03	Planning Commission – operations (terms, etc)
2-2003	02-24-03	Bus Purchase – Senior – CDOT
3-2003	02-24-03	Bus Purchase – Senior - CDOT
4-2003	04-28-03	Plumbing Code
5-2003	06-23-03	Fire Ban – canc Res 8-2002
6-2003	07-21-03	Enterprise Zone Contribution Proj –SWMH
7-2003	08-25-03	Fire Ban Suspended
8-2003	09-15-03	Referendum A – oppose
9-2003	09-15-03	World Class Aerial Tramway Mesa Verde – support
10-2003	09-22-03 (10-20-03)	Amendments to Land Use Code
11-2003	10-13-03	Amendment 32 – support
12-2003	10-27-03	LEAF – (Law Enforcement Assistance Fund)
13-2003	12-08-03	Budget – Supplemental Budget & Appropriation-2003
14-2003	12-08-03	Budget – To Adopt a Budget – 2004
15-2003	12-08-03	Budget – To Set Mill Levy - 2004
16-2003	12-08-03	Budget – To Appropriate Sums of Money – 2004
17-2003	12-15-03	Amending Res Nos. 2-98, 12-2002, 4-2002, 10-2003

RESOLUTION No. 18-2003

MONTEZUMA COUNTY

*Resolved*  
AN ORDINANCE AUTHORIZING THE BOARD PRESIDENT TO ENTER INTO AN AGREEMENT WITH THE STATE DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSPORTATION DEVELOPMENT, FOR THE PROVISION OF PUBLIC TRANSPORTATION SERVICES IN NONURBANIZED AREAS.

*Resolved* *Commissioner*  
BE IT ORDERED BY THE BOARD OF DIRECTORS OF MONTEZUMA COUNTY.

Section 1. The Board of Montezuma County finds:

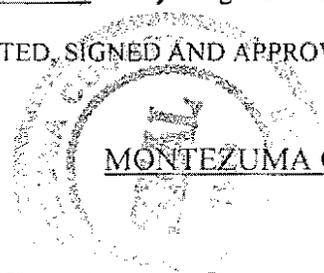
- A. It has the power to enter into agreements with the State of Colorado; and,
- B. The State of Colorado, State Department of Transportation, Division of Transportation Development, has obtained certain unencumbered Federal funds for the provision of public transportation services in non urbanized areas; and
- C. The State Department of Transportation, Division of Transportation Development, is responsible for the disbursement of these funds; and
- D. Montezuma County is desirous of obtaining said funds for the provisions of public transportation services to residents of, and has filed an application with the State for this purpose; and,
- E. Montezuma County desires to accept the funds for such services pursuant to the conditions of the agreement; and,
- F. Montezuma County desires to work together with the State Department of Transportation to effect said services as provided in the agreement.

Section 2. Montezuma County hereby approves the attached contract between Montezuma County and the State Department of Transportation, agrees with the terms and conditions stated therein, and authorizes its president to sign said contract.

Section 3. Montezuma County hereby obligates the local fund share of \$ 21,691.00, as required by Exhibit A.

PASSES AND ADOPTED, SIGNED AND APPROVED THIS 22nd DAY OF Dec, 2003

ATTEST:



MONTEZUMA COUNTY

*Nelda Jenkins, Deputy*  
Secretary Clerk

By: *Gene E. [Signature]*  
President

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

STATE OF COLORADO:

Montezuma County

**GOVERNOR**

By \_\_\_\_\_

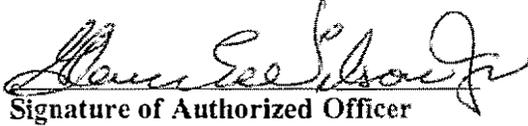
**Legal Name of Contracting Entity**

**Executive Director**

846000786 G

Department of Transportation

**Social Security Number or FEIN**

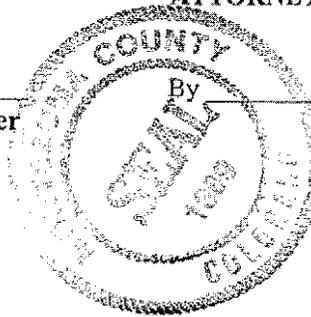
  
Signature of Authorized Officer

LEGAL REVIEW:

\_\_\_\_\_  
**ATTORNEY GENERAL**

Glenn E. Wilson Jr. Chairman

**Print Name & Title of Authorized Officer**



CORPORATIONS:

(A corporate attestation is required.)

Attest (Seal) By Hilda Jenkins Deputy  
(Corporate Secretary or Equivalent, or Town/City/County Clerk)

(Place corporate seal here, if available.)

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

STATE CONTROLLER:

\_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

Effective Date: July 1, 2003

# STATE OF COLORADO

Department of Transportation  
Transit Unit, EP 1606  
4201 East Arkansas Avenue  
Denver, CO 80222-3400  
(303) 757-9771  
Fax (303) 757-9727  
eric.t.ellis@dot.state.co.us



November 17, 2003

Dear Grantee:

Enclosed is one copy of the contract ("Agreement") for Section 5311 and/or 5310 funds awarded to your organization for 2004. I have enclosed one complete copy of the contract, which you may retain for your records until an executed contract is returned. By not providing all three copies of the full contract, we cut down on the volume of mail.

Please return three signature pages with original signatures from your agency. Please note that this is a new signature page. Also, return three resolutions with original signatures from your agency. Please note that this is a departure from the past when copies of the resolution were sufficient. I have enclosed a SAMPLE resolution for your reference. These are a required part of the contract. Without the signature pages and resolutions, I cannot forward the contract for signing at CDOT.

The signature pages and resolutions must be signed by the highest elected official (Mayor, County Commissioner, Chairman of the Board, President, etc.) authorized to sign for your organization. (If a staff member signs, we must have adequate documentation submitted that the person is authorized to sign for the organization.) This should be the same person or position that signed the 2004/2005 application. Please be sure they have that person's signature "ATTESTED". See the left side of the signature page directly under the signature.

List your formal corporate/agency name under "CONTRACTOR" on the left side signature page. Please call me if your corporate/agency name is different from what is listed on page 1 of the enclosed contract. Please check to see that the FEIN number matches the corporate/agency name and address. This is where the reimbursement check will be sent.

Be sure to carefully review the entire Scope of Work (Exhibit A), for this is the work you are responsible for performing under this contract. Once I have received the signature pages and resolutions, I will forward to the appropriate State representatives for their signatures. Once that process is complete, the State will fill in the execution date at the top of page 1 and I will return one original executed contract to you.

Please contact me with any questions.

Sincerely,

Eric Ellis  
Transit Grants Coordinator  
Enc.

**THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTEZUMA  
STATE OF COLORADO**

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 15th day of December, 2003, with the following persons in attendance:

Commissioners:	H. Dewayne Findley, J. Kent Lindsay and Glenn E. Wilson, Jr.
Commissioners Absent:	
County Attorney:	Bob Slough
County Administrator:	Thomas J. Weaver
County Clerk:	Nelda Jenkins, Deputy Clerk

the following proceedings, among others, were taken:

**RESOLUTION No. 17-2003**

**A RESOLUTION AMENDING RESOLUTION NOS. 2-98, 12-2000, 4-2002 and 10-2003  
THE MONTEZUMA COUNTY LAND USE CODE**

**WHEREAS**, the Montezuma County Land Use Code was adopted on the 20<sup>th</sup> day of July, 1998, and

**WHEREAS**, the Montezuma County Land Use Code was amended on the 6<sup>th</sup> day of November, 2000 by Resolution No. 12-2000, and subsequently amended on the 8<sup>th</sup> day of April, 2002 by Resolution No. 4-2002, and the 15<sup>th</sup> day of September, 2003 by Resolution No. 10-2003, and

**WHEREAS**, on Thursday, October 23, 2003, during a regularly scheduled Planning Commission meeting, the Montezuma County Planning Commission certified to the Board of County Commissioners proposed amendments to said Land Use Code, and

**WHEREAS**, it has become necessary to amend said Land Use Code as per Addendum dated December 15, 2003, attached hereto.

**NOW, THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Montezuma County as follows:

**MONTEZUMA COUNTY LAND USE CODE**  
**Date Amended: December 15, 2003**

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**1101 General.**

**1101.1 Short Title.** This Resolution may be cited and referred to as the “Montezuma County Land Use Code, the “Land Use Code”, or the “Code”. Individual sections of this Land Use Code may have short titles which are generally applicable to the regulations contained in those sections.

**1101.2 Authority.** This Land Use Code is adopted pursuant to 24-65-101 et seq., C.R.S., as amended (Colorado Land Use Act); 24-67-101 et seq., C.R.S., as amended (PUD Act of 1972); 25-1-611 C.R.S., as amended (Health Regulations); 29-20-101 et seq., C.R.S., as amended, (Local Government Land Use Control Enabling Act); 30-11-101 et seq., C.R.S., as amended, (County Powers); 30-28-101 et seq., C.R.S., as amended, (County Planning and Building Codes, Zoning, and Subdivision Regulations); 30-28-401 et seq., C.R.S., as amended, (Cluster Development); and all other applicable laws.

**1101.3 Application.**

**A.** This Land Use Code shall apply to all land in the unincorporated areas of Montezuma County. After the adoption of this Code it shall be unlawful for any person to change the use of land or subdivide property in the unincorporated areas of Montezuma County except in compliance with this Code. The approval or denial of a plat, plan, or agreement shall be supported by written findings.

**B.** Because the Dolores River Valley is the primary water source for the People in the Town of Dolores, the City of Cortez, and much of the unincorporated areas of Montezuma County, it is absolutely essential that the quality of the water in the Dolores River be preserved. Therefore, to preserve said water quality it is necessary that some of the generally applicable regulations in this Land Use Code be modified for application in the Dolores River Valley. Said regulations as so modified shall govern development in the Dolores River Valley. For the purposes of this Land Use Code, the Dolores River Valley is the geographical area delineated by the Dolores River Valley Map marked Exhibit 1, attached hereto and made part hereof. Said area shall hereinafter be referred to in this Land Use Code as the Dolores River Valley.

**1101.4 Vested Rights.** A vested property right shall be deemed established with respect to any property upon final approval, with or without conditions, of a site specific development plan following notice and public hearing as provided in 24-68-101 et seq., C.R.S., as amended, and this Resolution. “Site specific development plan” means a final subdivision plat or planned unit development plan or High Impact Permit as provided in this Resolution. Zoning is not part of a “site specific development plan” and shall not create any vested property rights. Publication of notice of the site specific development plan approval and creation of a vested property right shall be in accordance with 24-68-103 et seq., C.R.S., as amended. A property right which has been vested shall remain vested as provided by 24-68-104 et seq., C.R.S., as amended, subject to forfeiture as provided in 24-68-103 et seq., C.R.S., as amended.

**1201 Function of Threshold Standards.** One of the major objectives of the Comprehensive Land Use Plan is to protect the rural character of the County through the enactment of development regulations appropriate for rural areas. This objective is addressed by a Landowner-Initiated Zoning system and a complementary High Impact Commercial and Industrial Permitting system, which are combined in this Land Use Code.

The Threshold Standards represent the maximum levels of development or impacts from land use activities that may occur without the approval of the County through a permitting and public hearing process. The Threshold Standards assure landowners that surrounding land uses will not exceed the established standards, unless appropriate mitigation measures have been considered and applied. Some Threshold Standards may be relaxed through the permit review process based on existing or proposed surrounding land uses.

In the Landowner-Initiated Zoning system, zoning designations are created that are based generally on lot sizes ranging from 3 acres to 80+ acres. The Threshold Standards are applied to the zoning system, but certain standards are relaxed through the definitions of the zoning designations as parcel sizes increase, reflecting the general nature of agricultural uses located on larger parcels.

Most importantly, the Threshold Standards provide continuity between the primary elements of the Land Use Code, including the High Impact Permitting system, the Landowner-Initiated Zoning system, Planned Unit Developments, and the Montezuma County Subdivision Regulations.

**1202 Threshold Standards Established.** The following represent the Threshold Standards for **all** development in the unincorporated areas of Montezuma County. They apply unless a different Threshold is established in an applicable zoning category or other development approval under these regulations. These standards are designed to ensure that development does not cause significant adverse impacts on other property in the area or conflict with applicable provisions of this Code. A significant adverse impact shall be any impact that creates an increased risk to the health, safety or welfare of the citizens of the County, a significant reduction in neighboring property values, or other unfavorable or harmful consequences.

**Site, Lot and Building Standards**

1	Minimum lot size	<ul style="list-style-type: none"> <li>♦ 3 acres</li> <li>♦ 10 acres within the Dolores River Valley</li> </ul>
2	Maximum Building Height	♦ 35 feet
3	Maximum Building Footprint	♦ Maximum building footprint overall shall not exceed 12 percent of the lot size.

4	Building setbacks	<ul style="list-style-type: none"> <li>♦ Primary Residence: 50' from County road and State Hwy. Rights-of-way 50' from lot lines or interior subdivision roads</li> <li>♦ Commercial/Industrial use: 50' from County road and State Hwy. Rights-of-way 50' from residential lot lines</li> <li>♦ Within the Dolores River Valley: All new commercial and residential construction, including I.S.D.S, set back 100' from existing stream bank.</li> </ul>
5	New Construction and Remodeling for Commercial/Industrial And Public Buildings	♦ All new construction and remodeling of commercial and industrial use buildings and public buildings must be built according to the Uniform Building Code, 1997 Edition.
6	Livestock Fencing	♦ Adequate to protect from livestock encroachment. See 5103.2(c)
7	Protection of Normal Agriculture Operations	♦ No significant adverse impacts on normal agriculture operations. See 5103.2
8	Outdoor Storage and/or Fabrication areas	<ul style="list-style-type: none"> <li>♦ Appropriate screening may be required</li> <li>♦ Merchandise displays are exempt</li> </ul>

### Road, Traffic, Parking and Access

9	Roads	♦ All interior roads built to County road standards. See 5105.3.B.
10	Parking/Access/Loading Areas	<ul style="list-style-type: none"> <li>♦ Adequate for intended use such that traffic flow and circulation are not impeded. See 5103.4.D</li> <li>♦ Approved County or CDOT highway access permit.</li> </ul>
11	Traffic	♦ Less than 15 vehicle round trips per business day.

### Health, Safety and Welfare

12	Water	♦ Proof of availability and adequate flow. See 5105.3.G.
13	Sanitary Sewer Disposal	♦ Proof of acceptance by Health Dept. for intended use (approved ISDS permit) See 5105.3.F.
14	Stormwater Control and Site Drainage	♦ No adverse impacts on any County road, state highway or adjacent land use. See 5105.3.H.
15	Solid Waste -garbage, refuse, sludge and other discarded material	<ul style="list-style-type: none"> <li>♦ Proof of disposal service</li> <li>♦ No materials transferred off-site by natural forces</li> <li>♦ No on-site burning <b>except</b> for contained flammable domestic waste or as part of an agricultural operation or weed control program.</li> </ul>
16	Fire and Wildfire Protection	♦ Letter of adequacy from responsible fire district may be required. See 5105.2.
17	Law Enforcement and Emergency Service	♦ Letter of adequacy from law enforcement and/or emergency service provider may be required.
18	Floodplain	♦ Compliance with the Montezuma County Floodplain Resolution No. 1-91 and completion of a Floodplain Development Plan Permit, where applicable.
19	Geologic and Natural hazards	♦ Identification and avoidance or mitigation of potential hazards. See 5105.2.
20	Public Facilities for Outdoor Recreation Facilities, Camp and RV Parks and Mobile Home parks	♦ Adequate restroom: one men/women set plus one extra sink and stall per 100 weekly peak season visitor. See 4108.5.A.

## Nuisance Standards

21	Operational Electric Disturbances	<ul style="list-style-type: none"> <li>• No detrimental effects such as radio and television interference beyond the boundaries of the site.</li> </ul>
22	Fire and Explosive Hazards	<ul style="list-style-type: none"> <li>• National Fire Protection Association standards and any other fire code or standard employed by the appropriate fire district apply.</li> </ul>
23	Glare and Heat	<ul style="list-style-type: none"> <li>• Must be contained, enclosed or treated to make glare and heat imperceptible from any point on the boundary line.</li> </ul>
24	Lighting	<ul style="list-style-type: none"> <li>• All direct rays confined to site and adjacent properties protected from glare.</li> </ul>
25	Noise	<ul style="list-style-type: none"> <li>• Volume less than 70 decibels at any point on any boundary at any time as established by 25-12-101, et seq. C.R.S., as amended.</li> <li>• Adjacent to residential areas: not to exceed 55 decibels at any point on the boundary line between 7:00pm -6:59am.</li> <li>• Noise from normal agricultural operations is exempt .</li> <li>•</li> </ul>
26	Vibration	<ul style="list-style-type: none"> <li>• Not perceptible, without instruments, at any point on any boundary line.</li> </ul>
27	Odors	<ul style="list-style-type: none"> <li>• Not perceptible at property boundaries.</li> <li>• Agriculture operations: no violation if the best practical maintenance, and control available is being used to maintain the lowest possible emission of odors.</li> </ul>
28	Dust, Smoke and Particulate	<ul style="list-style-type: none"> <li>• Dust and Fumes: None beyond property line (Dust control of County roads at expense of operator may be required)</li> <li>• Particulate matter: Less than 0.2 grain/cf flue gas at 500F stack temperature.</li> <li>• Smoke: USEPA Regulations: Opacity System, Method 9.</li> <li>• Agriculture operations: no violation if the best practical maintenance, and control is being used.</li> <li>•</li> </ul>
29	Radioactivity	<ul style="list-style-type: none"> <li>• Subject to State and Federal Regulations</li> </ul>
30	Water Pollution	<ul style="list-style-type: none"> <li>• Subject to State and Federal Regulations</li> </ul>
31	Noxious Weeds	<ul style="list-style-type: none"> <li>• Compliance with State (35-5.5-101 et seq. C.R.S. as amended) and Montezuma County Comprehensive Weed Management Plan Resolution No. 4-93, as amended.</li> </ul>
32	Other Significant Adverse Impacts	<ul style="list-style-type: none"> <li>• Pertaining to the Health, Safety and Welfare of the Citizens of Montezuma County</li> </ul>

**1301 Permits Required.** No person may change the use of land or enlarge an existing use in a manner that exceeds the Threshold Standards within the unincorporated areas of Montezuma County without first obtaining a Permit or Waiver pursuant to these regulations or other development approval under the Land Use Code, except as specifically exempted from this Permit requirement. These exemptions apply only to the Permit regulations contained in **Chapter 3**. The applicant for such approval must be the owners of the land or their authorized agent. Any such agent must have express written authority to act on behalf of the owner.

**1301.1 Exemptions.** The following land uses are exempt from the Permit requirement under this Land Use Code, provided that nothing in these regulations exempts an applicant from any other County requirements or from other local, state or federal requirements:

- A. Normal agricultural operations as protected by Montezuma County Right-to Farm policies and state laws.
- B. Localized agricultural water distribution systems.
- C. Land uses existing at the time of adoption of these regulations that would otherwise exceed the Threshold Standards and/or constitute a High Impact Development, unless the degree of adverse impact increases materially after the adoption of these regulations.
- D. Telecommunication equipment exempted from local regulation by the Federal Telecommunications Act of 1996.
- E. Road improvement projects by governmental entities.

**1301.2 Determination of Permit Requirement.** If there is any uncertainty or disagreement about a permit requirement for a proposed project, the County may determine through the Waiver Process whether the proposed project constitutes a High Impact Development project for which a permit requirement applies. This determination may be initiated at the request of the developer or the County.

**1301.3 All Phases Considered.** If a project is to be phased over time, it cannot be segmented to avoid the requirements of these regulations.

**1301.4 Subdivision and Planned Unit Development (PUD) Covenants Considered.** The primary responsibility for the enforcement of subdivision and planned unit development covenants is the responsibility of lot owners or associations established on their behalf. The County will, however, consider subdivision and PUD covenants in reviewing High Impact Waiver Petitions and High Impact Permit Applications. Waiver Petitions and Permit Applications which violate properly recorded subdivision or planned unit development covenants shall not be approved without the signatory consent of all lot owners within the PUD or subdivision.

**2101 General Provisions.**

**2101.1 Short Title.** The regulations contained in this section may be cited as the “High Impact Permit Regulations” or the “Permit Regulations”.

**2101.2 Purposes.** The general purpose of the Permit Regulations is to facilitate the identification, designation, and regulation of High Impact Development projects in the unincorporated areas of Montezuma County. This process will ensure compatibility of commercial and industrial uses with surrounding land uses. The specific purposes of these regulations are:

- A. To protect and strengthen the established industries of agriculture, commerce, industry, tourism, recreation, and to protect property values.
- B. To protect and strengthen the economic viability of the private and governmental sectors of the County;
- C. To regulate development that would otherwise cause excessive noise, water or air pollution;
- D. To ensure, to the maximum extent practicable, that growth will pay for itself, and that the present residents do not have to subsidize new growth and development;
- E. To ensure that High Impact Development projects are sited, constructed, developed and operated in a manner that is consistent with the land use policies and regulations of Montezuma County.
- F. To protect the rural character and visual and aesthetic resources of the County and to protect the health, safety, and welfare of the people of the County and the State of Colorado.

**2101.3 Scope.** This Chapter 2 applies to **all** commercial and industrial land uses in the unincorporated areas of Montezuma County. Proposed development projects or existing land uses that comply with these standards may verify compliance through a Permit Application granted by the County. Proposed development projects that exceed the Threshold Standards, or by definition constitute a High Impact Development Project shall apply for a Permit or Waiver as required under these regulations.

**2101.4 High Impact Development** is a commercial or industrial development, including all of its components and associated elements, involving any construction, activity, and/or ongoing operation that (a) changes the basic character or the use of the environment in which the construction, activity, or operation occurs, (b) exceeds the Threshold Standards of these regulations, or (c) involves either:

- Any commercial or industrial use that will generate a total of 15 or more round trip vehicle trips per operating day.
- Any multi-family residential development consisting of 3 or more dwelling units.
- Proposed projects involving outdoor recreation facilities, campgrounds and RV Parks, and Mobile Home Parks.
- If an existing land use already exceeds the Threshold Standards, a change or expansion that produces a measurable change of over 10 percent from the existing conditions regarding any Threshold Standard category.

- A major extension of an existing domestic water or wastewater treatment system, or a new water or waste water treatment system.
- Major facilities of a public or private utility; major pipelines and power lines; gravel and mining operations, oil and gas drilling, pumping disposal, gathering and transmission facilities, including coal bed methane and CO<sub>2</sub>, public or private landfills, waste disposal sites, salvage yards, and communication towers.
- Development that would cause excessive noise, water pollution, or air pollution; and development resulting in visual impacts that would substantially degrade property values.
- Projects that involve significant impacts that go beyond the surface and boundaries of the parcel owned by the applicant.

## **2102 Urban Influence Restrictions.**

**2102.1 One-Mile Area:** Some business uses may be prohibited within one mile of a municipality, in accordance with 31-15-501 (1)(a) C.R.S., as amended.

**2102.2 Three-Mile Area:** Development may be required to conform to a major street plan of a municipality, in accordance with 31-23-212, et seq., C.R.S., as amended.

**2201 Permit Application Procedure.** Any landowner may voluntarily submit to the County a completed Permit Application certifying to the County that the current or proposed commercial or industrial land use is in compliance with the Threshold Standards. The Permit Application notifies the County of the land use and protects the landowner from unwarranted criticism or complaints from neighbors if the use is within the Threshold Standards.

Permit Applications filed with the County shall be available for public inspection during regular business hours. If complaints are received by the County based on existing or changed land uses, the actual land use conditions and Permit Application may be reviewed by the County to determine whether a High Impact Permit application or Waiver Petition shall be submitted by the landowner.

No landowner is required to submit a Permit Application if their land use falls within the Threshold Standards. Failure to have an approved Permit Application shall not affect the review of such use if a complaint is later made about the use or if the owner applies for another type of development permit or approval.

**2201.1 Permit Application Submittal Requirements.** Landowners who wish to obtain a Permit Application shall complete the form provided by the County and submit it with a site plan or map illustrating the property with current and proposed uses and structures. If the Permit Application involves a lot within a subdivision or planned unit development a copy of properly recorded covenants shall be submitted with the application. County staff will review the Permit Application.

**2201.2 County Commissioner Action.** Staff recommendations for Permit Applications exceeding the threshold standards will be a regular agenda item for County Commissioner meetings. If the County Commissioners determine that a High Impact Permit process is warranted, and should be forwarded to the Planning Commission, specific reasons shall be stated in writing.

**2201.3 Decision Criteria.** The decision of the County Commissioners shall be based on whether the information submitted and other information available to the County indicates compliance with the Threshold Standards and any recorded subdivision or planned unit development covenants.

**2201.4 Effect of Denial.** If the Permit Application is denied by the County Commissioners the applicant shall comply with the Permit or Waiver process or other development approval in order to continue pursuing the change in land use. All denials must be supported by written findings specifying the provision of this Code that the plat, plan or agreement failed to address or satisfy.

**2202 Waiver Petition and Procedure.** Whenever (a) it is uncertain as to whether a commercial or industrial land use or change in land use should be reviewed under these regulations, or (b) a change in land use or an enlargement of existing uses that will result in only minor impacts beyond the Threshold Standards, and those impacts are mitigated, the developer may request, on their own initiative or in response to a request from the County Commissioners, a Waiver of specific Threshold Standards.

If no significant adverse impacts are apparent, based on a review of the Waiver Petition, the County may grant a Waiver of certain Threshold Standards and allow the applicant to proceed with the activity, change in land use, or enlargement of existing uses without a High Impact Permit, with or without special conditions. The County

may also allow the applicant to proceed or operate under limited conditions under a Waiver and require the applicant to apply and obtain a High Impact Permit within a certain time. The following procedure is required to obtain a Waiver:

**2202.1 Waiver Petition.** The petitioner shall submit a Waiver Petition to the County Commissioners in compliance with the requirements listed in **2203**.

**2202.2 Planning Commission Review and Recommendations.** The Waiver Petition will be referred to the Planning Commission for review at a regular Planning Commission meeting. The Planning Commission will review the application and forward any recommendations to the County Commission.

**2202.3 Decision Criteria.** The decision of the County Commissioners shall be based on the following:

- A. Whether the information submitted and other information available to the County indicates compliance with the Threshold Standards.
- B. Whether any minor or significant deviations from the Threshold Standards have been accurately identified.
- C. Whether any minor or significant deviations from Threshold Standards have been mitigated to adequately reduce significant adverse impacts on surrounding property owners and the County.
- D. Whether Waiver Petitions involving lots within an existing Subdivision or are in compliance with recorded covenants.

**2202.4 Effect of Denial of a Waiver Petition.** If the Waiver Petition is denied by the County Commissioners the applicant shall comply with the full High Impact Permit process in order to continue pursuing the activity or change in land use. All denials must be supported by written findings specifying the provision of this Code that the plat, plan or agreement failed to address or satisfy.

## **2203 Waiver Petition Submittal Requirements.**

**2203.1 Petition.** A Waiver Petition shall include the following information, if applicable:

- A. The names, addresses, and contact information for the applicant, and, if different, the owner and/or operator of the change in land use.
- B. A current, completed Permit Application, summarizing the level of compliance with each Threshold Standard.
- C. A copy of any recorded subdivision or planned unit development covenants and a statement indicating compliance of the change in land use with those covenants.
- D. A general site plan and any preliminary plans, specifications, and design criteria or other documentation for the change in land use as are available, sufficient to indicate the level of compliance with the Threshold Standards and any recorded subdivision or planned unit development covenants.
- E. Tentative planning, permitting, construction, operating schedules, estimated life of the change in land use and other information as applicable to ongoing activities.
- F. A list of all other federal, state, and local permits that will be required, and/or documentation of other permits already obtained, for the change in land use, together with any proposal for coordinating these approvals with the County permitting process.

- G. A general statement of any minor and significant adverse impacts resulting from the change in land use and actions taken, or proposed efforts, to mitigate impacts exceeding the Threshold Standards.

**2204 High Impact Permit Public Hearing and Review Procedure.** When a change in land use will exceed Threshold Standards, and a Waiver Petition has not been approved, a High Impact Permit is required, subject to the following procedure.

**2204.1 High Impact Permit Application.** A High Impact Permit Application shall be submitted in accordance with **2205.1 and 2205.2.** For projects involving the potential of highly significant impacts as defined in **2205.3,** further requirements may be specified in accordance with **2205.4.** When the application is complete it shall be submitted to the County Commission, who will forward it to the Planning Commission.

**2204.2 Planning Commission Review and Recommendations.** At a regular Planning Commission meeting, the Planning Commission will review the application and forward recommendations to the County Commission. This is not a formal hearing, but the Planning Commission may take public comments and consider them in formulating recommendations.

**2204.3 Public Hearing Before the County Commission.**

- A. **Notice of Public Hearing.** Upon receipt of recommendations from the Planning Commission, the County Commission may hold a public hearing in accordance with **6101.1, Notice of Public Hearing** of this Code.
- B. **Focus of Public Hearing.** The public hearing will focus on submittals, Planning Commission recommendations, Findings of Fact and Decision Criteria as specified in **2205** along with oral comments made at the public hearing as well as written comments received at, or prior to, the public hearing.
- C. **Option to Continue Public Hearing or Schedule Additional Hearings.** Where the complexity of the issues, or the need for additional information warrant, the County Commission may continue the public hearing to a date certain, or schedule additional public hearings.
- D. **Rendering a Decision.** Upon recommendation of the Planning Commission or completion of the public hearing process, the County Commission shall render a decision on the High Impact Permit Application based on the Decision Criteria in **2205.5.**

**2205 High Impact Permit Submittal Requirements.** The High Impact Permit application shall include, but not be limited to, the following:

**2205.1 General Requirements.**

- A. The names, addresses, and contact information for the owner or representative of the owner.
- B. A current, completed Permit Application, summarizing the level of compliance with each Threshold Standard and any recorded subdivision or planned unit development covenants.
- C. A site plan, including a vicinity map, indicating to the extent feasible, compliance with the applicable Threshold Standards.
- D. Detailed plans and specifications of the change in land use and conceptual or detailed plans for any potential enlargement of the development or land use.

- E. If the permit application concerns an enlargement of an existing use, the past history and expansion of the use.
- F. A list of the status of all other federal, state, and local permits and approvals that will be required for the change in land use, together with any proposal for coordinating these approvals with the County permitting process.
- G. A description of the public facilities required by the change in land use and evidence of service or specific proposals for providing facilities not currently available.
- H. Descriptions of those adverse impacts resulting from the change in land use which are not mitigated and which are irreversible and irretrievable.
- I. The applicant shall provide copies of the entire packet for distribution to appropriate reviewing agencies.

**2205.2 Mitigation Plan.** The application shall include a summary plan mitigating significant adverse impacts for the proposal, as applicable:

- A. Plans for mitigating conditions that exceed the Threshold Standards during its construction and operation.
- B. Plans for winding down activities and service and facility demands:
  1. When the construction and/or operation of the project is complete,
  2. In the event that the project is suspended or terminated prior to completion, and
  3. For controlling, restoring, and remediation of any impacts that will continue after the construction and/or operation of the change in land use is complete.
- C. Plans for controlling and remediation of hazardous, toxic, and explosive substances that are used, stored, transported, disturbed, or produced in connection with the change in land use;
- D. Plans for monitoring the effectiveness of the mitigation measures;
- E. A description of how and when the mitigation plan will be implemented and financed; and
- F. Performance Bonds, as cited in **5405.3 Improvement Agreements and Security.**

**2205.3 Additional Requirements for Projects Involving the Potential of Highly Significant Impacts.** If the scope and magnitude of the project involves significant impacts that go beyond the surface and boundaries of the parcel owned by the applicant, the applicant shall address any aspects of the change in land use listed below. Projects involving the potential for highly significant impacts also include, but are not limited to:

- major facilities of a public or private utility,
- major pipelines and power lines,
- gravel and mining operations,
- oil and gas drilling,
- pumping, disposal, gathering and transmission facilities, including coal bed methane and CO<sub>2</sub>,
- public or private landfills,
- waste disposal sites,
- salvage yards,
- communication towers,

- development that would cause excessive noise, water pollution, air or soil pollution, and
- development resulting in visual or other impacts that would substantially degrade property values.

**2205.4 Further Requirements.** Any or all of the following may be required in the form of maps, narrative descriptions, photographs, data and studies to determine the nature and extent of potential highly significant impacts:

- A. Major Facilities of a Public or Private Utility and other Pipelines and Power lines.** Description of:
1. Sources of power being generated or commodities being transported.
  2. Voltage and lengths of power lines, locations and sizes of substations, towers and other facilities.
  3. Diameters and lengths of pipelines and location, sizes, and noise levels of compressor stations and other facilities.
  4. A map of corridor locations, right-of-way dimensions, parcel boundaries and owners, and residential and commercial structures within 100 feet of the corridor right-of-way.
- B. Surface and ground water:** Information on immediate and long term impacts on water quality and quantity.
- C. Floodplains, Wetlands, and Riparian Areas:** Information on the impacts of the change in land use.
1. In regard to gravel operations: a flood mitigation plan will be prepared as part of the reclamation plan for the gravel operations. The flood mitigation plan should address, at a minimum, the existing and post-mining areas of the floodplain; the location, type and size of any temporary or permanent levee systems; the location and quantity of material stockpiles; any temporary or permanent flood protection measures.
  2. Compliance with the Montezuma County Floodplain Resolution No. 1-91 and completion of a Floodplain Development Plan Permit, where applicable.
- D. Air Quality:** Information on impacts of the change in land use on air quality and visibility.
- E. Vegetation:** Information on potential wildfire hazards, and impacts on critical wildlife habitat.
- F. Agriculture and Grazing:** The potential for off-site impacts on the viability of crop production and grazing, including adverse impacts on irrigation and drainage patterns, resources, fences and existing facilities.
- G. Soils and Geology:** Information on natural hazards, unstable soils and the potential for significant soil erosion.
- H. Public Services and Facilities:** Description of the currently available capacities of public services and facilities, the added demand on public services and facilities relative to capacity, and how any deficiencies and added public costs resulting from the change in land use will be addressed.
- I. Property Rights:** Information on property rights that will be obtained, eliminated or impacted as a result of the change in land use including water rights, surface rights, mineral rights, rights-of-way and easements including the identity of property rights owners.

- J. **Wastewater Treatment:** A description of adverse impacts on waste water treatment facilities, disposal systems, and discharges as a result of the change in land use.
- K. **Socio-Economic Elements:** Information on socio-economic impacts of the change in land use which may include the appraisal of significant impacts on property values, as well as impacts on transportation, population, employment, local government revenues and expenditures, housing, education and social services.

**2205.5 Findings of Fact and Decision Criteria.** The Planning Commission shall make its recommendation and the County Commissioners shall render a decision on the proposed use based on the following:

- A. The proposed use is in conformity with the Code, and
- B. The proposed use shall not generate any significant adverse impacts on other property in the area and is consistent with this Code.
- C. Public utilities and services are available, or can be made available, to support uses consistent with the proposed zoning.
- D. If the applicant fails to meet these decision criteria, the permit shall either be approved with conditions, insuring compliance with the decision criteria, or it shall be denied.
- E. The validity of an approved permit is contingent on continued compliance with the performance standards and attached conditions. Permittees that do not maintain such compliance will be subject to suspension or revocation of the permit in accordance with these regulations.

**2205.6 Periodic Review.** Approved High Impact Permits will be subject to review if there is any change that exceeds the standards set forth in the permit.

**2205.7 Certification of Approval.** Notice of each permit approval will be certified by the County Commissioners to the County Clerk and Recorder for recording.

**2205.8 Approval or Denial of Plat.** The approval or denial of a plat, plan, or agreement shall be supported by written findings specifying the provisions, if any, that the plat, plan or agreement failed to address or satisfy.

**2206 Administrative Fees.** Administrative fees shall be charged in accordance with **7102** of this Code.

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## CHAPTER 3: LANDOWNER-INITIATED ZONING

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### Chapter 3 : Section 1 - General

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**3101 Landowner-Initiated Zoning.** Landowner-Initiated Zoning (LIZ) adapts conventional zoning concepts to the circumstances, values and goals of Montezuma County and relaxes certain Threshold Standards through the definition of the zoning designations. The Threshold Standards as defined for each zoning designation apply to all uses unless specifically defined.

**3101.1 Short Title.** The regulations in this chapter may be cited as "LIZ" or "Landowner-Initiated Zoning Regulations."

**3102 Purposes and Objectives.** This Code is drawn in accordance with the Montezuma County Comprehensive Land Use Plan and is designed for the purpose of promoting the health, safety and welfare of the present and future inhabitants of Montezuma County, including all purposes enabled under Colorado Revised Statutes.

**3102.1 Purposes.** Based on the recommendations in the Comprehensive Land Use Plan, the specific purposes of the Landowner-Initiated Zoning plan are to provide:

- A. A menu of agricultural and residential zones for landowners to choose from with lot sizes ranging up to 80+ acres.
- B. Development standards within each zone that take into account the impact of particular uses on the allowed range of parcel sizes, potential impacts on nearby uses, and any recorded subdivision or planned unit development covenants.
- C. Coordination with the High Impact Commercial and Industrial Permit systems. These are subject to the Threshold Standards which are designed to identify and mitigate high impacts to surrounding lands resulting from such uses.
- D. A voluntary zoning sign-up period of 12 months enabling landowners to select zoning designations, or remain unzoned, followed by review and approval by the County Commissioners.

**3102.2 Objectives.** Based on the recommendations of the Montezuma County Comprehensive Land Use Plan, the Landowner-Initiated Zoning system is designed to achieve the following objectives:

- A. **Landowner choice and responsibility.** Landowners will have the opportunity to make informed choices about the future of their land, while having the responsibility to abide by the standards of this Code, in order to mitigate any significant adverse impacts on other landowners and the County.
- B. **An incentive based approach to the preservation of Open Space and productive agriculture lands.** The LIZ zones provide incentives for the preservation of Open Space and the protection of productive agricultural lands while allowing for opportunities to develop and sell homesites.
- C. **Predictability concerning property rights.** Landowners who place their land in a LIZ zone will know what their development rights are and what standards will be required when they choose to develop. Landowners who choose to have their land remain unzoned may do so until they make a land use change that requires zoning, compliance with subdivision regulations, or a commercial and industrial permit, except those landowners in the AVR ES zone.

- D. Predictability concerning property values.** As landowners put their land into a LIZ zone, neighbors, potential buyers, and the public will know what kind of development to anticipate and be able to adjust expectations and plans accordingly.
- E. Opportunities to establish neighborhood goals and cooperation.** The opportunity will be provided for neighbors to work together to plan for the future of their neighborhoods.
- F. Predictability concerning the provision of infrastructure and services.** As zoning patterns are established, the County, utility and service providers, and others will be in a better position to plan for future development and to respond to growth in a more cost effective manner.

**3103 Application and Scope.** The zoning regulations contained in this section shall apply to all land in the unincorporated areas of Montezuma County.

**3103.1 Other Regulations.** Uses permitted by these regulations shall also be subject to provisions of other applicable County and state regulations.

**3103.2 Enforcement and Administration.** Unless as specified in this section, the provisions of this section shall be enforced and administered in accordance with **Chapter 7** and other applicable provisions of this Land Use Code.

**3104 Official Zoning Map.** The Official Zoning Map will be developed by the County. Existing subdivisions, as well as subdivision exemptions, will be designated on the Official Zoning Map as A/R ES (Agriculture/Residential Existing Subdivision). The A/R ES designation allows uses existing at the time that the Code is adopted to continue, notwithstanding the right of lot owners to enforce covenants through civil action. Uses undertaken after the adoption of this Code must comply with Threshold Standards, at a minimum, as well as subdivision covenants of record.

Land development applications processed during the sign-up period, including subdivision applications, will be required to concurrently zone the land pursuant to these regulations. A map of approved applications and the County designations as described above will comprise the Official Zoning Map of Montezuma County during the sign-up period. The Official Zoning Map, together with all data shown thereon, and all amendments thereto, are incorporated by reference into this Code.

**3104.1 Zone District Boundaries.** Except where otherwise indicated, zone designation boundaries shall follow existing parcel boundary lines.

**3104.2 Management and Maintenance of Official Zoning Map.** Changes in the boundary of any zone designation shall promptly be entered on the Official Zoning Map.

**3104.3 Location of Official Zoning Map.** The Official Zoning Map shall be located in the County Planning office with copies available for public reference.

**3105 Zoning Designations Established.** To carry out the purpose and provisions of these regulations, the following zoning designations are established (Specific standards for each zone are found in **Chapter 3, Section 3, Zoning Regulations**, and **Chapter 4, Section 1, Planned Unit Development-Authority, Purposes and Objectives**):

<b>3105.1 A-80+</b>	<b>Large Scale Agriculture</b>
<b>3105.2 AGZ</b>	<b>Agricultural Use</b>
<b>3105.3 A/R 35</b>	<b>Large Scale Agriculture and Residential</b>
<b>3105.4 A/R 10-34</b>	<b>Medium Scale Agriculture and Residential</b>
<b>3105.5 A/R 3-9</b>	<b>Small Scale Agriculture and Residential</b>
<b>3105.6 R-3</b>	<b>Rural Residential</b>
<b>3105.7 A/R ES</b>	<b>Existing Subdivision</b>
<b>3105.8 USZ</b>	<b>Urban Services Zone</b>
<b>3105.9 INDZ</b>	<b>Industrial Zone</b>
<b>3105.10 COMZ</b>	<b>Commercial Zone</b>
<b>3105.11 UNZ</b>	<b>Unzoned</b>
<b>3105.12 Planned Unit Development (PUD) Options:</b>	
<b>A. CIPUD</b>	<b>Cluster Incentive Planned Unit Development</b>
<b>B. MHPUD</b>	<b>Mobile Home and RV Park Planned Unit Development</b>
<b>C. INDPUD</b>	<b>Industrial Planned Unit Development</b>
<b>D. COMPUD</b>	<b>Commercial Planned Unit Development</b>
<b>E. GPUD</b>	<b>General Planned Unit Development</b>

**3106 Land Use Categories Defined.**

**3106.1 Agricultural Uses Defined.** Agricultural land use that involves cultivating the soil to produce and harvest crops or raise livestock, and the preparation, sale, and transportation of these products to the public market.

**A. Agricultural Primary Uses:**

- Farming and ranching activities
- Agricultural Buildings: barns, pole barns, sheds, equipment storage, animal shelters, to benefit a primary agricultural use
- Fish Hatchery
- Agricultural Tourism Uses: guiding, outfitting, stables and riding, theme farms, farm tours
- Agricultural Home Occupations: Retail or mail-order for farm products, canning, baking, crafts
- Timber Harvesting of on-site material
- Agricultural Facilities: Fencing, livestock feeding and handling, irrigation pipelines, ditches and structures, crop harvesting, processing, and storage facilities
- Noncommercial feedlots
- Nursery/Greenhouse/Truck farm: under 25,000 sq. ft. buildings and shelters
- Agricultural Land Stewardship: Erosion control, water impoundment, windbreaks, weed control, etc. to benefit a primary agriculture use
- On-farm agriculture product storage, packaging, transportation, shipping

**B. Agriculture Accessory Uses.** Normally incident to Agricultural Uses, may include, but not limited to:

- Primary single family residence
- Housing for ranch and farm operation family members and employees

**C. Commercial Agribusiness Uses:** may include, but are not limited to:

- Agricultural implements sales and service
- Animal sales and auction businesses conducting regular sales events that involve multiple customers
- Farm animal truck washing and cleaning
- Farm supply stores
- Fairgrounds and rodeo facilities
- Nursery / greenhouse / truck farm: 25,000 to 50,000 sq. ft. buildings and shelters
- Kennels / Animal shelters and enclosures for commercial purposes
- Veterinary clinics
- Retail outlet for agricultural products (25,000-50,000 sq. ft. building)

**D. Industrial Agribusiness Uses:** May include, but are not limited to:

- Commercial feed lot: 1000 animals or more
- Crop dusting operations and airstrip
- Dairy farm: based on Colorado Department of Health standards
- Meat processing facility
- Nursery / greenhouse / truck farm: over 50,000 sq. ft. buildings
- Slaughter house

**3106.2 Commercial Uses Defined.** A commercial use involves any type of business activity that is carried on for profit, but not including business or other activities defined as agricultural primary or accessory uses or industrial uses in these regulations. This definition does include Commercial Agribusiness Uses. For purposes of this Code commercial uses also include public and private institutional facilities.

**3106.3 Industrial Uses Defined.** An industrial use is a use that involves the operations of extraction, processing, assembly, fabrication, storage, repair, material handling, Industrial Agribusiness Uses, and other similar uses.

**3106.4 Residential Uses Defined.** Residential and Residential Accessory Uses are defined as follows:

**A. Residential Uses:**

- One primary single-family residence ; or,
- One mobile or modular home (subject to state and local standards); or
- One State-licensed group home for up to eight persons

**B. Residential Accessory Uses:**

- One guest or caretaker unit: Attached, 1,500 sq. ft. maximum, subject to the Montezuma County Individual Sewage Disposal System Rules and Regulations.
- Accessory outside storage
- Garages and carports
- Bed and breakfast
- Home occupation
- Domestic animals for family use and consumption
- Non-commercial telecommunications site
- Solar/Wind energy system for site use or utility service uses
- Gardens and orchards
- Stewardship practices

**3201 List of Zoning Designations Available for Selection.** The following zoning designations may be applied for subject to a public hearing before the Planning Commission, and recommendation by the same to the County Commissioners, in accordance with 30-28-116 et seq., C.R.S., as amended.

<b>3201.1</b>	<b>A-80+</b>	<b>Large Scale Agricultural</b>
<b>3201.2</b>	<b>AGZ</b>	<b>Agricultural Use</b>
<b>3201.3</b>	<b>A/R 35+</b>	<b>Large Scale Agricultural and Residential</b>
<b>3201.4</b>	<b>A/R 10-34</b>	<b>Medium Scale Agricultural and Residential</b>
<b>3201.5</b>	<b>A/R 3-9</b>	<b>Small Scale Agricultural and Residential</b>
<b>3201.6</b>	<b>R-3</b>	<b>Rural Residential</b>
<b>3201.7</b>	<b>USZ</b>	<b>Urban Service Zone</b>
<b>3201.8</b>	<b>INDZ</b>	<b>Industrial Zone</b>
<b>3201.9</b>	<b>COMZ</b>	<b>Commercial Zone</b>

**3202 Establishment of Criteria for Zoning Public Hearing.** On Monday, July 10, 2000, the Planning Commission recommended, and the County Commission approved, the following decision criteria for public hearings concerning zoning requests:

- A. Those landowners who applied for a zoning designation during the sign-up phase and are ready to initiate development or rezoning process, or
- B. Those landowners who did not previously zone their property and wish to zone or initiate a development plan.

**3203 Establishing Zoning or Rezoning.** Any landowner, or their authorized agent, may submit to the County a completed application for establishing zoning or rezoning.

**3203.1 Submittal Requirements.**

- A. **Application Form.** All zoning and rezoning permit applications shall be filed by the owner(s) of the subject parcel with the County on a form provided by the County. The owner may submit a letter designating an agent to act on their behalf in the application process.
- B. **Map.** A property location map.
- C. **Site Specific Development Plan**, where applicable, and
- D. **Fee.**

**3203.2 Public Hearing Before the Planning Commission.** A public hearing shall be set in accordance with **6101.1 Notice of Public Hearing** of this Code.

**3203.3 Findings of Fact and Decision Criteria.** The Planning Commission shall make its recommendation and the County Commissioners shall render a decision on the proposed use based on the following:

- A. The proposed use is in conformity with the Code, and
- B. The proposed use shall not generate any significant adverse impacts on other property in the area and is consistent with this Code.
- C. Public utilities and services are available, or can be made available, to support uses consistent with the proposed zoning.

**3204 Development of Landowner-Initiated Zoning Map of Montezuma County.** The Landowner-Initiated Zoning Map of Montezuma County was developed in the 12-month phase following the adoption of the Land Use Code, during which time landowners applied for zoning designations.

**3204.1 Official Landowner-Initiated Zoning Map Available for Public Review.** In order to continue to foster discussion and cooperation between landowners, the Landowner-Initiated Zoning Map is available for public review during regular business hours in the Planning Office at the County Courthouse.

**3204.2 Regular Update of the Official Landowner-Initiated Zoning Map.** The zoning applications as filed with the County shall be indicated on the Official Landowner-Initiated Zoning Map, which shall be updated on a regular basis.

**3205 Zoning Board of Adjustment.** The Board of County Commissioners shall appoint a Zoning Board of Adjustment to consider appeals of zoning decisions in conformance with 30-28-117 and 118, C.R.S., as amended.

**3206 Board of Adjustment Review of Disputes.** In situations where a landowner, or any person aggrieved, claims that a zoning designation was incorrectly made by the County, and in the case of any other dispute regarding the zoning designation process, the Board of Adjustment shall have authority to resolve the dispute pursuant to these regulations.

**3301 Modification of Threshold Standards.** The Threshold Standards provide the basis for the definition of each zoning designation. Some of the Threshold Standards are relaxed as specifically defined in the zoning designations, based generally on the increase in lot size. Threshold Standards apply to all land uses unless modified according to the zoning designation definition or Permit exemptions contained in **1301.1**.

**3302 Urban Influence Restrictions Applicable to all Zoning and Planned Unit Development Designations.**

**3302.1 One-Mile Area:** Some business uses may be prohibited within one mile of a municipality, in accordance with 31-15-501 (1)(a) C.R.S., as amended.

**3302.2 Three-Mile Area:** Development may be required to conform to a major street plan of a municipality, in accordance with 31-23-212 et seq., C.R.S., as amended.

**3303 A-80+: Large Scale Agricultural.**

**3303.1 Purpose.** This zone applies to parcels of 80 acres or more. The zoning designation is designed to:

- A. Provide a zone for landowners whose highest priority is agricultural production and who wish to remain, as much as possible, unconstrained by the impact of residential subdivisions.
- B. Protect primary and accessory agricultural uses as defined in **3106.1** and related primary and accessory residential uses; and
- C. Engage in more intensive agribusiness activities through the use of the High Impact Permit process.
- D. At such time as landowners in the A-80+ zone need to undertake the development of residential lots, rezoning to A/R 35+ will be routinely approved, so long as the uses and threshold standards listed below are in compliance.

**3303.2 Minimum Lot Size: 80 acres.**

**3303.3 Uses by Right:**

- A. Agricultural, Agricultural Accessory. See 3106.1, a and b.
- B. Residential, Residential Accessory. See 3106.4, a and b.

**3303.4 Conditional Uses:**

- A. Uses with valid High Impact Permit in accordance with **Chapter 2**.

**3303.5 Threshold Standards:**

- A. Maximum Building Height 45'
- B. Building Footprint: Maximum building footprint overall shall not exceed 12 percent of the lot size.
- C. Building Setbacks: Threshold Standards
- D. New Construction and Remodeling: Uniform Building Code, 1997 Edition.
- E. Livestock Fencing: Threshold Standards
- F. Agricultural Protection: Threshold Standards
- G. Outdoor Storage: Threshold Standards for non-agricultural uses
- H. Roads, Traffic, and Access: Threshold Standards for non-agricultural uses
- I. Parking and Loading Areas: Threshold Standards
- J. Health, Safety, and Welfare: Threshold Standards for non-agricultural uses
- K. Nuisance Standards: Threshold Standards for non-agricultural uses.

**3304 AGZ: Agricultural Use.**

**3304.1 Purpose.** This zone applies to parcels of 35 acres or more. The zoning designation is designed to:

- A. Provide a zone for landowners whose highest priority is agricultural production.
- B. Protect primary and accessory agricultural uses as defined in **3106.1**; and
- C. Engage in more intensive agribusiness activities through the use of the High Impact Permit process.
- D. At such time as landowners in the AGZ zone need to undertake the development of residential lots, rezoning to A/R 35+ will be routinely approved, so long as the uses and threshold standards listed below are in compliance.

**3304.2 Minimum Lot Size: 35 acres.**

**3304.3 Uses by Right:**

- A. Agricultural, Agricultural Accessory. See 3106.1, a and b.
- B. Residential, Residential Accessory. See 3106.4, a and b.

**3304.4 Conditional Uses:**

- A. Uses with valid High Impact Permit in accordance with **Chapter 2**.

**3304.5 Threshold Standards:**

- A. Maximum Building Height 45'
- B. Building Footprint: Maximum building footprint overall shall not exceed 12 percent of the lot size.
- C. Building Setbacks: Threshold Standards
- D. New Construction and Remodeling: Uniform Building Code, 1997 Edition.
- E. Livestock Fencing: Threshold Standards
- F. Agricultural Protection: Threshold Standards
- G. Outdoor Storage: Threshold Standards for non-agricultural uses
- H. Roads, Traffic, and Access: Threshold Standards for non-agricultural uses
- I. Parking and Loading Areas: Threshold Standards
- J. Health, Safety, and Welfare: Threshold Standards for non-agricultural uses
- K. Nuisance Standards: Threshold Standards for non-agricultural uses

**3305 A/R 35+: Large Scale Agricultural and Residential.**

**3305.1 Purpose.** This zone applies to parcels of 35 acres or more. The zoning designation is designed to.

- A. Protect primary and accessory agricultural uses as defined in **3106.1**,
- B. Engage in more intensive agribusiness activities through the use of the Commercial and Industrial Permitting process; and
- C. Allow the development of up to three (3) clustered lots as home sites per 35 acres as a Cluster Incentive Planned Unit Development (CIPUD), which allows limited residential development and economic security without eliminating productive agricultural land. Except that any Cluster Development under 30-28-401 et seq., C.R.S., as amended, shall not exceed two (2) residential units per each 35 acre increment.
- D. An additional clustered home site may be obtained per each 15 acre increment over the 35 acre minimum parcel size.
- E. For purposes of this code, "clustered lots", "clustered homesites" and the "Cluster Incentive Planned Unit Development" may include the development of

dispersed lots or home sites provided that the purpose of retaining 75 percent of the site in agricultural production or open space is met.

**3305.2 Minimum Lot Size: 35 acres**

**3305.3 Uses by Right:**

- A. Agricultural, Agricultural Accessory. See 3106.1, a and b.
- B. Residential, Residential Accessory. See 3106.4, a and b.

**3305.4 Conditional Uses:**

- A. Uses with valid High Impact Permit in accordance with **Chapter 2**.
- B. Planned Unit Developments: Cluster Incentive PUD and General PUD.

**3305.5 Threshold Standards:**

- A. Maximum Building Height 45'
- B. Building Footprint: Maximum building footprint overall shall not exceed 12 percent of the lot size.
- C. Building Setbacks: Threshold Standards
- D. New Construction and Remodeling: Uniform Building Code, 1997 Edition.
- E. Livestock Fencing: Threshold Standards
- F. Agricultural Protection: Threshold Standards
- G. Outdoor Storage: Threshold Standards for non-agricultural uses
- H. Roads, Traffic, and Access: Threshold Standards for non-agricultural uses
- I. Parking and Loading Areas: Threshold Standards
- J. Health, Safety, and Welfare: Threshold Standards for non-agricultural uses
- K. Nuisance Standards: Threshold Standards for non-agricultural uses

**3306 A/R: 10-34 Medium Scale Agricultural and Residential.**

**3306.1 Purpose.** This zone allows for agricultural use while protecting surrounding areas from higher impact through the use of the Threshold Standards.

**3306.2 Minimum Lot Size: 10 acres**

- A. Within the Dolores River Valley an allowable 10-acre lot must include a minimum of 30 percent developable land. Developable land includes slopes less than 30 degrees, capable of supporting an engineer designed septic system per Montezuma County Resolution No. 4-97.

**3306.3 Uses by Right:**

- A. Agricultural, Agricultural Accessory See 3106.1, a and b.
- B. Residential, Residential Accessory See 3106.4, a and b.

**3306.4 Conditional Uses:**

- A. Uses with valid High Impact Permit in accordance with **Chapter 2**.
- B. Planned Unit Development: General Planned Unit Development.

**3306.5 Threshold Standards:**

- A. Maximum Building Height 45'
- B. Building Footprint: Maximum building footprint overall shall not exceed 12 percent of the lot size.
- C. Building Setbacks: Threshold Standards
- D. New Construction and Remodeling: Uniform Building Code, 1997 Edition.
- E. Livestock Fencing: Threshold Standards
- F. Agricultural Protection: Threshold Standards
- G. Outdoor Storage: Threshold Standards for non-agricultural uses
- H. Roads, Traffic, and Access: Threshold Standards for non-agricultural uses
- I. Parking and Loading Areas: Threshold Standards

- J. Health, Safety, and Welfare: Threshold Standards
- K. Nuisance Standards: Threshold Standards
- 3307 A/R: 3-9 Small Scale Agricultural and Residential.**
  - 3307.1 Purpose.** This zoning designation is intended for residential purposes with accessory agricultural uses.
  - 3307.2 Minimum Lot size: 3 acres**
    - A. This zoning is not allowable within the Dolores River Valley.
  - 3307.3 Uses by Right:**
    - A. Agricultural, Agricultural Accessory. See 3106.1, a and b.
    - B. Residential, Residential Accessory. See 3106.4, a and b.
  - 3307.4 Conditional Uses:**
    - A. Uses with valid High Impact Permit in accordance with **Chapter 2.**
    - B. Planned Unit Developments: General Planned Unit Development.
  - 3307.5 Threshold Standards:**
    - A. Maximum Building Height 35'
    - B. Building Footprint: Maximum building footprint overall shall not exceed 12 percent of the lot size.
    - C. Building Setbacks: Threshold Standards
    - D. New Construction and Remodeling: Uniform Building Code, 1997 Edition.
    - E. Livestock Fencing: Threshold Standards
    - F. Agricultural Protection: Threshold Standards
    - G. Outdoor Storage: Threshold Standards
    - H. Roads, Traffic, and Access: Threshold Standards
    - I. Parking and Loading Areas: Threshold Standards
    - J. Health, Safety, and Welfare: Threshold Standards
    - K. Nuisance Standards: Threshold Standards
- 3308 R-3: Rural Residential.**
  - 3308.1 Purpose.** This zone is intended to be a residential zone.
  - 3308.2 Minimum Lot Size: 3 acres**
    - A. This zoning is not allowable within the Dolores River Valley.
  - 3308.3 Uses by Right:** Residential, Residential Accessory. See 3106.4,a and b.
  - 3308.4 Conditional Uses:** None
  - 3308.5 Prohibited Uses:**
    - A. All Agricultural
    - B. All Commercial
    - C. All Industrial
    - D. All Planned Unit Developments
  - 3308.6 Threshold Standards:**
    - A. Maximum Building Height 35'
    - B. Building Footprint: Maximum building footprint overall shall not exceed 12 percent of the lot size.
    - C. Building Setbacks: Threshold Standards
    - D. New Construction and Remodeling: Not applicable
    - E. Livestock Fencing: Threshold Standards
    - F. Agricultural Protection: Threshold Standards
    - G. Outdoor Storage: Threshold Standards
    - H. Roads, Traffic, and Access: Threshold Standards

- I. Parking and Loading Areas: Threshold Standards
- J. Health, Safety, and Welfare: Threshold Standards
- K. Nuisance Standards: Threshold Standards

**3309 A/R ES: Existing Subdivision.**

**3309.1 Purpose.** The A/R ES Zone will be applied to platted subdivisions and exemptions existing, or under review, at the time this Code is adopted. A/R: ES zoning will be adopted as part of the official zoning map. The purpose of this zone is to protect residential subdivisions and lots existing at the time of the adoption of this Code.

**3309.2 Use Standards.** The use standards for the A/R: ES zone will conform with those standards established when the final plat was approved along with the covenants of record. The Threshold Standards listed in **Chapter 1, Section 1** provide minimum standards for land use changes undertaken after the adoption of the Code. Threshold Standards apply as minimum standards in order to provide for the mitigation of significant adverse impacts on other property owners and the County.

**3310 USZ Urban Services Zone.**

**3310.1 Purpose.** The Urban Services Zone allows for higher-intensity development where urban services appropriate to the intended use are available. An Urban Service Zone designation cannot be established without clear evidence that services are, or can be made available, to the site within a reasonable time without undue public costs.

**3311 INDZ Industrial Zone.**

**3311.1 Purpose.** The Industrial Zone allows for the establishment and expansion of uses that are predominately industrial. Establishment of industrial zoning requires the existence or establishment of infrastructure capable of supporting industrial uses. Industrial Zoning is also contingent on a setting where significant adverse impacts on residential and agricultural uses can be avoided or mitigated.

**3311.2 Minimum Lot Size.** Three acres unless modified by an approved PUD Plan or High Impact Permit.

**3311.3 Uses by Right:** Industrial uses that comply with Threshold Standards.

**3311.4 Conditional Uses:**

- A. Uses approved through the Industrial PUD or General PUD review process.
- B. Uses approved through the High Impact Permit Process.
- C. Residential or agricultural uses are allowed in this zone, but are subordinate to the industrial intent of the zone.

**3311.5 Threshold Standards:** Threshold standards established in **1202** of this Code apply to this zone. These Threshold Standards may be adjusted through the Industrial PUD, General PUD or High Impact Permit review and approval process provided that significant adverse impacts can be mitigated.

### **3312 COMZ Commercial Zone.**

**3312.1 Purpose.** The Commercial Zone allows for the establishment and expansion of uses that are predominately commercial. Establishment of commercial zoning requires the existence or establishment of infrastructure capable of supporting commercial uses. Commercial Zoning is also contingent on a setting where significant adverse impacts on residential and agricultural uses can be avoided or mitigated.

**3312.2 Minimum Lot Size.** Three acres unless modified by an approved PUD Plan or High Impact Permit.

**3312.3 Uses by Right:** Commercial uses that comply with Threshold Standards.

**3312.4 Conditional Uses:**

- A. Uses approved through the Commercial PUD or General PUD review process.
- B. Uses approved through the High Impact Permit Process.
- C. Residential or agricultural uses are allowed in this zone, but are subordinated to the commercial intent of the zone.

**3312.5 Threshold Standards:** Threshold standards established in **1202** of this Code apply to this zone. These Threshold Standards may be adjusted through the Commercial PUD, General PUD or High Impact Permit review and approval process, provided that significant adverse impacts can be mitigated.

### **3313 UNZ Unzoned.**

**3313.1 Purpose.** Except for A/R ES zones, landowners may elect to remain unzoned by indicating this to the County or by not filing a zoning certification form with the County. Landowners in this designation may continue present uses without interruption but any change in use or enlargement of use exceeding the Threshold Standards or the subdivision of land, requires compliance with one or more of the following: the High Impact Permitting Regulations, the establishment of a zoning designation, or other development approval to allow the new use. Unzoned landowners who subdivide land will be required to comply with subdivision regulations and to concurrently establish the appropriate zoning designation.

**3313.2 Minimum Lot Size:** n/a

**3313.3 Uses by Right:** Existing uses.

**3313.4 Conditional Uses:** n/a

**3313.5 Accessory and Temporary Uses:** n/a

**3313.6 Threshold Standards:** Any change or enlargement from existing uses in excess of the Threshold Standards requires zoning, High Impact Permit, or other development approval.

**3314 Summary Chart.** On the following pages are summary charts of Montezuma County Zoning Designations and other zoning requirements, for reference purposes only.

- TS - Threshold Standards as listed in Chapter 1, Section 2
- Planned Unit Development descriptions can be found in Chapter 4, Section 2
- P/C, TSM: "Plat/Covenants, Threshold Standards Minimum" in the A/R ES Zone indicates standards are based on the recorded plat and covenants, with threshold standards as minimum standards (see 3309).

**SUMMARY CHART OF ZONING CHOICES – PREFERENCE ZONES**

ZONING CHOICES		URBAN SERVICES ZONE	R-3	A/R3-9	COMMERCIAL	INDUSTRIAL
Uses by Right			Residential, Residential Accessory	Primary Agriculture Agriculture Accessory Residential Residential Accessory	Commercial	Industrial
Conditional Uses			None	General PUD High Impact Permit	Commercial PUD General PUD High Impact Permit	Industrial PUD General PUD High Impact Permit
<b>THRESHOLD STANDARDS</b>						
1	Minimum lot size	<b>Standards for the areas adjacent to the municipalities apply. See page 27.</b>	3 acres	3 acres	3 acres or per approved Planned Unit Development or Permit	3 acres or per approved Planned Unit Development or Permit
2	Maximum building height		35'	35'	35'	35'
3	Maximum Building Footprint		TS	TS	TS	TS
4	Building Setbacks		TS	TS	TS	TS
5	New Construction and Remodeling for Commercial, Industrial and Public Buildings		N/A	UBC, 1997 Edition for Commercial and Industrial Uses	UBC, 1997 Edition for Commercial and Industrial Uses	UBC, 1997 Edition for Commercial and Industrial Uses
6	Livestock Fencing		TS	TS	TS	TS
7	Protection of Normal Agricultural operations		TS	TS	TS	TS
8	Outdoor Storage		TS	TS	TS	TS
9	Roads		TS	TS	TS	TS
10	Parking / Access and Loading areas		TS	TS	TS	TS
11	Traffic		TS	TS	TS	TS
12 - 20	Health, Safety and Welfare (water, wastewater, storm water, solid waste, Fire protection, law enforcement, Floodplain, natural hazards, public facilities)		TS	TS	TS	TS
21 - 31	Nuisance standards (Electrical Disturbances, fire and explosive hazards, glare and heat, lighting, noise, and vibration)		TS	TS	TS	TS
32	Other Significant Adverse Impacts	TS	TS	TS	TS	

**STANDARDS FOR THE URBAN SERVICES ZONE AGREEMENT  
FOR AREAS ADJACENT TO THE MUNICIPALITIES**

Improvements	Proposed County Urban Services Zone Standards— Moderate Residential – 2+ units per acre	Proposed County Urban Services Zone Standards—Light Residential 1 unit per acre
Street Standards	<ol style="list-style-type: none"> <li>1. Curb and gutters</li> <li>2. Sidewalks</li> <li>3. 2½" asphalt and 8" gravel</li> <li>4. 36' wide (32' asphalt &amp; 2x2' curb and gutter)</li> </ol>	<ol style="list-style-type: none"> <li>1. No curb and gutter or sidewalks required</li> <li>2. 36' wide gravel base (8")</li> <li>3. 28' wide asphalt (2½") &amp; 4' gravel shoulder or chip seal to county standards</li> </ol>
Storm Water	<ol style="list-style-type: none"> <li>1. Curbs to inlets</li> <li>2. Storm piping to major drainways</li> <li>3. Culverts sized as needed</li> <li>4. Easements for drainage</li> </ol>	<ol style="list-style-type: none"> <li>1. Side ditches—owner maintained</li> <li>2. Culverts sized as needed in drainage study</li> <li>3. Easements for drainage</li> </ol>
Water Piping <sup>1</sup>	<ol style="list-style-type: none"> <li>1. 6" main minimum—C900 DR14 (200 psi)</li> <li>2. Pumper and 2 hose connections on hydrants</li> <li>3. 1 fire hydrant w/in 500' and 2 w/in 1000'</li> <li>5. In-line valve 800' min. spacing</li> </ol>	<ol style="list-style-type: none"> <li>1. 6" main minimum—C900 DR14 (200 psi)</li> <li>2. Pumper and 2 hose connections on hydrants</li> <li>3. 1 fire hydrant w/in 500' and 2 w/in 1000'<sup>1</sup></li> <li>4. In-line valve 800' min. spacing</li> </ol>
Fire Protection	<ol style="list-style-type: none"> <li>1. Developer will be required to construct water lines with pipe sizes adequate to convey required future fire flows</li> </ol>	<ol style="list-style-type: none"> <li>1. Developer will be required to construct water lines with pipe sizes adequate to convey required future fire flows</li> </ol>
Right-Of-Ways	<ol style="list-style-type: none"> <li>1. 60' minimum for residential</li> <li>2. 80' minimum for collector</li> </ol>	<ol style="list-style-type: none"> <li>1. 60' minimum for residential</li> <li>2. 80' minimum for collector</li> </ol>
Building Codes	<ol style="list-style-type: none"> <li>1. Uniform Building Code, 1997 Edition and the municipality's Fire Marshal<sup>2</sup>. Includes:               <ol style="list-style-type: none"> <li>A. Commercial development</li> <li>B. Residential development on less than three acres.</li> </ol> </li> <li>2. Landowner-Initiated Zoning, administered by Montezuma County</li> </ol>	<ol style="list-style-type: none"> <li>1. Uniform Building Code, 1997 and the municipality's Fire Marshal<sup>2</sup>. Includes,               <ol style="list-style-type: none"> <li>A. Commercial development</li> <li>B. Residential development on less than three acres.</li> </ol> </li> <li>2. Landowner-Initiated Zoning, administered by Montezuma County</li> </ol>
Density	<ol style="list-style-type: none"> <li>1. Any development under three acres must be connected to the municipality's sanitation system</li> </ol>	<ol style="list-style-type: none"> <li>1. Any development under three acres must be connected to the municipality's sanitation system</li> </ol>
Sanitation	<ol style="list-style-type: none"> <li>1. Attached to District if lot sizes are under three acres</li> </ol>	<ol style="list-style-type: none"> <li>1. Attached to District if lot sizes are under three acres</li> </ol>
Road Maintenance	<ol style="list-style-type: none"> <li>1. Homeowners association required with annual fees</li> </ol>	<ol style="list-style-type: none"> <li>1. Homeowners association required with annual fees</li> </ol>
Setbacks and Building Heights	<ol style="list-style-type: none"> <li>1. 20' min. front yard<sup>3</sup>, 7' min. side and rear yard<sup>4</sup></li> <li>2. 35' max. height for principal structures</li> <li>3. 15' max. height for accessory structures</li> </ol>	<ol style="list-style-type: none"> <li>1. 50' min. front yard<sup>3</sup>, 50' min. side yard<sup>4</sup>, 25' min. rear yard<sup>4</sup></li> <li>2. 35' max. height for principal structures</li> <li>3. 15' max. height for accessory structures</li> </ol>
Buffering Between Development Types	<p>All proposed development can only be approved if the type of development is contiguous or compatible with the adjacent existing development (i.e. manufactured housing with manufactured housing). Any development not contiguous or compatible with the adjacent area shall include a buffer zone along the perimeter or edge of the development including, but not limited to, berming, landscaping, screening, solid wall construction, or other forms of mitigation of adverse impacts. The buffer zone between developments shall be evaluated on a case-by-case basis by the Montezuma County Planning Commission. Where single-family or duplex dwelling units are adjacent to a low-density residential area, there shall be a minimum forty (40) foot buffer zone. Where multi-family or non-residential buildings or structures are adjacent to a low-density residential area, there shall be a minimum sixty (60) foot buffer zone. These threshold numbers can be decreased by the Planning Commission depending on the buffering tools that are utilized.</p>	

<sup>1</sup>Future negotiations with 3<sup>rd</sup> party water providers for standards are necessary

<sup>2</sup>Adoption of resolution by County Commissioners for enforcement is necessary

<sup>3</sup>Measured from edge of future right-of-way

<sup>4</sup>Measured from side or rear property line

**SUMMARY CHART OF ZONING CHOICES**

<b>ZONING CHOICES</b>		<b>A/R 10-34</b>	<b>A/R 35+</b>	<b>AGZ</b>	<b>A:80+</b>	<b>A/R ES Existing Subdivisions</b>	<b>UNZONED</b>
Uses by Right		Primary Agriculture, Agriculture Accessory, Residential, Residential Accessory	Per Recorded Plat/Covenants Threshold Standards Minimum	All existing Uses			
Conditional Uses		GPUD, High Impact Permit	CIPUD, GPUD High Impact Permit	High Impact Permit	High Impact Permit	Per Recorded Plat/Covenants TS Minimum	N/A
<b>THRESHOLD STANDARDS</b>							
1	Minimum lot size	10 acres	35 acres or PUD clusters	35 acres	80 acres	Per Recorded Plat/Covenants	3 acres
2	Maximum building Height	45'	45'	45'	45'	P/C, TSM	35'
3	Maximum Building Footprint	TS	TS	TS	TS	P/C, TSM	TS
4	Building Setbacks	TS	TS	TS	TS	P/C, TSM	TS
5	New Construction and Remodeling for Commercial, Industrial and Public Buildings	UBC, 1997 Edition for Commercial and Industrial Uses	UBC, 1997 Edition for Commercial and Industrial Uses	UBC, 1997 Edition for Commercial and Industrial Uses	UBC, 1997 Edition for Commercial and Industrial Uses	P/C, TSM	TS
6	Livestock Fencing	TS	TS	TS	TS	P/C, TSM	TS
7	Protection of Normal Agricultural operations	TS	TS	TS	TS	P/C, TSM	TS
8	Outdoor Storage	TS	TS for non-agricultural uses	TS for non-agricultural uses	TS for non-agricultural Uses	P/C, TSM	TS
9	Roads	TS	TS for non-agricultural uses	TS for non-agricultural uses	TS for non-agricultural uses	P/C, TSM	TS
10	Parking/Access and Loading areas	TS	TS	TS	TS	P/C, TSM	TS
11	Traffic	TS for non-agricultural uses	P/C, TSM	TS			
12 - 20	<u>Health, Safety and Welfare:</u> (water, wastewater, storm water, solid waste, Fire protection, law enforcement, Floodplain, natural hazards, public facilities)	TS	TS for non-agricultural uses	TS for non-agricultural uses	TS for non-agricultural uses	P/C, TSM	TS
21 - 31	<u>Nuisance standards</u> (Electrical disturbances, fire and explosive hazards, glare and heat, lighting, noise, and vibration)	TS	TS for non-agricultural uses	TS for non-agricultural uses	TS for non-agricultural uses	P/C, TSM	TS
32	Other Significant Adverse Impacts	TS	TS for non-agricultural uses	TS for non-agricultural uses	TS for non-agricultural uses	TS minimum	TS

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**CHAPTER 4: PLANNED UNIT DEVELOPMENT**

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**Chapter 4: Section 1 – Authority, Purposes and Objectives**

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**4101 Authority, Purposes and Objectives of PUD Development.**

**4101.1 Authority, Purposes, and Objectives.** Planned Unit Developments as defined and authorized, pursuant to 24-67-101 et seq. C.R.S., as amended, for the following purposes and to achieve the following objectives of development:

- A. To provide for necessary commercial, recreational and educational facilities conveniently located to housing, and
- B. To provide for well-located, clean, safe and pleasant industrial sites involving a minimum strain on transportation facilities and minimum impact of traffic on streets and highways.
- C. To encourage a more efficient use of land, public services and facilities.
- D. To conserve the value of the land; and
- E. To provide a procedure which can relate the type, design, and layout of residential, commercial, and industrial development to the particular site, thereby encouraging preservation of the site's natural and agricultural characteristics.

**4102 Scope.** Applications for specific planned unit development may be made for land located in any zoning designation where such PUD category is allowed. See Summary Chart at **4109**.

**4102.1 Not limited to one owner or parcel.** A planned unit development application may involve more than one parcel and/or more than one landowner. Such possibilities include, but are not limited to:

- A. Parcels in an area suited for a mix of commercial and industrial uses where common highway access, utility planning, recorded covenants, design standards, etc., would make for more orderly and effective development.
- B. Unincorporated areas with the opportunity to develop infrastructure capable of serving more intensive or higher density commercial, industrial or residential development.
- C. Adjacent property owners who wish to incorporate amenities such as trails and natural areas into adjoining residential development.

**4103 Relationship to Subdivision, Zoning, and High Impact Commercial and Industrial Permitting.**

**4103.1 Applicability of Other Regulations.** The Montezuma County Subdivision Regulations and this Land Use Code apply to planned unit developments. However, specific standards, specifications or requirements may be modified as part of the planned unit development approval process to meet the unique circumstances and objectives of the proposed PUD.

**4103.2 Modifications Authorized.** The County may waive or modify certain standards and requirements of this Code as necessary to meet the intended purpose of a planned unit development, so long as potentially significant adverse impacts are mitigated.

**4103.3 Compatibility of Planned Unit Developments.** Potentially incompatible uses within a PUD or between a planned unit development and surrounding uses must be mitigated for the PUD plan to be approved.

**4104 CIPUD Cluster Incentive Planned Unit Development.**

**4104.1 Intent.** This planned unit development allows for phased residential cluster development on parcels of 35 acres or greater. The purpose is to allow for small lot home site development while retaining a minimum of 75 percent of the parcel in agricultural production or Common Open Space. Where this purpose can be met, "clustered lots", "clustered home sites" and the "Cluster Incentive Planned Unit Development" may include the development of dispersed lots or home sites. Development of up to three home sites per 35 acres is allowed, except that any Cluster Development under 30-28-401 et seq., C.R.S., as amended, shall not exceed two (2) residential units per each 35 acre increment.

**4104.2 Underlying Zoning Designations:** A/R 35+

**4104.3 Land Use Categories:** Agricultural, Residential.

**4104.4 Conditional Uses:** Commercial and Industrial Uses exceeding Threshold Standards or other applicable standards, approved through appropriate review process.

**4104.5 Standards:** For residential homesites, the A/R 3-9 or R-3 zoning standards apply, except that lots less than three acres may be created in the interest of preserving agricultural land or Common Open Space. Adequate sewage disposal facilities, as approved by the County Health Department, must be provided.

**4104.6 Preservation of Agricultural Land and Open Space:** At least 75 percent of the total parcel must be permanently platted for agricultural use or Common Open Space. On that portion of the parcel preserved for agricultural use, Threshold Standards for the A/R 35+ Zone, apply. Refer to 3305 of this Code.

**4104.7 PUD Plan Approval and Phased Development Options.** The Cluster Incentive PUD Plan must be approved and platted prior to commencement of home site development. Once the PUD Plan is approved and platted, the home sites may be developed in total or in phases. For the Cluster Incentive PUD, administrative and impact fees may also be phased as home site development occurs.

**A.** In the event the administrative and impact fees are phased, plat notes will state:

1. "Future home sites to be developed and replatted at a later date."
2. "The developer is responsible for payment of appropriate fees regarding development and infrastructure."

**4105 INDPUD Industrial Planned Unit Development.**

**4105.1 Intent.** This planned unit development is designed for predominantly industrial uses.

**4105.2 Underlying Zoning Designations:** Industrial Zone and Urban Services Zone (USZ)

**4105.3 Land Use Categories:** Predominantly industrial. Residential and agricultural uses are allowed, but are subordinate to the industrial intent of this zone.

**4105.4 Conditional Uses:** Exceeding Threshold Standards must mitigate significant adverse impacts.

**4105.5 Standards:** Threshold Standards apply, but may be exceeded based on an approved PUD plan which mitigates significant adverse impacts.

**4106 COMPUD Commercial Planned Unit Development.**

**4106.1 Intent.** This planned unit development is designed for predominantly commercial uses.

**4106.2 Underlying Zoning Designations:** Commercial Zone and Urban Services Zone (USZ).

**4106.3 Land Use Categories:** Predominantly commercial. Residential and agricultural uses are allowed, but are subordinate to the commercial intent of this zone.

**4106.4 Conditional Uses:** Uses exceeding Threshold Standards must mitigate significant adverse impacts.

**4106.5 Standards:** Threshold Standards apply, but may be exceeded based on an approved PUD which mitigates significant adverse impacts.

**4107 GPUD General Planned Unit Development.**

**4107.1 Intent.** A planned unit development is a tool to provide flexibility regarding site and design features. This PUD is applicable to small-scale mixed uses such as business/ residential combinations.

**4107.2 Underlying Zoning Designations:** A-80+, A/R 35+, A/R 10-34, A/R 3-9, USZ, Commercial, Industrial

**4107.3 Land Use Categories:** Agricultural, Residential, Commercial, Industrial, Mixed

**4107.4 Conditional Uses:** Commercial and Industrial Uses exceeding Threshold Standards or other applicable standards, approved through appropriate review process.

**4107.5 Standards.** Threshold Standards apply, but may be exceeded based on an approved PUD plan which mitigates significant adverse impacts.

**4108 MHPUD Mobile Home and RV Park Planned Unit Development.**

**4108.1 Intent.** This planned unit development option allows for variation from regulations for mobile home and RV parks to meet planned unit development design flexibility objectives.

**4108.2 Underlying Zone Designation:** Urban Services Zone (USZ), Commercial

**4108.3 Land Use Categories:** Residential

**4108.4 Mobile Home Park Regulations.**

A. A Mobile Home Park shall not be developed and operated on a site of less than three acres.

B. All factory built and/or mobile homes must be in compliance with applicable Colorado laws.

C. Mobile Home Parks or R.V. Parks shall be developed at densities reasonably comparable to adjacent residential uses or have adequate landscape buffering, fencing or open space to avoid adverse influence on adjacent uses. Likewise, mobile home parks shall be sited so that adverse influences from adjacent subdivisions such as noxious industrial uses, heavily traveled highways, airport runways, and other intolerable noise and safety problems are avoided or mitigated.

- D. Mobile home parks shall comply with **General Design Guidelines, 5103.**
- E. Mobile home parks or R.V. Parks located along highways and major arterials will be subject to **Design Guidelines for Development Along Highways, 5103.3.**
- F. Mobile home parks or R.V. Parks adjoining or affecting agricultural lands will be subject to **Design Guidelines for Development Affecting Agricultural Lands, 5103.2.**
- G. Mobile home parks or R.V. Parks shall conform with the following provisions from **Subdivision Regulations: Avoidance and Mitigation of Hazardous Conditions, Drainage Systems and Livestock Fencing.**
- H. No part of any mobile home park shall be used for non-residential purposes, except such uses as are required for the direct servicing and well being of the park residents.
- I. **Minimum Lot Area:** Each standard mobile home lot shall have a minimum area of 3,500 square feet. In no case shall the lot be less than 2.5 times the area of said lot covered by the mobile home thereon.
- J. **Site Setbacks:** Setbacks between the perimeter of the Mobile Home Park and any mobile home shall not be less than the following:
  1. Adjacent to dedicated streets, roads or highways - See **General Design Guidelines, 5103.1** , Setback from Roads.
  2. Adjacent to park roadways or walkways - ten (10) feet.
  3. Adjacent to on site driveways - five (5) feet.
- K. **Distance between Mobile Homes:** A minimum distance of thirty (30) feet shall be maintained between mobile home and accessory structures and those on adjacent lots.
- L. **Recreation Facilities:** A recreational area or areas designed for joint usage of all mobile home inhabitants shall be provided at a ratio of not less than three hundred (300) square feet of area for each lot provided in the Mobile Home Park. The recreational area(s) shall be sited in safe and convenient location(s) within the Park or Subdivision.
- M. **Fencing.** Approved fencing and/or may be required to screen mobile home parks or R.V. parks from the view of highway corridors or adjacent properties. Fencing may also be required to provide for the health and safety of park applicants and the general public.
- N. **Access and Service Roads.** The Mobile Home Park shall have direct access to public roadways or highways. No dead end access roads shall be permitted in a Mobile Home Park. Each Mobile Home Park lot shall have direct access to a park service road.
- O. **Utilities.** Provisions shall be made to provide at each lot electric service, central potable water service and central sewage disposal. The main water service line shall be looped to prevent service interruption, and keep it to a minimum during breaks and repairs.
- P. **Lighting.** All service roads and recreation areas shall be illuminated at night with downward directed light.
- Q. **Lot Numbering.** Each lot in a Mobile Home Park shall have displayed the lot number in a fashion to make it readily visible by day or night.
- R. Each mobile home park shall comply with the Federal Americans with Disabilities Act.

**4108.5 RV/Camper Park Regulations.** RV/Camper Park lots, or such lots in a mobile home park, may be a minimum of 1,000 square feet with a maximum density of 25 units per gross acre. With the exception of lot size, RV/Camper Parks and lots shall meet, but not be limited to, the following standards:

**A. Sanitary Facilities Dependent Mobile Homes.** In every Mobile Home Park accommodating dependent Mobile Homes, sanitary facilities shall be provided as follows:

1. Toilets. One toilet for each sex for every fifteen (15) dependent mobile home lots or fractional part thereof.
2. Urinals. Urinals may be substituted for up to one-third (1/3) of the required number of toilets.
3. Lavatories. One lavatory for each sex for every fifteen (15) dependent mobile home lots or fractional part thereof. Laundry tubs, kitchen sinks, and bath tubs shall not be acceptable substitutes for lavatories.
4. Bathing or shower facilities. One for each sex for each fifteen (15) dependent mobile home lots or fractional part thereof.
5. Water hydrants shall be provided to wash service buildings, walkways, passageways and other common use areas.
6. Drinking fountains, when provided, shall not be located in service rooms or connected to water faucets or lavatories. Drinking fountains shall be the approved angle-jet above the bowl rim type with adequate water pressure.

**B. Service Buildings.** Service buildings accommodating dependent mobile homes shall conform to the following standards.

1. Service buildings and rooms housing required sanitary facilities in parks accommodating dependent mobile homes, shall be constructed of easily clean able, non-absorbent materials, maintained in good repair and in a clean and sanitary condition. They shall be conveniently located at a distance of not less than ten (10) feet from any mobile home and within three hundred (300) feet of any dependent mobile home served.
2. Separate rooms containing required plumbing fixtures shall be provided for each sex. If located in the same building, they shall be separated by a solid wall extending from floor to ceiling and shall be clearly marked for "Men" and "Women".
3. The floors of service buildings shall have a smooth, impermeable and easily clean able surface, sloped to drain. Floor drains, properly trapped, shall be provided in all shower baths and shower rooms to remove waste water and to facilitate cleaning. The walls and partitions shall have a smooth, nonabsorbent, light colored, easily clean able surface extending to a height of four feet in toilet rooms and six feet in shower rooms.
4. Rooms in service buildings shall have a ceiling height of not less than seven and one-half (7 1/2) feet. In rooms with sloping ceilings, the required ceiling height shall be provided in at least 50 percent of the rooms and no portion of any room having a ceiling height of less than five feet shall be considered as contributing to the minimum required areas.
5. Service rooms shall be provided with light and ventilation by means of windows or by artificial light and mechanical ventilation. The window area in each service room shall be equivalent to at least 10 percent of the floor area with at least one half of the required window area openable to the

- outside air. Windows shall be installed so they do not create safety hazards. In lieu of the required window area in each service room, an approved mechanical ventilation system may be installed which will provide at least five (5) air changes per hour, be vented directly to the outside, and be connected to the electrical lighting system.
6. When necessary for exclusion of flies, mosquitoes and other insects, exterior openings of service buildings shall be protected with fly screening of not less than sixteen (16) mesh per square inch unless other approved protection devices are provided. Doors shall be provided with self-closing devices.
  7. Exterior doors in service buildings shall be provided with a landing which has a depth and width not less than the door opening.
  8. Each service room shall have at least one double convenience outlet adjacent to lavatories and one ceiling light fixture to provide thirty (30) foot candles at lavatory level. At least one light fixture, operated by switch, shall be provided at each entrance and shall be lighted during hours of darkness unless the yard lighting provided light levels of at least five (5) foot candles.
  9. Service buildings shall be provided with approved heating facilities properly installed, maintained in a safe working condition, and capable of providing and maintaining a room temperature of 68 degrees.
  10. Toilets and showers shall be partitioned so they are individually accessible. Each toilet and shower compartment shall have a self-closing door, except that showers may be equipped with a water-proof curtain.
  11. Toilet space shall be in compliance with the Federal Americans with Disabilities Act.
  12. Shower stalls shall be in compliance with the Federal Americans with Disabilities Act and shall be constructed to prevent water flowing into the dressing spaces. Shower floors shall be impervious and skid resistant or provided with a non-slip impervious mat. Wooden racks (duck boards) are prohibited. Dry dressing room space, screened from view and equivalent to the size of the shower floor area, shall be provided adjacent to bathing facilities and shall be equipped with clothes hooks and benches.
  13. Hot and cold water under pressure shall be supplied to all required plumbing fixtures except that cold water only shall be supplied to water closets. The system shall be designed to prevent discharge of water in excess of 120 degrees Fahrenheit at the shower heads. The water heating facilities shall have the capacity to supply hot water at the minimum rate of three gallons per hour per each dependent mobile home lot. Such facilities shall be approved types and shall be properly installed and maintained.
  14. Plumbing fixtures shall be maintained in good working order and in a clean and sanitary condition.
  15. Toilet paper, soap, single service towels, and trash receptacles shall be provided in all common use or centralized toilet and lavatory facilities. The use of common towels is prohibited.
  16. If service buildings are kept locked, the operator shall provide a key for dependent mobile home occupants.

17. Clothes drying areas or mechanical dryers shall be provided for use with laundry facilities.
  18. Plumbing fixtures shall be installed in accordance with provisions of the effective edition of the Colorado Technical Plumbing Code.
  19. Swimming pools shall be operated and maintained in accordance with Colorado Department of Health Regulations and Standards Governing Swimming Pools.
- C. Operational Standards.** Mobile home parks shall be subject to the following operational requirements.
1. Certificate of Occupancy. Prior to any occupancy of the proposed park there must be a Certificate of Occupancy signed by a designated official of the County, the County Health Department and the Colorado Electrical Inspector.
  2. The Park shall be maintained in a clean sanitary condition at all times. Grasses, weeds, and other vegetation not considered a part of the ornamental landscape, shall be mowed or trimmed regularly and in no case permitted to exceed twelve (12) inches high. Sanitary facilities, washrooms and storage areas may be inspected regularly by the County Health Department and Fire Department.
  3. A Mobile Home shall not be occupied for dwelling purposes in a park unless it is properly placed on a conforming Mobile Home lot, and connected to all utility services including water, sewage and electricity. Dependent mobile homes may be excepted in part.
  4. Mobile traffic shall be restricted to not more than ten (10) m.p.h. and signs regulating same shall be posted at all service road entrances.
  5. The Mobile Home lot shall be kept clean and free of refuse and hazardous or noxious materials.
  6. Adequate storage buildings shall be provided for storage of all materials and equipment not in use in the park.
  7. Mobile Homes shall be properly installed and stabilized to insure the safety of the occupants of the park and the general public.
  8. Mobile Homes occupying a park shall have adequate heating systems, have evidence of safe electrical and gas wiring and piping as well as safe equipment.
  9. Where skirting of Mobile Homes is installed, readily openable doors or access panels shall be provided to permit convenient access to services under the mobile home.
  10. The storage, collection and disposal of refuse in a mobile home park shall be so conducted as to control odors, rodents, insects, accidents, fire hazards, air pollution, or other nuisance conditions. Durable, washable, and non-absorbent metal or plastic containers with tight fitting lids shall be provided at each mobile home lot or at a central storage area conveniently located not more than 200 feet from any mobile home lot. Refuse containers shall be provided at the rate of at least one 30 gallon container for each mobile home lot or an equivalent storage capacity in centralized storage facilities. The number of containers used and the frequency of collection shall be sufficient to prevent over filled containers. Refuse shall be routinely collected and removed from the premises not less than once

weekly. Refuse shall be disposed of at a lawful disposal site in accordance with requirements of the Colorado Solid Wastes Disposal Site and Facilities Act.

11. Rodents and insects shall be controlled by approved sanitary practices, vermin-proofing of buildings extermination and other control methods.
12. Noxious weed infestations shall be controlled under provisions of the Colorado Weed Management Act and the Montezuma County Comprehensive Weed Management Plan Resolution No. 4-93, as amended.
13. Where services are provided for dependent mobile homes all service buildings shall have plumbing fixtures in operation at all times, adequate supplies of toilet paper, soap, single service towels, and trash containers. The use of common towels is prohibited.
14. A responsible attendant shall be in attendance daily in the park.
15. Qualified inspectors for both the State and County must be permitted to make proper inspections during regular weekday hours from 8:00 a.m. to 5:00 p.m.
16. Violations of these operating procedures when first noted will result in a written notice of such violations and a period for correction cited. Appeals for violations may be referred to the Board of County Commissioners. Continued violations or refusal to correct a noted violation may result in withdrawal of the permit by the Board of County Commissioners after formal hearing for such matters. Appeals to decisions of the Board of County Commissioners shall thence be carried to the court of proper jurisdiction.
17. Each RV camper park shall comply with the Federal Americans with Disabilities Act.

**4109 Summary Chart.** The following is a summary chart of Planned Unit Development District options and underlying zoning requirements, for reference purposes only. The text sections preceding the chart provide the full planned unit development requirements.

Planned Unit Development	Underlying Zoning Designations	Land Use Categories Available	Intent
CIPUD: Cluster Incentive	◆ AR 35+	◆ Agricultural ◆ Residential	Phased residential cluster development to allow for home site development while retaining 75 percent of the parcel in agricultural production or Common Open Space. Allows for development of up to 3 home sites per 35 acres. Standards for residential clusters are the same as A/R 3-9 or R-3
MHPUD: Mobile Home	◆ Urban Services Zone ◆ Commercial Zone	◆ Residential	The Mobile Home Planned Unit Development allows for variation from standards for mobile home and RV parks to meet PUD design flexibility objectives provided that significant adverse impacts are mitigated.
INDPUD: Industrial	• Industrial Zone • Urban Services Zone	• Industrial • Agricultural and Residential uses allowed, but are subordinate.	For predominantly industrial uses. Threshold Standards apply, but may be exceeded based on an approved PUD Plan that mitigates significant adverse impacts.
GPUD: General	• AR35+ • AR10-34 • AR3-9 • USZ	• Agricultural • Residential • Commercial • Industrial • Mixed	Allows for flexible design and mixed uses. Threshold Standards apply, but may be exceeded based on an approved PUD Plan that mitigates significant adverse impacts.
COMPUD: Commercial	• Commercial Zone • Urban Services Zone	• Commercial • Agricultural and Residential uses are allowed, but are subordinate	For predominantly commercial uses. Threshold Standards apply, but may be exceeded based on an approved PUD Plan that mitigates significant adverse impacts.

**4201 Establishing a Planned Unit Development.**

**4201.1 General.**

- A. A planned unit development is a site-specific development plan requiring an appropriate underlying zone designation. Zoning or rezoning may be established prior to, or concurrently with, the review of a PUD Plan.
- B. A decision on each planned unit development application shall be made by the County Commissioners after receiving a recommendation from the Planning Commission.
- C. Planned unit development alternatives are only available in specified zoning designations. **Refer to Chapter 4, Planned Unit Development.**

**4201.2 Design Flexibility for Planned Unit Developments.** A planned unit development is a tool to provide flexibility regarding site and design features, including, but not limited to:

- A. Threshold standards may be modified to meet the purposes of the planned unit development providing that adverse impacts can be mitigated.
- B. The clustering of development with usable Open Space areas shall be permitted to encourage common open areas and to save street and utility construction and maintenance costs.
- C. The clustering of development to preserve agricultural land.
- D. Lot size and configuration.

**4201.3 Planned Unit Development Submittal Requirements** will consist of an application, map and plan.

- A. **Application form.** All PUD applications shall be filed by the owner(s) or their authorized agent on forms provided by the County and contain the following information on the subject parcel:
  - 1. The landowner's name and address with written consent of all owners.
  - 2. A property schedule from the Assessor's office.
  - 3. Existing zoning or requested zoning designation.
  - 4. Intended land uses.
  - 5. The objectives to be achieved by the planned unit development.
- B. **Map.** Map indicating the following:
  - 1. Regional location map.
  - 2. All existing and proposed roads with running surface and width indicated. Access and utility easements shall be noted.
  - 3. Property boundaries of the subject parcel with dimensions and area calculations. Include locations of existing and proposed buildings and structures on this site.
  - 4. Sufficient contours to determine lot slopes.
  - 5. All drainage, irrigation, water and other distinctive natural features.
  - 6. Delineated 100 year floodplain areas.
  - 7. Open space and no build zones.

- C. Plan.** The Plan will contain a project description indicating a broad concept of the proposed development including, but not limited to, the following:
1. A development schedule indicating the approximate dates when construction of the various phases of the planned unit development can be expected to begin and be completed;
  2. Maximum number of dwelling units proposed.
  3. Minimum acreage to be dedicated to Open Space, if any.
  4. The types of all uses proposed and acreages devoted to each use.
  5. Provision for water, sewer, telephone, electricity and other utilities as applicable. Provide evidence of:
    - a. The proposed water source adequate to service the planned unit development;
    - b. The proposed method of sewage treatment;
  6. A statement of ownership interest, including minerals, relevant to the property planned for a planned unit development.
  7. A request for the waiver or modification of certain Threshold or other applicable standards, and reasons why such waiver or modification is necessary.
  8. Copies of any special covenants, conditions and restrictions, which will govern the use or occupancy of the planned unit development.
  9. A list of owners of properties located within three hundred (300) feet of the boundaries of the planned unit development and their addresses;
  10. A statement of the following:
    - a. The general manner in which storm drainage will be handled.
    - b. The general manner in which provision will be made for any potential natural hazards.
  11. **Other Information.** Supporting information, plans, letters of approval, other documentation from responsible agencies and any other information to satisfy requirements listed under Threshold Standards or other applicable regulations.

**4201.4 Planned Unit Development Procedure.** Applications to establish a planned unit development shall be reviewed in accordance with **Chapter 5, Section 3, Review Procedure.**

**4201.5 Findings of Fact and Decision Criteria.** The Planning Commission shall make its recommendation and the County Commissioners shall render a decision on the proposed use based on the following:

- A. The proposed PUD is in conformity with this Code and the PUD Act of 1972 (Article 67 of Title 24, C.R.S., as amended), and
- B. The PUD Plan shall minimize significant adverse impacts on other property in the area, and
- C. The PUD Plan provides access routes in compliance with the Montezuma County Road Specifications and of adequate design to accommodate traffic volume generated by the proposed use.
- D. Public utilities and services are available, or can be made available, to support uses consistent with the proposed zoning.

- E. If cluster planning principles are used, the PUD Plan adequately addresses the preservation of productive agricultural land and the designation and maintenance of Common Open Space.

**4202 Phased PUD Development.** A planned unit development may be developed in phases, according to the following:

**4202.1 Independent Phases.** Each phase within a planned unit development shall be planned and developed in relation to existing surrounding and available facilities and services so that failure to proceed to a subsequent phase will not have a substantial adverse impact on the PUD or its surroundings.

**4202.2 Nonresidential Uses.** If a planned unit development contains nonresidential uses, they may be constructed in advance of residential uses if the County finds that such phasing is consistent with sound principles of ordered development and will have no substantial adverse impacts on the quality or character of the PUD or its surroundings.

**4203 Ownership and Maintenance of Common Open Space.**

**4203.1 Maintenance and Enforcement by Owners.** If a planned unit development includes Common Open Space, that space shall be owned and maintained by the property owners within the PUD or by an organization established by the PUD Plan, in accordance with recorded covenants approved as part of the PUD Plan. Common Open Space is a parcel or parcels of land, or a combination of undeveloped land, water, and natural features within the site designated for a planned unit development, designed and intended primarily for the use or enjoyment of residents, occupants and owners of the planned unit development. Covenant provisions are enforceable by the property owners within the PUD.

**4203.2 Conditions and Enforcement by the County.** The County may also place conditions on the development and maintenance of Open Space to avoid adverse impacts. Such conditions are enforceable by the County.

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**CHAPTER 5: MONTEZUMA COUNTY SUBDIVISION REGULATIONS**

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**Chapter 5: Section 1 – Development Policies, Guidelines and Regulations**

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**5101 Development Policies, Guidelines and Regulations.**

**5101.1 Introduction.** This article contains the standards by which proposed subdivisions, including planned unit developments, in the unincorporated areas in Montezuma County will be reviewed. The following policies, design guidelines and regulations will be used by the developer, the County and the Public in reviewing, evaluating, constructing or otherwise undertaking subdivision actions. The following terms apply to this Code:

- Subdivider as defined in 30-28-101(9), C.R.S., as amended.
- Subdivision or subdivided land as defined in 30-28-101(10), C.R.S., as amended.
- Subdivision Improvement Agreement as defined in 30-28-101(11), C.R.S., as amended.

**5102 Subdivision Policies.** The following shall be the subdivision policies of Montezuma County:

- A. To guide subdivision of agricultural land to attempt to protect irrigation and drainage patterns; and provide for ditch easements, stock drives, fencing, control of noxious weed infestations and animal control so commercial farming and ranching operations are not disrupted.
- B. To avoid subdivisions that result in unacceptable or unsafe traffic, noise, or dust levels on County roads.
- C. To minimize conflicts from land subdivisions that will result in significant adverse impacts on adjoining land.
- D. To guide development so as to provide adequate public facilities without undue costs to the taxpayers of Montezuma County.
- E. To minimize unsightly development.
- F. To consult with municipalities regarding any division of land within three (3) miles of their boundaries with regard to the major street plan.
- G. To avoid development in areas that are unsafe or unsuitable due to natural hazards such as flooding, wildfire, unstable slopes; or due to the unfeasibility of providing basic services such as adequate road access, electricity, potable water, sanitation, telephone and fire protection.

**5103 Design Guidelines.**

**5103.1 General Design Guidelines.** Approval of any Subdivision, will require covenants which at a minimum contain the following Design Guidelines.

- A. **Setbacks.** The following setbacks are required:
  - 1. New fences are to be set back a minimum of 30 feet from the centerline of County roads.
  - 2. Setbacks for dwellings are to be minimum of 50 feet from County Road rights-of-way, a minimum of 50 feet from the right-of-way of service roads or streets within a platted subdivision, and 50 feet from lot lines.

3. Setbacks for barns, garages, and other auxiliary structures shall be a minimum of 25 feet from County road rights-of-way and property lines not adjacent to roads and highways.
  4. Within the Dolores River Valley all new commercial and residential construction, including Individual Sewage Disposal Systems, shall be set back 100 feet from the existing stream bank.
- B. **Lighting.** All outdoor lighting shall be designed to illuminate only the premises and to minimize nuisance to adjoining landowners.
  - C. **Drainage.** All open areas of any site, lot, tract or parcel shall be graded and planted as appropriate to provide proper drainage and minimize flooding, erosion and pollution.
  - D. **Views and Sunlight.** Buildings and structures constructed in a subdivision shall be placed, so as to minimize undue obstruction of views and sunlight to existing dwellings on adjacent properties.
  - E. **Noxious Weed Control.** Any subdivision will require inspection for noxious weed infestation under provisions of the Colorado Weed Management Act, the Montezuma County Comprehensive Weed Management Plan Resolution No. 4-93, as amended, and development and submittal of an approved weed management plan.
  - F. Any public facilities shall comply with the Federal Americans with Disabilities Act.

#### **5103.2 Design Guidelines for Development Affecting Agricultural Land.**

- A. When land is subdivided, dogs and other pets will not be permitted to interfere with livestock or the care of livestock on adjoining agricultural lands. Suitable covenants or deed restrictions will be provided therefor.
- B. When land is subdivided prairie dogs and other such nuisances to agricultural productivity will be controlled by suitable and enforceable covenants and deed restrictions.
- C. Fences shall be constructed which separate the development from adjoining agricultural lands, stock drives or public roads used as stock drives. Existing fences along stock drives or roads used as stock drives shall not be removed or, if removed, shall be replaced by a minimum four barbed wire fence with substantial posts set at a distance of approximately 12' apart, and sufficient to turn ordinary horses and cattle, with all gates equally as good as the fence, or any other fence of like efficiency. Such newly constructed fences and existing fences serving the same purpose shall be maintained and any breaks in the fence shall be at a properly maintained gate or cattle guard. A method of notification of the lot owner's duty to maintain such fences shall be provided on subdivision plats and in recorded covenants.
- D. Where irrigation ditches and/or pipelines cross or adjoin the land proposed to be developed, adequate provisions shall be made to insure that the use of such irrigation ditches and/or pipelines, including the maintenance thereof, can continue uninterrupted. Ditch rights-of-way shall not be interfered with and an adequate maintenance easement including gates at fences crossing ditch easements shall be provided.
- E. Existing historical easements utilized to gain access to irrigation ditches and/or pipelines, headgates and fences for maintenance or operational purposes

shall be preserved or replaced with alternate easements suitable for a continuation of historic use.

- F. **Noxious Weed Control.** Any subdivision of land will require inspection for noxious weed infestation under provisions of the Colorado Weed Management Act, the Montezuma County Comprehensive Weed Management Plan Resolution No. 4-93, as amended, and development and submittal of an approved weed management plan.

**5103.3 Design Guidelines for Development Along Highways.** In addition to other applicable design guidelines, unattractive development or storage along highways or major arterial roads which causes visual distractions, visual pollution and detracts from the beauty of the landscape will be prohibited or screened by appropriate fencing and/or vegetation.

**5103.4 Design Guidelines for Commercial Development.**

- A. Business and commercial developments shall be designed and constructed for safe and convenient pedestrian circulation within the development; and, where possible, easy pedestrian access to the development.
- B. Commercial developments located on major arterial roads shall also comply with the **Design Guidelines for Development Along Highways.**
- C. The minimum setback between commercial buildings and adjacent lot or property lines shall be:
  - 1. Adjoining all other non residential uses: twenty-five (25) feet unless adjoining uses enter into agreements permitting the construction of adjoining buildings to the common lot line.
  - 2. Adjoining residential areas: one hundred (50) feet.
  - 3. From county road and state highway rights-of-way: fifty (50) feet.
- D. Business and commercial development shall provide for off-street parking facilities sufficient to minimize traffic congestion and provide safe vehicular access and circulation, subject to the following guidelines:
  - 1. Parking, access and circulation areas shall be designed and constructed to provide adequate space for the removal, piling and storage of snow.
  - 2. All parking facilities shall be designed with a dust-free all-weather surface and shall be graded and drained to dispose of all surface water.
  - 3. Parking facilities will be adequate to the proposed use and the anticipated demand for parking spaces. Business and commercial development, storage and parking areas that negatively impact the privacy and views of adjacent residential properties shall be screened by appropriate fencing or vegetation.
- E. All new, and any change or enlargement of commercial and industrial uses, require a Permit as outlined in Chapter 1, Section 3 of this Code. If Threshold Standards are exceeded, an approved plan for mitigating adverse impacts is required.

**5103.5 Design Guidelines for Residential Development.**

- A. The minimum lot size for residential development must be three (3) acres. The net 3 acre lot size shall not include County road rights-of-way. The length of residential lots shall not exceed 2.5 times their width. This guideline may be modified in an approved PUD Plan.

- B. Within the Dolores River Valley the minimum lot size for residential development must be ten (10) acres. An allowable 10 acre lot must include a minimum of 30 percent developable land. Developable land includes slopes less than 30 degrees, capable of supporting an engineer designed septic system per Montezuma County Resolution No. 4-97.
- C. Residential development will require the following:
  - 1. Approval of septic system location and type.
  - 2. Approval of the driveway access design and location.
  - 3. Assignment of a County address.
- D. Compliance with **General Design Guidelines**.
- E. Compliance, as appropriate, with **Design Guidelines for Development Which Affects Agricultural Land**.
- F. Siting of residential structures, including accessory structures, so as to minimize the obstruction of views, sunlight, and privacy for adjacent property owners is strongly encouraged. At a minimum, accessory structures shall be set back no less than 25 feet from property lines.
- G. Siting of residential structures at an adequate distance from roads to significantly reduce current and future traffic noise, dust and hazards is strongly encouraged. At a minimum, residential fences and structures shall comply with setback requirements specified in **General Design Guidelines**.
- H. All factory built and/or mobile homes must be in compliance with the Uniform Building Code, 1997 Edition and HUD codes.
  - i. Residential development resulting in the creation of one or more parcels of less than 35 acres will be subject to these regulations.

**5103.6 Design Guidelines for Flood Plains.** Flood Plain Resolution No. 1-91, as amended, is incorporated herein and made a part hereof and completion of a Floodplain Development Plan Permit, where applicable.

**5103.7 Design Guidelines for Single Lot Development that is not intended to circumvent the Subdivision Regulations.**

- A. To qualify for a Single Lot Development the remaining acreage must be in excess of 35 acres.
- B. The lot must meet all development and design criteria as outlined in the Montezuma County Land Use Code.

**5104 Impact of Subdivisions and Planned Unit Developments on County Roads.** To address the impacts of Subdivisions and Planned Unit Developments on County Roads, the County has established a Road Impact Fee. The Road Impact Fee is applied to the improvement of County Roads directly accessing the proposed subdivision or to the improvement of the nearest County Road on the County Road Improvement Plan. The Road Impact Fee is payable by the developer prior to the final signature process by the Board of County Commissioners.

**5105 Subdivision Regulations.** Any tract of less than 35 acres created by a division of land shall be platted with protective covenants. Such tracts shall also be subject to the design guidelines, standards, regulations and review procedures contained in this Code.

**5105.1 Preservation of Site Assets.** The design and development of subdivisions shall preserve, insofar as it is possible, the natural terrain, natural drainage, existing topsoil and trees.

**5105.2 Avoidance and Mitigation of Hazardous Conditions.** Land subject to hazardous conditions such as flooding, wildfire, or natural hazards, and polluted or non-potable water supply shall not be subdivided until the hazards have been eliminated, or will be eliminated, or satisfactorily modified by subdivision and construction plans.

A. Control of wildfire by creating firebreaks, restricting developments in relation to slope and fire chimneys, vegetation thinning or such other fuel modification as may be recommended by the Colorado State Forest Service.

**5105.3 Development Criteria.**

A. **Lots.** The minimum lot size for residential development must be three (3) acres unless central sewer and water is provided. The net 3 acre lot size shall not include County road rights-of-way. The length of residential lots shall not exceed 2.5 times their width.

1. Within the Dolores River Valley the minimum lot size for residential development must be ten (10) acres. An allowable 10 acre lot must include a minimum of 30 percent developable land. Developable land includes slopes less than 30 degrees, capable of supporting an engineer designed septic system per Montezuma County Resolution No. 4-97.

2. Each lot shall abut a roadway or street meeting County construction standards.

3. Lots with double frontage shall be avoided, except where essential to provide separation from major arterials or incompatible subdivisions.

B. **Street Requirements.**

1. The street or roadway layout shall conform to the Montezuma County Road and Bridge Standard Specifications. Streets shall be aligned to join with planned or existing streets as nearly as practical.

2. Streets shall be designed to bear a logical relationship to the topography and shall provide for the non-erosive deposition of run-off waters.

3. Streets within three (3) miles of the incorporated municipalities shall conform with the municipality's major street plan, insofar as an approved street plan is in place.

4. Intersections of local streets with major streets shall be kept at a minimum.

5. Intersections shall be as nearly at right angles as possible with no intersection designed at an angle of less than 60 degrees.

6. Cul-de-sac streets shall only be permitted when subdivision design cannot accommodate a through street and still utilize, to a reasonable degree, the available land area. The drainage shall be toward the intersecting street or a drainage shall be required.

7. Dead end streets, with the exception of turnarounds, shall be prohibited unless they are designed to connect with future streets in adjacent land, in which case a temporary turnaround easement may be permitted if written agreement is obtained from the adjoining landowner.

8. Minimum right-of-way widths for streets shall be 60'.

9. Roadbed construction shall meet the Montezuma County Road and Bridge Standard Specifications. Inspection of the roadway construction shall be made by the County Road Department in three phases: Phase 1 - road grade and structures. Phase 2 - Base material and application. Phase 3 - finish roadway. No work shall begin on the next phase until the previous phase has been completed and approved.
10. Street Names, Signage, and House Numbering.
  - a. The County shall assign street and road numbering in accordance with the County system. The subdivider will furnish such signs in compliance with the County numbering system and the material and type shall be approved by the Montezuma County Road Department. Traffic control signs shall be provided and installed by the developer as prescribed by the County.
  - b. House numbering shall also be assigned by the County in compliance with the County system. It shall be the responsibility of the owner to furnish such numbering devices. The area Fire Protection District can guide the owner with specific emergency location standards for numbering devices.
- C. **Driveways.** Each subdivision lot shall have a driveway access. Said driveway shall not have a grade exceeding 12 percent. Entrance driveways into public roads and streets shall intersect at as near 90 degrees as possible.
- D. **Utility Easements** shall be provided as determined in advance by the utility provider. They shall be designed so as to provide efficient installation of utilities.
- E. **Sidewalks** shall be a minimum of four (4') feet width and four (4") inches thickness on an approved base.
- F. **Sanitary Sewage Disposal.**
  1. All lots or parcels which are not connected to a public sanitary sewage system shall have a sewage disposal system prior to occupancy of buildings constructed thereon.
    - a. Within the Dolores River Valley Individual Sewage Disposal Systems shall be constructed in accordance with Montezuma County Resolution No. 4-97.
  2. Percolation tests shall be required to adequately determine the type and standards of on-lot disposal systems. These tests must be supervised and certified by a registered professional engineer or by a qualified sanitarian.
  3. The results of percolation tests will be reviewed by the County Sanitarian to determine disposal system requirements in conformance with State and County standards.
  4. Once on-lot disposal system standards are determined, the subdivider shall either install such facilities or require by deed restrictions, or otherwise, as a condition of the sale of each lot or parcel with such subdivision that the on-lot sewage disposal facilities be installed by the purchaser of said lot at the time that the principal building is constructed.
  5. In the event that a public or community waste disposal system is proposed or required, State Health Department standards and procedures will apply.

6. Where construction or expansion of public sanitary sewers may serve the subdivision area within a reasonable time, the County may require the installation and capping of sanitary sewer mains and house connections in addition to the installation of temporary individual on-lot sanitary disposal system.
- G. Water Supply.** An adequate supply of potable water shall be available to each lot in a subdivision:
1. Subdivisions that are served by existing rural or municipal water systems require a formal commitment of water service from the appropriate water supplier, and the installation of water lines by the subdivider to the boundary of each lot.
  2. Subdivisions to be served by the development of an on-site treatment plant must also comply with Colorado Department of Health regulations.
  3. If the proposed development involves well water, permit(s) from the State Water Engineer are required.
  4. Cisterns are only allowed in the event that a potable water supply is not otherwise available and may be installed by the lot buyer.
  5. A review of the water supply for fire control shall be made by the appropriate fire department and the County. The review shall determine the most feasible fire control water source. The developer shall provide for such source supplies and it shall be the responsibility of the subdivider or a Subdivision Home Owners Association to maintain such source and supply in an acceptable manner.
- H. Drainage Systems.**
1. Drainage systems shall be designed to permit the unimpeded flow of natural courses; to insure adequate drainage of all low points; and to control, as nearly as possible, storm waters generated from a one hundred year storm.
  2. Drainage systems for the entire subdivision area shall be designed by a professional engineer, licensed in the state of Colorado and qualified to perform such work.
  3. The drainage system shall be designed to consider the drainage basin as a whole and shall accommodate not only runoff from the subdivision area but also, where applicable, the system shall be designed to accommodate the runoff from those areas adjacent to and "upstream" from the subdivision itself. Potentially negative impacts on "downstream" properties and improvements, both public and private, shall be mitigated to a reasonable degree.
  4. All existing drainage features which are to be incorporated in the design shall be so identified, and all appropriate designs, details, and dimensions necessary to clearly explain proposed construction materials and elevations shall be included in the drainage plans.
  5. If the Final Plat for the parcel is to be presented in phases, a general drainage plan for the entire area shall be presented with the first section and appropriate development stages for the drainage system for each stage shall be indicated.

- I. **Livestock Fencing.** Whenever a livestock fence is removed or altered between subdivision and a County Road, State Highway, Federal lands, a stock drive, or a working livestock unit, the fence shall be replaced by adequate fencing and gates to contain the type of animal to be controlled and a minimum four wire stock fence along County roads. Refer to 5103.2(C).
- J. Where an entire parcel is not subdivided, the subdivider must indicate his intended plans for the disposition of the remainder of the parcel.

**5201 Impact Classification.**

**5201.1 Introduction.** The purpose of impact classification is to classify each proposed development in terms of its impact on the economic, social, governmental and environmental systems of the County. The impact classification provision makes the amount of information and review required by the County proportional to the impacts that will be generated by the proposed development. Average lot size and the number of lots in a proposed subdivision are major factors in determining impact classification.

**5201.2 Classification Determination.** Whenever it is uncertain as to which classification a development should be given, the classification which requires the more comprehensive review shall be used.

**5202 Definitions of Impact.**

**5202.50 Single Lot Development** will be reviewed as a minor impact.

**5202.1 Development of Minor Impact.** A development of minor impact involves the division of land into two (2) or three (3) parcels, lots, tracts, spaces or interests, with an average lot size of ten (10) or more acres, all of which can be separately accessed and served with existing roads and utilities, whether intended for eventual sale or not.

**5202.2 Development of Moderate Impact: Definition.** A development of moderate impact involves:

- A. At least two (2) but not more than five (5) living units, whether single-family residences, units within a multi-family residential development or any combination thereof; or
- B. The division of land into at least two (2) and not more than five (5) lots, tracts parcels, interests or spaces any of which is less than thirty-five (35) acres.

**5202.3 Development of Major Impact: Definition.** A development of major impact involves one or more of the following:

- A. Six (6) or more living units, whether single-family residences, units within a multi-family residential development or any combination thereof,
- B. The division of land into six (6) or more lots, tracts, parcels, interests or spaces any of which is less than thirty-five (35) acres,
- C. Mobile Home Parks and RV/Camp Parks,
- D. A major conflict with the Policies and Design Guidelines contained in this Code,
- E. A major demand for additional public services, infrastructure or public funds, or
- F. A major impact on adjoining land uses.

**5203 Impact Classification Procedure.**

**5203.1 Determination of Impact Classification.** Impact classification is initially determined in an informal discussion with the Planning staff at which time the required submittals and procedures will be outlined.

**5203.2 Change of Impact Classification.** The classification as determined by the Planning staff can be changed by the Planning Commission at the initial Commission Review and Public Hearing if, in the judgment of the Commission, taking into account input from the applicant and/or the public, a reduced or increased classification or level of review is warranted.

**5203.3 Appeal of Impact Classification.** Once a request for a change of impact classification has been decided by the Planning Commission, the applicant or any aggrieved party may appeal by filing a written request with the Board of County Commissioners within ten (10) days of the decision. The Board will consider the appeal as soon as the schedule of the Board allows after written notice of the time and place for reconsideration to the applicant and any other person requesting such reconsideration. The Board shall only address the question of impact classification and its decision shall be final.

**5301 Review Procedure for Subdivisions and Planned Unit Developments.**

**5301.1 Purpose of Review Procedure.** The purpose of the review procedure is to involve the County and the Public in the establishment of zoning and the planning of a subdivision or planned unit development (PUD) at an early stage. The review process involves the analysis and review of one or more of the following:

- A. Zoning Certification or Application.** The required zoning certification or application shall be filed with the Presketch Plan.
- B. Presketch Plan.** Planning Department review of the Presketch Plan is to provide the information for certifying or establishing the appropriate zoning in conjunction with a subdivision or planned unit development application.
- C. Sketch Plan.** Sketch Plan review procedures contemplate a process of joint planning and negotiation between the County and the applicant to promote development and land subdivision which is consistent with the intent and purpose of this Code. Conflicts in applying policies, standards and guidelines shall be identified at this stage.
- D. Preliminary Plan.** Review of the preliminary plan will require the applicant to specifically address any planning and development issues identified in the sketch plan. The preliminary plan will be submitted to the appropriate reviewing agencies for comment.
  - 1. Comments by Reviewing Agencies.** The reviewing agencies, which are sent copies of the Preliminary Plan, shall make recommendations within twenty-one (21) days after the mailing by the Planning Department. A necessary extension of up to thirty (30) days may be granted with the consent of the Planning Department. The failure of any Agency to respond within twenty-one (21) calendar days or within the period of an extension shall be deemed an approval by the agency. The applicant shall review the comments and recommendations received and may submit additional information and make changes in the development proposal to meet the objections or comments of the reviewing agencies.
- E. Final Plan.** Review of the final plan will provide a permanent and accurate public record of the development plan - exact size, shape and location of lots, blocks, streets, easements and other parcels of land within the development, together with all applicable recorded covenants, conditions, use restrictions and design and development criteria. A final plan or plat shall conform in all respects to the preliminary plan or plat previously reviewed and approved, including all modifications and special conditions.

**5301.2 Filing of Plat.** After approval of the Preliminary Plan, the applicant shall submit the required number of copies of a final plat meeting the **Submittal Requirements of Chapter 5, Section 4** to the Planning Department. All dates, signatures and information to be provided by the applicant shall be on the final plat, including necessary spaces and blanks for County approval and recording information.

**5302 Minor and Moderate Impact Review Procedure.**

**5302.1 Presketch Plan.** For a subdivision or planned unit development classified as minor or moderate impact, the applicant shall submit to the Planning Department at least one (1) copy of a presketch plan meeting **Submittal Requirements of Chapter 5, Section 4** which shall be reviewed as follows:

**A. Planning Department Review.** Upon receipt of the completed zoning certification or application and Presketch Plan, the Planning Department shall make in writing observations, comments and recommendations as may be appropriate. Comments shall contain the Department's opinion of the compatibility or conflict of the proposed zoning, planned unit development or subdivision with the policies and requirements contained in the **Zoning, Planned Unit Development or Subdivision Policies, Standards and Guidelines** and whether or not the proposed development will significantly, adversely impact other property in the area or conflict with this Code.

**5302.2 Sketch Plan.** After review of the Presketch Plan, the developer shall submit the required number of copies of a sketch plan meeting the **Submittal Requirements** in **Chapter 5, Section 4**.

**A. Planning Department Review.** Upon receipt of all required sketch plan information, the Planning Department shall review the submittals for completeness and compliance with the **Zoning, Planned Unit Development or Subdivision Policies, Standards and Guidelines**. The Planning Department shall make written comments, observations, and recommendations as it deems appropriate and shall refer the sketch plan application to the Planning Commission. Comments shall contain the Department's opinion of the compatibility or conflict of the proposed development or subdivision with each of the policies contained in this Code, including discussion of those conflicts that were apparent at presketch review.

**B. Referral to Planning Commission.** The completed Sketch Plan, including comments, shall be forwarded to the Planning Commission for its consideration at the earliest reasonable time consistent with the schedule and procedures of the Commission.

**C. Planning Commission Public Review and Hearing.** The Planning Commission shall conduct a public hearing on the application. This will be done in accordance with the provisions of **Public Review and Hearing Procedure** in **Chapter 6**.

**D. Comments by Reviewing Agencies.** The Planning Commission may refer the Sketch Plan to agency review if it is determined that significant adverse impacts require a more detailed review process.

**E. Significance of Sketch Plan Approval.** Approval of a Sketch Plan shall constitute approval for the general development concept, but shall not constitute approval of any detailed design, engineering submittals or proposed solutions to specific problems. If submittals are not approved, or if specific problems are not solved, the development application shall be denied at final plan stage.

**5302.3 Final Plat.** After approval of the Sketch Plan by the Planning Commission the applicant shall submit the required number of copies of a Final Plat meeting the **Submittal Requirements** in **Chapter 5, Section 4** of this Code.

**A. Planning Department Review.** The Planning Department shall review the final plat for accuracy and compliance with the requirements of this Code and any conditions of Sketch Plan approval, and refer it to the Board.

**B. Board Decision.** The Board shall consider and render a decision on the plat within thirty-five (35) days and approve the same if said application meets all requirements.

**5302.4 Filing of Plat.** Following approval by the Board the Final Plat, including covenants, shall be recorded by the County in the office of the County Clerk and Recorder.

### **5303 Major Impact Review Procedure.**

**5303.1 Presketch Plan.** For a subdivision or planned unit development classified as major impact the applicant shall submit to the Planning Department at least one (1) copy of a presketch plan meeting **Submittal Requirements** in **Chapter 5, Section 4** which shall be reviewed as follows:

**A. Planning Department Review.** Upon receipt of the completed zoning certification or application and presketch plan, the Planning Department shall make in writing observations, comments and recommendations as may be appropriate. Comments shall contain the Department's opinion of the compatibility or conflict of the proposed zoning, planned unit development or subdivision with the policies contained in the **Zoning, Planned Unit Development or Subdivision Policies, Standards and Guidelines**.

**5303.2 Sketch Plan.** After review of the Presketch Plan, the developer shall submit the required number of copies of a sketch plan meeting the **Submittal Requirements** in **Chapter 5, Section 4**.

**A. Planning Department Review.** Upon receipt of all required sketch plan information, the Planning Department shall review the submittals for completeness and compliance with the **Zoning, Planned Unit Development or Subdivision Policies, Standards and Guidelines**. The Planning Department shall make written comments, observations, and recommendations as it deems appropriate and shall refer the sketch plan application to the Planning Commission. Comments shall contain the Department's opinion of the compatibility or conflict of the proposed development or subdivision with each of the policies and requirements contained in this Code, including discussion of those conflicts that were apparent at presketch review and the identification of significant adverse impact on other property in the area.

**B. Referral to Planning Commission.** The completed Sketch Plan, including comments, shall be forwarded to the Planning Commission for its consideration at the earliest possible time consistent with the schedule and procedures of the Commission.

**C. Planning Commission Public Review and Hearing.** A Review and Public Hearing before the Planning Commission shall be announced and conducted in compliance with the **Public Review and Hearing Procedure** in **Chapter 6**.

**D. Significance of Sketch Plan Approval.** Approval of a Sketch Plan shall constitute approval for the general development concept, but shall not constitute approval of any detailed design, engineering submittals or proposed solutions to specific problems. If submittals are not approved, or if specific problems are not solved, the development application shall be denied at preliminary plan or final plan stage.

**5303.3 Preliminary Plan Application.** After approval of the Sketch Plan application by the Planning Commission, the applicant shall submit the required number of copies of a preliminary plan meeting the **Submittal Requirements** in **Chapter 5, Section 4**. The Preliminary Plan may relate to all or part of the approved Sketch Plan. If the Preliminary Plan does relate to only part of the development, the appropriate phase number shall be used to identify the development in addition to the name.

**A. Planning Department Review.** Upon receipt of the required preliminary plan information, the Planning Department shall review the submittals for accuracy, completeness and compliance with the **Zoning, Planned Unit Development, or Subdivision Policies, Standards and Guidelines** and for compliance with any conditions imposed by the Planning Commission in its Sketch Plan approval. When the Planning Department is satisfied that all necessary information has been submitted, it shall refer the preliminary plan to the Planning Commission and to the appropriate reviewing agencies as provided in 30-28-136 et seq., C.R.S., as amended and to any other agencies appropriate to review the particular proposal.

**B. Comments by Reviewing Agencies.** The reviewing agencies, which are sent copies of the Preliminary Plan, shall make recommendations within twenty-one (21) days after the mailing by the Planning Department. A necessary extension of up to thirty (30) days may be granted with the consent of the Planning Commission. The failure of any Agency to respond within twenty-one (21) calendar days or within the period of an extension shall be deemed an approval by the agency. The applicant shall review the comments and recommendations received and may submit additional information and make changes in the development proposal to meet the objections or comments of the reviewing agencies.

**C. Planning Commission Review.** The Planning Commission shall review the Preliminary Plan at the next regularly scheduled meeting after receiving comments from the reviewing agencies. The Planning Commission shall render a decision based on:

1. Compliance with the **Zoning, Planned Unit Development, or Subdivision Policies, Standards and Guidelines,**
2. The Preliminary Plan complies with the approved mitigation measures and other conditions, and
3. The proposal will not cause any significant adverse impact on other property in the area and does not conflict with any applicable provision of this Code.

**5303.4 Final Plat.** After approval of the Preliminary Plan, the applicant shall submit the required number of copies of a final plat meeting the **Submittal Requirements of Chapter 5, Section 4** to the Planning Department. All dates, signatures and information to be provided by the applicant shall be on the final plat, including necessary spaces and blanks for County approval and recording information.

**A. Planning Department Review.** The Planning Department shall review the Final Plat for accuracy and for compliance with the requirements of this Code and for any conditions of the Preliminary Plan.

**B. Referral to Board.** The Planning Department may make comments, observations and recommendations regarding the Final Plat upon referral to the Board.

**C. Board Approval.** The Board shall consider and render a decision on the plat within thirty (30) days and approve the same if said application meets all requirements.

**5303.5 Filing of Plat.** Following approval by the Board the Final Plat, including protective covenants, shall be recorded by the County in the office of the County Clerk and Recorder .

**5401 Submittal Requirements.**

**5401.1 Purpose.** This article sets forth the minimum information which must be submitted by the applicant. The Planning Commission or the Board of County Commissioners may require additional information as they deem necessary.

**5401.2 Application for Subdivision or Planned Unit Development.** An application for minor, moderate or major impact as defined in this Code shall be made on forms provided by Montezuma County which shall include the following information:

- A. Applicant's name, address and telephone number and, if different than the applicant, the name of the owner of the property together with evidence that the owner consents to the filing of the application.
- B. The name and address of the adjoining surface owners and mineral owners upon which the proposed development is located.
- C. The legal description of the proposed development
- D. Existing or requested zoning designation.
- E. A brief description of adjacent land usage.
- F. A brief description of the proposed development including number and type of living units, type of industrial, business or commercial use proposed, general description of planned or future expansion and acreage dedicated to Open Space, if any.
- G. **Application Completeness.** An application will be considered complete if it is submitted in the required number and form, includes all mandatory information and is accompanied by the applicable fee. The determination of application completeness shall be made within fifteen (15) days of application filing. If an application is determined to be incomplete the Planning Director shall supply written notice to the applicant along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within thirty (30) days, the application shall be considered withdrawn and the application shall be returned to the applicant.

**5401.3 Presketch Plan.** The applicant shall submit sufficient copies of a presketch plan which shows the general location of the development in sufficient detail to evaluate the relationship between the development and the physical features of the land and abutting lands. The presketch plan shall relate to all of the land proposed for immediate or future development. At a minimum, the presketch plan shall include:

- A. Subdivision or Planned Unit Development Application.
- B. Zoning application or certification.
- C. Site Map to include:
  - 1. The location of proposed development areas upon the site.
  - 2. Total acreage, abutting land uses and zoning designations, abutting land owners names and addresses.
  - 3. Existing roads, streets and highways.
  - 4. Major physical features including structures, buildings, boundary fencing, irrigation ditches and pipelines, utilities, topography, drainage, wetlands, noxious weed infestations and location of natural hazards.

## **5402 Sketch Plan Submittals for Minor, Moderate or Major Impact.**

**5402.1 Sketch Plan.** If the proposed development is one of minor, moderate or major impact as defined in this Code, the applicant shall submit a copy of the Sketch Plan which shall relate to all of the area proposed for immediate or future development. This information shall also build on the requirements of the Presketch Plan.

**5402.2 Map.** Maps shall show the name of the development, date of preparation, scale, and arrows designating true north. Maps shall be of a scale to permit adequate review. The sheet size shall be twenty-four (24) inches by thirty-six (36) inches. Maps shall include:

### **A. Development Layout.**

1. The location, dimensions and acreages of all parcels or homesites.
2. Square footage and uses of all existing and proposed buildings, structures, storage yards, waste disposal areas, parking areas, major utility installations and other major features of the development.
3. Location and associated easements of boundary fences, irrigation ditches, pipelines and utilities, proposed and existing, associated with the proposed development.

### **B. Road Layout.**

1. Location of all access easements and rights-of-way.
2. Road surface, width, curve radii and other dimensions of all proposed and existing roads.

**C. Natural Features.** Indicate the location of streams, lakes, wetlands, natural hazard areas, one hundred year floodplain, topography (sufficient to determine lot slope) and vegetation, including areas of noxious weed infestation on the proposed development site.

**5402.3 Development Plan.** The Development Plan is intended to provide written narrative and supporting documentation addressing the issues outlined below. Where Development Plan information can best be presented on a map, it may be included in the Map required in **5402.2** or attached to the narrative as a separate map.

**A. Development Schedule.** The plan shall include a development schedule indicating the approximate dates when construction can be expected to begin and be completed.

**B. Waiver or Modification Requests.** Any requests for the waiver or modification of certain **Threshold Standards, 1202** or **Design Guidelines, 5103**, shall justify the reasons why such waiver or modification is necessary. The applicant may show how variations in Threshold Standards and Design Guidelines will be addressed in subdivision or PUD covenants.

**C. Traffic and Parking.** A narrative report or submittals including:

1. Driveway permits from County Road Department or highway access permit from Colorado Department of Transportation.
2. Estimated existing traffic flow on streets, roads or highways serving or related to the proposed development.
3. The estimated increase in traffic flow resulting from the proposed development.
4. Visibility at existing and proposed intersections.

5. The total number of proposed off-street parking spaces for Commercial or Industrial development.
  6. The maximum number of vehicles that can reasonably be expected to be parked in the area at any one time because of activities related to the proposed development.
- D. Water Supply.** The plan shall include appropriate evidence that a water supply sufficient in terms of quality, quantity and dependability will be available to insure an adequate supply of water for the type of development proposed. The evidence may include, but shall not be limited to:
1. Estimated water requirements in gallons per day for non-agricultural uses specifying potable and non-potable uses.
  2. Evidence that the proposed water source or sources will actually supply adequate quantities of water to the proposed development, such as:
    - a. Evidence that a public or private water supplier can and will supply water to the proposed development, stating the amount of water available for use within the development.
    - b. A permit from the State Water Engineer, and a favorable report from a qualified hydrologist, or results from a pumping test.
  3. Evidence concerning the potability of the proposed water supply if the water is intended for human consumption.
  4. Cisterns are only permitted in the event that rural water is not available.
    - a. In the instance that cisterns are proposed as the primary water supply, provisions for fire protection within the proposed development must be approved by the appropriate fire protection district.
- E. Sewage and Waste Management.** The Plan shall include a narrative report describing:
1. If on site sewage disposal systems will be used the results of soil percolation tests performed and signed by an engineer or sanitarian shall be submitted in writing. The number and location of tests shall be necessary to produce reliable results for the whole area to be platted.
  2. A general description or discussion of the proposed method of treatment or disposal including the estimated capacity and location of any proposed waste treatment facility or system.
- F. Drainage Plan.** The application shall contain general maps and plans for storm drainage facilities to prevent storm waters in excess of historic runoff, caused by the proposed development, from damaging or exceeding the carrying capacity of existing natural or man made drainage ways or structures both on and off site.
- G. Estimated Costs.** The plan shall also include an estimate of the construction costs and proposed method of financing of streets and related facilities, a water distribution system, any sewage collection system, storm drainage facilities and other utilities as may be required of the developer by the County.
- H. Soils and Natural Hazards.** A geologic investigation shall address potentially hazardous conditions and shall indicate the suitability of types of soil.

- I. **Developments Impacting Agricultural Lands.** If a proposed development adjoins or has impact upon agricultural lands, the Sketch Plan shall identify, in written or graphic form, the following:
  1. The location and name of the owner of any agricultural land adjoining or possibly impacted by the proposed land use change.
  2. The location, name, name of owner, size and decree of any agricultural irrigation ditch or pipeline crossing the development property.
  3. The location of historical easements utilized to gain access to headgates, irrigation ditches, pipelines and fences for maintenance and operational purposes.
  4. The location of any established stock drive crossing or adjoining the development property, including the location of any existing fences along, and the location of new fences or other obstacles proposed to be built across, such stock drives.
  5. The location of existing and proposed boundary fences.

**5403 Preliminary Plan Submittals for Major Impact.**

**5403.1 Preliminary Plan.** If the proposed development is one of major impact as defined in this Code, and if the Planning Commission has approved a sketch plan for the proposed development, the applicant shall submit a preliminary plan consistent with these requirements.

- A. The Planning Department shall determine the number of copies of the Preliminary Plan for department and agency review.
- B. The Preliminary plan may relate to all or part of the area approved by the Sketch Plan.
- C. Written submittals shall be bound in an order specified by the Planning Department.

**5403.2 Relationship to Sketch Plan.** If the Preliminary Plan represents significant variations from the approved Sketch Plan, those variations shall be clearly identified and described. If variations from the approved Sketch Plan substantially change the impact of the project, the applicant may be required to file, and obtain approval of, an amended Sketch Plan.

**5403.3 Preliminary Plan Maps.**

- A. The map shall be drawn to a scale not less than one inch equals two hundred (200) feet, or as otherwise approved by the Commission.
- B. In the case of large development requiring more than two (2) sheets at the required scale, the applicant shall also submit a total area plan showing the entire development on a single sheet at an appropriate scale.
- C. The size of the Preliminary Plan shall be at a scale to permit adequate review. The sheet size shall be twenty-four (24) inches by thirty-six (36) inches.
- D. In addition to the requirements of the Sketch Plan map, the following information will be included:
  1. Elevation contour certified by a professional engineer or land surveyor drawn at sufficient intervals to determine lot slope.
  2. References to permanent survey monuments with a tie to a section corner or quarter section corner.
  3. The location, size (in square feet and/or acres) and numbering sequence of lots and blocks within subdivisions.

#### **5403.4 Soils and Drainage.**

- A.** The preliminary plan shall discuss the methods proposed by the applicant to deal with problems arising from soil characteristics within the development.
- B.** If drainage impacts are potentially significant, the Preliminary Plan shall also contain a drainage study certified by a registered engineer showing all existing watercourses, irrigation ditches, pipelines, wetlands, limits of tributary areas, computations of expected tributary flows and the results indicated.
- C.** Where applicable, the limits of the one-hundred year flood shall be studied and plotted. Where permanent flood control dams have been built, their effects shall be noted.
- D.** If drainage impacts are potentially significant, location and sizes of all culverts, bridges, underground drainage facilities, drainage ditches, pipelines, channels and easements required to prevent major damage on and off site from a twenty-five year storm shall be shown.

**5403.5 Roads.** In all developments where streets or roads are intended for use by the general public, by lot or unit owners, or by anyone other than the applicant, the preliminary plan shall meet the Montezuma County Road and Bridge Standard Specifications. Driveway permit(s) from the Road Department or a highway access permit from Colorado Department of Transportation are required.

**5403.6 Solid and Hazardous Waste Materials.** The preliminary plan shall describe in narrative form, the method to be utilized by the development for the disposal of solid and hazardous wastes, where applicable.

**5403.7 Sewage Treatment.** The Preliminary Plan must address the proposed method of sewage treatment.

- A.** If the lots within a development are utilizing individual sewage disposal systems, the plan shall comply with 25-10-101 C.R.S., et. seq., and Montezuma County Resolution Nos. 86-1 and 4-97, as amended.
- B.** If the proposed development will utilize a centralized sewer system the applicant shall submit a letter of agreement from any existing sewage treatment service committing to service the proposed development.
- C.** New central sewage disposal systems which are part of a development proposal must be evaluated and approved by the Colorado Department of Health. This approval must be included in the Preliminary Plan submittals. The location of proposed facilities must be included on the Preliminary Plan Map.

**5403.8 Water Supply.** The Preliminary Plan application shall contain evidence that definite provisions have been made for a water supply that is sufficient in terms of quantity, quality and dependability to provide an appropriate supply of water for the type of development proposed. For development proposals involving a new centralized water treatment system, the system must be evaluated and approved by the Colorado Department of Health. This approval must be included in the Preliminary Plan submittals. The location of the proposed facilities must be included on the Preliminary Plan map.

**5403.9 Fire Protection.** If the proposed development includes a central water system or other features which will be utilized for fire suppression purposes, the preliminary plan shall include a map showing hydrants and other fire suppression features.

**5403.10 Statement of Ownership.** The Preliminary Plan shall include a title commitment or title policy from a title insurance company or title opinion from a licensed Colorado attorney showing that the applicant is the owner of record or the applicant has the written consent of the owner of record.

**5403.11 Covenants or Restrictions.** The preliminary plan shall include a preliminary draft of protective covenants and deed restrictions along with any other conditions imposed during the review process. Threshold Standards will be incorporated as applicable. Proof shall be provided of the establishment of any association, district or group which will enforce or administer such covenants, declarations and restrictions.

**5403.12 Common Areas.** The Preliminary Plan shall identify any areas which will be set aside as common areas and shall include a plan for these areas. Maintenance shall be assured on a continual basis.

**5403.13 Developments within Hazard Areas.** If the Sketch Plan revealed that part or all of the proposed development is within an area subject to hazardous conditions, the Preliminary Plan shall include sufficient design detail and information to demonstrate adequate engineering and design solutions to the problems caused by any hazards.

**5403.14 Developments Having Impact on Agricultural and Other Land.** If the development has impact upon agricultural lands or other subdivisions, the Preliminary Plan shall describe and identify those features of the Preliminary Plan design which eliminate or mitigate adverse impacts on adjoining or impacted land uses.

**5403.15 Noxious Weed Management Plan.** Noxious weeds shall be inspected, identified, diagrammed and submitted with the sketch plan and must have an approved weed management plan submitted with the preliminary plan. This plan will become part of the covenants of the property and be filed with, and noted on, the plat.

**5403.16 Additional Information.** If any other conditions were placed on approval of the Sketch Plan to achieve compatibility between the proposed development and surrounding uses and with the policies, standards and guidelines of this Code, the Preliminary Plan shall describe and identify those features of the Preliminary Plan design which fulfill these conditions.

#### **5404 Final Plat Submittals for Minor, Moderate and Major Impact.**

**5404.1 Final Plat.** After the Board has approved the Sketch Plan of a development of minor or moderate impact or the Preliminary Plan of a development of major impact, the applicant shall submit one (1) copy of a Final Plan consistent with the requirements of this part, two (2) copies of the plat drawn on mylar and one (1) blueline or blackline print of the mylar plat.

#### **5404.2 Conformity with Approved Plan.**

- A.** Any Final Plat shall conform in all respects to the approved Sketch Plan for a development of minor or moderate impact or the approved Preliminary Plan for a development of major impact.
- B.** Any Final Plat shall incorporate all modifications and special conditions previously specified by the Planning Commission and Board as necessary to comply with the subdivision policies, standards and guidelines of this Code and all applicable laws, rules and regulations.

- C. Any changes between the previously approved plan and the submitted final plat shall be identified in a statement provided by the applicant. If the Board determines that such changes are substantial in nature, they shall refer the application back to the Planning Commission for further review.

**5404.3 Required Accompanying Data.** All written submittals included with the Final Plat shall be approved according to the impact level submittal and review requirements of the development. These will include, as applicable:

- A. Application
- B. Zoning certification
- C. Development plan: presketch, sketch, preliminary
- D. Map: presketch, sketch, preliminary
- E. Waiver/Mitigation plan
- F. High Impact permit
- G. Water plan
- H. Sewage and waste management plan
- I. Fire Protection plan
- J. Access permits: County or state
- K. Geologic Investigation: soils and natural hazards
- L. Noxious weed plan
- M. Compliance with major street plan within 3 miles of a municipality
- N. Statement of ownership
- O. Covenants
- P. Estimated costs
- Q. Solid and Hazardous wastes for Commercial and Industrial developments
- R. Road inspection and final approval
- S. Bond for improvements, as required in an form and amount satisfactory to the County, and
- T. Any plat notes and covenants specified during review process.

**5405 General Requirements for Maps, Plans and Plats.**

**5405.1** Any map, plan or plat submitted with a final plan application shall comply with the following:

- A. Scale shall be two hundred (200) feet to the inch unless a larger scale is determined at the Sketch Plan stage in which case one hundred (100) feet or fifty (50) feet to the inch may be required.
- B. Sheet sizes for all maps, plans or plats shall be twenty-four (24) by thirty-six (36) inches.
- C. A Final Plat may be submitted in sections covering representative and reasonable portions of the subdivision tract at the appropriate scale. In such cases submission shall include a key map of the same size and material as the Final Plat indicating the sections, their relationships and order.
- D. Each sheet shall contain a scale (written and graphic), north arrow and a heading containing the name of the development, and the location of the development by reference to a quarter section, township and range.
- E. The point of beginning shall be indicated and its proper reference to the monumented perimeter survey shall be delineated on the drawing.

- F. All bearings and distances of boundary lines shall be indicated outside the boundary line, not inside with the lot dimensions, and all dimensions necessary to establish the boundaries in the field shall be shown; and such other survey requirements as required by 38-51-102, et seq., C.R.S., as amended. When the plat is bounded by an irregular shoreline or body of water, the bearings and distances of a closing intermediate traverse shall be given and a notation made that the plat includes all land to the water's edge or otherwise.
- G. Excepted parcels shall be marked "Not included in this plat" and the boundary completely indicated by bearings and distances.
- H. All streets, walkways, alleys, and any other public common areas shall be designated as such and named, bearings and dimensions must be given.
- I. All easements and rights-of-way including irrigation ditches, pipelines, boundary fences, utility lines, roads and paths or trails shall be designated as such and bearings and dimensions given.
- J. Planned or existing, recorded or apparent easements, the closing or changing of which might affect the rights of others shall be indicated and the bearings and dimensions given.
- K. All lands within the boundaries of the plat shall be accounted for either by lots, walkways, streets, alleys or other public common area, or excepted parcels.
- L. All dimensions of irregularly shaped lots shall be indicated in each lot.
- M. Bearings shall be given for all lot lines, except that bearings need not be given for interior lot lines where the bearings are the same as those of both exterior lot lines.
- N. Parcels not contiguous shall not be included in one plat, nor shall more than one plat be made on the same sheet. Contiguous parcels owned by different parties may be embraced in one plat, provided that all owners join in the dedication and acknowledgment.
- O. Other information on the plat shall include but not be limited to:
  1. Name of subdivision, true north line and date.
  2. Name of owner or owners and address.
  3. Total acreage of tract and total number of lots.
  4. Township, Range, Section and Quarter Section.
  5. Block and Lot numbers.
  6. Graphic and written scale.
- P. Permanent reference monuments shall be located and set as required by 38-51-101 et seq., C.R.S., as amended.
- Q. The surveyor making a plat shall certify on the plat that it is correct and that the monuments described in it have been placed as described. He shall affix his name and seal.
- R. All utilities and easements shall be shown on the Final Plat along with certification from utility companies showing their approval.
- S. Signature block for municipality stating compliance with current major street plan.

**5405.2 Subdivision Plats.** In addition to the requirements of the foregoing section, subdivision plats intended for recording shall comply with 30-28-133 et seq., C.R.S., as amended, including the following:

- A. All lots, blocks or spaces shall be consecutively numbered.
- B. All covenants, conditions and restrictions shall be filed with the plat and the plat shall contain a reference to the book and page and reception number where the covenants, conditions and restrictions are recorded.
- C. All curve data may be shown on the plat which shall include radii, internal angles and lengths of all arcs. Points of all curvature shall be shown on the plat.
- D. Where the subdivider is to dedicate land for roads, parks, easements and other public purposes, a dedication statement acceptable to the County shall be shown on the Final Plat.

**5405.3 Improvement Agreements and Security.** No final plat showing improvements not yet completed shall be approved until the developer has submitted a development improvement agreement or a contract approved by the Board guaranteeing the construction of required public improvements, as well as performance of all terms and conditions as set forth in presketch, sketch or preliminary plan approval. The development improvement agreement shall accompany the Final Plan.

**5405.4 Covenants Provided by Seller.** Developments of minor, moderate and major impact shall include protective covenants and deed restrictions to be filed with the Plat. Covenants shall run with the land, and a copy of the recorded covenants shall be provided by the seller to all future purchasers of lots in the subdivision or planned unit development.

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## CHAPTER 6: PUBLIC REVIEW AND HEARING PROCEDURE

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**6101 Public Review and Hearing Procedure.** The Board of County Commissioners shall hold a public hearing on High Impact Permits. A public hearing before the Planning Commission shall be required for the establishment of, or change of zoning, to review planned unit developments and subdivisions. If there are any unresolved issues the Board of County Commissioners may order a public hearing for the purpose of resolving said issues. The intent of the Public Hearing Process is to arrive at conditions which will make a proposed development compatible with Zoning, Subdivision and Planned Unit Development regulations, Threshold Standards and Design Guidelines, and with existing land uses that will be impacted by the proposed development.

**6101.1 Notice of Public Hearing.** After the Planning Department has received the required submittals, and scheduled an application for Planning Commission review, it shall cause public notice of the application for either zoning change, subdivision, planned unit development or High Impact Permit for a public hearing to be given in accordance with the following provisions:

- A.** The notice of public hearing shall clearly set forth adequate information to persons whose rights could be adversely affected by the proposed development. The public notice shall contain:
  - 1.** A description of the location of such proposed development by reference to known landmarks, road intersections, existing towns and developments, addresses or other similar methods; and by reference to lot, block and filing number if in an approved development or by reference to quarter-section, township and range.
  - 2.** A brief description of the proposal.
  - 3.** The date, time and place of the public hearing.
  - 4.** A statement that interested persons may attend and give input at such hearing.
  - 5.** The phone number and address of the Planning Office where additional information may be obtained.
- B.** The Notice of Application and Public Hearing before the Planning Commission shall be given at least ten (10) days prior to the hearing.
- C.** The Notice of Application and Public Hearing shall be given:
  - 1.** By at least one publication in a newspaper of general circulation within Montezuma County.
  - 2.** Posting a sign by the landowner at one or more locations on the proposed development at least ten (10) days prior to the hearing. The location of the sign(s) shall be identified by the Planning Department and shall be readily visible from roads or streets serving the area of the proposed development.
  - 3.** And as to planned unit developments, written notice to adjoining landowners at least fifteen (15) days prior to the hearing.

**6101.2 Planning Commission Review/Public Hearing.** If the development proposal involves a parcel with approved zoning, review and public comment shall be limited to issues of compliance with applicable Threshold Standards, Design Guidelines and Regulations.

**A.** The Planning Commission Review/Public Hearing shall be conducted as follows:

1. The applicant or applicant's representative shall inform persons at the hearing of the nature, location and scope of the proposed development.
2. Members of the Planning Commission may ask questions of the applicant concerning the proposed development.
3. The interested public will be given an opportunity to ask questions and comment upon the proposed development, within the framework of **Development Policies, Standards and Guidelines** in this Code. Written comments will also be accepted and read.
4. The Planning Commission and staff may conduct discussions with the applicant and the interested public seeking agreement on conditions that would make the proposed development reasonably compatible with existing land uses, and the Development Policies and Guidelines.
5. Agreements and conditions arrived at through these discussions will, at the direction of the Planning Commission, become recommended conditions for the approval of the proposed development .
6. In the event that the Planning Commission needs more information or time to deliberate the proper resolution of outstanding issues the Public Hearing may be continued to a time certain.
7. If the Planning Commission recommends denial of the development, the developer has thirty (30) days from the date of the Planning Commission hearing to petition for a public hearing before the Board of County Commissioners.
8. If there are unresolved issues, the Planning Commission may forward the application to the Board of County Commissioners for further review.
9. At the direction of the Planning Commission the Planning staff will prepare Findings.
10. Findings will be forwarded to the Board of Commissioners within 35 days after the completion of the Public Hearing. Findings will also be sent to the applicant, and will be available for inspection by the interested public.

**6101.3 County Commission Hearing on Sketch Plan (Optional).**

- A.** In the event that there are unresolved issues from the Sketch Plan hearing before the Planning Commission, the County Commission may announce a public hearing in conformance with **6101.1**.
- B.** The public hearing will focus on the unresolved issues including relevant submittals and findings along with written and oral public comments made at the Planning Commission Hearing.
- C.** Upon conclusion of the public hearing, the County Commission shall render a decision regarding the Sketch Plan.

**6101.4 County Commission Review and Approval of Final Plat** shall be conducted in accordance with **5304.4** of this Code.

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**CHAPTER 7: ADMINISTRATION**  
**Enforcement, Fees, Miscellaneous Provisions**

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**7101 Enforcement.**

**7101.1 Enforcement.**

- A.** Any person, firm, or corporation violating any regulation or provision of this Code shall be subject to criminal and civil actions and proceedings and penalties as provided in 25-1-611 and 613, C.R.S. as amended; and 30-28-124, C.R.S., and that portion of Senate Bill 98-055, codified as 30-28-124.5, C.R.S., as amended.
- B.** The Board of County Commissioners may bring an action to enjoin any person, firm or corporation from selling subdivided land before a final plan for such subdivided land has been approved by the Board of County Commissioners.
- C.** Subdivision Improvements Agreements may be required as provided in 30-28-101 (11) C.R.S., as amended, and shall be enforceable by appropriate legal action.
- D.** Conditions of Approval. In approving applications the Planning Commission and/or Board of County Commissioners shall be authorized to impose such reasonable conditions as may be necessary to reduce or minimize any significant adverse impact upon other property in the area and to comply with applicable provisions of this Code which shall be enforceable by appropriate legal action.

**7102 Administrative Fees.**

**7102.1 Statement of Intent.** For the cost of reviewing and processing applications for zoning, subdivisions, and permits each applicant shall pay the fees set forth by the Board.

**7102.2 Fees Charged by Review Agencies.** If a proposed Land Use change will be sent for a review to any agency which assesses a fee, such fee shall be paid to the County at the time of the preliminary plan submittal or when such costs are incurred.

- A. Additional Fees.** If, after receipt of the sketch plan, preliminary plan, or permit application, the Board determines that the demand for additional public funds resulting from the review of the proposed development is likely to be substantial the Board may, after consultation and discussion with the applicant, assess additional fees. Such additional fees shall be set in an amount that will, as far as can be determined, cover the public costs.

**7103 Non-Conforming Uses and Previous Approvals and Exemptions.**

**7103.1 Existing and Non-conforming Uses.** Except as hereinafter provided in this section, the lawful use of any building, structure or land existing at the time of the enactment of this Code may be continued even though it does not conform to the requirements of this Code.

**7103.2 Previous Approvals.** The adoption of this Code shall not affect, cancel or invalidate any approval previously granted under prior Montezuma County Subdivision Regulations.

**7103.3 Exemptions.** The Board of County Commissioners may grant exemptions as provided by 30-28-101 (10) (d) C.R.S., as amended.

**7104 Correction, Amendment and Vacation of Existing Subdivision.**

**7104.1 Correction of Plats.** The Board may approve a correction plat of a subdivision if:

- A. All affected lot owners in the subdivision sign on the corrected plat approving said correction.
- B. The sole purpose of such correction plat is to correct one or more technical errors in the plat; and
- C. The correction plat is consistent with an approved preliminary plan or where no preliminary plan was presented, an approved sketch plan.

**7104.2 Amendment of Plats.**

- A. The amendment of an approved plat shall be done in accordance with the provisions of this Code; provided, however, that submittals utilized in the original application may be utilized for the amendment where appropriate.
- B. All lot owners in the subdivision or planned unit development must sign on the amended plat approving said amendment, except when lot owners are combining adjacent subdivision lots to their existing lot, then only the signatures of the affected lot owners are required.

**7104.3 Vacation of Plats.**

- A. A person may make application to the Board to vacate any undeveloped subdivision plat of record.
- B. **Procedure.** The owner or owners shall present a petition signed by all owners of all the land in the undeveloped subdivision or planned unit development to the Board containing the legal description of the development and requesting vacation thereof. The Board shall approve or deny the petition.

**7105 Resolution Amendments Interpretation and Review.**

**7105.1 Amendments.** This Resolution may be amended, supplemented, changed, modified or repealed by the Board in accordance with the provisions of this section.

- A. **Initiation.** The Planning Commission or the Board may initiate such amendment procedure.
- B. **Review.** Any application for an amendment, supplement, change, modification or repeal of this Resolution shall be considered in the following manner:
  - 1. **Planning Commission Recommendation.** Every proposed amendment, supplement, change, modification or repeal of this Resolution shall be referred to the Planning Commission for its study and recommendation. Within 35 days of the receipt thereof, the Commission shall submit its recommendations for approval or disapproval and any suggestions thereon to the Board.
  - 2. **Public Hearing.** Upon receipt of the recommendation of the Commission, the Board shall schedule a public hearing on the proposed amendment, supplement, change modification or repeal of this Resolution. Notice of said public hearing setting forth the time, place and purpose thereof shall

be published in a newspaper of general circulation in Montezuma County at least fifteen (15) days prior to the date set for the public hearing. A decision will be rendered by the Board at the conclusion of the public hearing.

**7105.2 Severability.** If any provision of this Resolution is held invalid with respect to its application to any person or factual situation, all other provisions shall continue to apply, and to that end the provisions of this Resolution are hereby declared severable.

**7105.3 Judicial Review.** The adoption of this Resolution is a legislative function. Judicial review of a final judicial or quasi-judicial local land use decision shall be as provided by 13-51.5-101 to 103 et seq., C.R.S., as amended.

**7105.4 Repeal.** That Resolution No. 15-78, dated July 17, 1978 declaring that certain matters shall not be regulated is hereby repealed.

**7105.5 Effective Date.** This Code is necessary for the immediate preservation of the public health, safety and welfare, and shall be effective immediately upon adoption.

NOW THEREFORE BE IT RESOLVED that this Code is hereby amended.

Adopted this 15th day of December, 2003 at 2:40 o'clock p.m.

Board of County Commissioners  
of Montezuma County, Colorado

Glenn E. Wilson  
J. Kent Lindsay  
H. Newayne Findley

Commissioners voting aye in favor of this Resolution were:

Glenn E. Wilson, J. Kent Lindsay and Dewayne Findley

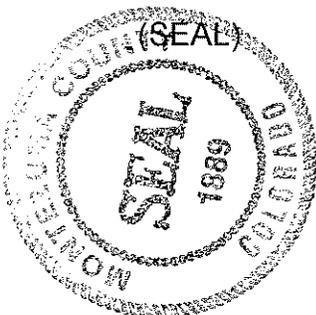
Commissioners voting no against this Resolution were:

\_\_\_\_\_ and \_\_\_\_\_

Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado

I certify that the above and foregoing Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners for Montezuma County, Colorado, and the votes upon same are true and correct.

Dated this 15<sup>th</sup> day of December, 2003.



Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado

**ADDENDUM TO MONTEZUMA COUNTY LAND USE CODE**  
**DATE: DECEMBER 15, 2003**

Page 1 Application.

- B. Because the Dolores River Valley is the primary water source for the People in the Town of Dolores, the City of Cortez, and much of the unincorporated areas of Montezuma County, it is absolutely essential that the quality of the water in the Dolores River be preserved. Therefore, to preserve said water quality it is necessary that some of the generally applicable regulations in this Land Use Code be modified for application in the Dolores River Valley. Said regulations as so modified shall govern development in the Dolores River Valley. For the purposes of this Land Use Code, the Dolores River Valley is the geographical area delineated by the Dolores River Valley Map marked Exhibit 1, attached hereto and made part hereof. Said area shall hereinafter be referred to in this Land Use Code as the Dolores River Valley.

Pages 2 and 3 Site, Lot and Building Standards

- Minimum lot size: 10 acres within the Dolores River Valley
- Building setbacks: Within the Dolores River Valley: All new and commercial construction, including I.S.D.S., set back 100 feet from existing stream bank.

Page 22 Minimum Lot Size: 10 acres

- 3306.2.A.: Within the Dolores River Valley an allowable 10 acre lot must include a minimum of 30 percent developable land. Developable land includes slopes less than 30 degrees, capable of supporting an engineer designed septic system per Montezuma County Resolution No. 4-97.

Page 23 Minimum Lot Size: 3 acres

- 3307.2.A: This zoning is not allowable within the Dolores River Valley.
- 3308.2.A: This zoning is not allowable within the Dolores River Valley.

Page 41 General Design Guidelines

- 5103.1 Setback Guidelines. The following setbacks are required:

Page 42

- 5103.1.A.4: Within the Dolores River Valley all new commercial and residential construction, including Individual Sewage Disposal Systems, shall be set back 100 feet from the existing stream bank.

Page 44 5103.5 Design Guidelines for Residential Development.

- 5103.5.B: Within the Dolores River Valley the minimum lot size for residential development must be ten (10) acres. An allowable 10 acre lot must include a minimum of 30 percent developable land. Developable land includes slopes less than 30 degrees, capable of supporting an engineer designed septic system per Montezuma County Resolution No. 4-97.
- 5103.7 Design Guidelines for Single Lot Development that is not intended to circumvent the Subdivision Regulations.
  - A. To qualify for a Single Lot Development the remaining acreage must be in excess of 35 acres.
  - B. The lot must meet all development and design criteria as outlined in the Montezuma County Land Use Code.

Page 45 Development Criteria

- 5105.3.A Within the Dolores River Valley the minimum lot size for residential development must be ten (10) acres. An allowable 10 acre lot must include a minimum of 30 percent developable land. Developable land includes slopes less than 30 degrees, capable of supporting an engineer designed septic system per Montezuma County Resolution No. 4-97.

Page 46 Sanitary Sewage Disposal.

- 5105.2.F.1.a Within the Dolores River Valley Individual Sewage Disposal Systems shall be constructed in accordance with Montezuma County Resolution No. 4-97.

Page 49 Definitions of Impact.

- 5202.50 Single Lot Development will be reviewed as a minor impact.

THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTEZUMA  
STATE OF COLORADO

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 8<sup>th</sup> day of December, 2003, with the following persons in attendance:

Commissioners:	Dewayne Findley, Kent Lindsay, and Glenn E. Wilson, Jr.
Commissioners Absent:	
County Administrator:	Thomas J. Weaver
County Attorney:	Bob Slough
Clerk and Recorder:	Carol Tullis

the following proceedings, among others, were taken:

Resolution # 16-2003

A RESOLUTION TO APPROPRIATE SUMS OF MONEY

WHEREAS, the Commissioners have adopted the annual budget in accordance with Local Government Budget Law on December 8, 2003, and;

WHEREAS, The Commissioners have made provision therein for revenues in an amount equal to or greater than the total proposed expenditures as set forth in said budget, and;

WHEREAS, it is not only required by law, but also necessary to appropriate the revenue provided in the budget to and for the purposed described below so as not to impair the operations of the County.

NOW THEREFORE BE IT RESOLVED by the Commissioners of Montezuma County, Colorado, that the following sums are hereby appropriated from the revenue of each fund, to each fund, for current operating expenses:

FUND OPERATIONS

General	\$ 7,958,918
Road	\$ 3,507,540
Landfill	\$ 706,490
Social Services	\$ 7,282,808
Capital Fund	\$ 500,000
Clara Ormiston Fund	\$ 15,709
Conservation Trust	\$ 100,000
Emergency Telephone	\$ 90,000
Lodgers Tax	\$ 72,000
Revolving Loan Fund	\$ 0
Commodities	\$ 500,000
WIC	\$ 500,000
HCBS	\$ 500,000
TOTAL	\$21,733,465

Commissioners voting aye in favor of the resolution were:

*[Handwritten signatures of three commissioners]*

Commissioners voting nay against the resolution were:

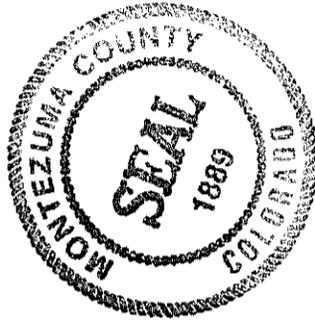
\_\_\_\_\_

*[Handwritten signature: Relda Jenkins, Deputy]*  
County Clerk and Recorder  
Montezuma County, Colorado

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 8<sup>th</sup> day of December, 2003.

(SEAL)



*[Handwritten signature: Relda Jenkins, Deputy]*  
County Clerk and Recorder  
Montezuma County, Colorado

THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTEZUMA  
STATE OF COLORADO

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 8<sup>th</sup> day of December, 2003, with the following persons in attendance:

Commissioners: Dewayne Findley, Kent Lindsay, and  
Glenn E. Wilson, Jr.  
Commissioners Absent:  
County Administrator: Thomas J. Weaver  
County Attorney: Bob Slough  
Clerk and Recorder: Carol Tullis

the following proceedings, among others, were taken:

Resolution # 15-2003

A RESOLUTION TO SET MILL LEVIES

A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2003 TO HELP DEFRAID THE COSTS OF GOVERNMENT FOR MONTEZUMA COUNTY, COLORADO, FOR THE 2004 BUDGET.

WHEREAS, the Commissioners of Montezuma County, Colorado, have adopted the annual budget in accordance with the Local Government Budget Law on the 8<sup>th</sup> day of December, 2003, and;

WHEREAS, the 2003 valuation by the Commissioners of Montezuma County as certified by the County Assessor is \$247,538,050;

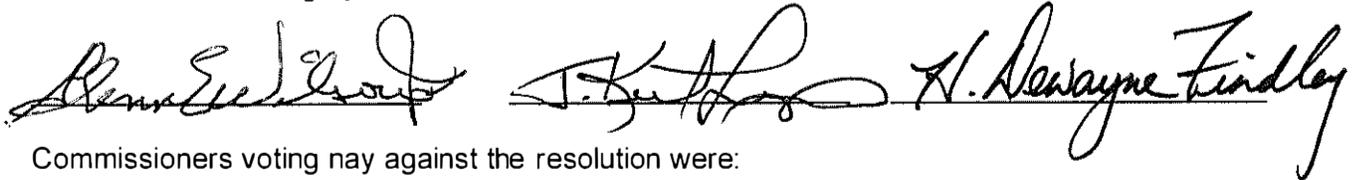
NOW THEREFORE BE IT RESOLVED by the Commissioners of Montezuma County, Colorado, that;

For the purpose of meeting all general operating expenses of Montezuma County during the 2004 budget year, there is hereby levied a tax of mills as stated below upon each dollar of the total valuation of assessment of all taxable property within the County for the year 2003.

SUMMARY OF FUNDS BUDGET 2004

County General	10.338
Social Services	1.300
Road and Bridge	2.616
TOTAL COUNTY MILL LEVY	14.254

Commissioners voting aye in favor of the resolution were:



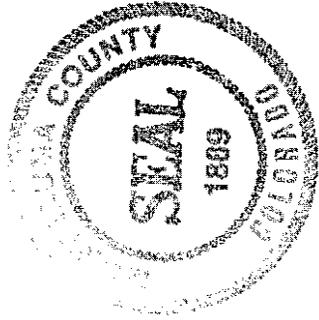
Commissioners voting nay against the resolution were:

\_\_\_\_\_  
  
Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 8<sup>th</sup> day of December, 2003.

(SEAL)



*Nelda Jenkins, Deputy*  
County Clerk and Recorder  
Montezuma County, Colorado

THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTEZUMA  
STATE OF COLORADO

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 8<sup>th</sup> day of December, 2003, with the following persons in attendance:

Commissioners: Dewayne Findley, Kent Lindsay, and  
Glenn E. Wilson, Jr.  
Commissioners Absent:  
County Administrator: Thomas J. Weaver  
County Attorney: Bob Slough  
Clerk and Recorder: Carol Tullis

the following proceedings, among others, were taken:

Resolution # 14-2003

A RESOLUTION ADOPTING A BUDGET FOR MONTEZUMA COUNTY, COLORADO FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY, 2004 AND ENDING ON THE LAST DAY OF DECEMBER, 2004.

WHEREAS, the Commissioners of Montezuma County, Colorado, have appointed Thomas J. Weaver to prepare and submit a proposed budget to said governing body, and;

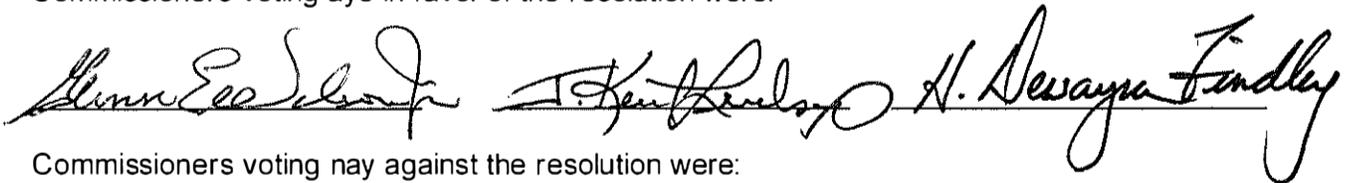
WHEREAS, Mr. Weaver has submitted a proposed budget to this governing body for its consideration, and;

WHEREAS, due to proper notice, published or posted in accordance with the law, said proposed budget was open for inspection by the public at a designated place, a public hearing was held on December 8, 2003, and interested electors were given the opportunity to file or register any objections to said proposed budget, and;

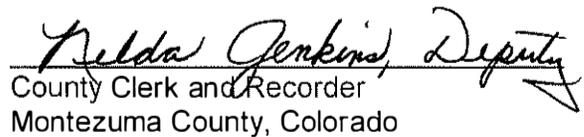
NOW THEREFORE BE IT RESOLVED by the Commissioners of Montezuma County, Colorado, that;

The budget as submitted hereby is approved and adopted as the budget of Montezuma County, Colorado for the year stated above.

Commissioners voting aye in favor of the resolution were:



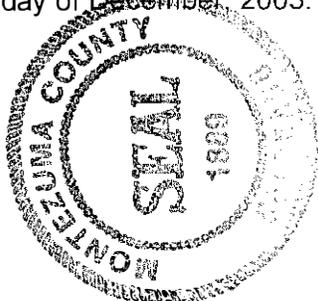
Commissioners voting nay against the resolution were:

  
Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 8<sup>th</sup> day of December, 2003.

(SEAL)



  
Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado

THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTEZUMA  
STATE OF COLORADO

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 8<sup>th</sup> day of December, 2003, with the following persons in attendance:

Commissioners:	Dewayne Findley, Kent Lindsay, and Glenn E. Wilson, Jr.
Commissioners Absent:	
County Administrator:	Thomas J. Weaver
County Attorney:	Bob Slough
Clerk and Recorder:	Carol Tullis

the following proceedings, among others, were taken:

Resolution # 13-2003

WHEREAS, Montezuma County adopted an operating budget for the General Fund, Road and Bridge Fund and Landfill Fund in December, 2002, for the ensuing year, and;

WHEREAS, Montezuma County after adoption of the 2003 budget, received unanticipated revenues or revenues not assured at the time of the adoption of the budget other than the local government's property tax mill levy;

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners of Montezuma County, Colorado, the governing board, may authorize the expenditure of such funds by enacting a supplemental budget and appropriation as follows;

GENERAL FUND	\$680,477.00
Clerk	5,633.00
Community Corrections	9,129.00
Assessor	4,046.00
Jail	39,637.00
Records	1,600.00
Sheriff	24,002.00
District Attorney	46,478.00
Coroner	2,700.00
Planning	96,519.00
Health	162,000.00
Administration	116,297.00
Misc.	29,986.00
Senior Nutrition	132,209.00
Elections	9,941.00
Dolores	300.00
ROAD AND BRIDGE FUND	\$549,078.00
LANDFILL FUND	\$ 125.00
SOCIAL SERVICES	\$ 6,800.00

Commissioners voting aye in favor of the resolution were:

*Glenn E. Schaefer*      *J. Kent Lindgren*      *H. Dewayne Finckley*

Commissioners voting nay against the resolution were:

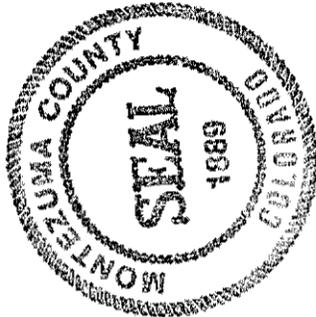
\_\_\_\_\_

*Nelda Jenkins, Deputy*  
County Clerk and Recorder  
Montezuma County, Colorado

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 8<sup>th</sup> day of December, 2003.

(SEAL)



*Nelda Jenkins, Deputy*  
County Clerk and Recorder  
Montezuma County, Colorado

**RESOLUTION # 12-2003**

**A RESOLUTION APPROVING THE LAW ENFORCEMENT ASSISTANCE  
FUND (LEAF) CONTRACT # L-36-04**

**WHEREAS**, the County of Montezuma, on behalf of the Montezuma County Sheriff's Office, has submitted an application to the Colorado Department of Transportation, Office of Transportation Safety for funding a LEAF project for the enforcement of laws pertaining to the driving under the influence of alcohol or other drugs, pursuant to 43-4-401 through 404, CRS and to LEAF Rules at 2CCR 602.1; and

**WHEREAS**, the State has approved an application and has prepared LEAF Contract which provides \$23,000; and

**WHEREAS**, the County of Montezuma has the authority and responsibility to fund the Montezuma County Sheriff's Office and to sign contracts on behalf of the Montezuma County Sheriff's Office; and

**WHEREAS**, a resolution by the County of Montezuma formally approving the LEAF Contract and authorizing the proper signature to be affixed to the Contract indicating such approval is required by the State of Colorado.

**NOW, THEREFORE, BE IT RESOLVED**, the County of Montezuma hereby approves the term, conditions and obligations of LEAF Contract and hereby authorizes the appropriate authority to sign the LEAF Contract on behalf of the County of Montezuma.



Nelda [Signature]  
Attest

Deputy Clerk  
Title

[Signature]  
Name

Chairman, BOCC  
Title

THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTEZUMA  
STATE OF COLORADO

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 13th day of October, 2003, with the following persons in attendance:

Commissioners: Glenn E. Wilson, Jr., Kent Lindsay, and  
Dewayne Findley  
Commissioners Absent:  
County Administrator: Thomas J. Weaver  
County Attorney: Bob Slough  
Clerk and Recorder: Carol Tullis

the following proceedings, among others, were taken:

Resolution #11-2003

WHEREAS, jobs are the main stay of the Colorado economy, and

WHEREAS, job creation has lagged behind job loss in recent years, and

WHEREAS, in the year 1982 home owners were concerned with high property taxes, and

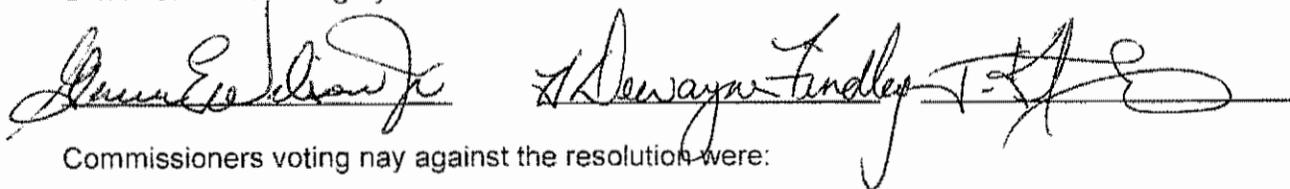
WHEREAS, a State Senator named Dennis Gallagher introduced an amendment to the Constitutional legislation setting the initial residential assessment rate at 21 per cent for residential property and further limiting residential property owners portion of the total tax to be no more than 45 per cent, and

WHEREAS, the cumulative effect of the Gallagher Amendment, Amendment #1 limiting property tax revenue and expense and Amendment 23 requiring certain funding for secondary education have been detrimental to business in Colorado, and

WHEREAS, the voters of the State of Colorado have proposed another amendment to the Colorado Constitution freezing the residential assessment rate at eight per cent,

NOW THEREFORE BE IT RESOLVED. that the Board of County Commissioners supports Amendment 32 which essentially eliminates the Gallagher Amendment and preserves jobs in the State of Colorado.

Commissioners voting aye in favor of the resolution were:



Commissioners voting nay against the resolution were:

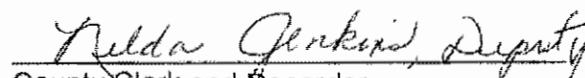
  
County Clerk and Recorder  
Montezuma County, Colorado

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 13th day of October, 2003.

(SEAL)



  
County Clerk and Recorder  
Montezuma County, Colorado

**THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTEZUMA  
STATE OF COLORADO**

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 15th day of September, 2003, with the following persons in attendance:

Commissioners:	H. Dewayne Findley, J. Kent Lindsay and Glenn E. Wilson, Jr.
Commissioners Absent:	
County Attorney:	Bob Slough
County Administrator:	Thomas J. Weaver
County Clerk:	Nelda Jenkins, Deputy Clerk

the following proceedings, among others, were taken:

**RESOLUTION No. 10-2003**

**A RESOLUTION AMENDING RESOLUTION NOS. 2-98, 12-2000 and 4-2002  
THE MONTEZUMA COUNTY LAND USE CODE**

**WHEREAS**, the Montezuma County Land Use Code was adopted on the 20<sup>th</sup> day of July, 1998, and

**WHEREAS**, the Montezuma County Land Use Code was amended on the 6<sup>th</sup> day of November, 2000 by Resolution No. 12-2000, and subsequently amended on the 8<sup>th</sup> day of April, 2002 by Resolution No. 4-2002, and

**WHEREAS**, on Thursday, July 24, 2003, during a regularly scheduled Planning Commission meeting, the Montezuma County Planning Commission certified to the Board of County Commissioners proposed amendments to said Land Use Code, and

**WHEREAS**, it has become necessary to amend said Land Use Code as per Addendum dated September 15, 2003, attached hereto.

**NOW, THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Montezuma County as follows:

ADDENDUM TO MONTEZUMA COUNTY LAND USE CODE

Date: September 15, 2003

Pages 2, 20-24, 26, 28

- Maximum Building Footprint: Maximum building footprint overall shall not exceed 12% of the lot size.

Pages: 2, 41, 43, 44

- Setbacks off of County Road and Hwy. Rights-of-way:
  - Residential: 50' overall
  - Commercial/Industrial: 50' from residential lot lines

Pages: 3, 12, 44

- 2205.4.C.2: Compliance with the Montezuma County Floodplain Resolution No. 1-91 and completion of a Floodplain Development Plan Permit, where applicable.
  - Threshold Standards, No. 18: Add: and completion of a Floodplain Development Plan Permit, where applicable.
  - 5103.6 add: and completion of a Floodplain Development Plan Permit, where applicable.

Page: 17

- 3106.4.B.: Residential Accessory Uses:
  - One guest or caretaker unit; Attached, 1500 square foot maximum, subject to the Montezuma County Individual Sewage Disposal System Rules and Regulations.

Page: 30

- Cluster Incentive PUD: Plat notes for phased development.
  - "Developer is responsible for payment of development fees and infrastructure in phased developments"
  - "Future home sites to be developed and replatted at a later date"

Page: 66

- 7103: NON-CONFORMING USES.
  - Delete: "but if abandoned or destroyed, any subsequent use must be in conformance with the Code.

**NOW THEREFORE BE IT RESOLVED** that this Code is hereby amended.

Adopted this 15<sup>th</sup> day of September, 2003 at 11:00 o'clock a.m.

Board of County Commissioners  
of Montezuma County, Colorado

*[Handwritten signature]*  
*[Handwritten signature]*  
H. Newaym Findley

Commissioners voting aye in favor of this Resolution were:

*[Handwritten signature]* and H. Newaym Findley

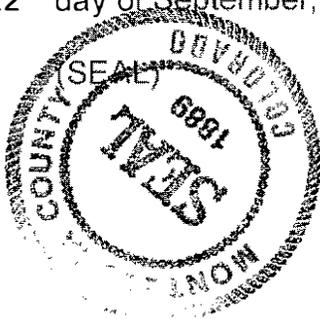
Commissioners voting no against this Resolution were:

\_\_\_\_\_ and \_\_\_\_\_

Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado

I certify that the above and foregoing Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners for Montezuma County, Colorado, and the votes upon same are true and correct.

Dated this 22<sup>nd</sup> day of September, 2003.



Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado

THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTEZUMA  
STATE OF COLORADO

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 15th day of September, 2003, with the following persons in attendance:

Commissioners: Glenn E. Wilson, Jr., Kent Lindsay, and  
Dewayne Findley  
Commissioners Absent:  
County Administrator: Thomas J. Weaver  
County Attorney: Bob Slough  
Clerk and Recorder: Carol Tullis

the following proceedings, among others, were taken:

Resolution # 9-2003

A RESOLUTION TO SUPPORT  
THE "WORLD CLASS" AERIAL TRAMWAY

WHEREAS, tourist dollars are an important part of the economy in southwest Colorado and Montezuma County, and

WHEREAS, Montezuma County has promoted Mesa Verde National Park as a national and international tourist destination, and

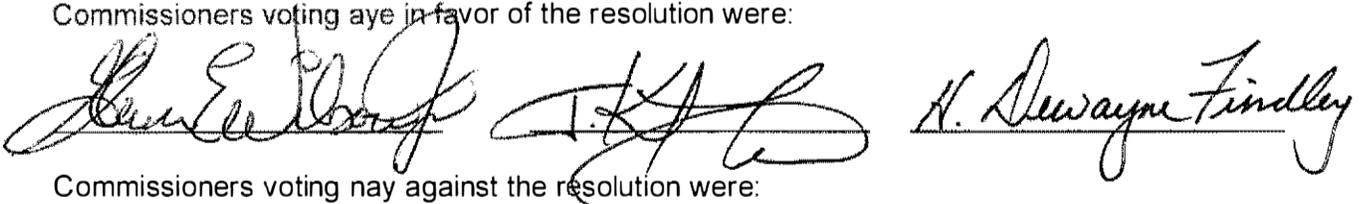
WHEREAS, Mesa Verde National Park hosts large numbers of tourists from America and around the world, and

WHEREAS, this high volume of tourism has significant impacts to the transportation system in Mesa Verde National Park, and

WHEREAS, the Federal Government is willing to spend considerable sums of money in repairing and expanding the existing infrastructure to accommodate the ever expanding traffic loads,

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners for Montezuma County to support an aerial tramway system to be constructed as an alternative method of transporting visitors to and from Mesa Verde National Park.

Commissioners voting aye in favor of the resolution were:



Commissioners voting nay against the resolution were:

  
Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 15th day of September, 2003.

(SEAL)



  
Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado

THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTEZUMA  
STATE OF COLORADO

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 15th day of September, 2003, with the following persons in attendance:

Commissioners: Glenn E. Wilson, Jr., Kent Lindsay, and  
Dewayne Findley  
Commissioners Absent:  
County Administrator: Thomas J. Weaver  
County Attorney: Bob Slough  
Clerk and Recorder: Carol Tullis

the following proceedings, among others, were taken:

Resolution # 8-2003

A RESOLUTION TO OPPOSE REFERENDUM A

WHEREAS, the State Legislature, in their infinite wisdom, has placed Referendum A on the ballot as a State wide Ballot initiative, and

WHEREAS, this state wide ballot initiative is considered by some as an all inclusive method of solving water shortages in Colorado, and

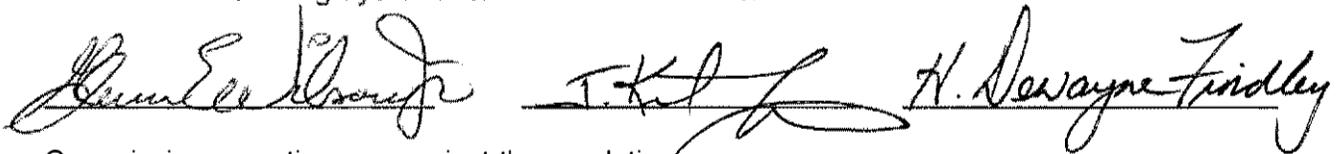
WHEREAS, it appears that this ballot initiative is fraught with severe inadequacies primarily designed for special interests, and

WHEREAS, Referendum A is clearly not in the best interest of Western Colorado and Montezuma County,

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners for Montezuma County that an official position in **opposition** to Referendum A be firmly established, and

BE IT FURTHER RESOLVED to promote the better good by urging citizens of Montezuma County and the State of Colorado to vote **NO** on this constitutional amendment.

Commissioners voting aye in favor of the resolution were:



Commissioners voting nay against the resolution were:

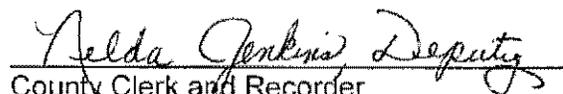
  
Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 15th day of September, 2003.

(SEAL)



  
Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado

RESOLUTION NO. 07-2003

A RESOLUTION SUSPENDING THE BAN ON OPEN FIRES

WHEREAS, Montezuma County Ordinance No. 1-96 prohibits open fires in the unincorporated areas of Montezuma County, except as the Board of County Commissioners of Montezuma County based upon competent evidence may by resolution suspend said ban on open fires from time to time to the degree and manner consistent with existing wildfire dangers; and

WHEREAS, competent evidence having been presented of sufficient rainfall throughout Montezuma County temporarily reducing existing wildfire dangers to more normal conditions;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Montezuma County that said ban on open fires should be and is hereby suspended. Said suspension shall continue in effect until canceled pursuant to Montezuma County Ordinance No. 1-96.

This Resolution is adopted this 25th day of August, 2003, at 9:50 o'clock A.m.,

BOARD OF COUNTY COMMISSIONERS  
OF MONTEZUMA COUNTY, COLORADO

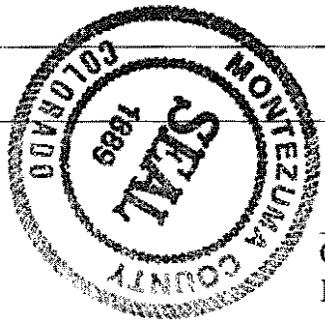
  
\_\_\_\_\_  
  
\_\_\_\_\_  
\_\_\_\_\_

Commissioners voting aye in favor of this Resolution were:

 \_\_\_\_\_  \_\_\_\_\_  
and \_\_\_\_\_

Commissioners voting no against this Resolution were:

\_\_\_\_\_  
and \_\_\_\_\_



  
\_\_\_\_\_  
County Clerk and Recorder  
Montezuma County, Colorado

6-03<sup>#</sup>

## ENTERPRISE ZONE CONTRIBUTION PROJECT

WHEREAS Montezuma County, Colorado recognizes that the health providers in its service area provide nonreimbursed health care and other benefits to its citizens

WHEREAS Montezuma County, Colorado recognizes community members in our service area give freely through cash and gift donations for the health care of the poor and indigent

WHEREAS Montezuma County, Colorado recognizes that it is necessary to retain physicians and maintain adequate health care infrastructure and technical assistance in our service area

THEREFORE IT IS RESOLVED that Montezuma County, Colorado should solicit the aid of and will support Southwest Memorial Hospital Foundation in it's effort to create and establish an Enterprise Zone to provide Physicians who are on the Southwest Memorial Hospital medical staff as well as citizens who contribute to health care to benefit from IN-KIND and other tax credits afforded by the Enterprise Zone.

ACCEPTED this 21 day of July, 2003.

Nelda Jenkins  
Deputy Clerk



[Signature]

RESOLUTION NO. 5-2003

A RESOLUTION CANCELLING THE SUSPENSION OF THE BAN ON OPEN FIRES

WHEREAS, the Board of County Commissioners of Montezuma County, State of Colorado, based upon competent evidence, finds that the danger of forest and grass fires is high throughout the unincorporated areas of Montezuma County and that to protect the public health, safety and welfare it is necessary to reduce the danger of wildfires within those areas;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Montezuma County as follows:

1. That Resolution No. ~~1-2000~~ <sup>8-2002</sup> and the suspension of the ban on open fires is hereby canceled pursuant to Montezuma County Ordinance No. 1-96.
2. That the ban on open fires pursuant to Ordinance No. 1-96 continues in full force and effect.

NOW THEREFORE BE IT RESOLVED that this resolution is hereby adopted effective immediately.

Adopted this 23rd day of June, 2003, at 11:50 o'clock A. m.

BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, COLORADO

[Signature]

[Signature]

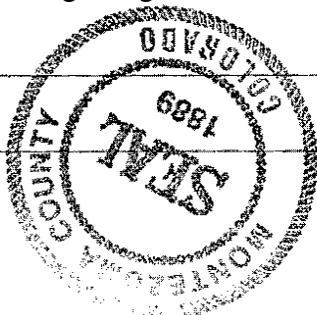
H. Dewayne Findley

Commissioners voting in favor of this Resolution were:

[Signature] and [Signature]  
and H. Dewayne Findley

Commissioners voting no against this Resolution were:

\_\_\_\_\_ and \_\_\_\_\_



[Signature]  
County Clerk and Recorder  
Montezuma County, Colorado

**THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTEZUMA  
STATE OF COLORADO**

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 28<sup>th</sup> day of April, 2003, with the following persons in attendance:

Commissioners:	Dewayne Findley, J. Kent Lindsay and Glenn E. Wilson, Jr.
Commissioners Absent:	
County Attorney:	Bob Slough
County Administrator:	Thomas J. Weaver
County Clerk:	Nelda Jenkins, Deputy Clerk

the following proceedings, among others, were taken:

**Resolution No. 4-2003**

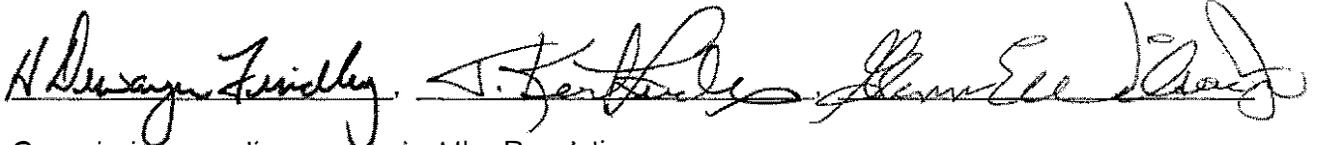
**WHEREAS**, the State of Colorado has promulgated the Colorado Plumbing Code of standards determined by the Examining Board of Plumbers, pursuant to C.R.S. 12-58-101, which allows for the licensing of plumbers and the inspection of their work, and

**WHEREAS**, the State of Colorado has the trained personnel and administrative and financial capability to carry out the dictates of the statute.

**NOW THEREFORE BE IT RESOLVED**, that the Board of County Commissioners for Montezuma County hereby requests that the Examining Board of Plumbers of the Department of Regulatory Agencies of the State of Colorado provide inspectors and charge fees for making inspections of plumbing work as defined by the Colorado Revised Statutes, as amended, in the unincorporated areas of Montezuma County pursuant to said Code, and such inspections will become effective and mandatory as of July 1, 2003.

**BE IT FURTHER RESOLVED** that this Resolution will sunset on June 30, 2004 unless action is taken by the Board of County Commissioners of Montezuma County to renew this Resolution.

Commissioners voting aye in favor of the Resolution were:



Commissioners voting nay against the Resolution were:

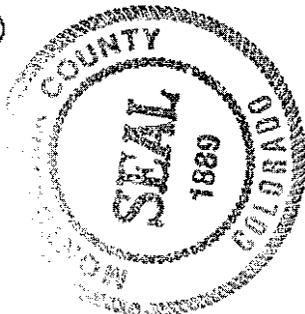
\_\_\_\_\_

  
County Clerk and Recorder  
Montezuma County, Colorado

I certify that the above and foregoing Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners for Montezuma County, Colorado, and the votes upon same are true and correct.

Dated this 28<sup>th</sup> day of April, 2003.

(SEAL)



  
County Clerk and Recorder  
Montezuma County, Colorado

RESOLUTION 5911

MONTEZUMA COUNTY  
SENIOR SERVICES

*Resolution*  
AN ORDINANCE AUTHORIZING THE BOARD *Chairman* PRESIDENT TO ENTER INTO AN AGREEMENT WITH THE STATE DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSPORTATION DEVELOPMENT, FOR THE PROVISION OF PUBLIC TRANSPORTATION SERVICES IN NONURBANIZED AREAS.

*Resolved*  
BE IT ~~ORDERED~~ BY THE BOARD OF *Commissioners* DIRECTORS OF MONTEZUMA COUNTY.

Section 1. The Board of Montezuma County finds:

- A. It has the power to enter into agreements with the State of Colorado; and,
- B. The State of Colorado, State Department of Transportation, Division of Transportation Development, has obtained certain unencumbered Federal funds for the provision of public transportation services in non urbanized areas; and,
- C. The State Department of Transportation, Division of Transportation Development, is responsible for the disbursement of these funds; and,
- D. Montezuma County is desirous of obtaining said funds for the provisions of public transportation services to residents of, and has filed an application with the State for this purpose; and,
- E. Montezuma County desires to accept the funds for such services pursuant to the conditions of the agreement; and,
- F. Montezuma County desires to work together with the State Department of Transportation to effect said services as provided in the agreement.

Section 2. Montezuma County hereby approves the attached contract between Montezuma County and the State Department of Transportation, agrees with the terms and conditions stated therein, and authorizes its president to sign said contract.

Section 3. Montezuma County hereby obligates the local fund share of \$20,829.00, as required by Exhibit A.

PASSES AND ADOPTED, SIGNED AND APPROVED THIS 24<sup>TH</sup> DAY OF FEBRUARY, 2003

ATTEST: MONTEZUMA COUNTY



*Nelda Jenkins*  
Secretary *Deputy Clerk*

By: *Gene E. Nelson*  
President

EXHIBIT A

SCOPE OF WORK AND CONDITIONS  
MONTEZUMA COUNTY

A. Standards of Performance

1. The Grantee will provide a minimum of 5.418 one-way passenger trip per year, at a maximum operating and administrative cost of \$8.97 per one-way trip, a maximum cost of \$1.99 per mile and a maximum cost of \$26.82 per vehicle hour. Standards of performance will be measured, reported and averaged at least quarterly. Measurement of these standards will commence with the presentation of the Grantee's first monthly report and request for reimbursement.

2. Performance will be reviewed quarterly. The State will begin its review no later than 30 calendar days after each performance quarter. If the State's review determines that the Grantee's performance does not meet the standards of performance set forth in paragraph A.1. above, the following steps will be taken:

a. The State will notify the Grantee in writing that performance does not meet the requirements of this Agreement.

b. Thirty (30) calendar days after date of such notification, the Grantee will submit to the State a written explanation of the cause(s) of the substandard performance, which shall include a written plan for improving performance.

c. The State will review the plan for improvement and notify the Grantee of its approval within 21 days.

d. If the plan is approved by the Department, the Grantee will implement the plan immediately upon receipt of the State's notification. If the plan is not approved by the Department remedial measures will be determined on a case-by-case basis. Such remedial measures may include termination of this Agreement and return of the grant funds or capital equipment purchased with such funds, in accordance with the terms of Section 8.

B. Project Budget

1. The net Project cost is estimated to be and shall be shared as follows:

	Administrative Costs GBL (XN-40)	Operating Deficit GBL (XP-40)
Federal Share (70%)	\$7,300	(50%) \$17,700
Local Share (30%)	<u>\$3,129</u>	(50%) <u>\$17,700</u>
TOTAL	\$10,429	\$35,400

2. The Project Cost shall not exceed the maximum allowable cost of \$45,829. The State will pay no more than 70% of only the eligible, actual administrative costs up to the maximum federal amount of \$7,300 no more than 50% of only the eligible, actual operating costs up to the maximum federal amount of \$17,700. The Grantee shall be

solely responsible for all costs incurred in the Project in excess of the amount paid by the State from federal funds for the federal share of eligible, actual costs. In the event the final, actual Project cost is less than the maximum allowable cost of \$45,829, the State is not obligated to provide any more than 70% of the eligible, actual administrative nor any more than 50% of the eligible, actual operating costs and shall retain the remaining balance of the federal share.

3. Up to one half of the Grantee's share for administrative and operating expenses may be provided from unrestricted federal funds. At least one half must be from sources other than federal funds. The Grantee's Share, together with the Federal share, shall be in an amount sufficient to assure payment of the net Project cost. The State shall have no obligation to provide State funds for use on this Project. The State will administer federal funds for this Project under the terms of this Agreement, provided that the federal share of FTA funds to be administered by the State are made available and remain available. In no event shall the State have any obligation to provide State funds or provide federal FTA funds for the Grantee's share of the Project. The Grantee shall initiate and prosecute to completion all actions necessary to enable the Grantee to provide its share of the Project costs at or prior to the time that such funds are needed to meet Project costs.

4. No refund or reduction of the amount of the Grantee's Share to be provided will be allowed unless there is at the same time a refund or reduction of the federal share of a proportionate amount.

5. Federal funds shall not be used to reimburse the Grantee for expenses not incurred in cash by the Grantee (e.g., donated or in-kind goods and services), though such expenses may be used as the Grantee's share. No more than 30 percent of Project administrative expenses nor more than 50 percent of Project operating expenses may be attributed to non-cash, donated, or in-kind expenses.

#### C. Reimbursement eligibility

Requests for reimbursement for project costs will be paid to the Grantee upon presentation of invoice(s) to the State for eligible costs incurred through December 31, 2003 and within the limits of Section 3 of this Agreement. The Grantee may request reimbursements no more than monthly, and will be reimbursed based on the ratio of Federal Share and Local Share set forth in Project Budget above. However, if the Grantee is designated by the State as a "High Risk Grantee," as set forth in its State Management Plan, the State reserves the right to limit its reimbursement to the Grantee in any given month to 10% of the total grant award in order to ensure that Project services could be provided throughout the year in the event the Grantee encounters financial stability. The final invoice shall be submitted no later than sixty (60) days after the above date.

#### D. Contract expiration

The Agreement shall expire when the capital equipment no longer has a federal interest, as determined by the State. If no capital equipment is obtained, the contract shall expire upon final reimbursement by the State, within the limits of Section C. above.

E. Project Description

The Grantee shall perform all the Project activities as described on page 10 and elsewhere in the application update for funding submitted to the State on June 15, 2001 and as specifically described below. That application is incorporated herein by reference to the extent consistent with this Agreement.

Montezuma County Senior Services provides public transit to residents in Cortez, Mancos, and Dolores area with four vehicles. Service hours are 8:30am to 4:30pm Monday through Friday year round. It is a modified fixed route service for site based meals, meals-on-wheels, medical/business appointments and other programs. A donation of \$2 for a round trip is requested for town trips and a donation of \$4 is requested for out of town round trips.

The project will include expanded services and centralized management, expanded marketing of program services to potential target groups, formation of a transportation advisory council with quarterly meetings, expand the dial-a-ride service by adding 20 hours of driver time per week, maintain fare level with a goal of increasing fare box recovery over the next year, increase carpool programs, coordinate with for-hire carriers when feasible.

The Grantee will advertise its service as available to the general public. Service will not be explicitly limited by trip purpose or client type.

The Grantee will provide comparable transportation services to persons with disabilities according to the Americans with Disabilities Act of 1990.

The Grantee will comply with the Federal Transit Administration Drug and Alcohol Regulations.

Any costs incurred by the Grantee for which the Grantee receives reimbursement from other FTA funds (i.e., Section 5310, RTAP) may not be listed as a cost to be shared by FTA on the monthly reimbursement request.

F. Safety Data

The Grantee shall maintain and submit, as requested, data related to bus safety. This may include, but not be limited to, the number of vehicle accidents within certain measurement parameters set forth by the State; the number and extent of passenger injuries or claims; and, the number and extent of employee accidents, injuries and incidents.

AGREEMENT

THIS AGREEMENT, made this 24 day of FEB, 2003, by and between the STATE OF COLORADO for the use and benefit of the STATE DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSPORTATION DEVELOPMENT, hereinafter referred to as the State, and MONTEZUMA COUNTY, 107 North Cheestnnt. Cortez. CO 81321, a public body, hereinafter referred to as the Grantee.

WHEREAS, authority exists in the Law, and funds have been budgeted, appropriated and otherwise made available, and a sufficient unencumbered balance thereof remains available for payment in Fund Code 400, Organization Code 9758 and 9759, Appropriation Code 415, Program Code 5000, Function Code 1510, Object Code 5180 1 N, GBL Code XN 40 and XP 40, Reporting Code 0510, FEIN Number 846000786 G, Encumbered Amounts \$10,429 and \$35,400, The Catalog Domestic Assistance number(CFDA) that relates to this contract in relation to audits is 20.509, and;

WHEREAS, required approval, clearance, and coordination has been accomplished from and with appropriate agencies; and

WHEREAS, Section 5311, of 49 U.S.C. § § 5301 et seq., as amended, hereinafter referred to as the Federal Transit Act or the Act, institutes a program offering federal assistance for public transportation in rural and small urban areas by way of a formula grant program administered by the State; and

WHEREAS, the Grantee has proposed a project in the form of an application for funding under Section 5311 of the Act, hereinafter referred to as the "Project"; and

WHEREAS, Sections 43-1-701 and 702, C.R.S. 1973 authorize the State Department of Transportation to take all steps and adopt all procedures necessary to make and enter into such contracts as may be necessary for state application and administration of Section 5311 of the Act, including participation in grant programs for the purpose of assisting transportation services; and

WHEREAS, the Governor of the State of Colorado, in accordance with a request by the Federal Transit Administration, hereinafter referred to as FTA, has designated the State to manage the Section 5311 program, including the responsibility to evaluate and select public transportation projects proposed by State agencies, local public bodies and agencies thereof (including Indian Tribes), and nonprofit operators of public transportation services in areas other than urbanized; and

WHEREAS, the Grantee desires to and has the legal capacity and authority to contract with the State; and

WHEREAS, the Grantee possesses the necessary fiscal and managerial capability to implement and manage the project and utilize grant funds for public transportation in nonurbanized areas of the State;

NOW, THEREFORE, it is hereby agreed that:

**SECTION 1. PURPOSE OF AGREEMENT.**

The purpose of this Agreement is to state the terms, conditions, and mutual understandings of the parties as to the manner in which the Project will be undertaken and completed. The terms and conditions of the Project and the Act are incorporated herein by reference to the extent consistent herewith.

## **SECTION 2. ACCOMPLISHMENT OF THE PROJECT.**

A. General Requirements. The Grantee shall commence, carry out, and complete the Project with all practicable dispatch, in a sound, economical, and efficient manner, in accordance with the terms and conditions of this Agreement, the terms and conditions of Exhibit A, "Scope of Work and Conditions," Exhibit B, "Audit Requirements", Exhibit C, "Security Agreement" (if applicable), Exhibit D, "Sample Option Form Letter," Exhibit E "Sample Change Order Letter" which are incorporated herein by this reference, and all applicable laws, regulations, and published policies. In general, the terms of the U.S. Department of Transportation regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 C.F.R. Part 18, are applicable to Projects with governmental and non-governmental bodies. The Grantee further agrees to follow the "Common Rule Guidelines for Recipients of FTA Funds", and the applicable provisions of the most current "Master Agreement" between the FTA and the State, which are incorporated herein by reference.

### **B. Application of Federal, State, and Local Laws and Regulations.**

1. Pursuant to Federal, State, and Local Law. In performance of its obligations under this Agreement, the Grantee shall comply with all applicable provisions of federal, state, and local law. All limits or standards set forth in this Agreement to be observed in the performance of the Project are minimum requirements, and all more stringent State or local standards as outlined in the body of this Agreement shall be applicable to the performance of the Project.

2. State or Territorial Law. Except to the extent that a federal statute or regulation preempts State or territorial law, nothing in the Agreement shall require the Grantee to observe or enforce compliance with any provision thereof, perform any other act, or do any other thing in contravention of any applicable State or territorial law; however, if any of the provisions of the Agreement violate any applicable State or territorial law, or if compliance with the provisions of the Agreement would require the Grantee to violate any applicable State or territorial law, the Grantee agrees to notify the State immediately in writing in order that the State and the Grantee may make appropriate arrangements to proceed with the Project as soon as possible.

C. Funds of the Grantee. Except as approved otherwise by the State, the Grantee agrees to complete all proceedings necessary to provide the local share of the Project costs at or before the time that such funds are needed to meet Project expenses.

D. Changed Conditions of Performance. The Grantee agrees to notify the State immediately of any change in local conditions or any other event that may significantly affect its ability to perform the Project in accordance with the terms of this Agreement. In addition, the recipient agrees to notify the State immediately of any decision pertaining to the Grantee's conduct or litigation that may affect the State's interests in the Project or the State's administration or enforcement of applicable Federal laws or regulations. Before the Grantee may name the State as a party to litigation for any reason, the Grantee agrees to inform the State; this provision applies to any type of litigation whatsoever, in any form arising out of this Agreement or the Project.

E. No State Obligations to Third Parties. Absent the State's express written consent, and notwithstanding any concurrence by the State in or approval of the award of any contract of the Grantee (third party contract) or subcontract of the Grantee (third party subcontract) or the solicitation thereof, the State shall not be subject to any obligations or liabilities to third party contractors or third party subcontractors or any other person not a party to this Agreement in connection with the performance of this Project.

F. Period of Performance. This Agreement shall commence on the date all required signatures are affixed hereto, including that of the State Controller, as reflected by the date to be inserted by the State on the first page of this Agreement, and shall terminate as outlined in Sections 8 and 10 of this Agreement, and as further described in the body of this Agreement.

G. Contract Changes. Any change in this Agreement shall be in the form of a written supplement signed by the parties to this Agreement.

H. Pursuant to Applicable Regulations. The Project shall be performed by the Grantee pursuant to all applicable federal requirements, which shall be made available to the Grantee.

### **SECTION 3. ETHICS.**

A. **Code of Ethics.** The Grantee agrees to maintain and to require its subcontractors to maintain a written code or standards of conduct that shall govern the performance of its officers, employees, and board members engaged in the award and administration of contracts supported by Federal funds. The code or standards shall also provide that the Grantee's and subcontractor's officers, employees, and board members shall neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential contractors or sub recipients. The Grantee and subcontractor may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. As permitted by State or local law or regulations, such code or standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations by the Grantee's and subcontractor's officers, employees, and board members.

(1) **Personal Conflict of Interest.** The Grantee's and subcontractor's code or standards must provide that no employee, officer, or board member, of the Grantee and subcontractor may participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when any of the parties set forth below has a financial or other interest in the firm selected for award:

- a. The employee, officer, or board member;
- b. Any member of his or her immediate family;
- c. His or her partner;
- d. An organization that employs, or is to employ, any of the above.

(2) **Organizational Conflict of Interest.** The Grantee's and subcontractor's code or standards of conduct must include procedures for identifying and preventing real and apparent organizational conflicts of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third party contract may, without some restrictions on future activities, result in an unfair competitive advantage to the contractor or impair the contractor's objectivity in performing the contract work.

B. **Bonus or Commission.** The Grantee warrants that it has not paid, and agrees not to pay, any bonus or commission for the purpose of obtaining approval of its application for financial assistance for this project.

C. **Prohibition Against Use of Federal Funds for Lobbying.** The Grantee agrees to refrain from using Federal funds to support lobbying and to comply with the applicable provisions of 31 U.S.C. § 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20. If the Grantee is receiving \$100,000 or more in Federal funds, it agrees it shall specifically certify compliance with these provisions in a format provided by the State.

D. **Employee Political Activity.** The terms of the "Hatch Act", 5 U.S.C. § 1501 through 1508, and Office of Personnel Management regulations, "Political Activity of State and Local Officers or Employees," 5 C.F.R. Part 151, apply to State and local agencies and their officers and employees to the extent covered by the statute and regulations. The "Hatch Act" restricts the political activity of an individual principally employed by a State or local executive agency in connection with a program financed in whole or in part by a Federal loan, grant, or cooperative agreement. However, the "Hatch Act" does not apply to a non-supervisory employee of a transit system (or of any other agency or entity performing related functions) receiving FTA assistance to whom the "Hatch Act" is otherwise inapplicable.

E. **False or Fraudulent Statements or Claims.** The Grantee acknowledges that should it make a false, fictitious, or fraudulent claim, statement, submission, or certification to the State in connection with this Project, the State reserves the right to impose on the Grantee the penalties of 18 U.S.C. § 1001, 31 U.S.C. §§ 3801 *et seq.*, and 49 U.S.C. app. § 1607a(h), as the State deems appropriate. The terms of U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to Project.

**SECTION 4. PROJECT BUDGET AND LOCAL SHARE.** The Project budget shall be as set forth in Exhibit A, "Scope and Conditions". Except as permitted otherwise by Federal law, the Grantee agrees to provide sufficient funds or approved in-kind resources, together with the Federal financial assistance

awarded herein, to assure payment of the actual cost of this Project. The Grantee agrees that no local share funds will be derived from revenues obtained from using the Project facilities, equipment or operations, nor shall other Federal funds be used except as otherwise provided in Exhibit A. The Grantee agrees to complete all proceedings necessary to provide the local share of the Project costs at or before the time those funds are needed to meet Project expenses.

#### **SECTION 5. ACCOUNTING RECORDS**

A. Project Accounts. The Grantee agrees to establish and maintain for the Project either a separate set of accounts, or accounts within the framework of an established accounting system, in a manner constant with 49 C.F.R. § 18.20, or OMB Circular A-133, Revised, whichever is applicable.

B. Funds Received or Made Available for the Project. Consistent with the provisions of 49 C.F.R. 18.21, or OMB Circular A-133, Revised, whichever is applicable, the Grantee agrees to record in the Project account, and deposit in a financial institution, Project payments received by it from the State pursuant to this Agreement and all other funds provided for, accruing to, or otherwise received on account of the Project (Project Funds). The Grantee is encouraged to use financial institutions that are owned at least 50 percent by minority group members.

C. Documentation of Project Costs. All allowable costs charged to the Project, including any approved services contributed by the Grantee or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail the nature of the charges. The Grantee also agrees to maintain accurate records of all Program Income derived from Project implementation; this requirement, however, does not apply to income of the Grantee that is determined by the State to be private.

D. Checks, Orders, and Vouchers. The Grantee agrees to refrain from drawing checks or orders for goods or services to be charged against the Project account until it has on file in its office a properly signed voucher describing in proper detail the purpose of the expenditure. The Grantee also agrees that all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Project shall be clearly identified, readily accessible, and to the extent feasible, kept separate from documents not pertaining to the Project.

#### **SECTION 6. REPORTING, RECORD RETENTION AND ACCESS**

A. Record Retention. During the course of the Project and for three years thereafter, the Grantee agrees to retain intact and to provide any data, documents, reports, records, contracts, and supporting materials relating to the Project as the State may require. Reporting and record-keeping requirements for governmental recipients are set forth in 49 C.F.R. Part 18. Reporting and record-keeping requirements for private non-profit and for-profit recipients, are set forth in OMB Circular A-110. Project closeout does not alter these requirements.

B. Access to Records. Upon request, the Grantee agrees to permit the Secretary of Transportation and the Comptroller General of the United States, or their authorized representatives, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Grantee and its subcontractors pertaining to the project. The Grantee agrees to require each third party contractor whose contract award is not based on competitive bidding procedures as defined by the State to permit the inspection of all work, materials, payrolls, and other data, and records involving the contract, and to audit the books, records, and accounts involving the contract as it affects the Project.

C. Reporting. During the term of this Project, except as provided in (5) below, the Grantee shall submit requests for reimbursements to the State in accordance with the requirements of this Section and with detailed written instructions provided by the State.

1. Reports shall be submitted on forms provided to the Grantee by the State.

2. Reports shall be fully completed through the period for reimbursement eligibility as stated in Exhibit A and include at least the following elements:

a. Eligible Project costs indicating the line items that correspond to the budget for the Project.

b. Operating and financial data.

c. An annual certification of Project equipment if capital equipment was purchased as part of this

Agreement.

3. Requests for reimbursement for Project costs will be paid to the Grantee after presentation of invoice(s) to the State for eligible costs through the date set forth in Exhibit A.

4. All requests for reimbursement shall be submitted no later than 60 days following the incurrence of reimbursable cost for the term of the Project, except as otherwise provided herein or in Exhibit A. If reports and request for reimbursements are not submitted within these times periods the Grantee shall be considered in violation of the Agreement and subject to nonpayment of the requested cost or termination of the Project as outlined in Section 9 of this Contract and may be denied future grant awards, at the discretion of the State.

5. Notwithstanding any prior termination of this Agreement under Section 9 of this Agreement, if capital equipment is purchased under this Agreement, the Grantee shall continue to provide the annual certification of Project equipment as above in which there is a federal interest in the equipment, as determined by the State.

6. The Grantee agrees to provide any other reports the State may require.

D. Project Closeout. Project closeout does not alter these reporting and record retention requirements.

## **SECTION 7. PAYMENTS, ALLOWABLE COSTS AND CLAIMS.**

A. Requests for Payment. The requests for reimbursement for Payment of the Federal share of allowable costs will be paid to the Grantee upon presentation of invoice(s) to the State through the date set forth in Exhibit A of this Agreement.

B. Allowable Costs. The Grantee's expenditures will be reimbursed if they meet all requirements set forth below:

1. Conform with the Project Description and the approved Project Budget and all other terms of this Agreement;
2. Be necessary in order to accomplish the Project;
3. Be reasonable for the goods or services purchased;
4. Be actual net costs to the Grantee (i.e., the price paid minus any refunds, rebates, or other items of value received by the Grantee that have the effect of reducing the cost actually incurred, excluding Program Income);
5. Be incurred (and be for work performed) after the date of this Agreement;
6. Unless permitted otherwise by Federal statute or regulation, conform with Federal Guidelines or regulations and Federal cost principles as set forth below:
  - (a) For Grantees that are governmental organizations, the standards of OMB Circular A-87, Revised, "Cost Principles for State and Local Governments" apply.
  - (b) For Grantees that are private nonprofit organizations, the standards of OMB Circular A-122, Revised, "Cost Principles for Nonprofit Organizations" apply.
  - (c) For Grantees that are private for-profit organizations, the standards of the Federal Acquisition Regulation, 48 C.F.R. Chapter 1, Subpart 31.2, "Contracts with Commercial Organizations" apply.
7. Be satisfactorily documented; and
8. Be treated uniformly and consistently under accounting principles and procedures approved and prescribed by FTA or the State for the Grantee, and those approved or prescribed by the Grantee for its contractors.

C. Disallowable Costs. In determining the amount of Federal assistance FTA will provide, the State will exclude:

1. Any Project costs incurred by the Grantee before the obligation date of this Agreement or amendment thereof, whichever is later.
2. Any costs incurred by the Grantee that are not included in the Scope of Work.
3. Any cost incurred by the Grantee after the termination of this Agreement or amendment.
4. Any costs for goods or services received under a third party contract or other arrangement that is required to be approved by the State but which has not been approved by the State.

D. Final Determination. The Grantee agrees that reimbursement of any cost under this Agreement does not constitute a final State decision about the allow ability of that cost and does not constitute a waiver of any violation by the Grantee of the terms of this Agreement. The Grantee understands that the State will not make a final determination about the allow ability of any cost until an audit of the Project has been completed. If the State determines that the Grantee is not entitled to receive any part of the Federal funds requested, the State will notify the Grantee stating the reasons therefor. Project closeout will not alter the Grantee's obligation to return any funds due to the State as a result of later refunds, corrections or other transactions. Nor will Project closeout alter the State's right to disallow costs and recover funds on the basis of a later audit or other review. Unless prohibited by law, the State may recoup any Federal assistance funds made available under this Project as needed to satisfy any outstanding monetary claims that the State may have against the Grantee. Exceptions pertaining to disallowed costs are set forth in FTA directives or in other written Federal guidance.

E. Claims and Excess Payments. Upon notice by the State to the Grantee of specific amounts due, the Grantee agrees to remit to the State promptly any amounts due for claims, excess payments, or disallowed costs, including any interest due, in accordance with guidelines in the Master Agreement.

F. Deobligation of Funds. The State reserves the right to deobligate unexpended Federal funds before Project closeout.

#### **SECTION 8. AUDIT AND CLOSEOUT**

A. Standard Audit Requirements. The Grantee must perform timely audits and provide the State with the results of such audits, as required by the applicable provisions of OMB circular A-133, which is incorporated herein by this reference. Such audits shall test compliance with the items specified in Exhibit B and shall be completed by the Grantee if it is a State or local government, Indian Tribal government or private nonprofit organization. Pursuant to the FTA criteria, FTA or the State may waive the OMB Circular A-133 audit requirement or substitute a requirement of a grant audit performed in accordance with the Comptroller General Standards. All grantee audit reports must be submitted to the State within 30 days of their issuance, and not later than one year after the termination of this Agreement.

B. Additional Audits. The Grantee is responsible for obtaining any other audits required by FTA or the State. Project closeout will not alter the Grantees audit responsibilities.

C. Audit Costs. Audit costs for Project administration and management are allowable Project costs to the extent authorized by OMB Circular A-87, Revised, OMB Circular A-21, Revised, or OMB Circular A122, Revised, as may be applicable.

D. Project Closeout. Project closeout occurs when the contract expires, as set forth in Exhibit A, and the State has forwarded the final payment to the Grantee. The Grantee agrees that Project closeout does not invalidate any continuing obligations imposed on the Grantee by this Agreement.

#### **SECTION 9. TERMINATION**

A. Termination by own terms. This Agreement will terminate by its own terms as set forth in Exhibit A.

B. For Convenience. The parties may rescind this Agreement and terminate the Project if both parties agree that the continuation of the Project would not produce beneficial results commensurate with the further expenditure of funds.

C. For Cause. Upon written notice, the Grantee agrees that the State may suspend or terminate all or part of the financial assistance provided herein if the Grantee has violated the terms of this Agreement, or if the State determines the purposes of the statute under which the Project was authorized would not be adequately served by continuation of Federal financial assistance for the Project. Any failure to make reasonable progress of the Project or other violation of the Agreement that significantly endangers substantial performance of the Project shall provide sufficient grounds for the State to terminate this Agreement. In general, termination of any financial assistance under this Agreement will not invalidate obligations properly incurred by the Grantee and concurred in by the State before the termination date, to the extent those obligations cannot be canceled. However, if the State determines that the Grantee has willfully misused Federal assistance funds by failing to make adequate progress, failing to make reasonable use of the Project real property, facilities, or equipment, or failing to adhere to the terms of this Agreement,

the State reserves the right to require the Grantee to refund the entire amount of Federal funds provided under this Agreement or any lesser amount as may be determined by the State.

D. Action upon Termination. Upon termination of this Agreement and the Project under the provisions of paragraph A, B or C of this Section, the Grantee agrees to return all Project equipment purchased with Project funds as directed by the State for disposition. The Grantee will also be subject to the provisions of Exhibit C, Security Agreement, where applicable.

#### **SECTION 10. REAL PROPERTY, EQUIPMENT AND SUPPLIES.**

A. Use of Project Equipment. Where appropriate, the Grantee agrees that Project real property, equipment, and supplies shall be used for the provision of transit services for the duration of their useful life, as determined by the State. Should the Grantee unreasonably delay or fail to use Project real property, equipment, or supplies during their useful life, the Grantee agrees that the State may require the Grantee to return the entire amount of the Federal assistance expended on that real property, equipment, or supplies. The Grantee further agrees to notify the State immediately when any Project real property or equipment is withdrawn from use in transit service or when real property is used in a manner substantially different from the representations made by the Grantee in its Application or the text of Exhibit A, "Scope of Work and Conditions".

B. General Requirements. A Grantee that is a governmental entity agrees to comply with the property management standards of 49 C.F.R. § 18.31, 18.32, and 18.34, including any amendments thereto, and other applicable guidelines or regulations that the State may issue. A Grantee that is not a governmental entity agrees to comply with OMB Circular A-110, Revised, including any amendments thereto, and other applicable guidelines or regulations that the State may issue. Exceptions to these requirements of 49 C.F.R. § 18.31, 18.32, and 18.33, and to OMB Circular A-110, Revised, must be specifically approved by the State.

C. Definition of Project Equipment. Project equipment shall include any equipment item with a unit cost of \$1,000 or more and a useful life exceeding one year.

D. Maintenance of Project Equipment. The Grantee agrees that Project equipment shall be maintained in good operating order, and in accordance with any guidelines, directives, or regulations that FTA or the State may issue.

E. Title to Project Equipment. Title to Project equipment shall be in the Grantees name and shall be subject to the restrictions on use and disposition of the Project equipment set forth herein. The State shall retain physical possession of said title until there is no longer any Federal interest in the Project equipment. The State shall place a lien on the Project equipment in the amount of the Federal share of the Project, as set forth in Exhibit A, and shall maintain such lien until there is no longer any Federal interest in the Project equipment or until disposition of the equipment, whichever comes first. The Grantee shall comply with the provisions of the Security Agreement set forth in Exhibit C.

#### **SECTION 11. ENCUMBRANCE OF PROJECT PROPERTY.**

A. Unless expressly authorized in writing by the State, the Grantee agrees to refrain from:

1. Executing any transfer of title, lease, lien, pledge, mortgage, encumbrance, contract, grant anticipation note, alienation, or other obligation that in any way would affect the Federal interest in any Project real property or equipment which Grantee owns, or

2. Obligating itself in any manner to any third party with respect to Project real property or equipment which Grantee owns.

B. The Grantee agrees to refrain from taking any action or acting in a manner that would adversely affect the Federal interest or impair the Grantee's continuing control over the use of Project real property or equipment, which Grantee owns.

#### **SECTION 12. INSURANCE.**

A. The Grantee agrees to carry and to require subcontractors and sub recipients to carry standard Worker's Compensation insurance in statutory limits.

B. If the Grantee receives Federal funding for capital equipment and/or operating assistance, the Grantee agrees to:

1. Maintain and to require subcontractors and sub recipients to maintain in full force and effect during the term of the Agreement Comprehensive General and Automobile Liability Policy for amounts not less than: Bodily Injury, \$400,000 each occurrence; Property Damage, \$400,000 each occurrence; or \$600,000 combined single limit. If the Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, Section 24-10-101, et seq. C.R.S. as amended ("Act"), the Grantee shall maintain such insurance by commercial policy or self-insurance as is necessary to meet Grantee's liabilities under the Act.

2. Submit annually to the State, within 30 days of the issuance of each insurance policy, certification that demonstrates the Grantee and subcontractors and sub recipients are carrying the above-described insurance.

3. Name the State or require subcontractors and sub recipients to name the State as loss payee on the policies for equipment purchased with Project funds and submit evidence of such to the State annually.

C. The Grantee shall name the State as loss payee on the insurance policies for equipment purchased with Project funds and submit evidence of such to the State annually.

D. Where appropriate the Grantee agrees to comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. Section 4012(a), with respect to any Project activity involving construction or acquisition.

### **SECTION 13. PROCUREMENT.**

A. Federal and State Procurement Standards. The Grantee agrees that all purchases financed in whole or in part pursuant to this Agreement by the State or the Grantee, will be in accordance with Colorado Department of Transportation guidelines, applicable State law, and the standards set forth in 49 C.F.R. Part 18 or OMB Circular A-102, as may be applicable, and with any supplementary directives or regulations including FTA Circular 4220.1B, and any revisions thereof, as may be applicable. The Grantee agrees to use Project funds for capital equipment only as described in Exhibit A, "Scope of Work and Special Conditions".

B. Exclusionary or Discriminatory Specifications. Apart from inconsistent requirements imposed by Federal statute or regulations, the Grantee agree that it will comply with the requirements of 49 U.S.C. § 5323(h)(2) by refraining from using any Federal assistance awarded by the State to support procurements using exclusionary or discriminatory specifications.

C. Geographic Restrictions. The Grantee agrees to refrain from using state or local geographic preferences, except those expressly mandated or encouraged by Federal statute, and as permitted by FTA.

D. Award to Other Than the Lowest Bidder. In accordance with 49 U.S.C. § 5626(c), the Grantee may award a third party contract to other than the lowest bidder in connection with the procurement when such award furthers objectives consistent with the purposes of 49 U.S.C. Chapter 53 and any implementing regulations, circulars, manuals, or other guidance FTA may issue.

E. Ineligible Bidders. Unless otherwise permitted by the FTA or State, the Grantee shall refrain from awarding any third party contract to a party included in the U.S. General Services Administration's list of Parties Excluded from Federal Procurement or Non-procurement Programs. Before entering into any third party contract exceeding \$100,000, the Grantee agrees to obtain a debarment and suspension certification from each such third party contractor and provide the State a copy of such certification, as requested by the State.

F. Buy America. For any purchase utilizing FTA funds and exceeding a threshold cost of \$100,000, the Grantee must comply with 40 U.S.C. § 5323 (j), FTA's Buy America regulations at 49 C.F.R. Part 661, and any amendments thereto, and any implementing guidance issued by FTA with respect to any third party contract financed under this agreement.

G. Cargo Preference - Use of United States - Flag Vessels.

Pursuant to regulations published at 46 C.F.R. Part 381, the Grantee shall obtain from the State appropriate references and clauses to be inserted in all contracts it awards in which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project.

H. Bus Testing. To the extent applicable, the Grantee agrees to comply with FTA regulations, "Bus

Testing," 49 C.F.R. Part 663, and any revisions thereto.

I. Pre-award and Post-delivery Audit. To the extent applicable, the Grantee agrees to comply with FTA regulations "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any revisions thereto.

J. False or Fraudulent Statements and Claims. The Grantee acknowledges and agrees that by signing this agreement it certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or may make pertaining to the statements contained in its application for funding. In addition to other penalties that may be applicable, the Grantee also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the State reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Grantee to the extent the State deems appropriate.

K. Settlement of Third Party Contract Disputes or Breaches. The term third-party contract, as used in this Agreement, is defined as a contract between the Grantee and any subcontractor from which the Grantee has procured a good and/or service commercially from the subcontractor through written agreement. The State has a vested interest in the settlement of disputes, defaults, or breaches involving any federally-assisted third party contracts. The State retains the right to a proportionate share, based on the percentage of the Federal share committed to the Project, of any proceeds derived from any third party recovery. Therefore, the Grantee shall avail itself of all legal rights available under any third party contract. The Grantee shall notify the State of any current or prospective litigation or major disputed claim pertaining to any third party contract. The State reserves the right to concur in any compromise or settlement of the Grantee's claim(s) involving any third party contract, before making federal assistance available to support that settlement. If the third party contract contains a liquidated damages provision, any liquidated damages recovered shall be credited to the Project account involved unless the State permits otherwise.

#### **SECTION 14. PATENT RIGHTS.**

A. If any invention, improvement, or discovery of the Grantee or any of its third party contractors is conceived or first actually reduced to practice in the course of, or under this Project, and that invention, improvement or discovery is patentable under the laws of the United States of America or any foreign country, the Grantee agrees to notify the State immediately and provide a detailed report. The rights and responsibilities of the Grantee, third party contractors and the State with respect to such invention, improvement or discovery will be determined in accordance with applicable federal laws, regulations, policies, and any waivers thereof.

B. The Grantee agrees to include the requirements of Section 13 (A) of this Agreement in its third party contracts under this Project.

#### **SECTION 15. RIGHTS IN DATA AND COPYRIGHT.**

A. The term "subject data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement. The term includes graphic or pictorial delineation's in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory.

B. The following restrictions apply to all subject data first produced in the performance of this Agreement:

1. Except for its own internal use, the Grantee shall not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Grantee authorize others to do so, without the written consent of FTA until such time as FTA may have released such data to the public.

2. As authorized by 49 C.F.R. § 18.34, the FTA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

(a) Any work developed under a grant, cooperative agreement, sub-grant, or third party contract, irrespective if whether or not copyright has been obtained; and

- (b) Any rights of copyright to which a Grantee, sub-recipient, or a third party contractor purchases ownership with Federal assistance.

## **SECTION 16. CIVIL RIGHTS**

A. Prohibitions Against Discrimination in Federal Programs. The grantee agrees to comply with and assure the compliance by its third party contractors and subcontractors under this Project, with all requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d; 49 U.S.C. 5332; and U.S. DOT regulations, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act, 49 C.F.R. Part 21, and any implementing requirements FTA may issue.

B. Equal Employment Opportunity. The following requirements apply to the Project:

(1) In implementing the Project, the Grantee may not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Grantee agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Grantee shall insert the foregoing provisions (modified only to show the particular contractual relationship) in all its third party contracts for Project implementation, except contracts for standard commercial supplies or raw materials and construction contracts, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

(2) If, as a condition of assistance, the Grantee has submitted and the State and FTA has approved, an equal employment opportunity program that the Grantee agrees to carry out, such program is incorporated into this Agreement by reference. Such program shall be treated as a contractual obligation; and failure to carry out the terms of that equal employment opportunity program shall be treated as a violation of this Agreement. Upon notification to the Grantee of its failure to carry out the approved program, the State and FTA will impose such remedies as they may deem appropriate, which remedies may include termination of financial assistance as set forth in Section 9 of this Agreement or other measures that may affect the ability of the Grantee to obtain future financial assistance under the Federal Transit Act, as amended; Title 23, United States Code (Highways), or the Intermodal Surface Transportation Efficiency Act of 1991, Pub.L. 102-240.

C. Disadvantaged Business Enterprises. The Grantee agrees to facilitate participation of disadvantaged business enterprises (DBEs) as follows:

(1) The Grantee agrees to comply with current U.S. DOT regulations at 49 C.F.R. Part 23 and Part 26, including any amendments that may be issued during the term of this Agreement.

(2) The Grantee agrees that it will not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any U.S. DOT assisted contract. The Grantee agrees to take all necessary and reasonable steps under 49 C.F.R. Part 23 to ensure that eligible DBEs have the maximum feasible opportunity to participate in U.S. DOT assisted contracts. The Grantee's DBE program, if required by 49 C.F.R. Part 23 and as approved by the U.S. DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Grantee of its failure to carry out its approved program, the U.S. DOT may impose sanctions as provided for under 49 C.F.R. Part 23.

(3) The Grantee agrees to include the following clause in all agreements between the Grantee and Sub recipients and in all third party contracts assisted by the FTA between the Grantee or sub recipients and third party contractors:

The (Contractor, Sub-recipient, or Subcontractor) shall not discriminate on the basis of race, color, national origin, or sex in the performance of this (contract or agreement). The recipients of 49 C.F.R. Part 23 and Part 26 and the grantee's U.S. DOT-approved Disadvantaged Business Enterprise (DBE) Program (where required) are incorporated in this (contract or agreement) by reference. Failure by the (Contractor,

Sub recipient, or Subcontractor) to carry out these requirements is material breach of this (contract or agreement), which may result in the termination of this (contract or agreement or such other remedy as (the Grantee) deems appropriate.

(4) The Grantee agrees to treat lessees as follows:

(a) The Grantee agrees not to exclude DBEs from participation in business opportunities by entering into long-term, exclusive agreements with non-DBEs for the operation of major transportation-related activities for the provision of good and services to the facility or to the public on the facility.

(b) Except as provided in this Section, the Grantee agrees to include lessees in its affirmative action programs. The requirements of 49 C.F.R Part 23, do not apply to lessees, except for the requirement that lessees avoid discrimination against DBEs.

D. Access Requirements for Individuals with Disabilities. The Grantee agrees to comply with, and require that any sub-recipient, or third party contractor under this Project comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; and the following Federal regulations including any amendments thereto:

1. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
2. U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.D.R. Part 27;
3. U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 C.F.R. Part 38;
4. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
5. DOJ Regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
6. General Services Administration regulations, "Construction and Alteration of Public Buildings," "Accommodations for the Physically Handicapped," 41 C.F.R. Part 101-19;
7. Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
8. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R Part 64, Subpart F
9. FTA regulations, "Transportation for Elderly/Handicapped Persons," 49 C.F.R. Part 609
10. Any implementing requirements FTA may issue.

#### **SECTION 17. ENVIRONMENTAL AND RESOURCE CONSERVATION REQUIREMENTS**

The Grantee recognizes that many Federal and State statutes imposing environmental, resource conservation, and energy requirements may apply to the Project. Some, but not all, of the major federal laws that may affect the Project include: the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq., the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., and scattered sections of 29 U.S.C.; the Clean Water Act, as amended, scattered sections of 33 U.S.C. and 12 U.S.C., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 6901 et seq. The Grantee also recognizes that the Environmental Protection Agency (EPA), the Federal Highway Administration (FHWA) and other agencies of the Federal Government have issued and are expected in the future to issue requirements in the form of regulations, guidelines, standards, orders, or other directives that may effect the Project. Accordingly, the Grantee agrees to adhere to, and impose on its sub recipients, any such Federal requirements, as the Government may now or in the future promulgate. Listed below are requirements of particular concern to the FTA. The Grantee expressly understands that this list does not

constitute the Grantee's entire obligation to meet Federal requirements.

A. Air Quality. The Grantee agrees to comply with applicable requirements for EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40 C.F.R. Part 51, Subpart T, and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93. To support the requisite air quality conformity finding for the Project, the Grantee agrees to implement each air quality mitigation and control measure incorporated in the Project. The Grantee agrees that any Project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure, will be wholly consistent with the description of the design concept and scope of the Project set forth in the SF. EPA also imposes requirements pertaining to the Clean Air, as amended, that may apply to transit operators, particularly operators of large transit bus fleets. Thus, the Grantee should be aware that the following EPA regulations, among others, may apply to its Project: "Control of Air Pollution From Motor Vehicles and Motor Vehicle Engines," C.F.R. Part 85; "Control of Air Pollution From New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines: Certification and Test Procedures," 40 C.F.R. Part 86; and "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600.

B. Energy Conservation. The Grantee and its third party contractors shall comply with mandatory Standards and policies relating to energy efficiency that are contained in applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. § 6321 et seq.

**SECTION 18. PRIVACY**. To the extent that the Grantee, its third party contractors or their employees administer any system of records on behalf of the Federal Government, the Grantee agrees to comply with, and assures the compliance of each affected third party contractor, with the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. 442 (the Privacy Act). Specifically:

A. Consent of Federal Government. The Grantee agrees to obtain the express consent of the Federal Government before it or its third party contractors, or any of their employees, operates a system of records on behalf of the Federal Government.

B. Acknowledgment of Civil and Criminal Penalties. The Grantee acknowledges that the requirements of the Privacy Act, including the civil and criminal penalties for violations of the Privacy Act apply to those individuals administering a system of records for the Federal government under this Project, and that failure to comply with the Privacy Act may result in termination of this Agreement.

**SECTION 19. SUBSTANCE ABUSE**. The Grantee, if a recipient of funds from Section 5311, agrees to comply with U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 29, Subpart F. To the extent the Grantee or any third party contractor, or their employees, perform a safety sensitive function under the Project, the Grantee agrees to comply with, and assures the compliance of each affected third party contractor and their employees, with 49 U.S.C. § 5331, and FTA regulations, "Prevention of Prohibited Drug Use in Transit Operations," 49 CFR Part 655, and "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" 49 CFR Part 40.

**SECTION 20. SEVERABILITY**. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

**SECTION 21. SCHOOL BUS OPERATIONS**. Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, grantees and their sub recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of student and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, grantees and their sub recipients may not use federally funded equipment, vehicles or facilities.

**SECTION 22. LABOR PROTECTION**. The Grantee, if a recipient of funds from Section 5311, agrees to comply with the terms and conditions of the Section 13(c) special warranty for the Section 5311 program agreed to by the Secretaries of Transportation and Labor dated May 31, 1979, and the procedures

implemented by the Department of Labor or any revision thereto.

**SECTION 23. CHARTER SERVICE OPERATIONS** the grantee agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that grantees and their sub recipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9 Any charter service provided under one of the exceptions must be "incidental," i.e. it must not interfere with or detract from the provisions of mass transportation.

**SECTION 24 CHANGE ORDER PROVISIONS**. The State may prospectively increase or decrease the amount payable under this Agreement through a "Change Order Letter", approved by the State Controller or his designee, in the form attached hereto as Exhibit E, subject to the following conditions:

A. The Change Order Letter ("Letter") shall include the following:

- (1) Identification of contract by contract number and affected paragraph number(s);
- (2) Types of services or programs increased or decreased and the new level of each service;
- (3) Amount of the increase or decrease in the level of funding for each service and the total;
- (4) Intended effective date of the funding change;
- (5) A provision stating that the Change shall not be valid until approved by the State Controller or such assistant as he may designate;

B. Upon proper execution and approval, such letter shall become an amendment to this Agreement and, except for the General and Special Provisions of the Agreement, the Letter shall supersede the Agreement in the event of a conflict between the two. It is understood and agreed that the Letter may be used only for increased or decreased funding, and corresponding adjustments to service level and any budget line items.

C. If the Grantee agrees to and accepts the change, the Grantee shall execute and return the letter to the State by the date indicated in the letter. In the event the Grantee does not accept the change, or fails to timely return the executed letter, the State may, upon notice to Grantee, terminate this Agreement effective at any time after twenty (20) days following the return deadline specified in the Letter. Such notice shall specify the effective date of termination. In the event of termination, the parties shall not be relieved of their obligations up to the effective date of termination.

D. Increases or decreases in the level of contractual funding made through the letter process during the term of this Agreement may be made under the following circumstances:

- (1) If necessary to fully utilize non-appropriated federal grant awards.
- (2) Adjustments to reflect current year expenditures.
- (3) Supplemental non-appropriated federal funding changes resulting in an increase or decrease in the amounts originally budgeted and available for the purposes of this Project.
- (4) Closure of programs and/or termination of related contracts.
- (5) Delay or difficulty in implementing new programs or Services.
- (6) Other special circumstances as deemed appropriate by the State.

**SECTION 25. OPTION PROVISIONS**

A. Continued Performance. The State may require the continued performance, for a period of no more than one year, of any services within the limits and in the amounts specified in the Agreement. The State may exercise the option by written notice to the Grantee deposited in the mail before the end of the performance period of the Agreement using a form substantially equivalent to Exhibit D, "Sample Option Form Letter". The State shall give the Grantee 30 days preliminary written notice of its intent to execute the option. Preliminary notice does not commit the State to an extension. If the State exercises this option, the extended Agreement shall be considered to include this option provision. The total duration of this Agreement, including the exercise of any options under this clause shall not exceed three (3) years. Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

B. Increased Performance. The State may require increased performance at the same rate and under the same conditions as described in the Agreement, and following the same provisions as set forth above in A.

**SECTION 26. MISCELLANEOUS.**

- A. The Special Provisions attached hereto are hereby made a part of this Agreement.
- B. The Grantee agrees to take appropriate measures necessary to ensure compliance by all third party contractors and other entities participating in the Project with those Federal requirements applicable to their performance in the Project. To that end, the Grantee shall include in all third party subcontracts entered into pursuant to this Agreement the above Sections which are so indicated therein, using a format suggested by the State. The Grantee shall notify the State of all third party contracts using Project funds. In addition, the Grantee shall include the following provisions in any advertisement or invitation to bid for any procurement under this Agreement:

Statement of Financial Assistance

This contract is subject to a financial assistance agreement between  
the State of Colorado, the U.S. Department of Transportation,  
and the Federal Transit Administration

- C. The Grantee warrants that it has the lawful authority to enter into this Agreement, and that it has taken all actions and complied with all procedures necessary to execute the authority lawfully in entering this Agreement, and that the undersigned signatory for the Grantee has been lawfully delegated the authority to sign this Agreement on behalf of the Grantee.
- D. Remedies for Grantee's failure to comply with any federal or state laws or regulations specified herein shall be limited to the remedies specified in such laws and regulations together with the remedies stated in this Agreement.
- E. This agreement is intended solely to fund the Project proposed by Grantee and to define the rights and responsibilities between the parties with respect to such funding. This Agreement is not intended to create any third party rights nor are third parties entitled to rely upon any provision.
- F. This Agreement is subject to and contingent upon sufficient funds being appropriated, budgeted or otherwise made available to Grantee for purposes of meeting all or any portion of Grantee's obligations hereunder.
- G. Pursuant to CRS 24-30-202.4 (as amended), the state controller may withhold debts owed to state agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 22, Title 39, CRS; (c) unpaid loans due to the student loan division of the department of higher education; (d) owed amounts required to be paid to the unemployment compensations fund; and (e) other unpaid debts owing to the state or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgement as certified by the controller.

(For Use Only with Inter-Governmental Contracts)

**1. CONTROLLER'S APPROVAL. CRS 24-30-202 (1)**

This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.

**2. FUND AVAILABILITY. CRS 24-30-202 (5.5)**

Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

**3. INDEMNIFICATION.**

Indemnity: The contractor shall indemnify, save, and hold harmless the State against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the parties, of the Colorado Governmental Immunity Act, CRS 24-10-101 *et seq.* or the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.* as applicable, as now or hereafter amended.

**4. INDEPENDENT CONTRACTOR. 4 CCR 801-2**

THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.

**5. NON-DISCRIMINATION.**

The contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

**6. CHOICE OF LAW.**

The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any

extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.

**7. EMPLOYEE FINANCIAL INTEREST. CRS 24-18-201 & CRS 24-50-507**

The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

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EXHIBIT A

SCOPE OF WORK AND CONDITIONS  
MONTEZUMA COUNTY

A. Standards of Performance

1. The Grantee will provide a minimum of 5,418 one-way passenger trip per year, at a maximum operating and administrative cost of \$8.97 per one-way trip, a maximum cost of \$1.99 per mile and a maximum cost of \$26.82 per vehicle hour. Standards of performance will be measured, reported and averaged at least quarterly. Measurement of these standards will commence with the presentation of the Grantee's first monthly report and request for reimbursement.

2. Performance will be reviewed quarterly. The State will begin its review no later than 30 calendar days after each performance quarter. If the State's review determines that the Grantee's performance does not meet the standards of performance set forth in paragraph A.1. above, the following steps will be taken:

a. The State will notify the Grantee in writing that performance does not meet the requirements of this Agreement.

b. Thirty (30) calendar days after date of such notification, the Grantee will submit to the State a written explanation of the cause(s) of the substandard performance, which shall include a written plan for improving performance.

c. The State will review the plan for improvement and notify the Grantee of its approval within 21 days.

d. If the plan is approved by the Department, the Grantee will implement the plan immediately upon receipt of the State's notification. If the plan is not approved by the Department remedial measures will be determined on a case-by-case basis. Such remedial measures may include termination of this Agreement and return of the grant funds or capital equipment purchased with such funds, in accordance with the terms of Section 8.

B. Project Budget

1. The net Project cost is estimated to be and shall be shared as follows:

	Administrative Costs GBL (XN-40)	Operating Deficit GBL (XP-40)
Federal Share (70%)	\$7,300	(50%) \$17,700
Local Share (30%)	<u>\$3,129</u>	(50%) <u>\$17,700</u>
TOTAL	\$10,429	\$35,400

2. The Project Cost shall not exceed the maximum allowable cost of \$45,829. The State will pay no more than 70% of only the eligible, actual administrative costs up to the maximum federal amount of \$7,300 no more than 50% of only the eligible, actual operating costs up to the maximum federal amount of \$17,700. The Grantee shall be

solely responsible for all costs incurred in the Project in excess of the amount paid by the State from federal funds for the federal share of eligible, actual costs. In the event the final, actual Project cost is less than the maximum allowable cost of \$45,829, the State is not obligated to provide any more than 70% of the eligible, actual administrative nor any more than 50% of the eligible, actual operating costs and shall retain the remaining balance of the federal share.

3. Up to one half of the Grantee's share for administrative and operating expenses may be provided from unrestricted federal funds. At least one half must be from sources other than federal funds. The Grantee's Share, together with the Federal share, shall be in an amount sufficient to assure payment of the net Project cost. The State shall have no obligation to provide State funds for use on this Project. The State will administer federal funds for this Project under the terms of this Agreement, provided that the federal share of FTA funds to be administered by the State are made available and remain available. In no event shall the State have any obligation to provide State funds or provide federal FTA funds for the Grantee's share of the Project. The Grantee shall initiate and prosecute to completion all actions necessary to enable the Grantee to provide its share of the Project costs at or prior to the time that such funds are needed to meet Project costs.

4. No refund or reduction of the amount of the Grantee's Share to be provided will be allowed unless there is at the same time a refund or reduction of the federal share of a proportionate amount.

5. Federal funds shall not be used to reimburse the Grantee for expenses not incurred in cash by the Grantee (e.g., donated or in-kind goods and services), though such expenses may be used as the Grantee's share. No more than 30 percent of Project administrative expenses nor more than 50 percent of Project operating expenses may be attributed to non-cash, donated, or in-kind expenses.

#### C. Reimbursement eligibility

Requests for reimbursement for project costs will be paid to the Grantee upon presentation of invoice(s) to the State for eligible costs incurred through December 31, 2003 and within the limits of Section 3 of this Agreement. The Grantee may request reimbursements no more than monthly, and will be reimbursed based on the ratio of Federal Share and Local Share set forth in Project Budget above. However, if the Grantee is designated by the State as a "High Risk Grantee," as set forth in its State Management Plan, the State reserves the right to limit its reimbursement to the Grantee in any given month to 10% of the total grant award in order to ensure that Project services could be provided throughout the year in the event the Grantee encounters financial stability. The final invoice shall be submitted no later than sixty (60) days after the above date.

#### D. Contract expiration

The Agreement shall expire when the capital equipment no longer has a federal interest, as determined by the State. If no capital equipment is obtained, the contract shall expire upon final reimbursement by the State, within the limits of Section C. above.

E. Project Description

The Grantee shall perform all the Project activities as described on page 10 and elsewhere in the application update for funding submitted to the State on June 15, 2001 and as specifically described below. That application is incorporated herein by reference to the extent consistent with this Agreement.

Montezuma County Senior Services provides public transit to residents in Cortez, Mancos, and Dolores area with four vehicles. Service hours are 8:30am to 4:30pm Monday through Friday year round. It is a modified fixed route service for site based meals, meals-on-wheels, medical/business appointments and other programs. A donation of \$2 for a round trip is requested for town trips and a donation of \$4 is requested for out of town round trips.

The project will include expanded services and centralized management, expanded marketing of program services to potential target groups, formation of a transportation advisory council with quarterly meetings, expand the dial-a-ride service by adding 20 hours of driver time per week, maintain fare level with a goal of increasing fare box recovery over the next year, increase carpool programs, coordinate with for-hire carriers when feasible.

The Grantee will advertise its service as available to the general public. Service will not be explicitly limited by trip purpose or client type.

The Grantee will provide comparable transportation services to persons with disabilities according to the Americans with Disabilities Act of 1990.

The Grantee will comply with the Federal Transit Administration Drug and Alcohol Regulations.

Any costs incurred by the Grantee for which the Grantee receives reimbursement from other FTA funds (i.e., Section 5310, RTAP) may not be listed as a cost to be shared by FTA on the monthly reimbursement request.

F. Safety Data

The Grantee shall maintain and submit, as requested, data related to bus safety. This may include, but not be limited to, the number of vehicle accidents within certain measurement parameters set forth by the State; the number and extent of passenger injuries or claims; and, the number and extent of employee accidents, injuries and incidents.

EXHIBIT B  
SECTION 5311

GUIDANCE FOR AUDIT OF GRANTEE COMPLIANCE  
WITH FTA REQUIREMENTS

Federal Domestic Assistance Catalog No. 20.509

I. PROGRAM OBJECTIVES

Grants made under the Section 5311 program are available through States to provide capital operating and administrative assistance to public transportation systems in non-urbanized areas.

II. PROGRAM PROCEDURES

Annual formula apportionments are made to States who apply for funds on behalf of local recipients and administer the program. The Colorado Department of Transportation is the state agency designated by the Governor to supply for and administer the funds. The Department, the recipient, awards funds to subrecipients, hereinafter referred to as Grantees, on a competitive basis.

III. COMPLIANCE REQUIREMENTS AND SPECIAL AUDIT PROCEDURES

A. Matching Requirements

1. Compliance Requirements: The minimum local matching requirements for operating assistance (costs directly associated with operations) is 50 percent of the net operating deficit. The operating deficit is determined by subtracting operating revenue from total operating expenses. Operating revenue includes rider fares and donations, and advertising revenue (e.g., "rolling billboards"). No capital equipment purchases can be charged to operating costs.

The minimum local match for capital equipment purchases is 20 percent and must be in cash. The equipment purchase (s) must be consistent with the equipment specified in the Agreement's Scope of Work and Conditions (Exhibit A). Capital equipment is defined as any item costing over \$500 with a useful life of over one year.

The minimum local match for administrative expenses is 30 percent. In general, administrative costs include the salaries of administrators and fiscal personnel, advertising, and overhead. No capital equipment purchases can be charged to administrative costs.

The local match for operating and administrative assistance can be in the form of documented in-kind contributions. All local match must be expended for the Project, as described in Exhibit A. Local match cannot be used to match other programs. Up to 50 percent of the local match can be derived from unrestricted federal sources.

2. Suggested Audit Procedures:

- a. Examine the Scope of work and Conditions (Exhibit A).
- b. Ascertain the total Project cost.
- c. Determine whether local matching funds were applied to the uses for which they were committed.
- d. Verify that payment of federal funds is accompanied by the appropriate share of local matching funds, that in-kind contributions are documented, that matching funds are not used to match other programs, and that federal funds used as match do not exceed the 50 percent threshold, and that no capital equipment purchases were charged as administrative or operating expenses

EXHIBIT B  
SECTION 5311

Exhibit B  
Page 2

B. Allowable Costs

1. Compliance Requirements: Expenditures made by the Grantee and charged to the Project must meet the requirements set forth in Section 7 of this Agreement. In general, costs which are not allowable include entertainment, depreciation, interest, fines and penalties, fund raising expenses, and costs related to providing services in urbanized areas (areas with a population over 50,000, which include the metropolitan areas of Boulder, Colorado Springs, Denver, Fort Collins, Grand Junction, Greeley, Longmont and Pueblo.) The Grantee shall determine the costs of serving urbanized areas based on that percentage of passenger trips provided in urbanized areas as compared to those provided in nonurbanized areas.

Grantees serving resort areas and providing seasonal levels of service may only be reimbursed at that level of service provided year round, based on the average of the low quarter's monthly service hours applied to annual costs.

Grantees submit monthly (or quarterly) reimbursement requests to the State. On that report Grantees indicate total transportation costs, which may include costs not related to the Project. The "Amount to be shared by FTA" columns represent the Project costs and may not include non-allowable costs.

No more than 30 percent of the Project administrative expenses nor more than 50 percent of the Project operating expenses may be attributed to non-cash, in-kind expenses.

2. Suggested Audit Procedures:

a. Review Section 7 of this Agreement.

b. Review at least three reimbursement requests submitted by the Grantee to the State. Ascertain whether the Grantee included any non-allowable costs in the "Amount to be shared by FTA" columns.

c. Ascertain whether the Grantee has sufficient controls and procedures in place to ensure non-allowable costs are not charged to the Project.

C. Accounting Records

Grantees are expected to maintain accounting records in accordance with Section 5 of this Agreement.

Suggested Audit Procedures:

a. Review Section 5 of this Agreement.

b. Ascertain whether the Grantee's procedures and records are in compliance.

EXHIBIT C

SECURITY AGREEMENT

This Security Agreement is made by and between the State of Colorado for the use and benefit of THE COLORADO DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSPORTATION DEVELOPMENT, hereinafter referred to as "the State" and \_\_\_\_\_, a Colorado private nonprofit organization, hereinafter referred to as "the Grantee".

a. Purpose. This Security Agreement is made for the purpose of securing the federal interest for the State in transit vehicles or other project equipment ("Project Equipment") purchased with Federal Transit Administration (FTA) grant funds awarded to the Grantee pursuant to the Agreement between the parties dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and identified as contract # \_\_\_\_\_.

The security interest granted to the State herein is to ensure that the State may access, protect and, if necessary, dispose of the federal interest in each item of Project Equipment and to ensure the proper use of the Project Equipment. The Grantee shall have no right in the federal interest in such Project Equipment.

B. Project Equipment. Not later than three days after the purchase and acceptance of Project Equipment, the Grantee shall complete and return to the State the "Certificate of Procurement and Acceptance" form, which then becomes Addendum I to this Security Agreement. In the case of vehicle procurement, this certificate must indicate the year, make, model, VIN, and any other information needed to register the vehicle.

C. Security Interest. In consideration of the value provided to the Grantee under the Agreement dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and identified as contract # \_\_\_\_\_, the Grantee hereby gives and grants to the State a security interest in the Project Equipment described in Addendum I and /or described below as follows:

MAKE/MODEL/VIN  
\_\_\_\_\_

This security interest shall apply to the Project Equipment acquired pursuant to the Agreement dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and identified as contract # \_\_\_\_\_, whether purchased before or after the date this Security Agreement is executed. The Grantee hereby authorizes the State to describe in the space above the Project Equipment subject to this Security Agreement.

D. Lien. The State may place a lien on the title of each Project Equipment vehicle based upon this Security Agreement. The State shall retain physical possession of the titles of such Project Equipment vehicles and the Grantee agrees that the State shall be considered "in possession" of such vehicles for the purpose of any document required by State law to repossess such vehicles if necessary.

E. Disposition of Equipment. In addition to the security interest granted herein, the Grantee agrees to and acknowledges the right of the State to remove all Project Equipment from the Grantee's premises and to take possession of any of the Project Equipment, if the Grantee fails to satisfactorily perform the Project services as detailed in the Agreement, or if the State determines for any other reason, including but not limited to termination of the Agreement, that the disposition of the federal interest in such Project

Equipment is in the best interest of the State. The Grantee agrees that it will in no way oppose the State's exercise of such right and that it will assist the State to obtain possession and to remove such vehicles.

F. Assignment. The Grantee agrees not to assert against any assignee of the State any defenses or claims the Grantee may have against the State.

G. Resolution. The Grantee's Board of Directors shall adopt a resolution approving this Security Agreement and authorizing its President to execute this Security Agreement. That resolution shall be attached to this Security Agreement.

ATTEST:

FOR THE GRANTEE

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

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

CERTIFICATION OF PROCUREMENT AND ACCEPTANCE  
(Security Agreement Addendum I)

\_\_\_\_\_ (Grantee's Name) hereby acknowledges receipt of the following  
vehicle:

Year/Make/Model	Vehicle Identification Number
-----------------	-------------------------------

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and accepts same as in substantial compliance with the requirements contained in the bid package and agreement with  
\_\_\_\_\_ (Vendor's Name), and waives any claim for changes for any variation from said  
requirements. \_\_\_\_\_

(Grantee's Name) hereby certifies that it has examined the specifications, bid procedures, award documents, and the  
proceedings followed and find that the procurement of the above equipment is consistent with and meets all the  
program requirements as outlined in its Agreement with the State of Colorado, the Colorado Department of  
Transportation, Division of Transportation Development, dated this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and  
identified as contract # \_\_\_\_\_.

\_\_\_\_\_ (Grantee's Name) further certifies that it will comply with the terms of  
Exhibit C ("Security Agreement") of the contract named above and it hereby gives and grants to the State a security  
interest in this vehicle in the amount of \$ \_\_\_\_\_.

Organization: \_\_\_\_\_

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

Date: \_\_\_\_\_

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

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

EXHIBIT D

SAMPLE OPTION LETTER

Date: \_\_\_\_\_ State Fiscal Year: \_\_\_\_\_ Option Letter No. \_\_\_\_\_

SUBJECT: [Option to Renew]  
[ Amount of goods/Level of service change]

In accordance with Paragraph(s) \_\_\_\_\_ of contract routing number \_\_\_\_\_, [ your Agency code here ], between the State of Colorado Department of or Higher Ed Institution [ your agency name here \_\_\_\_\_ ], [ \_\_\_\_\_ division], and

[ Add Contractor's name here ]

covering the period of [ July 1, 20\_\_\_\_ through June 30, 20\_\_\_\_, ] the state hereby exercises the option for [an additional one year's performance period at the (cost ) (price) specified in Paragraph \_\_\_\_\_.] and/or [increase/decrease the amount of goods/services at the same rate(s) as specified in Paragraph/Schedule/Exhibit \_\_\_\_\_.]

The amount of funds available and encumbered in this contract is [ increased/decreased ] by [ \$ amount of change] to a new total funds available of [ \$ \_\_\_\_\_ ] to satisfy services/goods ordered under the contract for the current fiscal year [ FY 0\_\_\_\_ ]. The first sentence in Paragraph \_\_\_\_\_ is hereby modified accordingly. The total contract value to include all previous amendments, option letters, etc. is [ \$ \_\_\_\_\_ ].

**APPROVALS:**

State of Colorado:  
Bill Owens, Governor

By: \_\_\_\_\_ Date: \_\_\_\_\_  
[ Executive Director/College President ]  
Colorado Department of \_\_\_\_\_ or Higher Ed Institution \_\_\_\_\_

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for goods and/or services provided.

**State Controller**

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

Date: \_\_\_\_\_

EXHIBIT E

SAMPLE BILATERAL CHANGE ORDER LETTER

Date: \_\_\_\_\_ State Fiscal Year: \_\_\_\_\_ Bilateral Change Order Letter No. \_\_\_\_\_

In accordance with Paragraph \_\_\_\_\_ of contract routing number \_\_\_\_\_, [ your agency code here ] \_\_\_\_\_, between the State of Colorado Department of or Higher Ed Institution [ your agency name here \_\_\_\_\_ ] ( \_\_\_\_\_ division) and

[ Contractor's Name Here ]

covering the period of [ July 1, 20 \_\_\_\_\_ through June 30, 20 \_\_\_\_\_ ] the undersigned agree that the supplies/services affected by this change letter are modified as follows:

Services/Supplies

Exhibit \_\_\_\_\_, Schedule of Equipment for Maintenance or Schedule of Delivery, is amended by adding \_\_\_\_\_, serial numbers \_\_\_\_\_ and \_\_\_\_\_.

Price/Cost

The maximum amount payable by the State for \_\_\_\_\_ [service] [supply] \_\_\_\_\_ in Paragraph \_\_\_\_\_ is (increased/decreased) by (\$ amount of change) to a new total of (\$ \_\_\_\_\_) based on the unit pricing schedule in Exhibit \_\_\_\_\_. The first sentence in Paragraph \_\_\_\_\_ is hereby modified accordingly; The total contract value to include all previous amendments, change orders, etc. is [ \$ \_\_\_\_\_ ].

OR

The parties agree that the changes made herein are "no cost" changes and shall not be the basis for claims for adjustment to [price] [cost ceiling], delivery schedule, or other terms or conditions of the contract. The parties waive and release each other from any claims or demands for adjustment to the contract, including but not limited to price, cost, and schedule, whether based on costs of changed work or direct or indirect impacts on unchanged work. Controller approval of this "no cost" change is not required. \_\_\_\_\_ contractor initials. \_\_\_\_\_ Agency initials.

[ **Include this sentence:** This change to the contract is intended to be effective as of \_\_\_\_\_, or on approval by the State Controller, whichever is later. ]

Please sign, date, and return all copies of this letter on or before \_\_\_\_\_ 20\_\_\_\_\_.

**APPROVALS:**

**Contractor Name:**

**State of Colorado:**  
Bill Owens, Governor

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

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

Date: \_\_\_\_\_

Name \_\_\_\_\_  
Title \_\_\_\_\_

For the Executive Director/College President  
Colorado Department of \_\_\_\_\_ or Higher Ed  
Institution \_\_\_\_\_

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State Controller

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

Date: \_\_\_\_\_

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

STATE OF COLORADO:

MONTEZUMA COUNTY  
Legal Name of Contracting Entity

BILL OWENS, GOVERNOR

\_\_\_\_\_  
Social Security Number or FEIN

By: \_\_\_\_\_  
JENNIFER FINCH  
Division Director  
Division of Transportation Development

[Signature]  
Signature of Authorized Officer

LEGAL REVIEW:

By: \_\_\_\_\_  
KEN SALAZAR  
Attorney General

\_\_\_\_\_  
Print Name & Title of Authorized Officer



By: \_\_\_\_\_  
TRACY L. KINSELLA  
Assistant Attorney General  
Natural Resources Section

CORPORATIONS:  
(A corporate seal and attestation is required.)

Attest (Seal) By Nelda Jenkins, Deputy  
(Corporate Secretary or Equivalent, or Town/City/County Clerk)

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

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STATE CONTROLLER:

By \_\_\_\_\_

Date \_\_\_\_\_

Revised: 12/02  
< 100,000

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

STATE OF COLORADO:

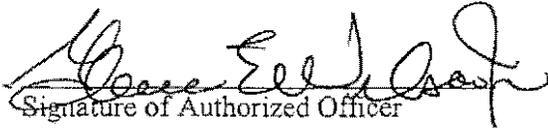
MONTEZUMA COUNTY  
Legal Name of Contracting Entity

BILL OWENS, GOVERNOR

By: \_\_\_\_\_  
JENNIFER FINCH  
Division Director  
Division of Transportation Development

\_\_\_\_\_  
Social Security Number or FEIN

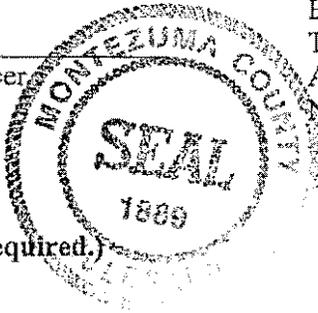
LEGAL REVIEW:

  
Signature of Authorized Officer

By: \_\_\_\_\_  
KEN SALAZAR  
Attorney General

\_\_\_\_\_  
Print Name & Title of Authorized Officer

By: \_\_\_\_\_  
TRACY L. KINSELLA  
Assistant Attorney General  
Natural Resources Section



CORPORATIONS:  
(A corporate seal and attestation is required.)

Attest (Seal) By Nelda Jenkins, Deputy  
(Corporate Secretary or Equivalent, or Town/City/County Clerk)

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STATE CONTROLLER:

By \_\_\_\_\_

Date \_\_\_\_\_

Revised: 12/02  
< 100,000

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

STATE OF COLORADO:

MONTEZUMA COUNTY  
Legal Name of Contracting Entity

BILL OWENS, GOVERNOR

\_\_\_\_\_  
Social Security Number or FEIN

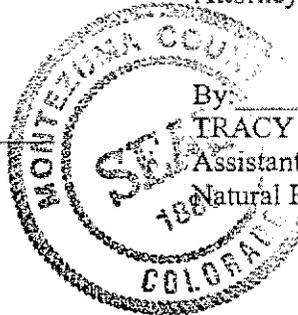
By: \_\_\_\_\_  
JENNIFER FINCH  
Division Director  
Division of Transportation Development

*[Signature]*  
Signature of Authorized Officer

LEGAL REVIEW:

By: \_\_\_\_\_  
KEN SALAZAR  
Attorney General

\_\_\_\_\_  
Print Name & Title of Authorized Officer



By: \_\_\_\_\_  
TRACY L. KINSELLA  
Assistant Attorney General  
Natural Resources Section

CORPORATIONS:  
(A corporate seal and attestation is required.)

Attest (Seal) By *Nelda Jenkins, Deputy*  
(Corporate Secretary or Equivalent, or Town/City/County Clerk)

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STATE CONTROLLER:

By \_\_\_\_\_

Date \_\_\_\_\_

Revised: 12/02  
< 100,000

2-2003

RESOLUTION ~~5310~~

MONTEZUMA COUNTY  
SENIOR SERVICES

A RESOLUTION AUTHORIZING THE BOARD PRESIDENT TO ENTER INTO AN AGREEMENT WITH THE STATE DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSPORTATION DEVELOPMENT, FOR THE PROVISION OF TRANSPORTATION SERVICES FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES - SECTION 5310.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF MONTEZUMA COUNTY.

Section I. The Board of Montezuma County finds:

- A. It has the power to enter into agreements with the State of Colorado; and,
- B. The State of Colorado, State Department of Transportation, Division of Transportation Development, has obtained certain unencumbered Federal funds for the provision of transportation services for elderly persons and persons with disabilities; and,
- C. The State Department of Transportation, Division of Transportation Development, is responsible for the disbursement of these funds; and,
- D. Montezuma County is desirous of obtaining said funds for the provisions of transportation services, and has filed an application with the State for this purpose; and,
- E. Montezuma County desires to accept the funds for such services pursuant to the conditions of the agreement; and,
- F. Montezuma County desires to work together with the State Department of Transportation to effect said services as provided in the agreement.

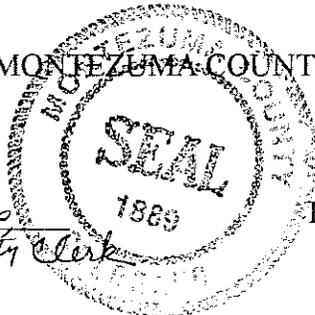
Section 2. Montezuma County hereby approves the attached contract between Montezuma County and the State Department of Transportation, agrees with the terms and conditions stated therein, and authorizes its president to sign said contract. \$11,000.00, as required by the Exhibit A.

Section 3. The Board of Montezuma County hereby approves the attached Security Agreement (Exhibit C) as required by Section G of the said Agreement and authorizes its President to execute the Security Agreement.

PASSES AND ADOPTED, SIGNED AND APPROVED THIS 24<sup>th</sup> DAY OF FEBRUARY, 2003

ATTEST:

MONTEZUMA COUNTY



*Nelda Jenkins*  
Secretary Deputy Clerk

By *Steve Elie*  
President  
Chairman

EXHIBIT A

SCOPE OF WORK AND CONDITIONS  
MONTEZUMA COUNTY

A. Standards of Performance

1. Grantee will provide the service described in Section F of this Exhibit and will provide a minimum of 5,418 one-way trips per year, at a maximum operating and administrative maximum cost of \$8.97 per one-way trip and a maximum cost of \$1.99 per mile and a maximum cost of \$26.82 per vehicle hour.

2. Standards of performance will be measured and reported semiannually as long as a federal interest remains in the vehicle. A report covering the period from January through June shall be due by August 15th and a report for the period from July through December shall be due by February 14th. Performance will be reviewed after each semiannual report. If the State's review determines that the Grantee's performance does not meet the standards of performance set forth in paragraph A.1. above, the following steps will be taken:

a. The State will notify the Grantee in writing that performance does not meet the requirements of this Agreement.

b. Thirty (30) calendar days after date of such notification, the Grantee will submit to the State a written explanation of the cause(s) of the substandard performance, which shall include a written plan for improving performance.

c. The State will review the plan for improvement and notify the Grantee of its approval within 21 days.

d. If the plan is approved by the State, the Grantee will implement the plan immediately upon receipt of the State's notification. If the plan is not approved by the State remedial measures will be determined on a case by case basis. Such remedial measures may include termination of this Agreement and return of the grant funds or capital equipment purchased with such funds, in accordance with the terms of Section 8 and Exhibit C, Security Agreement.

B. Project Budget

1. The net Project cost is estimated to be and shall be shared as follows:

CAPITAL EQUIPMENT  
GBL (WX 40)

Federal Share (80%)	\$44,000
Grantee Share (20%)	<u>\$11,000</u>
TOTAL	\$55,000

2. The Project Cost shall not exceed the maximum allowable cost of \$55,000. The State will pay no more than 80% of only the eligible, actual costs incurred by the Grantee, up to the maximum federal amount of \$44,000. The Grantee shall be solely responsible for all costs incurred in the Project in excess of the amount paid by the State from federal funds for the federal share of eligible, actual costs. In the event the final, actual Project cost is less than the maximum allowable cost of \$55,000, the State is not obligated to provide any more than 80% of the eligible, actual Project costs and shall retain the remaining balance of the federal share.

3. The Grantee shall provide the Grantee's Share from sources other than Federal funds. The Grantee's Share, together with the Federal share, shall be in an amount sufficient to assure payment of the net Project cost. The State shall have no obligation to provide State funds for use on this Project. The State will administer Federal funds for this Project under the terms of this Agreement, provided that the Federal share of FTA funds to be administered by the State are made available and remain available. In no event shall the State have any obligation to provide State funds or provide Federal FIA funds for the Grantee's share of the Project. The Grantee shall initiate and prosecute to completion all actions necessary to authorize the Grantee to obtain and provide its share of the Project costs at or prior to the time that such funds are needed to meet Project costs.

4. No refund or reduction of the amount of the Grantee's Share to be provided will be allowed unless there is at the same time a refund or reduction of the Federal share of a proportionate amount.

C. Reimbursement eligibility

Requests for reimbursement for project costs will be paid to the Grantee upon presentation of invoice(s) to the State for eligible costs incurred through December 31, 2003, provided that such requests and costs comply with all terms and conditions of this Agreement. The final invoice shall be submitted no later than sixty days after the above date.

D. Contract expiration

The Agreement shall expire when the capital equipment no longer has a Federal interest, as determined by the State.

E. Required Certifications

The Grantee shall obtain pertinent certifications from vendors in its procurement actions. The Grantee shall maintain such certifications on file for inspection by the State or shall submit such certifications to the State if required. Such actions requiring certifications shall include, but not be limited, to the following:

1. Compliance with Bus Testing requirements, if a vehicle(s) is being procured under this Agreement.
2. Compliance with federal requirements regarding debarment, suspension and other responsibility matters (49 C.F.R. §29.105(p)), for procurement exceeding \$100,000.
3. Compliance with Pre-Award and Post-Delivery Review Requirements, if a vehicle(s) is being procured under this Agreement.

F. Project Description

The Grantee shall perform all the Project activities as described on page 13 and elsewhere in the application update for funding submitted to the State on June 15, 2001. That application is incorporated herein by reference to the extent consistent with this Agreement.

Montezuma County Senior Services provides demand responsive public transit service in Cortez, Mancos and Delores Monday through Friday 8:30am – 4:30pm. Transportation is provided to medical and business appointments, a modified fixed route for site-based meals and the meals-on-wheels program. A donation of \$2 per round trip in town and \$4 per round trip out of town is requested. Montezuma County Department of Social Services is billed for TANF/Works program clients.

The proposed project for 2003 plans to expand service and centralize management, expand marketing of program service, expand the capacity of current dial-a-ride service, maintain fare level with a goal of increasing fare box recovery over the next two years, increase carpool programs, and coordinate with for-hire carriers when feasible.

Capital funds will be used to purchase one body on chassis vehicle with 12 ambulatory seats, a wheelchair lift and two wheelchair tie downs. You will be required to follow the Department's procurement procedures and it will be necessary for the Department to place a lien in the amount of the federal share at the time the vehicle is delivered.

G. Procurement

The Grantee shall follow the vehicle procurement process as set forth by the State in the 2003 Procurement Package. The Grantee shall submit procurement package to the State no later than **February 14, 2003**. A purchase order for the vehicle shall be issued no later than **March 31, 2003**, unless otherwise exempted by the State in writing. This means that your agency will have issued a purchase order to a vehicle vendor for your capital equipment by that date.

The Grantee shall be responsible for having the vehicle inspected and accepted within five working days of delivery from the vendor. The Grantee shall be responsible for reimbursing the local share to the selected vendor within 3 working days after acceptance of the vehicle. The Grantee shall be responsible to pay the vehicle vendor the 80% or balance due to the vendor whether or not you have received the reimbursement from CDOT. The Grantee shall be responsible for billing CDOT within three working days after acceptance of the vehicle. The Grantee shall follow the acceptance of vehicle procedures as specified in the 2003 Procurement Package Section 2.3.1.5, unless otherwise exempted by the State in writing. The State shall be notified of the agreed upon delivery date and may choose to attend the inspection of the vehicle. The Grantee shall submit to the State, a request for reimbursement for the Federal share within three working days after the acceptance of the vehicle.

H. Rehabilitation

The Grantee shall follow the vehicle rehabilitation process as set forth by the State in the 2003 Rehabilitation Package. The Grantee shall submit rehabilitation package to the State no later than February 14, 2003. A purchase order for the rehabilitation of the vehicle shall be issued no later than March 31, 2002, unless otherwise exempted by the State in writing. This means that your agency will have issued a purchase order to a vehicle vendor for your rehabilitation by that date.

The Grantee shall be responsible for having the vehicle inspected and accepted within five working days of delivery from the vendor. The Grantee shall be responsible for reimbursing the local share to the selected vendor within 3 working days after acceptance of the vehicle. The Grantee shall be responsible to pay the vehicle vendor the 80% or balance due to the vendor whether or not you have received the reimbursement from CDOT. The Grantee shall be responsible for billing CDOT within three working days after acceptance of the vehicle.

I. Restrictions on Lobbying

The Grantee shall certify that it complies with P.L. 101-121, Section 319, Restrictions on Lobbying, prior to the expenditure of the Federal funds provided in this Agreement.

J. Safety Data

The Grantee shall maintain and submit, as requested, data related to bus safety. This may include, but not be limited to, the number of vehicle accidents within certain measurement parameters set forth by the State; the number and extent of passenger injuries or claims; and, the number and extent of employee accidents, injuries and incidents.

## AGREEMENT

THIS AGREEMENT, made this 24 day of FEB, 2009, by and between the STATE OF COLORADO for the use and benefit of the STATE DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSPORTATION DEVELOPMENT, hereinafter referred to as the State, and MONTEZUMA COUNTY, 107 NORTH CHESTNUT, CORTEZ, CO 81321, a public body, hereinafter referred to as the Grantee.

WHEREAS, authority exists in the Law, and funds have been budgeted, appropriated and otherwise made available, and a sufficient unencumbered balance thereof remains available for payment in Fund Code 400, Organization Code 9756, Appropriation Code 402, Program Code 5000, Function Code 1510, Object Code 5180 I N, GBL Code WX 40, Reporting Code 0510, FEIN Number, 846000786 G, Encumbered Amounts \$55,000, The Catalog Federal Domestic Assistance number (CFDA) that relates to this contract in relation to audits is 20.513, and;

WHEREAS, required approval, clearance, and coordination has been accomplished from and with appropriate agencies; and

WHEREAS, Section 5310, of 49 U.S.C. § 5301 et seq., as amended, hereinafter referred to as the Federal Transit Act or the Act, provides for capital grants to private nonprofit corporations and associations and certain public bodies for the specific purpose of assisting them in providing transportation services to meet the special needs of elderly persons and person with disabilities for whom mass transportation services are unavailable, insufficient, or inappropriate; and

WHEREAS, the Grantee has proposed a project in the form of an application for funding under Section 5310 of the Act, hereinafter referred to as the "Project"; and

WHEREAS, Sections 43-1-601, C.R.S. 1973 authorizes the State Department of Transportation to take all steps and adopt all procedures necessary to make and enter into such contracts as may be necessary for state application and administration of Section 5310 of the Act, being a grant program for the purpose of assisting nonprofit corporations and associations and certain public bodies in making transportation services available to elderly persons and persons with disabilities; and

WHEREAS, the Governor of the State of Colorado, in accordance with a request by the Federal Transit Administration, hereinafter referred to as FTA, has designated the State Department of Transportation to evaluate and select projects proposed by private nonprofit organizations and associations and certain public bodies and to coordinate the grant applications; and

WHEREAS, the Grantee desires to and has the legal capacity and authority to contract with the State; and

WHEREAS, the Grantee possesses the necessary fiscal and managerial capability to implement and manage the project and utilize grant funds for public transportation needs of elderly persons and persons with disabilities in the State;

NOW, THEREFORE, it is hereby agreed that:

### **SECTION 1. PURPOSE OF AGREEMENT.**

The purpose of this Agreement is to state the terms, conditions, and mutual understandings of the parties as to the manner in which the Project will be undertaken and completed. The terms and conditions of the Project and the Act are incorporated herein by reference to the extent consistent herewith.

## **SECTION 2. ACCOMPLISHMENT OF THE PROJECT.**

A. General Requirements. The Grantee shall commence, carry out, and complete the Project with all practicable dispatch, in a sound, economical, and efficient manner, in accordance with the terms and conditions of this Agreement, the terms and conditions of Exhibit A, "Scope of Work and Conditions," Exhibit B, "Audit Requirements", Exhibit C, "Security Agreement" (if applicable), Exhibit D, "Sample Option Form Letter," Exhibit E "Sample Change Order Letter" which are incorporated herein by this reference, and all applicable laws, regulations, and published policies. In general, the terms of the U.S. Department of Transportation regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 C.F.R. Part 18, are applicable to Projects with governmental and non-governmental bodies. The Grantee further agrees to follow the "Common Rule Guidelines for Recipients of FTA Funds", and the applicable provisions of the most current "Master Agreement" between the FTA and the State, which are incorporated herein by reference.

### **B. Application of Federal, State, and Local Laws and Regulations.**

1. Pursuant to Federal, State, and Local Law. In performance of its obligations under this Agreement, the Grantee shall comply with all applicable provisions of federal, state, and local law. All limits or standards set forth in this Agreement to be observed in the performance of the Project are minimum requirements, and all more stringent State or local standards as outlined in the body of this Agreement shall be applicable to the performance of the Project.

2. State or Territorial Law. Except to the extent that a federal statute or regulation preempts State or territorial law, nothing in the Agreement shall require the Grantee to observe or enforce compliance with any provision thereof, perform any other act, or do any other thing in contravention of any applicable State or territorial law; however, if any of the provisions of the Agreement violate any applicable State or territorial law, or if compliance with the provisions of the Agreement would require the Grantee to violate any applicable State or territorial law, the Grantee agrees to notify the State immediately in writing in order that the State and the Grantee may make appropriate arrangements to proceed with the Project as soon as possible.

C. Funds of the Grantee. Except as approved otherwise by the State, the Grantee agrees to complete all proceedings necessary to provide the local share of the Project costs at or before the time that such funds are needed to meet Project expenses.

D. Changed Conditions of Performance. The Grantee agrees to notify the State immediately of any change in local conditions or any other event that may significantly affect its ability to perform the Project in accordance with the terms of this Agreement. In addition, the recipient agrees to notify the State immediately of any decision pertaining to the Grantee's conduct or litigation that may affect the State's interests in the Project or the State's administration or enforcement of applicable Federal laws or regulations. Before the Grantee may name the State as a party to litigation for any reason, the Grantee agrees to inform the State; this provision applies to any type of litigation whatsoever, in any form arising out of this Agreement or the Project.

E. No State Obligations to Third Parties. Absent the State's express written consent, and notwithstanding any concurrence by the State in or approval of the award of any contract of the Grantee (third party contract) or subcontract of the Grantee (third party subcontract) or the solicitation thereof, the State shall not be subject to any obligations or liabilities to third party contractors or third party subcontractors or any other person not a party to this Agreement in connection with the performance of this Project.

F. Period of Performance. This Agreement shall commence on the date all required signatures are affixed hereto, including that of the State Controller, as reflected by the date to be inserted by the State on the first page of this Agreement, and shall terminate as outlined in Sections 8 and 10 of this Agreement, and as further described in the body of this Agreement.

G. Contract Changes. Any change in this Agreement shall be in the form of a written supplement signed by the parties to this Agreement.

H. Pursuant to Applicable Regulations. The Project shall be performed by the Grantee pursuant to all applicable federal requirements, which shall be made available to the Grantee.

### **SECTION 3. ETHICS.**

A. Code of Ethics. The Grantee agrees to maintain and to require its subcontractors to maintain a written code or standards of conduct that shall govern the performance of its officers, employees, and board members engaged in the award and administration of contracts supported by Federal funds. The code or standards shall also provide that the Grantee's and subcontractor's officers, employees, and board members shall neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential contractors or sub recipients. The Grantee and subcontractor may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. As permitted by State or local law or regulations, such code or standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations by the Grantee's and subcontractor's officers, employees, and board members.

- (1) Personal Conflict of Interest. The Grantee's and subcontractor's code or standards must provide that no employee, officer, or board member, of the Grantee and subcontractor may participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when any of the parties set forth below has a financial or other interest in the firm selected for award:
  - a. The employee, officer, or board member;
  - b. Any member of his or her immediate family;
  - c. His or her partner;
  - d. An organization that employs, or is to employ, any of the above.

- (2) Organizational Conflict of Interest. The Grantee's and subcontractor's code or standards of conduct must include procedures for identifying and preventing real and apparent organizational conflicts of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third party contract may, without some restrictions on future activities, result in an unfair competitive advantage to the contractor or impair the contractor's objectivity in performing the contract work.

B. Bonus or Commission. The Grantee warrants that it has not paid, and agrees not to pay, any bonus or commission for the purpose of obtaining approval of its application for financial assistance for this project.

C. Prohibition Against Use of Federal Funds for Lobbying. The Grantee agrees to refrain from using Federal funds to support lobbying and to comply with the applicable provisions of 31 U.S.C. § 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20. If the Grantee is receiving \$100,000 or more in Federal funds, it agrees it shall specifically certify compliance with these provisions in a format provided by the State.

D. Employee Political Activity. The terms of the "Hatch Act", 5 U.S.C. § 1501 through 1508, and Office of Personnel Management regulations, "Political Activity of State and Local Officers or Employees," 5 C.F.R. Part 151, apply to State and local agencies and their officers and employees to the extent covered by the statute and regulations. The "Hatch Act" restricts the political activity of an individual principally employed by a State or local executive agency in connection with a program financed in whole or in part by a Federal loan, grant, or cooperative agreement. However, the "Hatch Act" does not apply to a non-supervisory employee of a transit system (or of any other agency or entity performing related functions) receiving FTA assistance to whom the "Hatch Act" is otherwise inapplicable.

E. False or Fraudulent Statements or Claims. The Grantee acknowledges that should it make a false, fictitious, or fraudulent claim, statement, submission, or certification to the State in connection with this Project, the State reserves the right to impose on the Grantee the penalties of 18 U.S.C. § 1001, 31 U.S.C. §§ 3801 et seq., and 49 U.S.C. app. § 1607a(h), as the State deems appropriate. The terms of U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to Project.

**SECTION 4. PROJECT BUDGET AND LOCAL SHARE.** The Project budget shall be as set forth in Exhibit A, "Scope and Conditions". Except as permitted otherwise by Federal law, the Grantee agrees to provide sufficient funds or approved in-kind resources, together with the Federal financial assistance

awarded herein, to assure payment of the actual cost of this Project. The Grantee agrees that no local share funds will be derived from revenues obtained from using the Project facilities, equipment or operations, nor shall other Federal funds be used except as otherwise provided in Exhibit A. The Grantee agrees to complete all proceedings necessary to provide the local share of the Project costs at or before the time those funds are needed to meet Project expenses.

#### **SECTION 5. ACCOUNTING RECORDS**

A. Project Accounts. The Grantee agrees to establish and maintain for the Project either a separate set of accounts, or accounts within the framework of an established accounting system, in a manner constant with 49 C.F.R. § 18.20, or OMB Circular A-133, Revised, whichever is applicable.

B. Funds Received or Made Available for the Project. Consistent with the provisions of 49 C.F.R. 18.21, or OMB Circular A-133, Revised, whichever is applicable, the Grantee agrees to record in the Project account, and deposit in a financial institution, Project payments received by it from the State pursuant to this Agreement and all other funds provided for, accruing to, or otherwise received on account of the Project (Project Funds). The Grantee is encouraged to use financial institutions that are owned at least 50 percent by minority group members.

C. Documentation of Project Costs. All allowable costs charged to the Project, including any approved services contributed by the Grantee or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail the nature of the charges. The Grantee also agrees to maintain accurate records of all Program Income derived from Project implementation; this requirement, however, does not apply to income of the Grantee that is determined by the State to be private.

D. Checks, Orders, and Vouchers. The Grantee agrees to refrain from drawing checks or orders for goods or services to be charged against the Project account until it has on file in its office a properly signed voucher describing in proper detail the purpose of the expenditure. The Grantee also agrees that all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Project shall be clearly identified, readily accessible, and to the extent feasible, kept separate from documents not pertaining to the Project.

#### **SECTION 6. REPORTING, RECORD RETENTION AND ACCESS**

A. Record Retention. During the course of the Project and for three years thereafter, the Grantee agrees to retain intact and to provide any data, documents, reports, records, contracts, and supporting materials relating to the Project as the State may require. Reporting and record-keeping requirements for governmental recipients are set forth in 49 C.F.R. Part 18. Reporting and record-keeping requirements for private non-profit and for-profit recipients, are set forth in OMB Circular A-110. Project closeout does not alter these requirements.

B. Access to Records. Upon request, the Grantee agrees to permit the Secretary of Transportation and the Comptroller General of the United States, or their authorized representatives, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Grantee and its subcontractors pertaining to the project. The Grantee agrees to require each third party contractor whose contract award is not based on competitive bidding procedures as defined by the State to permit the inspection of all work, materials, payrolls, and other data, and records involving the contract, and to audit the books, records, and accounts involving the contract as it affects the Project.

C. Reporting. During the term of this Project, except as provided in (5) below, the Grantee shall submit requests for reimbursements to the State in accordance with the requirements of this Section and with detailed written instructions provided by the State.

1. Reports shall be submitted on forms provided to the Grantee by the State.

2. Reports shall be fully completed through the period for reimbursement eligibility as stated in Exhibit A and include at least the following elements:

a. Eligible Project costs indicating the line items that correspond to the budget for the Project.

b. Operating and financial data.

c. An annual certification of Project equipment if capital equipment was purchased as part of this

Agreement.

3. Requests for reimbursement for Project costs will be paid to the Grantee after presentation of invoice(s) to the State for eligible costs through the date set forth in Exhibit A.

4. All requests for reimbursement shall be submitted no later than 60 days following the incurrence of reimbursable cost for the term of the Project, except as otherwise provided herein or in Exhibit A. If reports and request for reimbursements are not submitted within these times periods the Grantee shall be considered in violation of the Agreement and subject to nonpayment of the requested cost or termination of the Project as outlined in Section 9 of this Contract and may be denied future grant awards, at the discretion of the State.

5. Notwithstanding any prior termination of this Agreement under Section 9 of this Agreement, if capital equipment is purchased under this Agreement, the Grantee shall continue to provide the annual certification of Project equipment as above in which there is a federal interest in the equipment, as determined by the State.

6. The Grantee agrees to provide any other reports the State may require.

D. Project Closeout. Project closeout does not alter these reporting and record retention requirements.

## **SECTION 7. PAYMENTS, ALLOWABLE COSTS AND CLAIMS**

A. Requests for Payment. The requests for reimbursement for Payment of the Federal share of allowable costs will be paid to the Grantee upon presentation of invoice(s) to the State through the date set forth in Exhibit A of this Agreement.

B. Allowable Costs. The Grantee's expenditures will be reimbursed if they meet all requirements set forth below:

1. Conform with the Project Description and the approved Project Budget and all other terms of this Agreement;
2. Be necessary in order to accomplish the Project;
3. Be reasonable for the goods or services purchased;
4. Be actual net costs to the Grantee (i.e., the price paid minus any refunds, rebates, or other items of value received by the Grantee that have the effect of reducing the cost actually incurred, excluding Program Income);
5. Be incurred (and be for work performed) after the date of this Agreement;
6. Unless permitted otherwise by Federal statute or regulation, conform with Federal Guidelines or regulations and Federal cost principles as set forth below:
  - (a) For Grantees that are governmental organizations, the standards of OMB Circular A-87, Revised, "Cost Principles for State and Local Governments" apply.
  - (b) For Grantees that are private nonprofit organizations, the standards of OMB Circular A-122, Revised, "Cost Principles for Nonprofit Organizations" apply.
  - (c) For Grantees that are private for-profit organizations, the standards of the Federal Acquisition Regulation, 48 C.F.R. Chapter 1, Subpart 31.2, "Contracts with Commercial Organizations" apply.
7. Be satisfactorily documented; and
8. Be treated uniformly and consistently under accounting principles and procedures approved and prescribed by FTA or the State for the Grantee, and those approved or prescribed by the Grantee for its contractors.

C. Disallowable Costs. In determining the amount of Federal assistance FTA will provide, the State will exclude:

1. Any Project costs incurred by the Grantee before the obligation date of this Agreement or amendment thereof, whichever is later.
2. Any costs incurred by the Grantee that are not included in the Scope of Work.
3. Any cost incurred by the Grantee after the termination of this Agreement or amendment.
4. Any costs for goods or services received under a third party contract or other arrangement that is required to be approved by the State but which has not been approved by the State.

D. Final Determination. The Grantee agrees that reimbursement of any cost under this Agreement does not constitute a final State decision about the allow ability of that cost and does not constitute a waiver of any violation by the Grantee of the terms of this Agreement. The Grantee understands that the State will not make a final determination about the allow ability of any cost until an audit of the Project has been completed. If the State determines that the Grantee is not entitled to receive any part of the Federal funds requested, the State will notify the Grantee stating the reasons therefor. Project closeout will not alter the Grantee's obligation to return any funds due to the State as a result of later refunds, corrections or other transactions. Nor will Project closeout alter the State's right to disallow costs and recover funds on the basis of a later audit or other review. Unless prohibited by law, the State may recoup any Federal assistance funds made available under this Project as needed to satisfy any outstanding monetary claims that the State may have against the Grantee. Exceptions pertaining to disallowed costs are set forth in FTA directives or in other written Federal guidance.

E. Claims and Excess Payments. Upon notice by the State to the Grantee of specific amounts due, the Grantee agrees to remit to the State promptly any amounts due for claims, excess payments, or disallowed costs, including any interest due, in accordance with guidelines in the Master Agreement.

F. Deobligation of Funds. The State reserves the right to deobligate unexpended Federal funds before Project closeout.

#### **SECTION 8. AUDIT AND CLOSEOUT**

A. Standard Audit Requirements. The Grantee must perform timely audits and provide the State with the results of such audits, as required by the applicable provisions of OMB circular A-133, which is incorporated herein by this reference. Such audits shall test compliance with the items specified in Exhibit B and shall be completed by the Grantee if it is a State or local government, Indian Tribal government or private nonprofit organization. Pursuant to the FTA criteria, FTA or the State may waive the OMB Circular A-133 audit requirement or substitute a requirement of a grant audit performed in accordance with the Comptroller General Standards. All grantee audit reports must be submitted to the State within 30 days of their issuance, and not later than one year after the termination of this Agreement.

B. Additional Audits. The Grantee is responsible for obtaining any other audits required by FTA or the State. Project closeout will not alter the Grantees audit responsibilities.

C. Audit Costs. Audit costs for Project administration and management are allowable Project costs to the extent authorized by OMB Circular A-87, Revised, OMB Circular A-21, Revised, or OMB Circular A-122, Revised, as may be applicable.

D. Project Closeout. Project closeout occurs when the contract expires, as set forth in Exhibit A, and the State has forwarded the final payment to the Grantee. The Grantee agrees that Project closeout does not invalidate any continuing obligations imposed on the Grantee by this Agreement.

#### **SECTION 9. TERMINATION**

A. Termination by own terms. This Agreement will terminate by its own terms as set forth in Exhibit A.

B. For Convenience. The parties may rescind this Agreement and terminate the Project if both parties agree that the continuation of the Project would not produce beneficial results commensurate with the further expenditure of funds.

C. For Cause. Upon written notice, the Grantee agrees that the State may suspend or terminate all or part of the financial assistance provided herein if the Grantee has violated the terms of this Agreement, or if the State determines the purposes of the statute under which the Project was authorized would not be adequately served by continuation of Federal financial assistance for the Project. Any failure to make reasonable progress of the Project or other violation of the Agreement that significantly endangers substantial performance of the Project shall provide sufficient grounds for the State to terminate this Agreement. In general, termination of any financial assistance under this Agreement will not invalidate obligations properly incurred by the Grantee and concurred in by the State before the termination date, to the extent those obligations cannot be canceled. However, if the State determines that the Grantee has willfully misused Federal assistance funds by failing to make adequate progress, failing to make reasonable use of the Project real property, facilities, or equipment, or failing to adhere to the terms of this Agreement,

the State reserves the right to require the Grantee to refund the entire amount of Federal funds provided under this Agreement or any lesser amount as may be determined by the State.

D. Action upon Termination. Upon termination of this Agreement and the Project under the provisions of paragraph A, B or C of this Section, the Grantee agrees to return all Project equipment purchased with Project funds as directed by the State for disposition. The Grantee will also be subject to the provisions of Exhibit C, Security Agreement, where applicable.

#### **SECTION 10. REAL PROPERTY, EQUIPMENT AND SUPPLIES**

A. Use of Project Equipment. Where appropriate, the Grantee agrees that Project real property, equipment, and supplies shall be used for the provision of transit services for the duration of their useful life, as determined by the State. Should the Grantee unreasonably delay or fail to use Project real property, equipment, or supplies during their useful life, the Grantee agrees that the State may require the Grantee to return the entire amount of the Federal assistance expended on that real property, equipment, or supplies. The Grantee further agrees to notify the State immediately when any Project real property or equipment is withdrawn from use in transit service or when real property is used in a manner substantially different from the representations made by the Grantee in its Application or the text of Exhibit A, "Scope of Work and Conditions".

B. General Requirements. A Grantee that is a governmental entity agrees to comply with the property management standards of 49 C.F.R. § 18.31, 18.32, and 18.34, including any amendments thereto, and other applicable guidelines or regulations that the State may issue. A Grantee that is not a governmental entity agrees to comply with OMB Circular A-110, Revised, including any amendments thereto, and other applicable guidelines or regulations that the State may issue. Exceptions to these requirements of 49 C.F.R. § 18.31, 18.32, and 18.33, and to OMB Circular A-110, Revised, must be specifically approved by the State.

C. Definition of Project Equipment. Project equipment shall include any equipment item with a unit cost of \$1,000 or more and a useful life exceeding one year.

D. Maintenance of Project Equipment. The Grantee agrees that Project equipment shall be maintained in good operating order, and in accordance with any guidelines, directives, or regulations that FTA or the State may issue.

E. Title to Project Equipment. Title to Project equipment shall be in the Grantees name and shall be subject to the restrictions on use and disposition of the Project equipment set forth herein. The State shall retain physical possession of said title until there is no longer any Federal interest in the Project equipment. The State shall place a lien on the Project equipment in the amount of the Federal share of the Project, as set forth in Exhibit A, and shall maintain such lien until there is no longer any Federal interest in the Project equipment or until disposition of the equipment, whichever comes first. The Grantee shall comply with the provisions of the Security Agreement set forth in Exhibit C.

#### **SECTION 11. ENCUMBRANCE OF PROJECT PROPERTY**

A. Unless expressly authorized in writing by the State, the Grantee agrees to refrain from:

1. Executing any transfer of title, lease, lien, pledge, mortgage, encumbrance, contract, grant anticipation note, alienation, or other obligation that in any way would affect the Federal interest in any Project real property or equipment which Grantee owns, or

2. Obligating itself in any manner to any third party with respect to Project real property or equipment which Grantee owns.

B. The Grantee agrees to refrain from taking any action or acting in a manner that would adversely affect the Federal interest or impair the Grantee's continuing control over the use of Project real property or equipment, which Grantee owns.

#### **SECTION 12. INSURANCE**

A. The Grantee agrees to carry and to require subcontractors and sub recipients to carry standard Worker's Compensation insurance in statutory limits.

B. If the Grantee receives Federal funding for capital equipment and/or operating assistance, the Grantee agrees to:

1. Maintain and to require subcontractors and sub recipients to maintain in full force and effect during the term of the Agreement Comprehensive General and Automobile Liability Policy for amounts not less than: Bodily Injury, \$400,000 each occurrence; Property Damage, \$400,000 each occurrence; or \$600,000 combined single limit. If the Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, Section 24-10-101, et.seq. C.R.S. as amended ("Act"), the Grantee shall maintain such insurance by commercial policy or self-insurance as is necessary to meet Grantee's liabilities under the Act.

2. Submit annually to the State, within 30 days of the issuance of each insurance policy, certification that demonstrates the Grantee and subcontractors and sub recipients are carrying the above-described insurance.

3. Name the State or require subcontractors and sub recipients to name the State as loss payee on the policies for equipment purchased with Project funds and submit evidence of such to the State annually.

C. The Grantee shall name the State as loss payee on the insurance policies for equipment purchased with Project funds and submit evidence of such to the State annually.

D. Where appropriate the Grantee agrees to comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. Section 4012(a), with respect to any Project activity involving construction or acquisition.

### **SECTION 13. PROCUREMENT.**

A. Federal and State Procurement Standards. The Grantee agrees that all purchases financed in whole or in part pursuant to this Agreement by the State or the Grantee, will be in accordance with Colorado Department of Transportation guidelines, applicable State law, and the standards set forth in 49 C.F. R. Part 18 or OMB Circular A-102, as may be applicable, and with any supplementary directives or regulations including FTA Circular 4220. 1B, and any revisions thereof, as may be applicable. The Grantee agrees to use Project funds for capital equipment only as described in Exhibit A, "Scope of Work and Special Conditions".

B. Exclusionary or Discriminatory Specifications. Apart from inconsistent requirements imposed by Federal statute or regulations, the Grantee agree that it will comply with the requirements of 49 U.S.C. § 5323(h)(2) by refraining from using any Federal assistance awarded by the State to support procurements using exclusionary or discriminatory specifications.

C. Geographic Restrictions. The Grantee agrees to refrain from using state or local geographic preferences, except those expressly mandated or encouraged by Federal statute, and as permitted by FTA.

D. Award to Other Than the Lowest Bidder. In accordance with 49 U.S.C. § 5626(c), the Grantee may award a third party contract to other than the lowest bidder in connection with the procurement when such award furthers objectives consistent with the purposes of 49 U.S.C. Chapter 53 and any implementing regulations, circulars, manuals, or other guidance FTA may issue.

E. Ineligible Bidders. Unless otherwise permitted by the FTA or State, the Grantee shall refrain from awarding any third party contract to a party included in the U.S. General Services Administration's list of Parties Excluded from Federal Procurement or Non-procurement Programs. Before entering into any third party contract exceeding \$100,000, the Grantee agrees to obtain a debarment and suspension certification from each such third party contractor and provide the State a copy of such certification, as requested by the State.

F. Buy America. For any purchase utilizing FTA funds and exceeding a threshold cost of \$100,000, the Grantee must comply with 40 U.S.C. § 5323 (j), FTA's Buy America regulations at 49 C.F.R. Part 661, and any amendments thereto, and any implementing guidance issued by FTA with respect to any third party contract financed under this agreement.

G. Cargo Preference - Use of United States - Flag Vessels.

Pursuant to regulations published at 46 C.F.R. Part 381, the Grantee shall obtain from the State appropriate references and clauses to be inserted in all contracts it awards in which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project.

H. Bus Testing. To the extent applicable, the Grantee agrees to comply with FTA regulations, "Bus

Testing," 49 C.F.R. Part 663, and any revisions thereto.

I. Pre-award and Post-delivery Audit. To the extent applicable, the Grantee agrees to comply with FTA regulations "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any revisions thereto.

J. False or Fraudulent Statements and Claims. The Grantee acknowledges and agrees that by signing this agreement it certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or may make pertaining to the statements contained in its application for funding. In addition to other penalties that may be applicable, the Grantee also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the State reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Grantee to the extent the State deems appropriate.

K. Settlement of Third Party Contract Disputes or Breaches. The term third-party contract, as used in this Agreement, is defined as a contract between the Grantee and any subcontractor from which the Grantee has procured a good and/or service commercially from the subcontractor through written agreement. The State has a vested interest in the settlement of disputes, defaults, or breaches involving any federally-assisted third party contracts. The State retains the right to a proportionate share, based on the percentage of the Federal share committed to the Project, of any proceeds derived from any third party recovery. Therefore, the Grantee shall avail itself of all legal rights available under any third party contract. The Grantee shall notify the State of any current or prospective litigation or major disputed claim pertaining to any third party contract. The State reserves the right to concur in any compromise or settlement of the Grantee's claim(s) involving any third party contract, before making federal assistance available to support that settlement. If the third party contract contains a liquidated damages provision, any liquidated damages recovered shall be credited to the Project account involved unless the State permits otherwise.

#### **SECTION 14. PATENT RIGHTS.**

A. If any invention, improvement, or discovery of the Grantee or any of its third party contractors is conceived or first actually reduced to practice in the course of, or under this Project, and that invention, improvement or discovery is patentable under the laws of the United States of America or any foreign country, the Grantee agrees to notify the State immediately and provide a detailed report. The rights and responsibilities of the Grantee, third party contractors and the State with respect to such invention, improvement or discovery will be determined in accordance with applicable federal laws, regulations, policies, and any waivers thereof.

B. The Grantee agrees to include the requirements of Section 13 (A) of this Agreement in its third party contracts under this Project.

#### **SECTION 15. RIGHTS IN DATA AND COPYRIGHT.**

A. The term "subject data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement. The term includes graphic or pictorial delineation's in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory.

B. The following restrictions apply to all subject data first produced in the performance of this Agreement:

1. Except for its own internal use, the Grantee shall not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Grantee authorize others to do so, without the written consent of FTA until such time as FTA may have released such data to the public.

2. As authorized by 49 C.F.R. § 18.34, the FTA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

(a) Any work developed under a grant, cooperative agreement, sub-grant, or third party contract, irrespective if whether or not copyright has been obtained; and

- (b) Any rights of copyright to which a Grantee, sub-recipient, or a third party contractor purchases ownership with Federal assistance.

## **SECTION 16. CIVIL RIGHTS**

A. Prohibitions Against Discrimination in Federal Programs. The grantee agrees to comply with and assure the compliance by its third party contractors and subcontractors under this Project, with all requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d; 49 U.S.C. 5332; and U.S. DOT regulations, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act, 49 C.F.R. Part 21, and any implementing requirements FTA may issue.

B. Equal Employment Opportunity. The following requirements apply to the Project:

(1) In implementing the Project, the Grantee may not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Grantee agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Grantee shall insert the foregoing provisions (modified only to show the particular contractual relationship) in all its third party contracts for Project implementation, except contracts for standard commercial supplies or raw materials and construction contracts, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

(2) If, as a condition of assistance, the Grantee has submitted and the State and FTA has approved, an equal employment opportunity program that the Grantee agrees to carry out, such program is incorporated into this Agreement by reference. Such program shall be treated as a contractual obligation; and failure to carry out the terms of that equal employment opportunity program shall be treated as a violation of this Agreement. Upon notification to the Grantee of its failure to carry out the approved program, the State and FTA will impose such remedies as they may deem appropriate, which remedies may include termination of financial assistance as set forth in Section 9 of this Agreement or other measures that may affect the ability of the Grantee to obtain future financial assistance under the Federal Transit Act, as amended; Title 23, United States Code (Highways), or the Intermodal Surface Transportation Efficiency Act of 1991, Pub.L. 102-240.

C. Disadvantaged Business Enterprises. The Grantee agrees to facilitate participation of disadvantaged business enterprises (DBEs) as follows:

(1) The Grantee agrees to comply with current U.S. DOT regulations at 49 C.F.R. Part 23 and Part 26, including any amendments that may be issued during the term of this Agreement.

(2) The Grantee agrees that it will not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any U.S. DOT assisted contract. The Grantee agrees to take all necessary and reasonable steps under 49 C.F.R. Part 23 to ensure that eligible DBEs have the maximum feasible opportunity to participate in U.S. DOT assisted contracts. The Grantee's DBE program, if required by 49 C.F.R. Part 23 and as approved by the U.S. DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Grantee of its failure to carry out its approved program, the U.S. DOT may impose sanctions as provided for under 49 C.F.R. Part 23.

(3) The Grantee agrees to include the following clause in all agreements between the Grantee and Sub recipients and in all third party contracts assisted by the FTA between the Grantee or sub recipients and third party contractors:

The (Contractor, Sub-recipient, or Subcontractor) shall not discriminate on the basis of race, color, national origin, or sex in the performance of this (contract or agreement). The recipients of 49 C.F.R. Part 23 and Part 26 and the grantee's U.S. DOT-approved Disadvantaged Business Enterprise (DBE) Program (where required) are incorporated in this (contract or agreement) by reference. Failure by the (Contractor,

**SECTION 26. MISCELLANEOUS.**

A. The Special Provisions attached hereto are hereby made a part of this Agreement.

B. The Grantee agrees to take appropriate measures necessary to ensure compliance by all third party contractors and other entities participating in the Project with those Federal requirements applicable to their performance in the Project. To that end, the Grantee shall include in all third party subcontracts entered into pursuant to this Agreement the above Sections which are so indicated therein, using a format suggested by the State. The Grantee shall notify the State of all third party contracts using Project funds. In addition, the Grantee shall include the following provisions in any advertisement or invitation to bid for any procurement under this Agreement:

Statement of Financial Assistance

This contract is subject to a financial assistance agreement between the State of Colorado, the U.S. Department of Transportation, and the Federal Transit Administration

C. The Grantee warrants that it has the lawful authority to enter into this Agreement, and that it has taken all actions and complied with all procedures necessary to execute the authority lawfully in entering this Agreement, and that the undersigned signatory for the Grantee has been lawfully delegated the authority to sign this Agreement on behalf of the Grantee.

D. Remedies for Grantee's failure to comply with any federal or state laws or regulations specified herein shall be limited to the remedies specified in such laws and regulations together with the remedies stated in this Agreement.

E. This agreement is intended solely to fund the Project proposed by Grantee and to define the rights and responsibilities between the parties with respect to such funding. This Agreement is not intended to create any third party rights nor are third parties entitled to rely upon any provision.

F. This Agreement is subject to and contingent upon sufficient funds being appropriated, budgeted or otherwise made available to Grantee for purposes of meeting all or any portion of Grantee's obligations hereunder.

G. Pursuant to CRS 24-30-202.4 (as amended), the state controller may withhold debts owed to state agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 22, Title 39, CRS; (c) unpaid loans due to the student loan division of the department of higher education; (d) owed amounts required to be paid to the unemployment compensations fund; and (e) other unpaid debts owing to the state or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

(For Use Only with Inter-Governmental Contracts)

**1. CONTROLLER'S APPROVAL. CRS 24-30-202 (1)**

This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.

**2. FUND AVAILABILITY. CRS 24-30-202 (5.5)**

Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

**3. INDEMNIFICATION.**

Indemnity: The contractor shall indemnify, save, and hold harmless the State against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the parties, of the Colorado Governmental Immunity Act, CRS 24-10-101 *et seq.* or the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.* as applicable, as now or hereafter amended.

**4. INDEPENDENT CONTRACTOR. 4 CCR 801-2**

THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.

**5. NON-DISCRIMINATION.**

The contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

**6. CHOICE OF LAW.**

The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any

extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.

**7. EMPLOYEE FINANCIAL INTEREST. CRS 24-18-201 & CRS 24-50-507**

The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

EXHIBIT A

SCOPE OF WORK AND CONDITIONS  
MONTEZUMA COUNTY

A. Standards of Performance

1. Grantee will provide the service described in Section F of this Exhibit and will provide a minimum of 5.418 one-way trips per year, at a maximum operating and administrative maximum cost of \$8.97 per one-way trip and a maximum cost of \$1.99 per mile and a maximum cost of \$26.82 per vehicle hour.

2. Standards of performance will be measured and reported semiannually as long as a federal interest remains in the vehicle. A report covering the period from January through June shall be due by August 15th and a report for the period from July through December shall be due by February 14th. Performance will be reviewed after each semiannual report. If the State's review determines that the Grantee's performance does not meet the standards of performance set forth in paragraph A.1. above, the following steps will be taken:

a. The State will notify the Grantee in writing that performance does not meet the requirements of this Agreement.

b. Thirty (30) calendar days after date of such notification, the Grantee will submit to the State a written explanation of the cause(s) of the substandard performance, which shall include a written plan for improving performance.

c. The State will review the plan for improvement and notify the Grantee of its approval within 21 days.

d. If the plan is approved by the State, the Grantee will implement the plan immediately upon receipt of the State's notification. If the plan is not approved by the State remedial measures will be determined on a case by case basis. Such remedial measures may include termination of this Agreement and return of the grant funds or capital equipment purchased with such funds, in accordance with the terms of Section 8 and Exhibit C, Security Agreement.

B. Project Budget

1. The net Project cost is estimated to be and shall be shared as follows:

CAPITAL EQUIPMENT	
GBL (WX 40)	
Federal Share (80%)	\$44,000
Grantee Share (20%)	<u>\$11,000</u>
TOTAL	<u>\$55,000</u>

2. The Project Cost shall not exceed the maximum allowable cost of \$55,000. The State will pay no more than 80% of only the eligible, actual costs incurred by the Grantee, up to the maximum federal amount of \$44,000. The Grantee shall be solely responsible for all costs incurred in the Project in excess of the amount paid by the State from federal funds for the federal share of eligible, actual costs. In the event the final, actual Project cost is less than the maximum allowable cost of \$55,000, the State is not obligated to provide any more than 80% of the eligible, actual Project costs and shall retain the remaining balance of the federal share.

3. The Grantee shall provide the Grantee's Share from sources other than Federal funds. The Grantee's Share, together with the Federal share, shall be in an amount sufficient to assure payment of the net Project cost. The State shall have no obligation to provide State funds for use on this Project. The State will administer Federal funds for this Project under the terms of this Agreement, provided that the Federal share of FTA funds to be administered by the State are made available and remain available. In no event shall the State have any obligation to provide State funds or provide Federal FTA funds for the Grantee's share of the Project. The Grantee shall initiate and prosecute to completion all actions necessary to authorize the Grantee to obtain and provide its share of the Project costs at or prior to the time that such funds are needed to meet Project costs.

4. No refund or reduction of the amount of the Grantee's Share to be provided will be allowed unless there is at the same time a refund or reduction of the Federal share of a proportionate amount.

C. Reimbursement eligibility

Requests for reimbursement for project costs will be paid to the Grantee upon presentation of invoice(s) to the State for eligible costs incurred through December 31, 2003, provided that such requests and costs comply with all terms and conditions of this Agreement. The final invoice shall be submitted no later than sixty days after the above date.

D. Contract expiration

The Agreement shall expire when the capital equipment no longer has a Federal interest, as determined by the State.

E. Required Certifications

The Grantee shall obtain pertinent certifications from vendors in its procurement actions. The Grantee shall maintain such certifications on file for inspection by the State or shall submit such certifications to the State if required. Such actions requiring certifications shall include, but not be limited, to the following:

1. Compliance with Bus Testing requirements, if a vehicle(s) is being procured under this Agreement.
2. Compliance with federal requirements regarding debarment, suspension and other responsibility matters (49 C.F.R. §29.105(p)), for procurement exceeding \$100,000.
3. Compliance with Pre-Award and Post-Delivery Review Requirements, if a vehicle(s) is being procured under this Agreement.

F. Project Description

The Grantee shall perform all the Project activities as described on page 13 and elsewhere in the application update for funding submitted to the State on June 15, 2001. That application is incorporated herein by reference to the extent consistent with this Agreement.

Montezuma County Senior Services provides demand responsive public transit service in Cortez, Mancos and Delores Monday through Friday 8:30am – 4:30pm. Transportation is provided to medical and business appointments, a modified fixed route for site-based meals and the meals-on-wheels program. A donation of \$2 per round trip in town and \$4 per round trip out of town is requested. Montezuma County Department of Social Services is billed for TANF/Works program clients.

The proposed project for 2003 plans to expand service and centralize management, expand marketing of program service, expand the capacity of current dial-a-ride service, maintain fare level with a goal of increasing fare box recovery over the next two years, increase carpool programs, and coordinate with for-hire carriers when feasible.

Capital funds will be used to purchase one body on chassis vehicle with 12 ambulatory seats, a wheelchair lift and two wheelchair tie downs. You will be required to follow the Department's procurement procedures and it will be necessary for the Department to place a lien in the amount of the federal share at the time the vehicle is delivered.

#### G. Procurement

The Grantee shall follow the vehicle procurement process as set forth by the State in the 2003 Procurement Package. The Grantee shall submit procurement package to the State no later than **February 14, 2003**. A purchase order for the vehicle shall be issued no later than **March 31, 2003**, unless otherwise exempted by the State in writing. This means that your agency will have issued a purchase order to a vehicle vendor for your capital equipment by that date.

The Grantee shall be responsible for having the vehicle inspected and accepted within five working days of delivery from the vendor. The Grantee shall be responsible for reimbursing the local share to the selected vendor within 3 working days after acceptance of the vehicle. The Grantee shall be responsible to pay the vehicle vendor the 80% or balance due to the vendor whether or not you have received the reimbursement from CDOT. The Grantee shall be responsible for billing CDOT within three working days after acceptance of the vehicle. The Grantee shall follow the acceptance of vehicle procedures as specified in the 2003 Procurement Package Section 2.3.1.5, unless otherwise exempted by the State in writing. The State shall be notified of the agreed upon delivery date and may choose to attend the inspection of the vehicle. The Grantee shall submit to the State, a request for reimbursement for the Federal share within three working days after the acceptance of the vehicle.

#### H. Rehabilitation

The Grantee shall follow the vehicle rehabilitation process as set forth by the State in the 2003 Rehabilitation Package. The Grantee shall submit rehabilitation package to the State no later than February 14, 2003. A purchase order for the rehabilitation of the vehicle shall be issued no later than March 31, 2002, unless otherwise exempted by the State in writing. This means that your agency will have issued a purchase order to a vehicle vendor for your rehabilitation by that date.

The Grantee shall be responsible for having the vehicle inspected and accepted within five working days of delivery from the vendor. The Grantee shall be responsible for reimbursing the local share to the selected vendor within 3 working days after acceptance of the vehicle. The Grantee shall be responsible to pay the vehicle vendor the 80% or balance due to the vendor whether or not you have received the reimbursement from CDOT. The Grantee shall be responsible for billing CDOT within three working days after acceptance of the vehicle.

#### I. Restrictions on Lobbying

The Grantee shall certify that it complies with P.L. 101-121, Section 319, Restrictions on Lobbying, prior to the expenditure of the Federal funds provided in this Agreement.

J. Safety Data

The Grantee shall maintain and submit, as requested, data related to bus safety. This may include, but not be limited to, the number of vehicle accidents within certain measurement parameters set forth by the State; the number and extent of passenger injuries or claims; and, the number and extent of employee accidents, injuries and incidents.

EXHIBIT B  
SECTION 5310

GUIDANCE FOR AUDIT OF GRANTEE COMPLIANCE  
WITH FTA REQUIREMENTS

Federal Domestic Assistance Catalog No. 20.500

I. PROGRAM OBJECTIVES

Grants made under the Section 5310 program are available to supplement other FTA capital assistance programs by funding transportation projects for elderly and handicapped individuals in urbanized, small urban and rural areas. Program funds may be used to purchase or rehabilitate vehicles, communication and dispatching equipment (including computers), vehicle shelters and related equipment.

II. PROGRAM PROCEDURES

Annual formula apportionments are made to States who apply for funds on behalf of local recipients and administer the program. The Colorado Department of Transportation is the state agency designated by the Governor to apply for and administer the funds. The Department, the recipient, awards funds to subrecipients, hereinafter referred to as grantees, on a competitive basis. The local subrecipient must be a private nonprofit organization.

III. COMPLIANCE REQUIREMENTS AND SPECIAL AUDIT PROCEDURES

A. Matching Requirements

The minimum local match for the Project equipment purchases is 20 percent, must be in cash, and cannot be from a federal source. The equipment purchase (s) must be consistent with the equipment specified in the Agreement's Scope of Work and Conditions (Exhibit A). Capital is defined as any item costing over \$500 with a useful life of over one year.

Suggested Audit Procedures:

- a. Examine the Scope of Work and Conditions (Exhibit A)
- b. Ascertain the total Project cost
- c. Determine whether local matching funds were applied to the uses for which they were committed.
- d. Verify that payment of federal funds is accompanied by the appropriate share of local matching funds, that matching funds are not used to match other programs, and that the match was not from a federal source.

EXHIBIT C  
SECURITY AGREEMENT

This Security Agreement is made by and between the State of Colorado for the use and benefit of THE COLORADO DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSPORTATION DEVELOPMENT, hereinafter referred to as "the State" and \_\_\_\_\_, a Colorado private nonprofit organization, hereinafter referred to as "the Grantee".

A. Purpose. This Security Agreement is made for the purpose of securing the federal interest for the State in transit vehicles or other project equipment ("Project Equipment") purchased with Federal Transit Administration (FTA) grant funds awarded to the Grantee pursuant to the Agreement between the parties dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and identified as contract # \_\_\_\_\_.

The security interest granted to the State herein is to ensure that the State may access, protect and, if necessary, dispose of the federal interest in each item of Project Equipment and to ensure the proper use of the Project Equipment. The Grantee shall have no right in the federal interest in such Project Equipment.

B. Project Equipment. Not later than three days after the purchase and acceptance of Project Equipment, the Grantee shall complete and return to the State the "Certificate of Procurement and Acceptance" form, which then becomes Addendum I to this Security Agreement. In the case of vehicle procurement, this certificate must indicate the year, make, model, VIN, and any other information needed to register the vehicle.

C. Security Interest. In consideration of the value provided to the Grantee under the Agreement dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and identified as contract # \_\_\_\_\_, the Grantee hereby gives and grants to the State a security interest in the Project Equipment described in Addendum I and /or described below as follows:

MAKE/MODEL/VIN  
\_\_\_\_\_  
\_\_\_\_\_

This security interest shall apply to the Project Equipment acquired pursuant to the Agreement dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and identified as contract # \_\_\_\_\_, whether purchased before or after the date this Security Agreement is executed. The Grantee hereby authorizes the State to describe in the space above the Project Equipment subject to this Security Agreement.

D. Lien. The State may place a lien on the title of each Project Equipment vehicle based upon this Security Agreement. The State shall retain physical possession of the titles of such Project Equipment vehicles and the Grantee agrees that the State shall be considered "in possession" of such vehicles for the purpose of any document required by State law to repossess such vehicles if necessary.

E. Disposition of Equipment. In addition to the security interest granted herein, the Grantee agrees to and acknowledges the right of the State to remove all Project Equipment from the Grantee's premises and to take possession of any of the Project Equipment, if the Grantee fails to satisfactorily perform the Project services as detailed in the Agreement, or if the State determines for any other reason, including but not limited to termination of the Agreement, that the disposition of the federal interest in such Project

Equipment is in the best interest of the State. The Grantee agrees that it will in no way oppose the State's exercise of such right and that it will assist the State to obtain possession and to remove such vehicles.

F. Assignment. The Grantee agrees not to assert against any assignee of the State any defenses or claims the Grantee may have against the State.

G. Resolution. The Grantee's Board of Directors shall adopt a resolution approving this Security Agreement and authorizing its President to execute this Security Agreement. That resolution shall be attached to this Security Agreement.

ATTEST:

FOR THE GRANTEE

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

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

CERTIFICATION OF PROCUREMENT AND ACCEPTANCE  
(Security Agreement Addendum I)

\_\_\_\_\_ (Grantee's Name) hereby acknowledges receipt of the following

vehicle:

Year/Make/Model

Vehicle Identification Number

\_\_\_\_\_ and accepts same as in substantial compliance with the requirements contained in the bid package and agreement with

\_\_\_\_\_ (Vendor's Name), and waives any claim for changes for any variation from said

requirements. \_\_\_\_\_ (Grantee's Name) hereby certifies that it has examined the

specifications, bid procedures, award documents, and the proceedings followed and find that the procurement of the

above equipment is consistent with and meets all the program requirements as outlined in its Agreement with the State

of Colorado, the Colorado Department of Transportation, Division of Transportation Development, dated this \_\_\_\_ day

of \_\_\_\_\_, 20\_\_\_\_ and identified as contract # \_\_\_\_\_.

\_\_\_\_\_ (Grantee's Name) further certifies that it will comply with the terms of

Exhibit C ("Security Agreement") of the contract named above and it hereby gives and grants to the State a security

interest in this vehicle in the amount of \$ \_\_\_\_\_.

Organization: \_\_\_\_\_

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

Date: \_\_\_\_\_

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

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

Exhibit D  
SAMPLE OPTION LETTER

Date: \_\_\_\_\_ State Fiscal Year: \_\_\_\_\_ Option Letter No. \_\_\_\_\_

SUBJECT: [Option to Renew]  
[ Amount of goods/Level of service change]

In accordance with Paragraph(s) \_\_\_\_\_ of contract routing number \_\_\_\_\_, [ your Agency code here ], between the State of Colorado Department of or Higher Ed Institution [ your agency name here \_\_\_\_\_ ], [ \_\_\_\_\_ division], and

[ Add Contractor's name here ]

covering the period of [ July 1, 20\_\_\_\_ through June 30, 20\_\_\_\_, ] the state hereby exercises the option for [an additional one year's performance period at the (cost) (price) specified in Paragraph \_\_\_\_\_.] and/or [increase/decrease the amount of goods/services at the same rate(s) as specified in Paragraph/Schedule/Exhibit \_\_\_\_\_.]

The amount of funds available and encumbered in this contract is [ increased/decreased ] by [ \$ amount of change] to a new total funds available of [ \$ \_\_\_\_\_ ] to satisfy services/goods ordered under the contract for the current fiscal year [ FY 0 \_\_\_\_ ]. The first sentence in Paragraph \_\_\_\_\_ is hereby modified accordingly. The total contract value to include all previous amendments, option letters, etc. is [ \$ \_\_\_\_\_ ].

**APPROVALS:**

**State of Colorado:**  
Bill Owens, Governor

By: \_\_\_\_\_ Date: \_\_\_\_\_  
[Executive Director/College President]  
Colorado Department of \_\_\_\_\_

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for goods and/or services provided.

**State Controller**

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

Date: \_\_\_\_\_

Exhibit E

SAMPLE BILATERAL CHANGE ORDER LETTER

Date: \_\_\_\_\_ State Fiscal Year: \_\_\_\_\_ Bilateral Change Order Letter No.  
\_\_\_\_\_

In accordance with Paragraph \_\_\_\_\_ of contract routing number \_\_\_\_\_, [ your agency code here ] \_\_\_\_\_, between the State of Colorado Department of or Higher Ed Institution [ your agency name here \_\_\_\_\_ ] ( \_\_\_\_\_ division) and [ **Contractor's Name Here** ]

covering the period of [ July 1, 20 \_\_\_\_\_ through June 30, 20 \_\_\_\_\_ ] the undersigned agree that the supplies/services affected by this change letter are modified as follows:

**Services/Supplies**

Exhibit \_\_\_\_\_, Schedule of Equipment for Maintenance or Schedule of Delivery, is amended by adding \_\_\_\_\_, serial numbers \_\_\_\_\_ and \_\_\_\_\_.

**Price/Cost**

The maximum amount payable by the State for \_\_\_\_\_ [service] [supply] \_\_\_\_\_ in Paragraph \_\_\_\_\_ is (increased/decreased) by (\$ amount of change) to a new total of (\$ \_\_\_\_\_) based on the unit pricing schedule in Exhibit \_\_\_\_\_. The first sentence in Paragraph \_\_\_\_\_ is hereby modified accordingly;  
The total contract value to include all previous amendments, change orders, etc. is [ \$ \_\_\_\_\_ ].

**OR**

The parties agree that the changes made herein are "no cost" changes and shall not be the basis for claims for adjustment to [price] [cost ceiling], delivery schedule, or other terms or conditions of the contract. The parties waive and release each other from any claims or demands for adjustment to the contract, including but not limited to price, cost, and schedule, whether based on costs of changed work or direct or indirect impacts on unchanged work. Controller approval of this "no cost" change is not required. \_\_\_\_\_ contractor initials. \_\_\_\_\_ Agency initials.

[ **Include this sentence:** This change to the contract is intended to be effective as of \_\_\_\_\_, or on approval by the State Controller, whichever is later. ]

Please sign, date, and return all copies of this letter on or before \_\_\_\_\_ 20 \_\_\_\_\_.

**APPROVALS:**

**Contractor Name:**

**State of Colorado:**  
Bill Owens, Governor

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

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

Date: \_\_\_\_\_

Name \_\_\_\_\_

For the Executive Director/College President

Title \_\_\_\_\_

Colorado Department of \_\_\_\_\_

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

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**State Controller**

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

Date: \_\_\_\_\_

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

STATE OF COLORADO:

MONTEZUMA COUNTY  
Legal Name of Contracting Entity

BILL OWENS, GOVERNOR

Social Security Number or FEIN

By: \_\_\_\_\_  
JENNIFER FINCH  
Division Director  
Division of Transportation Development

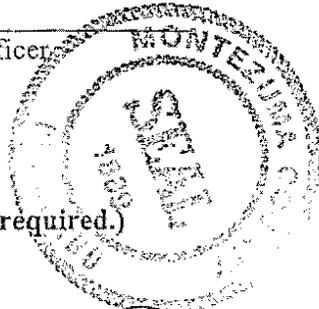
  
Signature of Authorized Officer

LEGAL REVIEW:

By: \_\_\_\_\_  
KEN SALAZAR  
Attorney General

Print Name & Title of Authorized Officer

By: \_\_\_\_\_  
TRACY L. KINSELLA  
Assistant Attorney General  
Natural Resources Section



CORPORATIONS:  
(A corporate seal and attestation is required.)

Attest (Seal) By Nelda Jenkins, Deputy  
(Corporate Secretary or Equivalent, or Town/City/County Clerk)

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

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STATE CONTROLLER:

By \_\_\_\_\_

Date \_\_\_\_\_

Revised: 12/02  
< 100,000

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

STATE OF COLORADO:

BILL OWENS, GOVERNOR

MONTEZUMA COUNTY  
Legal Name of Contracting Entity

By: \_\_\_\_\_  
JENNIFER FINCH  
Division Director  
Division of Transportation Development

\_\_\_\_\_  
Social Security Number or FEIN

LEGAL REVIEW:

  
Signature of Authorized Officer

By: \_\_\_\_\_  
KEN SALAZAR  
Attorney General

\_\_\_\_\_  
Print Name & Title of Authorized Officer

By: \_\_\_\_\_  
TRACY L. KINSELLA  
Assistant Attorney General  
Natural Resources Section

CORPORATIONS:  
(A corporate seal and attestation is required.)



Attest (Seal) By Nelda Jenkins, Deputy  
(Corporate Secretary or Equivalent, or Town/City/County Clerk)

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

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STATE CONTROLLER:

By \_\_\_\_\_

Date \_\_\_\_\_

Revised: 12/02  
< 100,000

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

STATE OF COLORADO:

MONTEZUMA COUNTY  
Legal Name of Contracting Entity

BILL OWENS, GOVERNOR

\_\_\_\_\_  
Social Security Number or FEIN

By: \_\_\_\_\_  
JENNIFER FINCH  
Division Director  
Division of Transportation Development

[Signature]  
Signature of Authorized Officer

LEGAL REVIEW:

By: \_\_\_\_\_  
KEN SALAZAR  
Attorney General

\_\_\_\_\_  
Print Name & Title of Authorized Officer



By: \_\_\_\_\_  
TRACY L. KINSELLA  
Assistant Attorney General  
Natural Resources Section

CORPORATIONS:  
(A corporate seal and attestation is required.)

Attest (Seal) By [Signature]  
(Corporate Secretary or Equivalent, or Town/City/County Clerk)

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

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STATE CONTROLLER:

By \_\_\_\_\_

Date \_\_\_\_\_

Revised: 12/02  
< 100,000

THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTEZUMA  
STATE OF COLORADO

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 11<sup>th</sup> day of September, 2006, with the following persons in attendance:

Commissioners: Dewayne Findley, Gerald Koppenhafer and Larrie D. Rule  
Commissioners Absent:  
County Attorney: Bob Slough  
County Administrator: Ashton N. Harrison  
County Clerk: Carol Tullis, County Clerk

the following proceedings, among others, were taken:

**Resolution No. 01-2003 Amended**

WHEREAS, Resolution No. 01-2003 was originally adopted on February 24, 2003, and

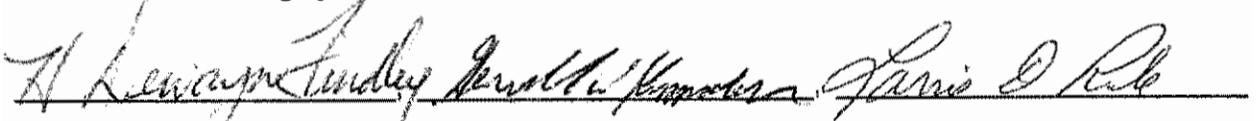
WHEREAS, the above mentioned resolution stated the Montezuma County Planning Commission would consist of seven members, serving three-year terms, for a maximum of two terms, and

WHEREAS, subsequently on December 15, 2003, during their regularly scheduled meeting the Board of County Commissioners voted to change the Term Appointment for Planning Commission Board Members to three 3-year terms.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners for Montezuma County, the following:

1. The Montezuma County Planning Commission will consist of seven members, serving three-year terms, for a maximum of three terms.
2. The Planning Commission will include three alternate members who shall be appointed for one-year terms and shall be seated in the place of regular Planning Commission members who are absent. The Chairman of the Planning Commission will seat up to three alternate members at each regular Planning Commission meeting on a rotating basis throughout their one-year term. Alternate members will receive all correspondence and meeting notices as do regular Planning Commission members and will be allowed to participate in any discussion at any regular or special Planning Commission meeting. Only those alternates seated by the Chairman will be allowed to vote.

Commissioners voting aye in favor of the Resolution were:

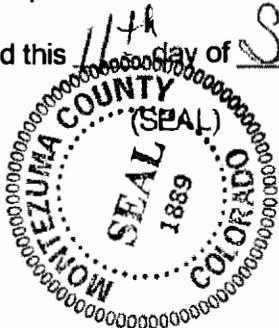
  
\_\_\_\_\_

Commissioners voting nay against the Resolution were:

\_\_\_\_\_  
  
\_\_\_\_\_  
County Clerk and Recorder  
Montezuma County, Colorado

I certify that the above and foregoing Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners for Montezuma County, Colorado, and the votes upon same are true and correct.

Dated this 11<sup>th</sup> day of Sept, 2006.



  
\_\_\_\_\_  
County Clerk and Recorder  
Montezuma County, Colorado

**THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTEZUMA  
STATE OF COLORADO**

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 24<sup>th</sup> day of February, 2003, with the following persons in attendance:

Commissioners:	Dewayne Findley, J. Kent Lindsay and Glenn E. Wilson, Jr.
Commissioners Absent:	
County Attorney:	Bob Slough
County Administrator:	Thomas J. Weaver
County Clerk:	Nelda Jenkins, Deputy Clerk

the following proceedings, among others, were taken:

**RESOLUTION No. 01 – 2003**

**WHEREAS**, Resolution P70-1 was originally adopted on April 6, 1970, and

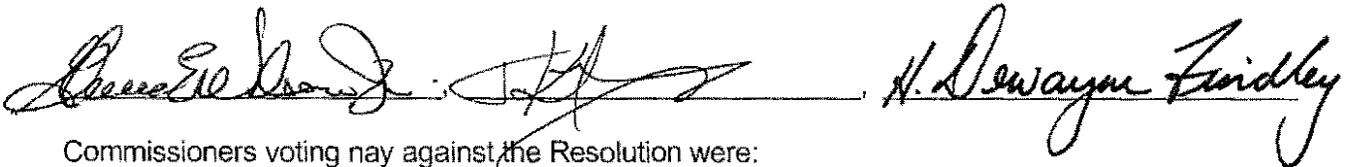
**WHEREAS**, more than 32 years have passed since the adoption of this resolution, and

**WHEREAS**, it is now necessary to reconsider the framework within which the Planning Commission operates.

**NOW THEREFORE BE IT RESOLVED** by the Board of County Commissioner for Montezuma County, the following:

1. The Montezuma County Planning Commission will consist of seven members, serving three-year terms, for a maximum of two terms.
2. The Planning Commission will include three alternate members who shall be appointed for one-year terms and shall be seated in the place of regular Planning Commission members who are absent. The Chairman of the Planning Commission will seat up to three alternate members at each regular Planning Commission meeting on a rotating basis throughout their one-year term. Alternate members will receive all correspondence and meeting notices as do regular Planning Commission members and will be allowed to participate in any discussion at any regular or special Planning Commission meeting. Only those alternates seated by the Chairman will be allowed to vote.

Commissioners voting aye in favor of the Resolution were:



Commissioners voting nay against the Resolution were:

  
\_\_\_\_\_  
Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado

I certify that the above and foregoing Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners for Montezuma County, Colorado, and the votes upon same are true and correct.

Dated this 24<sup>th</sup> day of February, 2003.



  
\_\_\_\_\_  
Nelda Jenkins, Deputy  
County Clerk and Recorder  
Montezuma County, Colorado