

RESOLUTION

A JOINT RESOLUTION OF THE COUNTY OF MESA AND THE CITY OF GRAND JUNCTION WHEREBY THE BOARD OF COUNTY COMMISSIONERS AND THE CITY OF GRAND JUNCTION ENTER INTO AN AGREEMENT WITH THE STATE DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSPORTATION DEVELOPMENT, FOR THE PROVISION OF TRANSPORTATION SERVICES.

WHEREAS, The City and County have been designated by the Governor as the Metropolitan Planning Organization for the Grand Junction/Mesa County Urbanized Area; and

WHEREAS, Part 2 of Article 1 of Title 29, Colorado Revised Statutes authorizes the parties to contract with one another to make the most efficient and effective use of their powers and responsibilities; and

WHEREAS, The City and County realize the importance of both short and long range planning in the development of an efficient transportation system, and are both aware that it is the responsibility of the Metropolitan Planning Organization to perform those planning functions; and

WHEREAS, The City and County, in their performance of those planning functions for the Urbanized Area, wish to use Federal Transit Administration (FTA) transportation planning funds in coordination with the Colorado Department of Transportation;

WHEREAS, The City and County have previously approved the FY96 Unified Planning Work Program which will be implemented with these FTA funds:

NOW, THEREFORE, BE IT JOINTLY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MESA, COLORADO AND THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

That the FY 1996 Contract for FTA Section 8 Funds, hereunto attached, is approved by the Board of County Commissioners of the County of Mesa, Colorado on November 20, 1995, and by the City Council of the City of Grand Junction, Colorado on December 6, 1995.

CITY OF GRAND JUNCTION

/s/ Ron Maupin
President of the Council
Grand Junction City Council

6th day of December, 1995

Attest:

/s/ Stephanie Nye
City Clerk

COUNTY OF MESA

/s/ Doralyn Genova
Chairman of the Board
Mesa County Board of
Commissioners

20th day of November,
1995

Attest:

/s/ Monika Todd
County Clerk

AGREEMENT

THIS AGREEMENT, made this 8th day of February, 1996, 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 GRAND JUNCTION/MESA COUNTY METROPOLITAN PLANNING ORGANIZATION, 750 MAIN STREET, GRAND JUNCTION, CO 81502-5047, created under powers set forth in Article XIV, Section 18(2) of the Colorado Constitution and Part 2 of Article I of Title 29, C.R.S., as amended, 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 COFRS Fund Code 400, Organization Code 9869, Appropriation Code 416, Object Code 5180, Program Code 5000, Function Code 1510, GBL Code BD92, Reporting Code 0510, Total Encumbrance \$25,000, the Contact Person for the Grantee shall be Cliff Davidson, and its FEIN Number is 846000783 L; and

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

WHEREAS, the State has received a Section 8 planning grant (the "grant") from the U. S. Department of Transportation, Federal Transit Administration, herein after referred to as "FTA"; and

WHEREAS, there is a "Master Agreement" between the State and FTA that sets forth contract conditions governing the Section 8 grant; and

WHEREAS, Sections 43-1-901, C.R.S. 1973 authorize the State Department of Transportation to enter into such contracts as may be necessary for state application and administration of Section 8 of the Act, being a grant program for the planning of transit projects and for other technical studies; and

WHEREAS, the Grantee has proposed a project described in its Fiscal Year 1996 Unified Planning Work Plan (UPWP) for funding under Section 8 of the Act, hereinafter referred to as the "Project"; and

WHEREAS, the State has selected the Grantee pursuant to grant conditions and requirements and desires to engage the Grantee to render technical and professional services hereinafter described in connection with the above Project; and

WHEREAS, the Grantee is uniquely qualified to perform these services.

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" and Exhibit B, "Audit Requirements", incorporated herein by this reference, and all applicable laws, regulations, and published policies. In general, the terms of the federal regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 C.F.R. Part 18, are applicable to Section 8 Transit Projects with governmental and nongovernmental bodies. The Grantee further agrees to follow the applicable provisions of the "Common Rule Guidelines for Recipients of FTA Funds", as well as the Federal

Transit Administration's "Master Agreement," which are incorporated herein by reference. In the performance of the Project, the Grantee shall comply with all terms and conditions of the "Master Agreement" that are applicable to the "Recipient" as that term is used herein.

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; therefore 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 Recipient 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 States' 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.

E. No State Obligations to Third Parties. Absent the State's express written consent, and not withstanding 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 Section 8 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.

SECTION 3. ETHICS.

A. Code of Ethics. The Grantee agrees to maintain a written code or standards of conduct that shall govern the performance of its officers, employees, board members or agents engaged in the award and administration of contracts supported by Federal assistance. The code or standards shall also

provide that the Grantee's officers, employees, board members or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential contractors or subrecipients. The Grantee 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 officers, employees, board members or agents, or by contractors or subrecipients or their agents.

(1) Personal Conflict of Interest. The Grantee's code or standards must provide that no employee, officer, board member, or agent of the Grantee 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:

1. The employee, officer, board member or agent;
2. Any member of his or her immediate family;
3. His or her partner; or
4. An organization that employs, or is to employ, any of the above.

(2) Organizational Conflict of Interest. The Grantee'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. Interest of Members of or Delegates to Congress. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

C. 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.

D. Prohibition Against Use of Federal Funds for Lobbying. The Grantee agrees to comply with the provisions of 31 U.S.C. § 1352, which prohibit the use of Federal funds for lobbying any official or employee of any Federal agency, or member or employee of Congress and requires the Grantee to disclose any lobbying of any official or employee of any Federal agency, or member or employee of Congress in connection with Federal assistance. The Grantee agrees to comply with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20.

E. 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 nonsupervisory 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.

F. 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 may be deemed appropriate. The terms of U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to this Project.

SECTION 4. PROJECT BUDGET. The Project budget shall be as set forth in Exhibit A, "Scope and Conditions".

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 consistent with 49 C.F.R. § 18.20, or OMB Circular A-110, whichever is applicable.

B. Funds Received or Made Available for the Project. The Grantee agrees to record in the Project Account, and deposit in a financial institution, Project payments it receives 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) in accordance with the provisions of 49 C.F.R. § 18.21, or 49 C.F.R. § 18.22. The Grantee is encouraged to use financial institutions 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.

SECTION 6. RECORDS RETENTION

A. Records. 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. Audit and Inspection.

1. 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-128, 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 FTA criteria, FTA or the State may waive the OMB Circular A-128 audit requirement or substitute a requirement for a grant audit performed in accordance with the Comptroller General's standards.

2. The Grantee agrees to permit the State, FTA, and the Secretary 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 contractors 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 that contract, and to audit the books, records, and accounts involving that contract as it affects the Project.

3. 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.

4. The Grantee is responsible for obtaining any audits required by FTA or the State. To the extent that the charges for such audits are necessary for the administration and management of functions related to the

Project, the costs of such audits are allowable under this Project 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.

SECTION 7. PAYMENTS AND REPORTS.

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, FTA 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 date of this Agreement or Amendment.

The Grantee agrees that reimbursement of any cost under this Agreement does not constitute a final State decision about the allowability 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 allowability 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 to be 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.

D. 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.

1. Reports shall be fully completed through the period for reimbursement eligibility as stated in Exhibit A and include eligible project costs indicating the line items that correspond to the budget for this Project, as well as a general narrative description of activities and accomplishments for the reporting period.

2. Requests for reimbursement for Project costs will be paid to the Grantee upon presentation of invoice(s) to the State for eligible costs through the date set forth in Exhibit A and within the limits of Section 3 of this Agreement.

3. All requests for reimbursement shall be submitted no later than 90 days following the incurrence of reimbursable cost for the term of the Project, except as otherwise provided in herein or in Exhibit A. If reports and requests for reimbursement are not submitted within these time 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 8 of this Contract and may be denied future grant awards, at the discretion of the State.

SECTION 8. RIGHT OF THE STATE TO TERMINATE.

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 cancelled. 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 any written materials developed with Project funds and all Project equipment purchased with Project funds to the State for disposition.

SECTION 9. PROCUREMENT

A. Purchase of Project Equipment. Project equipment includes any equipment item with a unit cost of \$500 or more and a useful life exceeding one year. The Grantee agrees that all purchases of Project equipment, 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. Insurance. The Grantee shall:

1. Carry the minimum statutory amounts of Worker's Compensation insurance coverage.

2. Maintain comprehensive general liability insurance.

3. Maintain the insurance in full force and effect during the term of this contract and shall protect the Grantee, its employees, agents, and representatives from claims for damages for personal injury and wrongful death and for damages to property arising from the negligent or wrongful acts or omissions of the Grantee, its employees, subcontractors, agents, or representatives, in the performance of the Project.

C. Ineligible Bidders. Bidders or Suppliers whose names appear on the U.S. Comptroller General's List of Ineligible Contractors are not eligible for award of, or participation in, any contract that may be awarded as a result of this Agreement. Submission of a bid by any bidder constitutes certification that he or any subcontractor or suppliers to him, on this proposed contract, if one is awarded, are not on the Comptroller General's List of Ineligible Contractors. A subsequent determination by the State that a bidder knowingly made any misstatement of facts in this regard will be cause for immediate disqualification, suspension or termination of the contract for cause. The Comptroller General's List of Ineligible Contractors is available from the G.A.O. Publications Branch, Room 6427, 441 G. Street, Washington, D. C. 20548.

D. Buy America. Each third party contract utilizing FTA funds must comply with Section 165 of the Surface Transportation Assistance Act of 1982, as amended, FTA regulations, "Buy America Requirements - Surface Transportation Assistance Act of 1982," 49 C.F.R. Part 661 and applicable revisions thereto, and any implementing guidance issued by FTA.

E. 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.

F. Preference for Recycled Products. The Grantee agrees to give preference to the purchase of recycled products for use in the Project pursuant to various Environmental Protection Agency (EPA) guidelines set forth at 40 C.F.R. Parts 247-254.

G. Debarment and Suspension. The Grantee agrees to obtain certification on debarment and suspension from its third party contractors and subrecipients and otherwise comply with U.S. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement) and Government wide Requirements for Drug-Free Workplace (Grants)," 49 C.F.R. Part 29.

H. 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 10. 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 10(A) of this Agreement in its third party contracts under this Project.
SECTION 11. 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 delineations 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. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term does not include financial reports, cost analyses, and similar information incidental to Project administration.

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; this restriction, however, does not apply to Agreements with academic institutions.

(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, subrecipient, or a third party contractor purchases ownership with Federal assistance.

C. When the State and FTA provide assistance to a Grantee for a Project involving planning, research, development or a demonstration, it is generally the State's and FTA's intent to increase the body of transportation knowledge, rather than to limit the benefits of the Project to those parties that have participated therein. Therefore, unless the State and FTA determines otherwise, the Grantee of FTA assistance to support planning, research, development, or a demonstration financed under the Federal Transit Act, as amended, understands and agrees that, in addition to the rights set forth in this Agreement, the State and FTA may make available to any FTA recipient, subrecipient, third party contractor, either FTA's license in the copyright to the subject data derived under this Agreement or a copy of the subject data first produced under this Agreement. In the event such a Project, which is the subject of this Agreement, is not completed, for any reason whatsoever, all data generated under that Project shall become subject data as defined in Section 14.a. of this Agreement and shall be delivered as the State or FTA may direct. This section does not apply to adaptations of automatic data processing equipment or programs for the Grantee's use which costs are financed with capital funds (Section 3, 9, 16, 18, or the Federal Transit Act, as amended, or Title 23 funds.)

D. Unless prohibited by state law, the Grantee agrees to indemnify and save and hold harmless FTA, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and

expenses, resulting from any willful or intentional violation by the Grantee of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Agreement. The Grantee shall not be required to indemnify the State for any such liability arising out of the wrongful acts of employees or agents of the State.

E. Nothing contained in this section on rights in data shall imply a license to the State under any patent or be construed as affecting the scope of any license or other right otherwise granted to the State under any patent.

F. Subsections C and D above are not applicable to material furnished to the Grantee by the State and incorporated in the work furnished under the Agreement; provided that such incorporated material is identified by the Grantee at the time of delivery of such work.

G. Unless the State determines otherwise, the Grantee agrees to include the requirements of Section 11(A) through 11(F) in its third-party contracts for planning, or research under this Project.

SECTION 12. CIVIL RIGHTS

A. 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 8 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, Dec. 18, 1991.

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

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

(2) The Grantee agrees that it shall 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 subrecipients and in all third party contracts assisted by the FTA between the Grantee or subrecipients and third party contractors:

The (Contractor, Subrecipient, 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 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, Subrecipient, or Subcontractor) to carry out these requirements is a 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 goods 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.

C. Title VI Civil Rights Act of 1964. 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; 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.

D. Access Requirements for Individuals with Disabilities. The Grantee agrees to comply with, and assure that any subrecipient, or third party contractor under this Project complies 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 regulations and 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 Benefitting from Federal Financial Assistance," 49 C.F.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 of 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; and

9. FTA regulations, "Transportation for Elderly/Handicapped Persons," 49 C.F.R. Part 609.

SECTION 13. ENVIRONMENTAL, RESOURCE CONSERVATION, AND ENERGY 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 subrecipients, any such Federal requirements, as the Government may now or in the future promulgate. Listed below are requirements of particular concern to 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 if 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 SIP. 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 14. PRIVACY. Should the Grantee, its third party contractors, subrecipients, or their employees administer any system of records on behalf of the Federal Government, the Privacy Act of 1974 (the ACT), 5 U.S.C. § 552a, imposes information restrictions on the party managing the system of records.

A. For the purposes of the Act, when the Agreement involves the operation of a system of records on individuals to accomplish a State function, the Grantee and any third party contractors, subrecipients and their employees involved therein are considered to be State employees with respect to the State function. The requirements of the Act, including the civil and criminal penalties for violations of the Act, apply to those individuals involved. Failure to comply with the terms of the Act or this Section 20 will make this Agreement subject to termination.

B. As used in this Section 20:

1. "Operation of a system of records" means performance of any of the activities associated with maintaining the system of records on behalf of the State including the collection, use and dissemination of records.

2. "Record" means any item, collection, or grouping of information about an individual that is maintained by the Grantee on behalf of the State, including, but not limited, to, his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, or a photograph.

3. "System of records" on individuals means a group of any records under the control of the Grantee on behalf of State from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

C. The Grantee agrees:

1. To comply with the Privacy Act of 1974, 5 U.S.C. § 552a, and regulations thereunder, when performance under the Project involves the design, development, or operation of any system of records on individuals to be operated by the Grantee, its third party contractors, subrecipients or their employees to accomplish a government function;

2. To notify the State when the Grantee or any of its third party contractors, subrecipients, or their employees anticipates operating a system of records on behalf of the State in order to implement the Project, if such system contains information about individuals retrievable by individual's name or other identifier assigned to the individual. A system of records subject to the Privacy Act may not be used carrying out this Project until the necessary and applicable approval and publication requirements have been met.

The Grantee, its third party contractors, subrecipients and their employees agree to correct, maintain, disseminate, and use such records as required by the Act, and to comply with all applicable terms of the Act;

3. To include in every solicitation and in every third party contract and sub-agreement when the performance of work under that proposed third party contract or sub-agreement may involve the design development, or operation of such a system of records on individuals to be operated under that third party contract or sub-agreement to accomplish a Government function, a Privacy Act notification informing the third party contractor, or subrecipient that it will be required to design, develop, or operate a system of records on individuals to accomplish a Government function subject to the Privacy Act of 1974, 5 U.S.C. § 552a, and Federal agency regulations, and that a violation of the Act may involve the imposition of criminal penalties; and

4. To include the text of Sections 20.a(1) through 20.a(3) of this Agreement, in all third party contracts and sub-agreements under which work for which this Agreement is performed or which is awarded pursuant to this Agreement or which may involve the design, development, or operation of a system of records on behalf of the Government.

SECTION 15. SUBSTANCE ABUSE. The Grantee agrees to comply with U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 29, Subpart F; and other U.S. DOT and FTA regulations and guidance pertaining to substance abuse (drugs and alcohol that may be promulgated.

SECTION 19. 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 20. MISCELLANEOUS.

A. The Special Provisions attached hereto are hereby made a part of this Agreement.

B. The Grantee shall include in all subcontracts entered into pursuant to this Agreement the above Sections which are so indicated therein. 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 agreement is subject to a financial assistance contract between the State of Colorado, the U.S. Department of Transportation, and the Federal Transit Administration

C. The governing body of the Grantee shall adopt (and attach to this Agreement) a resolution or other documentation as appropriate which warrants that it has the lawful authority to enter this Agreement, that it obligates and makes available the Local Share, as set forth in Exhibit A, Scope of Work and Special Conditions, and authorizes the undersigned Grantee signatory to execute this Agreement on its behalf and bind the Grantee to its terms.

SPECIAL PROVISIONS

CONTROLLER'S APPROVAL

1. This contract shall not be deemed valid until it shall have been approved by the Controller of the State of Colorado or such assistant as he may designate. This provision is applicable to any contract involving the payment of money by the State.

FUND AVAILABILITY

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

BOND REQUIREMENT

3. If this contract involves the payment of more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation or other public works for this State, the contract shall, before entering the performance of any such work included in the contract, duly execute and deliver to and file with the official whose signature appears below for the State, a good and sufficient bond or other acceptable surety to be approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety, conditioned for the due and faithful performance of the contract, and in addition, shall provide that if the contractor or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provender or other supplies used or consumed by such contract of his subcontractor in performance of the work contracted to be done, the surety will pay the same in the amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond, when so required, is executed, delivered and filed, no claim in favor of the contract arising under this contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order payable to the Treasurer of the State of Colorado may be accepted in lieu of bond. This provision is in compliance with 38-26-106 CRS, as amended.

INDEMNIFICATION

4. To the extent authorized by law, the contract shall indemnify, save and hold harmless the State, its employees and agents, 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.

DISCRIMINATION AND AFFIRMATIVE ACTION

5. The contract agrees to comply with the letter and spirit of the Colorado Antidiscrimination Act of 1957, as amended, and other applicable law respecting discrimination and unfair employment practices (24-34-402 CRS 1982 Replacement Vol.) and as required by Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975. *Pursuant thereto, the following provision shall be contained in all State contractor or sub-contracts.*

During the performance of this contract, the contractor agree as follows:

- (1) The contract will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age. The contract will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to the above mentioned characteristics. Such action shall

include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising: lay-offs or terminations: rates of pay or other forms of compensation: and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this non-discrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age.

(3) The contractor will send to each labor union or representative of workers with which he has collective bargaining agreement or other contract or understanding notice to be provide by the contracting officer, advising the labor union or workers' representative of the contractor's commitment under the Executive Order, Equal opportunity and Affirmative Action, dated April 16, 1975, and of the rules, regulations, and relevant Orders of the Governor.

(4) The contractor and labor unions will furnish all information and reports required by Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, and by the rules, regulations and Orders of the Governor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the office of the Governor or his designee for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(5) A labor organization will not exclude any individual otherwise qualified from full membership rights in such labor organization, or expel any such individual from membership in such labor organization or discriminate against any of its members in the full enjoyment of work opportunity, because of race, creed, color, sex, national origin or ancestry.

(6) A labor organization, or the employees or members thereof will not aid, abet, incite, compel or coerce the doing of any act defined in this contract to be discriminatory or obstruct or prevent any person from complying with the provisions of this contract or any order issued thereunder; or attempt, either directly or indirectly, to commit any act defined in this contract to be discriminatory.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

ATTEST: STATE COLORADO
ROY ROMER, GOVERNOR

Chief Clerk

By
Division Director
Division of Transportation
Development

APPROVED:
CLIFFORD W. HALL
State Controller

GALE A. NORTON
Attorney General

By _____

By
BARRY B. RYAN
Assistant Attorney General
Natural Resources Section

CITY OF GRAND JUNCTION

COUNTY OF MESA

/s/ Ron Maupin
President of the Council
Grand Junction City Council

/s/ Doralyn B. Genova
Chairman of the Board
Mesa County Board of
Commissioners

ATTEST:

ATTEST:

/s/ Stephanie Nye
City Clerk

/s/ Monika Todd
County Clerk

EXHIBIT A
SCOPE OF WORK AND CONDITIONS

I. Period of Performance. This Agreement is effective for a period of twenty-four months from the effective date of this Agreement.

II. Designated Planner and Service Area. The Grantee's designated planner and primary contact person for this Project, as designated by the Grantee, shall be Cliff Davidson. The designated service area for this Project shall consist of the Grand Junction urbanized area. The contact person for the State shall be Ron Seylhouwer.

III. Project Budget.

A. The net Project cost and task budget are estimated to be and shall be shared as follows:

| GBL Code | Task Category | Federal Share | Local Share | TOTALS |
|----------|--|---------------|-------------|----------|
| | (80%) | (20%) | | |
| BD92 | Short Range Trans- portation Planning | \$20,000 | 5,000 | 25,000 |
| | TOTALS | \$20,000 | \$5,000 | \$25,000 |

B. The Project Cost shall not exceed the maximum allowable cost of \$25,000. The Grantee shall provide the Grantee's Share as provided above. 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. 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.

Exhibit A - Mesa County MPO
Page 2

C. The Grantee shall carry out the Project as described herein, and shall incur obligations against and make disbursements of Project funds only in conformity with the latest Project Budget.

IV. Project Description

41.14.00 Short Range Transportation Planning

Major Street Plan: Identify the existing and future arterial and collec-

tor street system, and the on-street and off-street pedestrian and bicycle path system in the urban area.