



**Establishing Contract  
For  
The Rocky Mountain Rail Authority**

Recitals

Whereas, those regions of the State of Colorado adjacent to and served by Interstate 25 and Interstate 70, as well as the State as a whole, contemplate increased population growth and attendant increases in vehicular traffic and transportation demands; and

Whereas, it is in the best interest of the public, and its health, safety and welfare, to provide a transportation alternative to existing modes of transportation in the form of high-speed rail; and

Whereas, various political subdivisions of the State of Colorado desire to bring focus to their interest in development of high-speed rail in the transportation corridors of Colorado; and

Whereas, those political subdivisions desire to create an authority for the purpose of investigating, encouraging, developing and bringing into being high-speed rail in the State of Colorado; and

Whereas, the parties desire to establish a cooperative mechanism among themselves, other governmental entities and others interested in developing high-speed rail service in the State of Colorado, and to define and implement various transportation facilities, programs, services, improvements and entities to facilitate and accomplish the establishment of high-speed rail in the State of Colorado; and

Whereas, the parties are political subdivisions of the State of Colorado whose separate powers include all powers invested into this Authority, and

Whereas, it is the intent of the parties to hereby create and establish the Authority for the purposes recited and enumerated herein.

Establishing Covenants

Now, therefore, be it resolved that the parties hereto do, by this contract (hereinafter "this Contract"), create and establish the Rocky Mountain Rail Authority for the purposes and with the powers and obligations set forth herein. The parties agree and covenant that the Authority shall be a body corporate and politic, a political subdivision of the State of Colorado and a separate governmental entity of the State of Colorado, pursuant to Section 18 of Article XIV of the Constitution of the State of Colorado, and Section 29-1-203 of the Colorado Revised Statutes. The parties hereby agree and further covenant as follows.

## Terms and Conditions

**1.01 Name.** The name of the entity hereby established shall be the Rocky Mountain Rail Authority (hereinafter “the Authority”).

**1.02 Purpose and Objectives.** The purpose of the Authority shall be to establish a structure and opportunity for the parties to this Contract (hereinafter “the Members”), both the initial Members and those political subdivisions which may become Members in the future, to define, promote and implement mass transportation services and solutions to Colorado’s growing transportation infrastructure needs, to facilitate rail service, both passenger and freight in Colorado. Existing rail tracks have established the current transportation corridors, and the interstate highways have generally been built in those corridors, e.g., I-25, I-70 and I-76. Using, generally, those existing rail rights of way north and south and east and west, the Authority will facilitate a passenger rail service that will operate at an average speed that will qualify for Federal designation as a high-speed corridor. The objectives of the Authority shall be:

2.1 To plan and encourage rail infrastructure in or adjacent to the Authority’s area of activity, Colorado, for a passenger and freight rail system that can be designated by the Federal Railroad Administration as a high-speed rail corridor.

2.2 To interface and cooperate with other transit entities, including but not limited to other states, railroads, Amtrak and others within and adjacent to the Authority’s boundaries to maximize the convenience, safety, speed and operating costs of rail transportation in Colorado.

2.3 To encourage and support the establishment of such state, regional and local governmental entities and to cooperate with such non-profit and for-profit entities as are necessary and appropriate to establish the necessary transit infrastructure that will maximize the usage of the rail system.

2.4 To seek funds to advance the Authority’s purpose and objectives from federal, state, regional, and local governmental agencies and from the private sector.

**1.03 Powers and Functions.** To accomplish its purpose and objections, the Authority shall have the following powers and functions to the fullest extent permitted by law and the conditions and requirements set forth in this Establishing Contract, and such inherent or implied powers as these powers and functions may suggest:

3.1 To plan, support and facilitate transportation systems, services, programs, facilities, improvements, including without limitation transportation of all types.

3.2 To acquire, hold, lease, sell and dispose of legal and equitable interests in personal property of all kinds necessary or useful for the purposes of the Authority.

- 3.3 To seek, acquire, sell, lease, dispose of and exchange all types of personal property, licenses, certificates and permits.
  - 3.4 To conduct such business and affairs for the benefit of its Members, their constituents and the public as may be appropriate, all in the discretion of the Authority's Board of Directors.
  - 3.5 To enter into, make and perform contracts of every kind with the public and private entities of every type and kind in furtherance of the purpose of this Contract.
  - 3.6 To employ employees, contractors and consultants and to appoint agents.
  - 3.7 To act and operate as an "enterprise" within the meaning of the Colorado Constitution, Article X, Section 20, and to contract for and supply for payment services desired by Members which services are in furtherance of and related to the Authority's purposes.
  - 3.8 To buy, lease, construct, appropriate, contract for, invest in and otherwise acquire, own, maintain, operate, manage, improve, develop, deal in, sell, lease, exchange, transfer, convey and dispose of, and to hypothecate and encumber personal property (tangible and intangible).
  - 3.9 To sue and be sued.
  - 3.10 To have and use a corporate seal.
  - 3.11 To solicit, acquire, collect, receive and use gifts, grants, donations and pledges of any type, whether from public or private sources.
  - 3.12 To have and exercise all rights and powers necessary or incidental or implied from these powers.
  - 3.13 To budget and appropriate funds.
- 1.04 **No Power of Taxation.** The Authority shall have no power of taxation of any type or kind.
- 1.05 **Members.** Members of the Authority shall initially be Clear Creek County and the City of Monument, upon their respective execution of this Contract. Additional Members may join the Authority by execution of addenda to this Contract. Only political subdivisions of the State of Colorado and the State of Colorado, through its agencies, may become Members of the Authority. Nothing herein shall be deemed a waiver or surrender by the Members of any of their legal powers or responsibilities.
- 1.06 **Board of Directors.** All powers and functions of the Authority shall be vested in a Board of Directors consisting of one director designated by each Member of the Authority, all with one equal vote. Each Member may designate one alternate, similarly qualified, to serve in the absence of each Director. Directors and alternates appointed by members with boards, councils or commissions shall be elected or appointed members of those boards, councils or commissions. Vacancies on the Board of Directors shall be filled by the Member whose representative has created the vacancy. Directors shall not be compensated for their services. The Board shall operate as follows:

- 6.1 Regular meetings shall be held as determined by the Board of Directors. Special meetings shall be held as designated by the Chairman or any three Directors. Meetings shall be held in conformance with Colorado's open meetings law, section 24-6-402, C.R.S.
- 6.2 A majority of Directors designated by the Members shall constitute a quorum and a majority of a quorum present (meaning participating in a meeting for purposes of section 24-6-402, C.R.S.) shall constitute an action of the Board of Directors.
- 6.3 The Board's powers, as exercised by a majority of a quorum of Directors in office, shall include:
- (a) Governing the business and affairs of the Authority and establishing its policies.
  - (b) Election of officers, including a chairperson, vice-chairperson, secretary and treasurer.
  - (c) Acting in compliance with all applicable state and federal law to operate the Authority.
  - (d) Maintaining a record of proceedings of the Board.
  - (e) Establishing Board bylaws.
  - (f) Authorizing employment of employees, consultants, contractors and others.
  - (g) Having prepared and submitting an annual audit, as required by State law.
  - (h) Delegating and assigning functions to the Board's officers, employees, contractors and consultants, as not prohibited by law.
  - (i) Exercising all powers which are now or hereafter conferred by law or are essential or necessary to the provision of the Authority's services and accomplishment of its purposes, subject only to the limitations of this Contract and the law.
- 9.1 Any Member may, from time to time, designate, in writing, an Alternate Director, who shall possess the same qualifications as a Director and who shall, in the absence of such Director, be entitled to attend regular or special meetings of the Board and exercise the same powers as such Director.
- 9.2 The Board shall have an executive committee, whose members shall be all the officers of the Authority, plus no more than three Directors elected by the Board. The executive committee shall be empowered to exercise all powers given the Board hereunder, and by law, subject only to prior decisions and instructions of the Board. The Board shall delegate all powers of performance and execution to the executive committee. The Board may delegate the performance and execution of any and all powers and functions to such committees as the Board may deem proper, the membership of which committees shall also be determined by the Board.

- 1.10 Term, Withdrawal and Dissolution.** This Contract shall commence on the date of its execution by any two Members, whether they be initial or additional members, as provided in Section 5.0 hereof. Any Member of the Authority may withdraw at any time. The Authority shall have perpetual existence, subject to dissolution at such time as it has fewer than two Members.
- 1.11 Amendments.** This Contract contains all the terms agreed upon by the Members. Any amendment hereof must be in writing and executed by all Members.
- 1.12 Reliance.** The Members acknowledge and agree that each is relying on the performance of the other(s) under this Contract, and that all actions or changes of positions undertaken pursuant thereto are made in such reliance.
- 1.13 Non-Impairment.** Nothing in this Contract shall be deemed to restrict, modify or otherwise impair the powers of any Member in any manner.
- 1.14 Severability.** If any provision of this Contract or the application thereof to any person, entity or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this Contract, which can be given effect without the invalid provision or application, and to this end the provisions of this Contract, and each and every provision thereof, are declared to be severable.
- 1.15 Applicable Laws.** This Contract shall be governed by and construed in accordance with the laws of the state of Colorado.
- 1.16 Assignability.** No Member may assign or transfer any of its rights or obligations hereunder without the prior written consent of the Member(s) that is a nonassigning party(ies) to this Contract.
- 1.17 Binding Effect.** The provisions of this Contract shall bind and shall inure to the benefit of the Member(s) and to their respective successors and permitted assigns, if any.
- 1.18 Enforcement.** The Member(s) agree and acknowledge that this Contract may be enforced in law or in equity, by decree of specific performance, and, in the event of a judgment that a breaching Member acted arbitrarily and capriciously, or in bad faith, including an award of appropriate damages, or such other legal and equitable relief as may be available subject to the provisions of the laws of the State of Colorado.

Effective November 20, 2006, and executed this 20<sup>th</sup> day of Dec, 2006, at a regularly scheduled meeting of the Clear Creek Board of County Commissioners.

CLEAR CREEK COUNTY

By and through its  
Board of County Commissioners

ATTEST:

By: [Signature]  
Kevin J. O'Malley, Chairman

[Signature]  
Deputy Clerk and Recorder

APPROVED AS TO FORM:

[Signature]  
Robert W. Loeffler, County Attorney

Effective November 20, 2006, and executed this 20<sup>th</sup> day of November, 2006, at a regularly scheduled meeting of the Monument City Council.

THE TOWN OF MONUMENT

ATTEST:

[Signature]

[Signature]

By: Byron J. Glenn

By: Scott Meszaros

Title: Mayor

Title: Town Clerk

Date: 1.5.07

Date: 1.5.07

