# AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

**AgendaTitle:**
Acknowledgment of County Manager's Signature; Ground Lease Agreement; CCCenterSeven, LLC; Gold Basin Industrial Park; 8/1/14 thru 7/31/34; $5,392.51 Annually

**Action Requested:** County Manager Signature

**Parties to the Agreement:** CCCenterSeven.LLC and Gunnison County

**Term Begins:** 8/1/2014 **Term Ends:** 8/1/2034 **Grant Contract #:**

**Summary:**
Ratify County Manager signature on ground/lease agreement for Lot 7 - Gold Basin Industrial Park

**Fiscal Impact:** Revenue generated $5,392.51

**Submitted by:** Marlene D. Crosby **Submitter's Email Address:** mcrosby@gunnisoncounty.org

**Finance Review:** (●) Required ( ) Not Required

Comments:

Reviewed by: GUNCOUNTY1\bcowan Discharge Date: 8/6/2014

**County Attorney Review:** (●) Required ( ) Not Required

Comments:

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 8/11/2014 Certificate of Insurance Required Yes (●) No ( )

**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 8/11/2014

(●) Consent Agenda ( ) Regular Agenda ( ) Worksession Time Allotted:

Agenda Date: 8/19/2014 Follow Up Agenda Date:

*Revised April 2013*

# GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT (hereinafter "Lease Agreement") is made and entered into effective this 1st day of August, 2014, by and between the Board of County Commissioners of the County of Gunnison, Colorado, whose address is 200 E. Virginia, Gunnison, Colorado 81230 (hereinafter "Lessor"), and CCCenterSeven, LLC whose address is: 535 River Front Road, Gunnison, Colorado 81230 (hereinafter "Lessee").

## RECITALS

WHEREAS, Lessor owns and operates the Gold Basin Industrial Park (hereinafter the "Industrial Park") located in the County of Gunnison, State of Colorado and identified on Exhibit A attached hereto and incorporated herein; and

WHEREAS, Lessor desires to lease to Lessee and Lessee desires to lease from Lessor, certain land located at the Industrial Park;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained herein, the parties agree as follows:

1. Grant of Lease. Lessor hereby leases to Lessee that portion of land identified as Leasehold No. 7 located at the Industrial Park and as more particularly described on Exhibit B attached hereto and incorporated herein (hereinafter the "Premises"). This Lease Agreement shall include ONLY the rights EXPRESSLY identified herein. In addition, Lessee shall be required to pay its share of the common expenses and is entitled to use all common areas as identified on Exhibit A, attached hereto and incorporated herein, and as defined in the Gold Basin Industrial Park Special Area Regulations identified on Exhibit C, attached hereto and incorporated herein. The Premises and improvements shall be used and occupied by Lessee exclusively for the conduct of business. The improvements are identified on the site plan attached hereto and incorporated herein as Exhibit D.

2. Lease Term. The Lease, pursuant to this Lease Agreement, shall commence upon the date first set forth above. The Lease shall continue for 20 years (hereinafter the "Lease Term"), unless sooner terminated as provided herein, so long as the Lessee is in full compliance with the terms of this Lease Agreement, and the Lessor has determined in its reasonable discretion that the premises are, and have been, maintained in good repair and in compliance with conditions of the Gold Basin Industrial Park Special Area Regulations.

The Lessee may extend the term of this Lease one time for an additional twenty (20) year period ("Twenty-Year Extension") that will commence, if at all, at the termination of the original Lease Term described above. This Lease will terminate automatically at the end of the original Lease Term or at the end of the Twenty-Year Extension if Lessee exercises that option. If Lessee holds over and remains in possession of the Premises with the consent of Lessor after expiration of the Lease Term or the Twenty-Year Extension, such holding over shall not be construed as a renewal

of the Lease Term or any further extension of the Lessee's right to possession, but instead shall constitute a month to month Lease (hereinafter the "Month-to-Month Holdover") with rent payable to Lessor at 150% of the Lease rate then in effect, otherwise subject to all of the terms and conditions of this Lease Agreement. The Month-to-Month Holdover is revocable by either party by giving notice of termination at least ten days prior to the end of any month.

3. Ground Rent. In consideration of this lease agreement, Lessee shall pay to Lessor ground rent ("Ground Rent") for use of the premises. Ground Rent shall be in the amount of $2,718 per acre per annum, payable in monthly installments. The acreage for Leasehold No. 7 is 1.984 acres, resulting in a present annual Ground Rent of $5,392.51. Payments shall be made by the end of the month following the then current month from invoice or other such notice from the County. Ground rent shall be due and payable, whether or not Lessee receives a bill. This ground rent requirement is not contingent upon receiving prior approval by the Gunnison County Community Development Department of Lessee's application of proposed building or structure (hereinafter the "Improvements" or roadway or utility line(s) (hereinafter the "Infrastructure") to be installed and/or constructed upon the Premises. Ground rent per acre shall be adjusted from time to time by Resolution of the Board of County Commissioners. Ground rent shall be payable to Gunnison County and shall be delivered to the County's Finance Director at the Gunnison County Courthouse, 200 East Virginia Avenue, Gunnison, CO 81230, or other such address as the Lessor may designate in writing from time to time. Ground Rent shall be considered delinquent if not received by the end of the month following when the payment became due. Interest shall accrue on the delinquent payment at the rate of one percent (1%) per month on all material balances that are not reasonably disputed. Failure to timely pay the Ground Rent shall also be deemed a default event.

4. Inconvenience During Construction. Lessee recognizes that from time to time during the term of this Lease Agreement it may be necessary for the Lessor to initiate and carry forward extensive programs of construction, reconstruction, expansion, relocation, maintenance and repair related to development of the Industrial Park or other Lessor purposes which will require accommodation and that such construction, reconstruction, expansion, relocation, maintenance, and repair may inconvenience Lessee in its operation at the Industrial Park. Lessee agrees that no liability shall attach to the Lessor, its commissioners, officers, agents, employees, contractors, subcontractors and representatives by reason of such inconvenience or interruption; provided, however, Lessor agrees to use its best efforts to perform such activities in a manner and at such times that will minimize interference with Lessee's use and enjoyment of the Premises.

5. Certain Obligations of Lessee.

(a) Approval of Plans. Lessee covenants and agrees that prior to the preparation of detailed construction plans, specifications and architectural renderings of any building, structure, roadway, utility line, addition or improvement relative to the Leased Premises, including location of drainage, utilities and roadways, such plans, specifications and architectural renderings shall be submitted to the County Manager or authorized designee for approval.

Lessee's plans shall be compliant with any and all applicable local, state and federal laws and regulations including but not limited to life, fire safety, environmental codes, regulations and minimum standards, the Department of Energy and Colorado Department of Public Health and Environment Regulations, the then current land use development criteria established by Gunnison County, Colorado and the Gold Basin Industrial Park Special Area Regulations, as identified in Exhibit C attached hereto and incorporated herein.

Lessee covenants and agrees that prior to the installation or construction of any Improvements or Infrastructure on the Premises, it shall first submit to the Lessor for approval, final detailed construction plans and specifications and architectural renderings prepared by registered architects and engineers, and that all construction will be in accordance with such plans and specifications.

(b) Construction of the Buildings, Structures or other Improvements. Lessee agrees to begin construction of Improvements and Infrastructure no later than 180 days after the necessary permits have been issued to Lessee and to complete the construction within 180 days after Lessee begins the construction and/or installation of Improvements and Infrastructure. In the event Lessee fails to begin and complete construction within the period specified above, the Lessor shall have the right to terminate this Lease Agreement pursuant to the provisions of paragraph 7.

The Improvements described in Exhibit D attached hereto and incorporated herein, will be built at Lessee's sole expense and in accordance with the specifications described in Exhibit D attached hereto and incorporated herein, and in compliance with any and all applicable local, state and federal laws and regulations including but not limited to life, fire safety, environmental codes, regulations and minimum standards, the Department of Energy and Colorado Department of Public Health and Environment Regulations, the then current land use development criteria established by Gunnison County, Colorado and the Gold Basin Industrial Park Special Area Regulations, as identified in Exhibit C attached hereto and incorporated herein. Any amendment to the construction specifications identified in Exhibit D shall require the prior written consent of Lessor which may be withheld in Lessor's reasonable discretion.

(c) Utilities. Lessee, with Lessor's consent, shall have the right to install underground utilities and related facilities to provide utility services to the site and shall have the right to access all utilities servicing the Industrial Park, at Lessee's sole cost, including connection fees. Lessee shall give Lessor at least thirty days prior written notice of any proposed construction together with a construction plan showing any areas outside of the Improvements that may be affected by such construction. The County Manager or authorized designee shall have ten days to approve or deny the construction plan based on the anticipated disruption to the current or reasonably anticipated use of the Industrial Park, which approval shall not be unreasonably denied. If and when a construction plan is agreed upon between the Lessee and the County Manager or authorized designee, any such construction shall be conducted in a reasonable manner and in compliance with the construction plan so as to minimize the disruption of normal Industrial Park operations. After construction, Lessee shall restore the construction site to its

condition prior to construction excepting the Improvements. In exercising its rights hereunder, Lessee agrees to avoid areas which are paved or otherwise improved, whenever possible. Within 60 days of completion of construction, pavement or ground disturbed in the process shall be returned to its original condition. Lessee shall be responsible for the cost of any and all utilities serving the Premises.

(d) Wastewater Treatment Requirements. Lessee shall comply with any and all necessary pretreatment wastewater requirements deemed necessary by the City of Gunnison which may be imposed pursuant to the Intergovernmental Agreement Concerning Wastewater Treatment for Gold Basin Industrial Park as identified in Exhibit E attached hereto and incorporated herein

(e) As-Built Drawings. Within thirty (30) days following completion of the initial construction and any subsequent additions, alterations or improvements, Lessee shall present to the Lessor a complete set of reproducible drawings including, but not limited to, specifications and shop drawings of the Infrastructure and Improvements constructed on the Premises.

(f) Maintenance of Improvements and Premises. From and after the date construction is completed of the Improvements, Lessee shall maintain the Improvements and Premises, including the roof and structural components of the Improvements, at Lessee's sole expense in a neat, clean and safe condition and in good repair, normal wear and tear excepted. Lessee shall not make structural alterations to the Improvements and/or Premises prior to making application to and receiving approval from the County Manager or authorized designee. All alterations shall be at Lessee's sole expense. In the event Lessee fails to commence any repair or maintenance of the Improvements and/or Premises required pursuant to this Lease Agreement within thirty (30) days after written notice from Lessor requesting the repair or maintenance in question, Lessor may undertake the specified repair or maintenance for the account of Lessee, and Lessee shall promptly reimburse Lessor 125% of Lessor's actual costs and expenses incurred in connection therewith and if there is no prompt reimbursement by Lessee to Lessor, Lessor may have the option of acquiring a lien against Lessee's Improvements. Lessee shall follow and be in compliance with any and all applicable local, state and federal regulations including but not limited to life, fire safety, environmental codes, regulations and minimum standards, the Department of Energy and Colorado Department of Public Health and Environment Regulations, the then current land use development criteria established by Gunnison County, Colorado and the Gold Basin Industrial Park Special Area Regulations, as identified in Exhibit C attached hereto and incorporated herein. Lessee shall notify the Lessor of all construction, reconstruction, repair, or any work whatsoever related to the Improvements and/or Premises and the name of the contractors or subcontractors performing such work. The Lessee will be responsible for snowplowing the leasehold access off of Basin Park Drive and all internal snowplowing. All snow from inside the Premises boundary lines will be stored on the Premises. The Lessee will be responsible for watering all landscaping adjacent to its Premises. Lessee will be required to take necessary steps to protect air quality by minimizing dust created by its activities. Suitable steps include gravel with dust suppressant, paving, planting, etc. The Lessee must pay water and

sewer tap fees based on the size of the water supply line to its Premises. The tap fee is not based on size required for fire suppression, but based on consumptive use.

(g) Use of Premises and Improvements. The Lessee shall use the Improvements and Premises exclusively for the activities as described in the attached Business Plan (Exhibit F). Lessee may NOT store personal vehicles or other miscellaneous personal items owned by the Lessee on the Premises. Lessee shall secure all necessary licenses, permits and other approval required by Gunnison County, the State of Colorado, or the United States of America that may be necessary or associated with the Lessee's business and use of the Premises. Additionally, Lessee shall have a fire extinguisher and any other necessary equipment in the Improvements and on the Premises at all times and in compliance with any and all local, state and federal laws, regulations and rules which may be applicable, including but not limited to life, fire and safety codes.

(h) Laws and Regulations. In using the Improvements and Premises, Lessee shall comply with any and all local, state and federal laws, regulations and rules which may be applicable, including but not limited to, life, fire and safety codes. Lessee shall also fully and promptly comply with the Gold Basin Industrial Park Special Area Regulations.

(i) Insurance for Improvements and Premises. Throughout the term of this Lease Agreement, Lessee shall maintain adequate property insurance covering the Improvements and Lessee's interest in the Premises and shall provide adequate insurance protection from fire and other casualties. Insurance shall be, at Lessee's sole cost, in the amount of the reasonably anticipated replacement costs of the Improvements and Premises. The Lessor shall be named as an additional insured under any insurance policy issued to Lessee. In the event of damage or destruction of the Improvements and/or Premises, the proceeds of such insurance shall be applied to the repairs and/or replacement, and any excess shall be payable to Lessee. In no event shall Lessor be obligated to repair or replace the Improvements after damage or destruction. In any event, Lessee shall be obligated to repair and replace the Improvements and Premises after damage or destruction unless the Lessor agrees otherwise.

(j) Ownership. Lessee shall own the Improvements, except as set forth in paragraph 8 herein. Lessor shall own the Premises and any and all infrastructure.

(k) Construction By Lessor. Lessor reserves the right to install a buried natural gas line running across the Premises to serve Lessee and others.

(l) Encumbrance. Lessor's interest in the Premises may not be encumbered by Lessee and shall not be subject to any mechanic's, material men's or similar liens with respect to Lessee's interest in the Improvements. If any such liens are asserted against Lessor's or Lessee's interest in the Improvements and/or Premises, Lessee shall promptly cause the same to be removed or shall provide Lessor with adequate security as reasonably determined by Lessor. Lessee shall not encumber Lessee's interest in the Premises except in accordance with the

provisions of this Lease Agreement. Any encumbrance of Lessee's interest in the Improvements permitted pursuant to this Lease Agreement shall expressly exclude any interest of Lessor in the Improvements.

(m) Taxes. The Lessee shall pay any and all real and personal property and other taxes that are assessed against the Improvements and/or Premises.

(n) Financing.

(i) Lessee's Right to Finance. Lessee may, at any time or from time to time, mortgage the Improvements so long as Lessee is in compliance with all terms, conditions, and provisions of this Lease Agreement. Such right of Lessee to mortgage the Improvements to the Premises shall be a continuing right and shall not be deemed exhausted by the exercise thereof on one or more occasions. Any such mortgage shall be expressly subject to the provisions of this Lease Agreement, and only with prior written notice to Lessor and only with the consent of the Lessor which Lessor will not unreasonably withhold. No mortgage shall to any extent encumber all or any portion of Lessor's interest in the Premises.

(ii) Mortgagee's General Cure Rights. Lessor, prior to terminating this Lease Agreement or exercising any other right or remedy hereunder for a default by Lessee (as defined below), shall give each holder of a deed of trust or mortgage encumbering the Improvements to the Premises ("Leasehold Mortgagee") written notice of the pertinent default by Lessee and providing thirty (30) days in which to cure the same, or, if the subject default by Lessee is of such a nature that the same cannot reasonably be cured within said thirty (30) day period, then the Leasehold Mortgagee's cure period shall be extended for so long as the Leasehold Mortgagee begins the curative portion within said 30 days and diligently pursues the cure to completion. Furthermore, if such default requires the Leasehold Mortgagee to be in possession to effect a cure, Leasehold Mortgagee's cure period shall be extended to afford Leasehold Mortgagee time to obtain possession of the Premises. In the event this Lease Agreement is terminated in accordance with this Lease Agreement or by provision of law, or in the event Lessor dispossesses Lessee, Lessor shall give each Leasehold Mortgagee written notice thereof within ten (10) days after the termination or dispossession. Lessor and Lessee agree that any mutual termination, cancellation or rescission of this Lease Agreement by Lessor and Lessee shall be effective only if the same is approved in writing by any Leasehold Mortgagee. Provided, however, Leasehold Mortgagee shall be deemed to have approved of any mutual termination, cancellation, or rescission, if Leasehold Mortgagee has failed to approve or disapprove of said termination, cancellation, or rescission within 30 days of receipt of notice of the parties' intent to terminate, cancel, or rescind the Lease Agreement.

(iii) New Lease. If Lessor terminates this Lease Agreement, Lessor agrees to enter into a new lease for the Premises with any Leasehold Mortgagee or its designee, for the remainder of the term of this Lease Agreement, effective as of the date of such termination at the same rent, and otherwise upon the same terms, covenants and conditions contained herein, provided that (i) such Leasehold Mortgagee shall make written request for such new lease within thirty (30) days after the date of such termination, and (ii) such Leasehold Mortgagee will pay or cause to be paid to Lessor within the same period as in (i) above all delinquent sums unpaid which at such time would have been payable under this Lease Agreement but for such termination, and shall cure all defaults of Lessee under this Lease Agreement which remain uncured as of that date to the extent the same can be reasonably cured, all other non-monetary defaults being waived by Lessor, (iii) such Leasehold Mortgagee shall pay or cause to be paid to Lessor on that date all expenses, including reasonable attorneys' fees, court costs, and disbursements reasonably incurred by Lessor in connection with any such default and any termination as well as in connection with the execution and delivery of such new lease, and (iv) such lease shall be made without any warranty to the Leasehold Mortgagee as to rights Lessee may continue to have or assert as to the Premises. If more than one Leasehold Mortgagee shall desire to enter into such new lease under the circumstances outlined hereinabove, the Leasehold Mortgagees in the order of the priority of their mortgages (i.e., first mortgage, second mortgage) shall have the first opportunity to do so. However, irrespective of any other provisions in this Lease Agreement to the contrary, if a Leasehold Mortgagee does not exercise its right to enter into a new lease with Lessor within the time periods and in accordance with the provisions set forth hereinabove, such Leasehold Mortgagee shall not thereafter have any rights whatsoever in this Lease Agreement or in the Premises, all interest therein having reverted to Lessor as a result of the termination of this Lease Agreement.

(iv) Casualty. In case any mortgage made by Lessee shall be in force at the time of any damage to or destruction by fire or otherwise of the Improvements, then the Leasehold Mortgagee is hereby authorized, at its sole expense, to repair or restore the Improvements or to replace the Improvements under the same terms and conditions of this Lease Agreement as would be applicable in the case of a repairing, restoring or replacement by Lessee. The Leasehold Mortgagee so repairing, restoring or replacing any part of said Improvements shall, subject to compliance with all the conditions contained in this section, be subrogated to the rights of Lessee to all the insurance proceeds payable as a result of the damage or destruction, and shall be entitled to have all of said insurance proceeds paid out upon architect's certificates in the same manner in every respect as if said Leasehold Mortgagee were Lessee under this Lease Agreement.

6. Conditions of Use.

(a) Lessee shall not store gasoline, solvents, explosives, flammable paints, other flammables, or other hazardous materials in the Improvements or on the Premises without the prior written approval of the County Manager or authorized designee. However, it is recognized and understood that fuel contained in the fuel tanks of vehicles is permitted. Furthermore, it is recognized and understood that propane properly contained in propane tanks is permitted, as long as Lessee complies with all applicable local, state and federal regulations. The parties understand that the County Manager or authorized designee is authorized by this provision to require use of safety containers, and to require that other safety measures are followed by Lessee as a condition of such approval. Written approval of the County Manager or authorized designee shall not be required for the storage of less than a total of five gallons of engine oil or other engine lubricants, hydraulic fluids, and cleaning fluids necessary and incidental to the normal conduct of business. Pursuant to paragraph 5(d) herein, Lessee shall comply with any and all necessary pretreatment wastewater requirements deemed necessary by the City of Gunnison.

(b) Lessee shall control the conduct and demeanor of its employees, guests, and invitees in and around the Improvements and Premises and shall take all steps necessary to remove persons whom Lessor may, for good and sufficient cause, deem objectionable. Furthermore, there shall be no dogs of any kind allowed in and around the Improvements and/or Premises.

(c) Lessee shall keep the Improvements and Premises clean and free of debris at all times, and Lessee shall not place any trash or debris on the common grounds except in containers provided for trash by the Lessor.

(d) Any modification to existing wiring or the installation of additional outlets or fixtures must be in compliance with current codes. Any device, the use of which requires modification to the capacity of the existing electrical system, shall be required to be high wattage.

(e) Lessee shall not attach any hoisting or holding mechanism to any part of the Improvements or pass any mechanism over the struts or braces therein without the prior written permission of the County Manager or authorized designee, which permission shall only be granted after Lessee provides written evidence from a Colorado licensed Professional Engineer that such activity will cause no damage to the structure. For purposes of this Lease Agreement, a hoisting or holding mechanism shall be deemed to include, but shall not be limited to, a chain-ball, block and tackle, or other hoisting or winching device. Lessee shall be responsible for any and all damage to the Improvements occasioned by such use or conduct.

(f) Lessee shall not paint, remove, deface, modify, bend, drill, cut or otherwise alter or modify any part of the Improvements without the prior written permission of the County Manager or authorized designee, which permission shall only be granted after Lessee provides written evidence from a Colorado licensed Professional Engineer that such activity will cause no damage to the structure.

(g) In utilizing the Improvements and Premises, Lessee agrees to and shall comply with all applicable ordinances, resolutions, rules and regulations established by any federal, state or

local government agency. If there is a conflict between this Lease Agreement and any ordinance, resolution, rule or regulation, the more stringent shall control.

7. Termination. Either party shall have the right to terminate this Lease Agreement in its entirety if the other party breaches any provision of this Lease Agreement or fails to perform any obligation hereunder and such breach or failure continues for a period of thirty (30) days after receipt of notice from the other party specifying the breach or failure to perform in question. In the event of a non-monetary default, if it is not possible to cure the breach within thirty (30) days, the breaching party must commence work to cure the breach within thirty (30) days of receiving notice, and must diligently pursue work to cure the breach. Failure to diligently pursue curing the breach shall be grounds for termination. Notwithstanding the above, if Lessee does not receive approval by the Gunnison County Planning Department of Lessee's application for proposed Improvements and Infrastructure to be installed and/or constructed on the Premises, Lessee shall have the right to terminate this Lease Agreement. Additionally, if Lessee is unable to obtain State of Colorado approval for its business operations by October 31, 2014, Lessee shall have the right to terminate this Lease Agreement.

8. Certain Rights and Obligations on Termination. Upon expiration or termination of this Lease Agreement, Lessor shall be deemed the owner of the Improvements and any and all alterations, additions or fixtures installed in or on the Premises by Lessee, except for those which Lessor requires to be removed at the end of the Lease Term. Lessee shall remove those Improvements and any and all alterations, additions or fixtures installed in or on the Premises by Lessee, which Lessor requires to be removed, by the end of the Lease Term. Lessee shall immediately repair any damage to the Improvements and Premises caused by such removal.

9. Inspection. Lessor's authorized representatives shall be allowed access to the Improvements and/or Premises at all reasonable times, for the purpose of examining and inspecting the Improvements and/or Premises. Except in cases of emergency, no inspection shall be made without reasonable prior notice to the Lessee. At all times, Lessee shall provide and Lessor shall have means of access to the interior of the Improvements (i.e. key, lock combination, etc.).

10. Ingress-Egress. Lessee, its agents and servants, patrons and invitees, and its suppliers of service and furnishers of materials shall have the right of reasonable ingress to and egress from the Improvements or Premises, via the internal access road.

11. Assignment, Subletting, Change of Ownership.

(a) Lessee may, only upon prior written approval of the Lessor, which approval shall not be unreasonably withheld, assign use of Lessee's rights and obligations arising under this Lease Agreement if Lessee transfers its ownership in the Improvements to that same party.

(b) Lessee may sublease all of or a portion of its Improvements; provided, however, the Lessee shall be obligated to first notify the County Manager or authorized designee of any

sublease and of the name of the sublessee. Failure to first notify the County Manager or authorized designee of all subleases, and the name(s) and contact information of the sublessee(s), shall constitute an event of default under this Lease Agreement. The parking of equipment not owned by or leased by Lessee within the Premises shall constitute a sublease. Any transferee, assignee, or sublessee shall be subject to and be bound by all the provisions of this Lease Agreement.

(c) The following events shall be referred to herein as a "Transfer" and require county approval: (i) a transfer or conveyance of title (or any portion thereof, legal or equitable) of the Premises (or any part thereof or interest therein), (ii) the execution of a contract or agreement creating a right to title (or any portion thereof, legal or equitable) in the Premises (or any part thereof or interest therein), (iii) or an agreement granting a possessory right in the Premises (or any portion thereof), in excess of three (3) years, (iv) a sale or transfer of, or in the execution of a contract or agreement creating a right to acquire or receive, more than fifty percent (50%) of the controlling interest or more than fifty percent (50%) of the beneficial interest in the Lease Agreement, or (v) the reorganization, liquidation or dissolution of the Lessee. The Lessor shall not consider a transfer by devise, descent or by operation of the law upon the death of a joint tenant as a Transfer.

12. Nondiscrimination. Lessee agrees that (1) no person shall be excluded from participation in, denied benefits of, or otherwise be subjected to discrimination in the use of the Premises on the grounds of race, color, physical or mental handicap, sexual preference or national origin; (2) in constructing any improvements or furnishing services at the Premises, no person shall be excluded from participation in, denied benefits of, or otherwise be subjected to discrimination on the grounds of race, color, physical or mental handicap, sexual preference or national origin; and (3) Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to applicable regulations. The failure to remedy any breaches of any of the above non-discrimination covenants shall constitute cause for Lessor to terminate this Lease Agreement under the provisions of paragraph 7.

13. City of Gunnison Public Improvement Fee. Any and all retail sales which are taxable pursuant to Title 39, Article 26, Colorado Revised Statutes, conducted on the Premises shall be subject to and in compliance with the then existing and applicable agreement between the City of Gunnison and Gunnison County for the collection of Public Improvement Fees as identified in Exhibit G attached hereto and incorporated herein. Lessee shall provide Lessor with a monthly report, verified under penalty of perjury, of any and all retail sales conducted on the Premises along with payment of the requisite Public Improvement Fee in full by the 25th day of the following month. Lessor, upon receipt of Lessee's Public Improvement Fee payment, shall then forward Lessee's Public Improvement Fee payment to the City of Gunnison by the last day of the following month.

14. Hold Harmless Clause. Lessee shall defend, indemnify and hold harmless the Lessor, its officials, employees and agents from any claims whatsoever concerning the Improvements and/or Premises and for any liability for damages, injury or death which may arise

from the direct or indirect operations of the Lessee, Lessee's contractors or subcontractors, which relate to the construction and/or installation of Improvements and Infrastructure and maintenance thereof and all facets of Lessee's business operation.

15. Non-Waiver. Failure or delay on the part of either party to complain of any action or non-action on the part of the other shall not be deemed to be a waiver of their respective rights hereunder. The consent or approval by either party to or of any action by the other requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar or dissimilar action. All waivers must be in writing and signed by the party against whom such waiver is sought to be enforced.

16. Notices. Notices to Lessor provided for herein shall be deemed received when actually received by the following individuals:

County Manager
Gunnison County
200 E. Virginia
Gunnison, CO 81230

Notices to the Lessee will be deemed received:

(a) if personally received by the individual named below, or
(b) three days after being sent by certified mail, postage prepaid, addressed to:

CCCenterSeven, L.L.C.
535 River Front Road
Gunnison, CO 81230

or to such other address as the Lessee may designate in writing from time to time.

17. Paragraph Headings. The paragraph headings contained herein are for convenience of reference and are not intended to define or limit the scope of any provision of this Lease Agreement.

18. Invalid Provisions. In the event any covenant, condition or provision contained herein is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained; provided that the invalidity of such covenant, condition or provision does not materially prejudice either Lessor or Lessee or their respective rights and obligations contained in the valid covenants, conditions or provisions of this Lease Agreement.

19. Attorneys' Fees. In the event of litigation or other proceedings to enforce or interpret this Lease Agreement, Lessee shall pay Lessor any and all fees, costs and expenses, including attorneys' fees incurred by Lessor to enforce or interpret this Lease Agreement.

20. Successors and Assigns. This Lease Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs, legal representatives and assigns.

21. Miscellaneous. In this Lease Agreement, the singular shall include the plural; the singular in reference to one gender shall include the other and the neuter, as appropriate. This Lease Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Any action concerning this Lease Agreement must be brought in Gunnison County, Colorado.

22. Authority. The undersigned, on behalf of the Lessee, warrants that he is authorized by the Lessee to enter into and be bound by this Lease Agreement.

IN WITNESS WHEREOF, the parties have caused this Lease Agreement to be executed under their respective seals on the day and year first written above.

LESSOR:

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Matthew Birnie, County Manager

GUNNISON COUNTY SEAL COLORADO

ATTEST

_____
Deputy County Clerk

LESSEE:

CCCenterSeven, L.L.C.

By: _____
Louis F. Costello, Member

CCCenterSeven, L.L.C.

By: Gary L Fabiano
Gary L. Fabiano, Member

**EXHIBIT A**
(Identification and Legal Description of Industrial Park)

**EXHIBIT B**
(Legal Description of Leased Parcel)

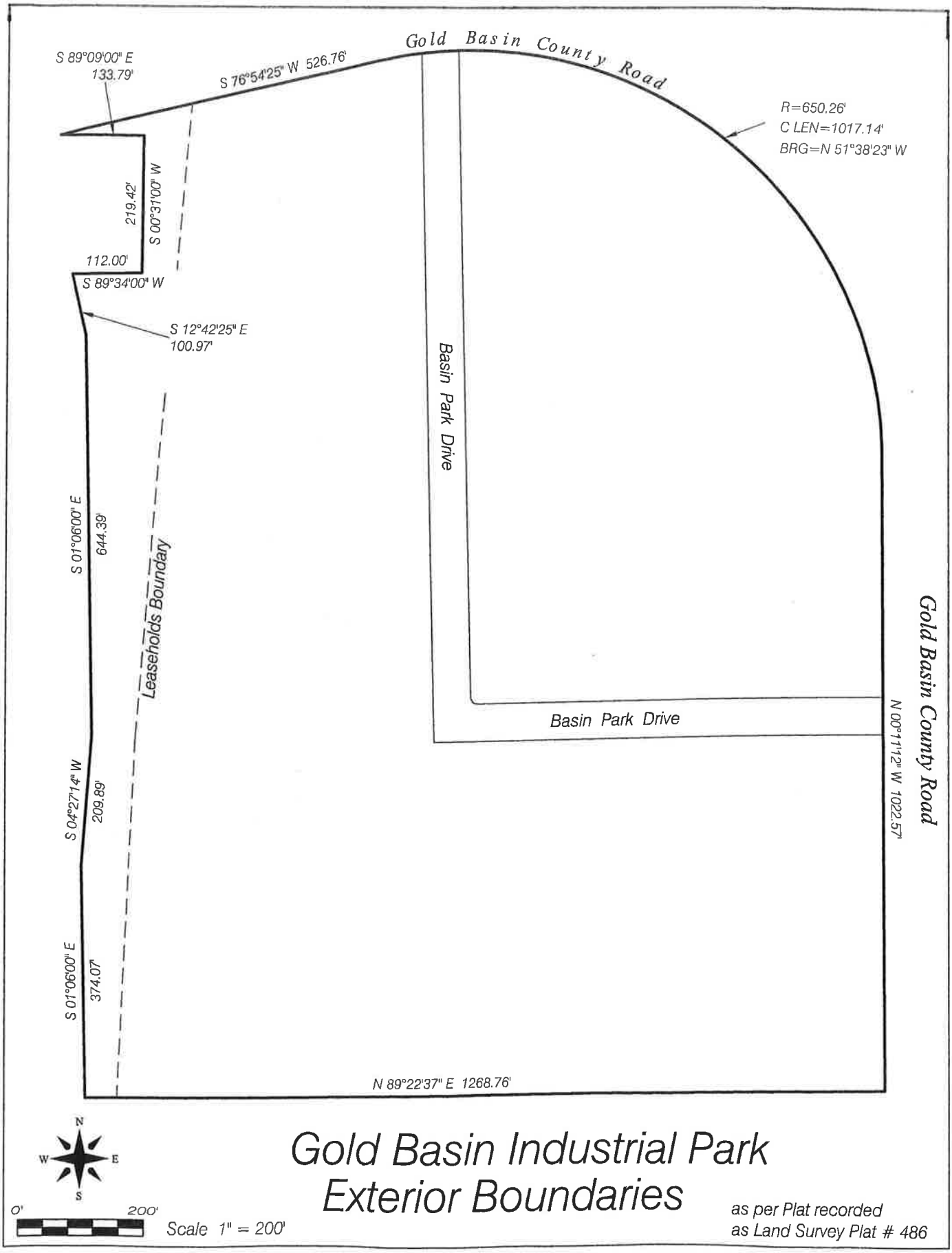
**EXHIBIT C**
(Gold Basin Industrial Park Special Area Regulations)

**EXHIBIT D**
(Lessee's Site Plan Identifying the Improvements to be Constructed)

**EXHIBIT E**
(Wastewater IGA w/City of Gunnison)

**EXHIBIT F**
(Business Plan)

**Exhibit A-1**




# Gold Basin Industrial Park Exterior Boundaries

as per Plat recorded
as Land Survey Plat # 486

NORTH STAR SURVEYING, INC.

710 County Road 737 • Post Office Box 668 • Gunnison, Colorado 81230 • (970) 641-4543

## LEGAL DESCRIPTION
## PARCEL B

A tract of land located in the S1/2SW1/4 of Section 2 and the NE1/4NW1/4 of Section 11, Township 49 North Range 1 West, New Mexico Principal Meridian, more particularly described as follows:

Commencing at the South quarter corner of said Section 2; thence South 6°27'42" West 301.35 feet to a point on the southerly right-of-way of Gold Basin County Road #38 (as described in easement recorded at Book 779 Page 425, Gunnison County Recorder's Office, said point being the Point of Beginning and monumented by a rebar with aluminum cap stamped "LS 25644"; thence

1) northwesterly along said right-of-way along a curve to the left, having a radius of 650.26 feet and a chord bearing North 51°38'23" West 1017.14 feet to a rebar with aluminum cap stamped "LS 25644"; thence

2) along said right-of-way South 76°54'25" West 526.76 feet to a rebar with aluminum cap stamped "LS 25644"; thence

3) South 89°09'00" East 133.79 feet to a rebar with aluminum cap stamped "LS 25644"; thence

4) South 0°31'00" West 219.42 feet to a rebar with aluminum cap stamped "LS 25644"; thence

5) South 89°34'00" West 112.00 feet to a rebar with aluminum cap stamped "LS 25644";

6) South 12°42'25" East 100.97 feet to a 2 ½" angle-iron fence post; thence

7) South 1°06'00" East along an existing fence 644.39 feet to a 2 ½" angle-iron fence post; thence

8) South 4°27'14" West 209.89 feet to a rebar with aluminum cap stamped "LS 25644"; thence

9) South 1°06'00" East 374.07 feet to a point on the east-west centerline of the NW1/4 of Section 11, monumented by a rebar with aluminum cap stamped "LS 25644"; thence

10) North 89°22'37" East along said east-west centerline 1266.76 feet to a point on the westerly right-of-way of Gold Basin County Road #38 (as described in easement recorded at Book 779 Page 425); thence

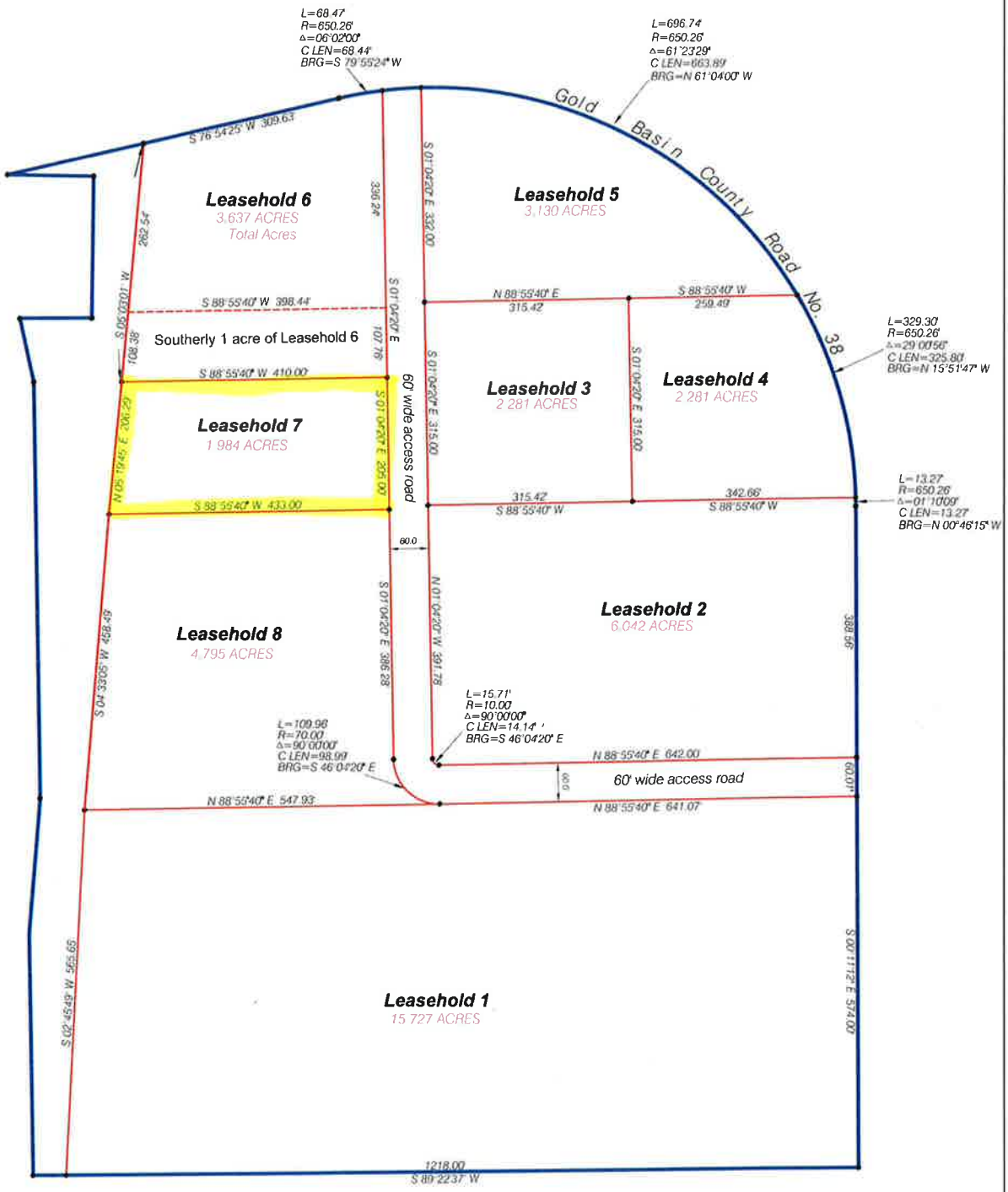
11) North 0°11'12" West along said right-of-way 1022 57 feet to the Point of Beginning;

containing 45.48 acres more or less.

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR TERRY A. WEBER 25644

15 05

**Exhibit B-1**



*Prepared by:*
***Alpine Surveying Inc.***
*PO Box 93*
*Gunnison, CO 81230*
*(970) 641-2937*

| Gold Basin Industrial Park | | |
|---|---|---|
| DRAWN SH | DATE 8/4/08 | Lot lease layout as of 8/4/08 |
| APPROVED | DATE | |
| SCALE Not to Scale | SHEET 1 of 1 | PROJECT NO. 08010 |

# *Lot 7 - Legal Description*

Township 49 North, Range 1 West, New Mexico Principal Meridian.
Section 11: A Tract of land in the NE1/4NW1/4 more particularly described as follows:

Beginning at the southeast corner of a Parcel of land shown and described as "Parcel B" on a Plat deposited as Land Survey Plat # 486 in the records of Gunnison County, from whence the north quarter corner of said Section 11 bears North 1° 19' 33" East 1322.35 feet; thence North 0° 11' 12" West 574.00 feet along the east boundary of said Parcel B; thence South 88° 55' 40" West 641.07 feet; thence 109.96 feet along the arc of a curve to the right, said curve having a radius of 70.00 feet, a central angle of 90° 00' 00" and a chord which bears North 46° 04' 20" West, 98.99 feet; thence North 1° 04' 20" West 386.28 feet to the Point of Beginning of the herein described Lot 7, thence the following courses:

1. South 88° 55' 40" West 433.00 feet;
2. North 5° 19' 45" East 206.29 feet;
3. North 88° 55' 40" East 410.00 feet;
4. South 1° 04' 20" East 205.00 feet to the Point of Beginning of the herein described Lot 7.

This Lot contains 1.984 Acres more or less.
County of Gunnison,
State of Colorado.

Exhibit C

# GOLD BASIN INDUSTRIAL PARK SPECIAL AREA REGULATIONS

Gunnison County
COLORADO

Adopted May 15, 2005
Amended June 10, 2008
Amended July 6, 2010
Amended July 1, 2014

# TABLE OF CONTENTS

SECTION 1: PURPOSES. ..... 1
SECTION 2: APPLICABILITY. ..... 1
SECTION 3: RELATIONSHIP TO THE GUNNISON COUNTY LAND USE RESOLUTION. ..... 1
SECTION 4: DEFINITIONS. ..... 2
SECTION 5: OPERATIONS AND USE. ..... 3
SECTION 6: LEASE AGREEMENT AND PERMITS. ..... 6
SECTION 7: DESIGN REVIEW. ..... 10
SECTION 8: DESIGN STANDARDS. ..... 10
SECTION 9: PROVISION OF UTILITIES. ..... 16
SECTION 10: BEGINNING AND COMPLETING CONSTRUCTION. ..... 16
SECTION 11: MAINTENANCE. ..... 17
SECTION 12: AMENDMENT AND TERMINATION ..... 18
SECTION 13: AVIGATION EASEMENT ..... 20
SECTION 14: SEVERABILITY OF THESE *REGULATIONS*. ..... 20
SECTION 15: MISCELLANEOUS PROVISIONS. ..... 20
SECTION 16: NO PRECEDENT SET BY THIS DESIGNATION. ..... 21
SECTION 17: VIOLATIONS AND ENFORCEMENT. ..... 21
APPENDIX ..... 22
Table 1: Minimum Parking Row and Aisle Dimensions ..... 22
Table 2: Off-Street Parking Standards ..... 24
Table 3: Maximum Permissible Noise Levels for Business, Commercial and Light Industrial Uses ..... 24

## SECTION 1: PURPOSES.

The Gold Basin Industrial Park Special Area ("Gold Basin Industrial Park") is a discrete geographical area in which land development and land use is limited to specific commercial business and light industrial uses compatible with the Gunnison/Crested Butte Airport and its neighborhood. The general purpose of these *Regulations* is to create specialized land use regulations and design standards for light industrial and related business development on a Leasehold Area adjacent to the Gunnison/Crested Butte Regional Airport). These purposes serve as basic goals for these *Regulations* and the review of applications for Gold Basin Industrial Park Special Area Permits. When there is a conflict between a statement of purpose and an adopted standard in these *Regulations,* or when an adopted standard is more specific, the standard shall supersede these purposes. These *Regulations* shall be liberally construed to further the following purposes.

**A. TO SIMPLIFY THE REGULATORY REVIEW PROCESS.** To provide a simplified and expedited permit application review process for business, light industrial and commercial uses within the Gold Basin Industrial Park Special Area.

**B. TO AFFIRMATIVELY PROMOTE A COMPACT DEVELOPMENT PATTERN.** To affirmatively promote a compact development pattern that discourages sprawl, in which denser and more intense forms of development will occur contiguous to, or in close proximity to, existing population and development centers and public services, and in so doing, minimize the cost of providing governmental and other services.

**C. PROTECT THE ENVIRONMENT; PUBLIC HEALTH, SAFETY AND WELFARE; PUBLIC SERVICES, FACILITIES AND PROPERTY.** To avoid or mitigate potential impacts caused by land development within the Gold Basin Industrial Park Special Area, to the environment, to public services and facilities, property and public safety, and land use within the Gold Basin Industrial Park Special Area and adjacent properties.

**D. TO PROTECT AND ENHANCE ECONOMY.** To protect and enhance the economic strength of the private and governmental sectors of Gunnison County in a manner that is compatible with the *Gunnison County Land Use Resolution.*

**E. TO ENCOURAGE INNOVATIONS. To** encourage innovations in commercial and industrial land use, so that the growing demands of the population may be met by greater variety in type, design, and layout of development.

**F. TO PROVIDE OPPORTUNITY FOR NEW AND EXISTING BUSINESSES.** To provide the opportunity for existing businesses to grow and new businesses to locate in close proximity to existing utilities and transportation routes.

**G. TO ENCOURAGE ECONOMIC DIVERSITY.** To encourage, strengthen and promote greater economic diversity in the County; to broaden employment opportunities and reduce seasonal employment fluctuation in a manner that will not endanger or detract from the existing economy.

**H. TO WORK COOPERATIVELY WITH THE CITY OF GUNNISON.** To encourage business, light industrial and commercial operations to be constructed and maintained in a manner that is compatible with the land use regulations and design requirements of the City of Gunnison.

## SECTION 2: APPLICABILITY.

These *Regulations* shall apply to all development, including development of new uses, expansion of existing uses and change of the use of land or structures within the Gold Basin Industrial Park Special Area.

## SECTION 3: RELATIONSHIP TO THE GUNNISON COUNTY LAND USE RESOLUTION.

**A. USES GENERALLY EXEMPT FROM LAND USE RESOLUTION**. Development within the Gold Basin Industrial Park Special Area shall be exempt from requirements of the *Gunnison County Land Use Resolution* unless otherwise specified in these *Regulations.*

**B. DEFINITIONS.** Terms not otherwise defined within these *Regulations* shall be defined pursuant to the *Gunnison County Land Use Resolution.*

**C. CONSTRUCTION AND WORD USAGE.** Construction and word usage shall be interpreted pursuant to the *Gunnison County Land Use Resolution.*

**D. INTERPRETATIONS.** The Gunnison County Community Development Director shall have authority to interpret these *Regulations,* and shall do so in the same manner provided pursuant to Section 1-114: *Interpretations*, of the *Gunnison County Land Use Resolution.*

**E. ENFORCEMENT.** Failure to comply with any provision of these *Regulations* shall be deemed a violation of and shall be subject to enforcement pursuant to the *Gunnison County Land Use Resolution.*

## SECTION 4: DEFINITIONS.

This Section defines words, terms, and phrases used specifically in these *Regulations.* Terms not otherwise defined within these *Regulations* shall be defined pursuant to the *Gunnison County Land Use Resolution*

**ANIMAL SHELTER**_means a facility designated or approved by Gunnison County for the purpose of impounding and housing and caring for homeless, lost or abandoned small animals, primarily dogs and cats.

**BOARD** means the Board of County Commissioners of the County of Gunnison, Colorado, duly authorized to act on behalf of Gunnison County, Colorado.

**COMMERCIAL** means any establishment engaged in the retail or wholesale of goods or services that is open to the general public or that may be open to members only. This does not include farm or ranch stands. "Commercial" also means "business."

**COMMON AREA** means all areas, tracts, and Leasehold Areas of land not designated as Leasehold Areas on any recorded plat map or survey of the Property, and shall specifically include all Streets, mini-parks, cut and fill slopes adjacent to Gold Basin Road, and all landscaped buffer areas between the Leasehold Areas and Gold Basin Road.

**DESIGN REVIEW COMMITTEE ("DRC")** means the committee established by these *Regulations* to review and act on plans for improvements on any Leasehold Area to ensure compliance with the Design Standards set forth in these *Regulations.* The Design Review Committee shall be composed of the Board and two Lessees of Leasehold Areas in the Gold Basin Industrial Park Special Area appointed by the Board, with each member of the Board and each Lessee entitled to one vote on matters coming before the Design Review Committee.

**GOLD BASIN INDUSTRIAL PARK SPECIAL AREA** shall be synonymous with the term "Property," and shall mean all of the real property now or hereafter made subject to these *Regulations.*

**INDUSTRIAL** means any establishment engaged in the commercial processing, fabrication, alteration, manufacture of raw, semi-processed materials, manufactured goods, or any components thereof.

**IMPROVEMENT OR IMPROVEMENTS** means those buildings, outbuildings, roads, driveways, parking areas, fencing, screening walls and barriers, retaining walls, stairs, decks, water lines, sewers, electrical and gas distribution facilities, hedges, windbreaks, plantings, trees and shrubs, poles, signs, loading areas, and all other structures, construction, installations, and landscaping of every type and kind whether above or below the land surface.

**LEASEHOLD AREA** means the beneficiary under, or holder of, a leasehold interest in a Leasehold Area or Improvements thereon, entitling that person or entity to occupy a Leasehold Area or said Improvements under a lease for a fixed term. Gunnison County shall not be considered a Lessee notwithstanding its occupancy of any Leasehold Area or Leasehold Areas.

**MITIGATION** means the following actions, prioritized in order of preference:

- **AVOIDING IMPACTS** Avoiding an impact by not taking a certain action or parts of an action; or

- **MINIMIZING IMPACTS** Limiting the degree or magnitude of the action or its implementation, or by changing its location; or
- **RECTIFYING IMPACTS** Repairing, rehabilitating, or restoring the impact area, facility or service; or
- **REDUCING OR ELIMINATING IMPACTS** Reducing or eliminating the impact over time by preservation and maintenance operations; and
- **COMPENSATING FOR IMPACTS** Compensating for the impact by replacing or providing equivalent biological, social, environmental and physical conditions, or a combination thereof.

**NUISANCE** means an activity that arises from the unreasonable, unwarranted or unlawful use of property, working obstruction or injury on the right of another or on the general public.

- **MIXED NUISANCE** is one that is both public and private in its effects.
- **PRIVATE NUISANCE** is a wrongful interference with a person's interest in the private use and enjoyment of land.
- **PUBLIC NUISANCE** includes "public nuisance" as defined in C.R.S. 16-13-301 et seq.

**OCCUPANT** means a Lessee, licensee of a Lessee, or any other person or entity other than a Lessee, in lawful possession of a Leasehold Area or any portion thereof.

**COMMUNITY DEVELOPMENT DEPARTMENT** means the Gunnison County Community Development Department.

**PROPERTY** shall be synonymous with Gold Basin Industrial Park Special Area, and shall mean all of the real property now or hereafter made subject to these *Regulations*.

**RECLAMATION PERMIT** means the Reclamation Permit issued and administered by the Gunnison County Public Works Department.

**RECORD OR RECORDED OR RECORDATION** means, with respect to any document, the recording of said document in the records of the Office of the Gunnison County Clerk and Recorder, Gunnison County, Colorado.

**REGULATIONS** means these *Gold Basin Industrial Park Special Area Regulations* (the "Regulations"), created to regulate the development and use of the Gold Basin Industrial Park Special Area in conjunction with the designation of the Gold Basin Industrial Park Special Area as a Special Area pursuant to the *Gunnison County Land Use Resolution*, as they may from time to time be amended or supplemented.

**SIGN** means any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. A sign includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matter is made visible, but does not include a vehicle on which the name of a business appears. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to support a sign.

**STREET** means a dedicated public right-of-way which provides vehicular and pedestrian access to adjacent properties. Street shall include road, lane, place, avenue, drive and similar terms.

**WEED MANAGEMENT PLAN** means the Weed Management Plan issued and monitored by the Gunnison County Public Works Department.

## SECTION 5: OPERATIONS AND USE.

**A. PURPOSE.** This Section describes the permitted and prohibited uses of Leasehold Areas in the Gold Basin Industrial Park Special Area, and how the permitted uses are required to be operated.

**B. PERMITTED USES ON LEASEHOLD AREAS.** Any Leasehold Area within the Gold Basin Industrial Park Special Area shall be used only for the following uses:

1. Wood processing and product manufacturing
2. Veneer, Plywood & Engineered Wood Product Manufacturing
3. Millwork
4. Sawmill
5. Glass and Glass Product Manufacturing
6. Ornamental and Architectural Metal Product Manufacturing
7. Furniture and Related Product Manufacturing
8. Wood Kitchen Cabinet and Countertop Manufacturing
9. Manufacture or assembly of products from the following previously prepared materials: electronic components, and wire, fiber, glass, leather, paper, plastics, textiles and wood
10. Sign-making and sign sale or/and repair shop
11. Upholstery Shop
12. Warehouse and truck terminal
13. Welding or machine shop
14. Wholesale businesses
15. Wood truss manufacture
16. Public Works Facility
17. Yards for stockpiling coal, sand, gravel and other materials
18. Hay cube manufacturing plant facility.
19. Animal shelter.
20. Marijuana cultivation, manufacturing and testing.

**C. PROHIBITED USES ON LEASEHOLD AREAS**. The following uses and operations are prohibited:

1. **NO USE IN VIOLATION OF GOVERNMENT REGULATION.** No Leasehold Area shall be used in violation of any applicable federal law or regulation, or regulation of the State of Colorado or Gunnison County.
2. **RESIDENTIAL OCCUPANCY.** The occupancy of a Leasehold Area for a residence as defined by the *Gunnison County Land Use Resolution,* except as may be permitted within a Lease Agreement with Gunnison County, and in compliance with requirements of the U.S. Department of Energy and the Colorado Department of Public Health and Environment.
3. **MOBILE HOME OR RECREATIONAL VEHICLES.** Any mobile home or recreational vehicle park, or storage or residential use, including temporary, of any such vehicles.
4. **JUNK YARDS AND REFUSE DUMPS.** Use of a Leasehold Area as a junk yard, or for dumping, disposing, incinerating or reducing garbage or refuse of any nature.
5. **RAISING AND/OR SLAUGHTERING OF ANIMALS.** Use of a Leasehold Area for raising, storage, slaughter of animals, except that animals may be housed and cared for in an animal shelter as allowed by these *Regulations* and an applicable Lease agreement with Gunnison County.
6. **WATER WELLS, DRILLING, AND MINING OPERATIONS.** Any drilling for, excavation, refining and/or removal of oil, gas, hydrocarbon substance, water, geothermal steam and other subsurface substances, except as allowed by the U. S. Department of Energy and Colorado Department of Public Health and Environment to allow construction of structures for permitted industrial or commercial uses.

**D. USE OF COMMON AREA.** No structures or personal property shall be parked, stored or permitted on the Common Area. The DRC may adopt and amend reasonable rules of operation, consistent with these *Regulations* concerning use of the Common Area, which they shall make available to all Lessees and Occupants. All Lessees and Occupants, their invitees and licensees shall adhere to those rules of operation in their use of the Common Area.

**E. NUISANCES**. No noxious or offensive activity shall be conducted within the Gold Basin Industrial Park Special Area if that activity constitutes or may become a public nuisance. The use shall not operate during such hours or in manner that will create a public or private nuisance or unreasonably disturb adjacent property uses.

**F. ACTIVITIES SHALL NOT INCREASE INSURANCE PREMIUMS**. Except with the prior written consent of the Board, no Lessee or Occupant shall use a Leasehold Area or any portion of the Common Area in such a way that increases the cost of Gunnison County's insurance premium, or any other Lessee or Occupant, or that causes any such insurance to be canceled or threatened to be canceled.

**G. CONDITION OF LOTS.** The Lessee or Occupant of a Leasehold Area shall at all times keep their Leasehold Area and all the improvements on it in a safe and clean condition.

**H. REFUSE COLLECTION AREAS.** No trash, garbage, rubbish, debris, waste material or other refuse shall be deposited or allowed to accumulate or remain on any Leasehold Area or the Common Area. Each Lessee or Occupant shall provide suitable receptacles for the temporary storage and collection of refuse. No fires for the burning of trash, leaves, clippings, or other debris or refuse, and trash from their Leasehold Area. Processed and unprocessed hay, timber, lumber, stone and other similar organic or inorganic materials or products utilized in connection with permitted uses of a Leasehold Area may be present on a Leasehold Area.

**I. DISPOSAL OF PETROLEUM PRODUCTS AND SIMILAR WASTE MATERIALS.** The disposal of petroleum and similar products shall comply with all applicable federal, state and County regulations.

**J. EXCAVATION.** No excavation of a Leasehold Area shall be made except in connection with the construction of approved structures and other improvements. Upon completion of construction, exposed openings shall be backfilled and disturbed ground shall be graded, leveled and restored to its original condition. No excavation shall occur before written approvals from the DRC and from the Colorado Department of Public Health and Environment. Monitoring and mitigation procedures as required by either or both of those entities shall be effected by the Lessee.

**K. IRRIGATION.** Water needed to irrigate a Leasehold Area shall be obtained solely from Gunnison County water lines. No water shall be drawn or pumped from any pond for irrigation or any other purpose, and no sub-surface water shall be pumped or used under any circumstances.

**L. NOISE.** Every use in the Gold Basin Industrial Park Special Area shall be conducted to mitigate impacts caused by intermittence, frequency, or shrillness regardless of db(A) measurement. Sound levels of noise radiating 25 or more feet beyond the subject property boundary in excess of the db(A) established for time periods and uses listed in Appendix Table 3: *Maximum Permissible Noise Levels for Business, Commercial and Light Industrial Uses* may be considered a public nuisance.

1. **NOISES SPECIFIC TO OPERATION OF AN ANIMAL SHELTER.** Any animal shelter located within the park shall be designed and located to mitigate the sounds of barking to residents of the neighborhood, and dogs shall be housed inside during evening and nighttime hours.

**M. ODORS**. No industrial or commercial use shall cause or allow the emission of odors from any single source so as to result in detectable and unreasonable odors.

**N. USE OF SPECIAL AREA NAME.** The name "Gold Basin Industrial Park Special Area" may not be used in the name of any business, industrial or commercial operation, or on any building in the Gold Basin Industrial Park Special Area, or in the name of any Lessee or Occupant, other than Gunnison County, except as may be approved by the Board.

## SECTION 6: LEASE AGREEMENT AND PERMITS.

All Lessees of Leasehold Areas in the Gold Basin Industrial Park Special Area shall enter into a lease agreement with Gunnison County for use of a Leasehold Area, and obtain a Gold Basin Industrial Park Special Area Permit. No improvements shall be erected, placed, altered, maintained, or permitted to remain on any Leasehold Area by any Lessee or Occupant until final plans and specifications shall have been submitted to and approved in writing by the DRC and, as applicable, a Building Permit is issued by Gunnison County or the City of Gunnison.

A. **GOLD BASIN INDUSTRIAL PARK SPECIAL AREA PERMIT**. Applications for a Gold Basin Industrial Park Special Area Permit shall be processed as follows:

1. **CONCURRENT APPLICATIONS.** An applicant may apply concurrently to the County and to any other necessary permit agencies.

2. **CONCURRENT PROCESSING.** Gunnison County seeks to avoid duplicative regulatory controls or unnecessary delays. Therefore, processing of an application for a permit normally will proceed concurrently with the processing of other required permit applications. However, final action of the application may not occur until a permit is issued by each other permit entity with applicable regulatory authority so that Gunnison County will have the benefit of the analysis and determinations by the other entity(s) in reaching its own decision.

3. **CONSIDERATION OF OTHER PERMIT CONDITIONS.** Gunnison County shall consider the conditions of any related permit when processing an application for a Gold Basin Industrial Park Special Area Permit.

4. **PERMIT APPLICATION**. The Community Development Department shall provide the applicable form for a Gold Basin Industrial Park Special Area Permit that shall, at a minimum, include the following information and materials:

   a. **APPLICANT.** The name, address, telephone and fax numbers, and e-mail address for the applicant, or if the applicant is to be represented by an agent, a notarized letter signed by the applicant authorizing the agent to represent the applicant and also stating the same information for the agent.

   b. **LEASEHOLD AREA LOCATION.** The Leasehold Area address at which the business or industrial operation is proposed to be located.

   c. **COLORADO DEPARTMENT OF HEALTH APPROVAL.** Documentation of approval of the proposed construction by the U. S. Department of Energy and the Colorado Department of Public Health and Environment.

   d. **PROJECT DESCRIPTION**. A detailed written description of what the applicant wants to do on or to the Leasehold Area, including:

      1. **BUSINESS OR INDUSTRIAL OPERATION**. A description of the proposed business or industrial operation.

      2. **NUMBER OF EMPLOYEES.** Number of employees required for the operation

      3. **HOURS OF OPERATION.** The hours of daily operation, and the days of the week in which the business or industrial operation is proposed to be conducted.

      4. **CONSTRUCTION.** The amount of square footage proposed for the structures, and the types of materials to be used in the structures.

      5. **TRAFFIC.** Traffic estimated to be generated by the proposed project, including whether it will be commercial or industrial, or a mix of all uses, the types of vehicles that will be used, and the estimated numbers of vehicle trips per day.

      6. **PHASES**. If the business or industrial operation is proposed to be developed in phases, an identification of the phases what activities are proposed to be included in each.

   e. **SITE DEVELOPMENT PLAN.** A copy of the Site Development Plan, which shall include a scaled drawing of the Leasehold Area, including the following:

1. **ALL STRUCTURES**. All existing and proposed structures to be placed on the Leasehold Area, showing locations, and describing the use, type, shape, composition and appearance of each.
2. **BOUNDARY LINES AND SETBACKS.** Boundary lines and front, rear and side setback lines of the Leasehold Area.
3. **UTILITIES.** Locations of all existing and proposed utilities to serve the Leasehold Area, including water, sewer, electric, gas, phone and cable lines.
4. **PARKING AND DRIVEWAYS.** The number and location of all existing and proposed parking spaces and driveways on the Leasehold Area.
5. **SIGN LOCATIONS AND DESIGNS**. A plan for the location and renditions of their design, in compliance with these *Regulations*.
6. **EXTERIOR LIGHTING PLAN**. An exterior lighting plan that complies with the overall lighting plan for the park and with the applicable requirements of the *Gunnison County Land Use Resolution*.
7. **DRAINAGE PLAN.** A drainage plan for the Leasehold Area, depicting drainage patterns on and adjacent to the Leasehold Area. The Leasehold Area's drainage system shall be designed by a registered professional engineer licensed in the State of Colorado, according to generally accepted storm drainage practices and pursuant to the standards of these *Regulations* and all other applicable County, state and federal regulations.
8. **LANDSCAPING PLAN.** A landscaping plan that complies with site-specific requirements of the Design Review Committee.

f. **WATER SUPPLY AND WASTEWATER TREATMENT**. Verification from the Gunnison County Public Works Department intent to provide, signed agreement or contract between the applicant and the supplier indicating that it has the capacity and is willing to provide the amount of water that will be provided by the service provider, and any conditions of providing tap-on and service by the Dos Rios water supply system, and the Dos Rios wastewater treatment system.

5. **REVIEW PROCESS.** The following review process shall apply for a Gold Basin Industrial Park Special Area Permit:

a. **SUBMITTAL OF APPLICATION.** The applicant shall submit to the Community Development Department a complete application as required by these *Regulations.*

b. **DETERMINATION OF COMPLETENESS.** The Community Development Department shall determine whether the application is complete and includes all information required by these *Regulations*. The Community Development Department shall notify the applicant in writing that the application is either complete or incomplete, or shall indicate a date by which such determination shall reasonably be made. It is the goal, but not the requirement of these *Regulations* that this review be completed within 30 days of the submittal of the application.

1. **APPLICATION IS NOT COMPLETE**. If the application is not complete, the Community Development Department shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied.

(a.) **FAILURE TO CORRECT CONSTITUTES WITHDRAWAL.** If the applicant fails to correct the deficiencies within 60 days of the postmarked or certified date of the mailing of the notification that the application was incomplete, the application shall be considered withdrawn.

2. **APPLICATION IS COMPLETE**. The Community Development Department shall determine it to be complete. A determination that an application is complete shall not constitute a determination that it complies with the applicable standards of these *Regulations.*

c. **REQUEST FOR REVIEW BY DRC.** The Community Development Department shall refer the complete application to the DRC, which shall complete its review pursuant to Section 7: *Design Review.*

d. **REQUEST FOR REVIEW BY OTHER AGENCIES OR DEPARTMENTS**. At the same time the application is being reviewed by the DRC, The Community Development Department may request the professional analysis and recommendations of any other review agency, organization, or technical consultant deemed appropriate and necessary to complete the review, including other County offices and departments, municipal, state, or federal agencies having an interest in or authority over all or part of the proposal, utility companies, the applicable school district and special service districts serving the proposed development, and engineers, designers, and legal consultants.

   1. **REVIEW AND COMMENT BY REVIEW AGENCIES**. The review agencies that are sent a copy of the application shall be requested to make comments within 21 days of mailing by the Community Development Department, unless an extension of not more than 30 days has been requested by the agency before the 21st day. The Department may grant such a reasonable extension if it determines that good cause for the delay has been shown. The failure of any agency to respond within 21 days or within the period of extension shall not be deemed an approval of the application by the agency.

   2. **REVIEW OF AGENCY/DEPARTMENT COMMENTS BY APPLICANT**. The applicant shall have the right to review the comments and recommendations received from the review agencies. The applicant may submit additional information and make changes in the development proposal to respond to the comments of the review agencies; provided, however, that if those changes are substantial or if they significantly alter the nature, character or extent of the application, the Community Development Department may, after the changes, refer the application again to some or all review agencies, to obtain additional comments, and may reasonably extend the period of their review accordingly.

e. **NOTICE TO PUBLIC OF PROPOSED COMMERCIAL OR INDUSTRIAL USE.** Notice shall be given to the public by posting of the property and provision of notice within a legal newspaper of general circulation, and shall identify a 15-day public comment period, during which comments may be submitted to the Community Development Department.

f. **NOTICE TO CITY OF GUNNISON**. Notice of the proposed use shall be provided to the City of Gunnison.

g. **ACTION BY COMMUNITY DEVELOPMENT DIRECTOR.** If the DRC has submitted written approval of the proposed plans, and within 30 days of having determined that the application is complete, or after having received comments from review agencies, and, as applicable, the applicant has reasonably responded to those comments, the Community Development Director shall approve, approve with conditions, or deny the application, based upon the compliance of the application with the applicable standards and requirements of these *Regulations*.

   1. **APPROVAL SUBJECT TO LEASE AGREEMENT APPROVAL BY GUNNISON COUNTY AND COMPLIANCE WITH ALL OTHER PERMITS**. Approval requires, and shall include conditions that the applicant enter into a Lease Agreement with Gunnison County, and that the applicant timely and fully obtain and comply with all applicable federal, state, municipal and other permits required for the project.

h. **APPROVAL FORWARDED TO BOARD OF COMMISSIONERS**. If the application has been approved, the Community Development Director shall forward a copy of that decision to the Board of Commissioners.

i. **RECORDATION OF CERTIFICATE.** Within 15 days following approval of the Gold Basin Industrial Park Special Area Permit application, the Community Development Director shall record a Certificate of Approval in the Office of the Gunnison County Clerk and Recorder's Office. The Certificate shall describe the specific project, the description of the subject Leasehold Area, any relevant Findings

related to the project's compliance with these *Regulations*, conditions of approval, and shall include the Community Development Director's signature line and the date of approval.

6. **APPEAL.** A decision by the Community Development Director on a Gold Basin Industrial Park Special Area Permit application may be appealed by referral to the Board.

   a. **WRITTEN APPEAL.** An appeal may be submitted to the Community Development Director no more than 15 days after the date on which the decision-making body issues its final decision on the application; that time for submittal shall not include the day on which the decision was made. The appeal shall be submitted in writing, stating the basis of the appeal and the relief that is requested, and shall include the necessary materials to support the appeal. The appeal shall become part of the record.

   b. **BOARD CONSIDERATION OF APPEAL.** The appeal shall be considered by the Board at a regularly scheduled meeting within 45 days after the date the written appeal was filed.

   c. **NOTICE OF MEETING.** The Community Development Department shall, by first-class mail, inform the applicant, the appellant, and, if a public hearing was part of the review process on the application for which an appeal of action has been filed, anyone who testified at the public hearing or submitted written comments on the application. That information shall include the date, time, and place of the meeting.

   d. **BOARD MAY CONDUCT PUBLIC HEARING**. At the meeting, the Board may determine that a public hearing should be conducted on the appeal. If the Board so determines, notice shall be given and the public hearing shall be conducted pursuant to applicable requirements of the *Gunnison County Land Use Resolution.*

   e. **BOARD DECISION.** The Board shall affirm, affirm with modifications, or reverse the original action.

      1. **MODIFICATION OR REVERSAL OF ORIGINAL ACTION**. The original action shall only be modified or reversed if the applicant establishes, by a preponderance of the evidence based on the record of the review body, that:

         (a.) **NO CREDIBLE EVIDENCE**. There is no credible evidence in the record to support the original decision;

         (b.) **ORIGINAL ACTION INCONSISTENT WITH THIS *RESOLUTION.*** The original action was inconsistent with the applicable requirements of this *Resolution*; or

         (c.) **REVIEW BODY ACTION INAPPROPRIATE.** The review body exceeded its jurisdiction or abused its discretion.

   f. **BOARD DECISION SHALL BE FINAL.** The Board's decision shall be final and shall not be further appealed, but may be subject to judicial review.

B. **STANDARDS FOR APPROVAL.** An application for a Gold Basin Industrial Park Area Special Area Permit shall comply with the following standards:

   1. **COMPLIANCE WITH THESE REGULATIONS.** The use shall comply with all applicable standards and provisions of these *Regulations*.

   2. **COMPATIBILITY WITH COMMUNITY CHARACTER**. The proposed land use shall be compatible with, or an enhancement of, the character of existing land uses in the Gold Basin Industrial Park Special Area, and shall not adversely impact the future development of the surrounding area. Potential visual and noise impacts shall be mitigated.

   3. **LEASE AGREEMENT WITH GUNNISON COUNTY**. The Gunnison County Manager has provided written documentation that the applicant will be able to secure a lease for the subject Leasehold Area from the County.

   4. **NO SIGNIFICANT NET ADVERSE IMPACTS OFFSITE**. No significant net adverse impact after mitigation on existing off-site uses.

## SECTION 7: DESIGN REVIEW.

**A. REQUIRED REVIEW AND APPROVAL.** No improvements shall be erected, placed, altered, maintained or permitted to remain on any Leasehold Area by any Lessee or Occupant until the use has received a Gold Basin Industrial Park Special Area Permit, and plans and specifications have been submitted to and approved in writing by the Design Review Committee, and, as applicable, a Building Permit is issued by Gunnison County or the City of Gunnison.

**B. DESIGN REVIEW COMMITTEE.** The Design Review Committee ("DRC") is hereby established to review and act on plans for improvements within the Gold Basin Industrial Park Special Area of permit applications and to ensure plan compliance with Section 8: *Design Standards.* The Committee shall be composed of the Board of County Commissioners, and of two Lessees, who shall be appointed by the Board.

**C. REVIEW AND ACTION BY DRC.** The DRC may deny or approve the plan as submitted, as altered or amended, or subject to specific conditions.

1. **DENIAL.** The DRC shall have the right to deny the plan on any reasonable grounds including, but not limited to, the following:

   a. **NON-COMPLIANCE WITH THESE *REGULATIONS.*** Failure to comply with any of the restrictions set forth in these *Regulations.*

   b. **INCOMPLETE INFORMATION.** Failure to include required information in the plans and specifications as required by these Regulations, or as reasonably requested by the DRC .

   c. **EXTERIOR APPEARANCE.** Objection to the exterior design, the appearance of materials or the types of materials employed in the proposed structure. Objection to the color scheme, finish, proportions, style of architecture, height or bulk of any structure.

   d. **INCOMPATIBILITY WITH OTHER GOLD BASIN INDUSTRIAL PARK SPECIAL AREA USES.** Objection on the ground of incompatibility of any proposed structure or use with existing structures or uses upon other Leasehold Areas.

   e. **INCOMPATIBILITY.** Any other matter which, in the judgment of the DRC, would render the proposed improvements or use incompatible with the general plan for improvements within the Gold Basin Industrial Park Special Area.

2. **APPROVAL** The DRC shall base its approval, among other factors, upon the adequacy of site dimensions, adequacy of structural design, conformity and harmony of external design with neighboring structures, effect of location and use of proposed improvements upon adjoining Leasehold Areas, proper facing of the main elevation with respect to nearby streets, adequacy of screening of mechanical, air conditioning and other rooftop installations, and conformity of the plans and specifications to the purpose and intent of these *Regulations.*

   a. **DRC ACTION TO COMMUNITY DEVELOPMENT DEPARTMENT.** Upon approval or conditional approval by the DRC a copy of the approved plans and the DRC decision shall be deposited for permanent record with the DRC, and forwarded to the Community Development Department.

## SECTION 8: DESIGN STANDARDS.

**A. PURPOSE.** This Section establishes the substantive standards by which applications for Gold Basin Industrial Park Special Area Permits will be reviewed and approved for development within the Gold Basin Industrial Special Area. These standards are intended to enhance and protect the value, desirability and attractiveness of all Leasehold Areas to the mutual benefit of Lessees, Gunnison County and the City of Gunnison, and to promote high quality design and the uniform application of standards.

**B. STANDARDS ARE MINIMUM.** These improvements standards are intended to ensure a minimum level of performance. If an alternate design, process, or material can be shown to provide performance equal to or better than that established by these standards, or where it can be shown that strict compliance with these standards would cause unacceptable environmental impacts, or would result in adverse conditions on- or off-

site because of unusual topography, size or shape of the Leasehold Area, existing vegetation, or other exceptional situations or condition, then the Community Development Director shall have authority to accept the alternative. The evaluation shall consider whether the alternative will provide for an equivalent level of public safety and whether the alternative will be equally durable, so that normally anticipated maintenance costs will not be increased.

**C. MINIMUM SETBACKS.** No Building or any portion thereof shall be placed on any nearer to the front, side or rear Leasehold Area line than 10 feet.

1. **EXCEPTIONS**. If a single building is constructed on two or more Leasehold Areas, no side yard setback is required from shared interior Leasehold Area lines

**D. LANDSCAPING AND BUFFERING.**

1. **LANDSCAPING PLAN.** Applicants shall prepare a landscaping plan that shall indicate the type and location of vegetation to be included on the site. The plan shall also contain a planting schedule and a plan for maintenance of all landscaping to be installed.

   a. **PROTECTION OF EXISTING VEGETATION.** No material or temporary soil stockpiling shall be placed within four feet of existing shrubs or in the drip line of trees. During construction, temporary protective barriers or tree wells shall be installed around each plant and/or group of plants that are to remain onsite. Protective barriers should be of a durable material that will last until construction is completed. Snow fences and silt fences are examples of acceptable barriers.

   b. **VISIBILITY.** To avoid landscape materials from blocking driver sight distances at intersections, no material greater than 30 inches in height shall be located within 15 feet of a driveway or road edge.

   c. **ALLOWANCE FOR SNOW STORAGE AND PLOWING**. All landscaping design shall provide adequate space for snow plowing and areas for snow storage, that shall be indicated on the landscaping plan.

2. **SITE PROTECTION.**

   a. **TOPSOIL PRESERVATION.** Topsoil moved during construction shall be stockpiled and redistributed on all re-graded surfaces in order to provide an even cover to all disturbed areas of the Leasehold Area. Such surfaces shall be stabilized by seeding or planting, or providing an all-weather surface approved by the Gunnison County Public Works Department.

   b. **REMOVAL OF DEBRIS**. All stumps, other tree parts, litter, brush, weeds, excess or scrap construction materials, or other debris should be removed from the site within six months of substantial completion of construction and disposed of pursuant to requirements of the Gunnison County Landfill, or by other means in compliance with any applicable regulation. All dead or dying trees should be removed from the site, unless those trees are to be retained for wildlife habitat, upon the recommendation of the Colorado Division of Wildlife or the Colorado State Forest Service. If trees and limbs are reduced to chips, they may be used as mulch in landscaped areas.

   c. **SLOPE PLANTINGS**. Landscaping of all cuts and fills and/or terraces shall be sufficient to prevent erosion. All roadway slopes steeper than one foot vertical to three feet horizontal (1': 3') shall be planted with ground cover appropriate for soil conditions, water availability, and environment, and pursuant to the requirements of a Gunnison County Reclamation Permit.

3. **PLANTING SPECIFICATIONS**.

   a. **MINIMUM TREE/SHRUB SIZES**. Deciduous trees shall have at least a two inch caliper at planting. Sizes of evergreens and shrubs shall be allowed to vary depending upon the characteristics of use and its location and the types of shrubs proposed. Trees shall be staked upon planting and provision made by the Lessee for regular watering and maintenance until they are established. Dead and dying plants shall be replaced by the Lessee no later than the following planting season.

   b. **PLANT SPECIES.** A mixture of plants, evergreen, and deciduous shrubs may be planted. Evergreen trees should be located on the perimeter of the lot for screening.

4. **TIMING.** All landscaping shall be installed no later than one growing season after substantial completion of construction on the Leasehold Area.

5. **SITE-SPECIFIC SELECTION.** The type and amount of landscaping shall be allowed to vary with the type and size of the proposed use. Plants or other landscaping material(s) that best serve the intended function of the land use should be selected. Appropriateness of any proposed phasing, as well as short and long-term impacts of the landscaping plan, should be considered.

6. **WATER CONSERVING LANDSCAPING.** Use of xeriscape plantings is preferred.

7. **LANDSCAPING ADJACENT TO BUILDINGS**. Landscape elements may be located adjacent to buildings.

8. **BUFFERING.** Buffering

   a. **BUFFER MATERIALS.** Buffering may consist of fencing and plant materials but may also include berms, rocks, boulders, mounds, or combinations of those materials, to minimize visual impacts to the neighborhood.

   b. **DUMPSTER AND UTILITY SCREENING.** Trash dumpsters and other waste/recycling containers serving multi-family or non-residential uses shall be screened from view off-site.

   c. **DRIVEWAYS EXCLUDED.** Required landscaped buffer areas shall not include driveways.

   d. **DESIGN OF LANDSCAPE BUFFER**. Arrangement of plantings and other landscaping elements in buffers shall, to the maximum extent feasible, provide protection to adjacent properties from obstructing views and access to solar exposure. If berms are proposed, the design and slope shall be subject to approval by Gunnison County.

   e. **MAINTENANCE OF LANDSCAPING WITHIN BUFFERS.** Plantings shall be watered regularly, in a manner appropriate to the specific plant species. Dead and dying plants shall be replaced by the developer no later than the next planting season. The applicant shall make provisions to ensure that landscaped buffer areas shall be maintained and kept free of all debris, rubbish, and weeds.

   f. **MATERIALS USED IN BUFFERS.** Existing and supplementary xeriscaping should be used to the maximum extent feasible and planted in random patterns (not rows). Plant materials of a scale capable of screening and softening structural mass shall be used to reduce visual impacts of development. A list of recommended plant materials is available from the Gunnison Office of the U.S.D.A. Natural Resources Conservation Service.

   g. **SCREENING IN BUFFERS.** If total screening is impractical or undesirable, partial screening should be used to break horizontal lines of structures and minimize apparent height of taller structures. Screening development with vegetation is preferable to screening with berms or other significant earth moving. If berms or recontouring of soil are used for screening, the features should complement natural land forms.

   h. **REVIEW BY PUBLIC WORKS DEPARTMENT.** If landscaped buffers are proposed along roadways or parking areas within the Gold Basin Industrial Park Special Area, the plan shall be submitted for review to the Gunnison County Public Works Department, for its compliance with snow removal and traffic-related sight-distance requirements.

9. **PARKING LOTS AND LOADING AREAS**. Parking lots, loading, and unloading areas that are not part of a parking lot shall include buffering that complies with this Section

**E. SIGNS.** One cluster sign is allowed at each approved access from Gold Basin Road into the Gold Basin Industrial Park Special Area that includes the name of the Special Area and/or listings of individual businesses in the development. Within the development, one sign per Leasehold Area is allowed, and all signs shall be designed and installed as follows:

1. **GENERAL STANDARDS.**

a. **ON-SITE LOCATION.** All signs shall identify or advertise only the business or establishment upon which the sign is located.

b. **ONE SIGN PER USE.** There shall be one sign per primary use, except that when the subject Leasehold Area abuts two public roadways, there may be one sign facing each roadway.

c. **NO SIGN IN ROAD RIGHT-OF-WAY.** No signs shall be allowed on any County or development road right-of-way, and existing signs in either of these rights-of-way shall be removed immediately upon request of the governing body.

d. **EXTERNAL LIGHT SHALL BE MINIMIZED.** Externally lit signs shall be designed, installed and maintained so as to eliminate upward directed light and glare and so that lights shall only shine downward, and shall illuminate only the sign and not property that adjoins or is nearby. Such light shall not interfere with the vision of motorists.

e. **INTERNALLY LIT SIGNS PROHIBITED.** There shall be no internally lit signs.

f. **NO MISLEADING INFORMATION.** Information presented on a sign shall be neither misleading, erroneous or patently untrue.

g. **NO SETBACK LIMITATION SPECIFIC TO SIGNAGE.** There shall be no setback limitation except that sign placement shall not interfere with snow removal, or vision of motorists, and shall not significantly detract from the environmental or aesthetic character of the County.

2. **CONSTRUCTION AND MAINTENANCE OF SIGNS.**

a. **STURDY CONSTRUCTION.** All signs and sign structures shall be constructed of materials of sufficient strength and quality to withstand weathering or deterioration by wind, moisture and other natural elements, and shall be maintained in a state of good repair with all braces, bolts, supporting framework, fastenings, lettering and design work free from deterioration.

b. **WIND LOAD.** Wind load requirements shall be equal to, or greater than 26 pounds per square foot of sign area.

c. **REPAIR OR REMOVAL.** The County Building Inspector shall have the authority to order the repair, alteration or removal of any sign or structure that constitutes a hazard to public health and safety, or which is otherwise not pursuant to this Section. In the event that such a sign has not been removed, altered or repaired within 60 days after written notification by the Inspector, the Board may, after due public notice and hearing, cause that sign or structure to be removed at the expense of the owner of the sign.

3. **SIGN AREA MEASUREMENT.**

a. **MAXIMUM INDIVIDUAL SIGN AREA.** The maximum permitted area of individual signs shall be 50 square feet.

b. **MAXIMUM HEIGHT.** Maximum sign heights shall be as follows:

1. **FREESTANDING SIGNS**. The maximum height of a freestanding sign shall be 12 feet.

2. **SIGNS LOCATED ON BULDING FASCIA.** Signs located on a building shall be no higher than the fascia of the building.

c. **MEASUREMENT OF SINGLE SURFACE.** To determine the surface area of a sign, the County Building Inspector shall measure the perimeter enclosing the extreme limits of the display surface(s) of the sign, including all graphic elements, borders and riders, but excluding the sign's structure or bracing unless those elements are part of the message or face of the sign. Where there are two faces back to back, the total area of the largest face shall determine the area of the sign.

d. **MEASUREMENT OF MULTI-FACETED SIGN.** Where two faces are placed at greater than 45-degree angles to one another, the sign area shall mean the total area of both faces.

4. **SIGNS ALLOWED ONLY BY VARIANCE BY THE BOARD.** The following signs are not permitted, except by variance issued by the Board, pursuant to applicable requirements of the *Gunnison County Land Use Resolution.*

   a. **NON-COMPLIANT SIGNS.** Any sign not in compliance with the provision of these *Regulations*; or

   b. **OFF-PREMISE SIGNS.** Off-premise signs except public directional signs, and those signs permitted pursuant to the "*Gunnison County Resolution Series 1989 No. 42, Concerning Placement of Tourist-Oriented Directional Sign,*" which are allowed without a variance; or

   c. **PROJECTING ROOF-MOUNTED SIGNS.** Roof-mounted signs that project above the highest point of a roofline or fascia of a building.

F. **PARKING.** No parking shall be permitted on any street, lawn, median strip, public walkway, swale, berm or at any place other than on the parking spaces approved by the DRC for each the Leasehold Area. Each Owner and Occupant shall be responsible for compliance with these standards by its employees and visitors. Off-street parking shall be provided by each Lessee for employees and visitors. All uses shall be required to provide the amount and design of parking spaces in Appendix Table 1: *Minimum Parking Row and Aisle Dimensions* and Appendix Table 2: *Off-Street Parking Standards* and to comply with the following:

1. **MULTIPLE USES.** If two or more principal uses occupy a single Leasehold Area or structure, the standard for off-street parking shall be the additive total for each principal use of the Leasehold Area or structure.

2. **SHARED PARKING.** When the peak use period for required parking for one land use will not overlap with the peak use period for required parking for another land use located on the same or adjacent Leasehold Area, the Community Development Director may reduce the required number of off-street parking spaces by up to 25 percent of the total required. Written approval by the adjacent Leasehold Area Owner or Occupant for use of the Leasehold Area is required. A subsequent change in land use will require evaluation by the Director and additional spaces may be required.

3. **REQUIRED FRACTIONAL SPACES**. When any calculation of off-street parking results in a required fractional space, such fraction shall be rounded up to the next higher number of spaces.

4. **LOCATION OF REQUIRED SPACES.** Required off-street parking spaces shall be located on the same Leasehold Area as the structure or business or industrial operation the spaces are intended to serve.

5. **SURFACE IMPROVEMENTS**. All off-street parking, access drives and loading areas shall be paved or improved with an all-weather surface approved by the DRC and properly graded to assure proper drainage. Overnight parking of campers, mobile homes, trailers or motor homes is prohibited. If parking requirements increase as a result of the change in use or number of employees, additional off-street parking shall be provided to comply with these Standards.

6. **BACKING ONTO ROAD PROHIBITED.** All parking areas shall be designed so that vehicles exiting from a parking space shall not back onto the right-of-way of the public street.

7. **SNOW STORAGE**. Adequate snow storage areas are required be planned into each site, and snow storage in dedicated parking areas is prohibited.

   a. **SNOW STORAGE OBSTRUCTIONS.** Snow storage areas shall be free of fences, landscaping (except for ground cover), retaining walls, and other obstructions of similar nature.

   b. **SNOW PLOWING OBSTRUCTIONS.** Pathways, signage, vegetation, fencing, and lighting shall be configured to cause the least obstruction to snow plowing. Locations of trash dumpsters relative to snow storage shall allow access and maintenance of the dumpsters, but shall not impede the free movement of trash removal vehicles.

   c. **FORMAL APPROVAL BY PUBLIC WORKS DEPARTMENT.** All designs for snow storage shall be subject to review and approval by the Gunnison County Public Works Department.

d. **MINIMUM WIDTH ADJACENT TO PLOWED AREA.** Designated snow storage areas shall not be less than six feet wide and, to the maximum extent feasible, shall be located adjacent to the area of the project from which snow is to be removed.

H. **STORAGE AND LOADING AREAS.** Materials, supplies and equipment, including company-owned or operated trucks or delivery vehicles, shall be stored inside structures or behind visual screening approved by the DRC to reasonably mitigate visual impact to adjoining Leasehold Areas and/or streets. All loading facilities, including turnarounds and docks, shall be set back and screened to minimize their visibility from any street. Screening of service areas and loading docks may consist of any approved combination of earth mounding, landscaping, walls and/or approved combination of earth mounding, landscaping, walls and/or fencing. Loading areas and docks shall not be closer than ten feet to an abutting street unless specifically approved by the DRC.

I. **SITE COVERAGE**. In no event can the footprint of any building or buildings exceed 50 percent of the square footage of the Leasehold Area.

J. **BUILDING HEIGHT RESTRICTIONS**: No building or appurtenance including, but not limited to, water towers, stand pipes, elevators or elevator equipment, stairways, ventilating fans, fire or parapet walls, skylights, tanks, cooling or other towers, wireless radio or television masts, flag poles or similar equipment shall exceed any height restrictions required by the *Gunnison County Land Use Resolution*, the Federal Aviation Administration or any other applicable regulatory agency.

K. **VIEW OBSTRUCTIONS**. The DRC shall have the authority, but not the obligation, to remove, relocate or require the removal or relocation of any wall, bank, hedge, shrub, bush, tree or other thing, natural or artificial, placed or located on any Leasehold Area if the location of the object will, in the reasonable judgment of the DRC, obstruct the vision of a motorist upon any of the streets within or providing access to the Gold Basin Industrial Park Special Area.

L. **GAS TANKS AND WATER SOFTENER UNITS**. Gas container and/or outdoor water softener units, may be placed above ground if enclosed on all sides by a decorative wall, provided the design, construction and installation location shall have first been approved by the DRC.

M. **MAILBOX DESIGN AND LOCATION**. No mailbox or paper box or other receptacles of any kind for use in the delivery of mail or newspapers or magazines or similar material shall be erected or located on any unless and until the size, location, design and type of material for said box or receptacle shall have been approved by the DRC.

N. **EXTERIOR AND INTERIOR LIGHTING:** No exterior lighting of any nature shall be installed or operated without the prior written approval of the DRC, and in all cases shall be installed or constructed in conformance to the applicable section of the *Gunnison County Land Use Resolution*. All interior and exterior lighting must be arranged or shielded so as to avoid excess glare or reflection onto any portion of an adjacent street or into the path of oncoming vehicles or onto any adjacent . No flashing, traveling, animated or intermittent lighting shall be visible from the exterior of any Building.

O. **STORMWATER MANAGEMENT**. There shall be no construction of ponds except as may be necessary for use as water detention or retention areas, and all such constructed on the property shall be constructed according to an approved site development plan. In no event may Owners or Occupants of Leasehold Areas or members of the public use such ponds for fishing, irrigation, swimming, bathing, boating or other recreational purposes. The permit applicant shall provide the following:

1. **DRAINAGE STUDY.** The required drainage study shall be subject to review and approval by the Gunnison County Public Works Department, which may refer the study to the City of Gunnison Public Works Department for review for compatibility with the City's design and construction standards.

2. **RUNOFF CONTROL STRUCTURES.** The Owner or Occupant shall provide storm sewers, culverts and other runoff control structures as determined necessary by the drainage study.

3. **HISTORIC RUNOFF.** The drainage system shall be designed and constructed so that only historic runoff, not including historic irrigation, shall be released from the site. Drainage flows in excess of this amount shall be retained, detained or handled in a storm sewer system. All costs associated with handling runoff

generated by a development shall be paid by the Owner or Occupant who has applied for the Gold Basin Industrial Park Special Area Permit.

P. **WELLS AND GENERAL DRILLING.** Oil and Mining Operations: No water wells may be drilled or maintained on any portion of the Gold Basin Industrial Park Special Area. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted within the Gold Basin Industrial Park Special Area, nor shall any oil wells, tanks, tunnels, derricks, boring apparatus, mineral excavations or shafts be permitted upon or in the Gold Basin Industrial Park Special Area, except that such excavation as may be required for site preparation to construct and/or operate improvements may be undertaken under strict supervision of the DRC, the U.S. Department of Energy and the Colorado Department of Public Health and Environment.

Q. **WIRELESS TELECOMMUNICATION DEVICES AND STRUCTURES.** Installation of wireless telecommunication devices and structures shall be required to comply with the requirements of the *Gunnison County Land Use Resolution* current at the time a business or industrial operation applies for a Gold Basin Industrial Park Special Area Permit to locate within the Gold Basin Industrial Park Special Area, and with any applicable regulation of the Federal Aviation Administration.

R. **UTILITY CONNECTIONS**: All utility connections, including all electrical and telephone connections and installation of wires to buildings, shall be placed underground from the nearest available power source. No transformer, electric, gas or other meter of any type of other apparatus shall be located on any power pole nor hung on the outside of any building, but shall be placed on or below the surface of the ground and where placed on the surface, shall be adequately screened and fenced and all installations shall be subject to the prior written approval of the DRC.

S. **USE OF NAME**: The name "Gold Basin Industrial Park Special Area" may not be used in the name of any Building or project on the Gold Basin Industrial Park Special Area, or in the name of any Owner other than Gunnison County, without the DRC's prior written consent.

T. **EXCAVATION.** No excavation of the subject property or any Leasehold Area therein shall be made except in connection with construction of an improvement, and upon completion, exposed openings shall be back-filled and disturbed ground shall be graded, leveled and restored to its original condition. Prior approvals shall have been obtained from the DRC for such excavation, specific compliance with Colorado Department of Public Health Regulations and approvals, and appropriate monitoring and mitigation procedures shall be followed.

U. **NOISE-SENSITIVE USES.** The northerly property line of the Gold Basin Industrial Park Special Area, and to some extent most of subject property, is adjacent or near an operating airport, which may produce noise. Sound-sensitive industries or individuals should consider sound attenuation measures in the design of their buildings.

V. **IRRIGATION.** Automatic irrigation systems shall be required for each Leasehold Area. Irrigation water shall be pumped from Gunnison County water lines. No Leasehold Area Owner shall draw or pump water from any pond in the Gold Basin Industrial Park Special Area for irrigation or any other purpose, and no sub-surface water shall be pumped or used under any circumstances.

## SECTION 9: PROVISION OF UTILITIES.

Gunnison County shall provide adequate service lines and stubs to each Leasehold Areas so that street and sidewalk cuts will not be required in order to connect the proposed buildings with the sewer mains. The actual tap of the sewer main shall be accomplished in conformance with all applicable County or City of Gunnison standards, including those involving design and construction. To the greatest extent feasible, shared utility pedestals will be required for Leasehold Areas.

## SECTION 10: BEGINNING AND COMPLETING CONSTRUCTION

After commencement of construction of any Improvement, the Owner shall diligently prosecute the construction thereof to the end that the Improvement shall not remain in a partly finished condition any longer than is reasonable necessary for completion thereof. All landscaping required to be provided on any Leasehold Area shall be

completed within 90 days after the substantial completion of the construction of any Buildings to be constructed on the Leasehold Area, provided, however, if weather conditions do not at such time permit, then the landscaping shall be completed as soon thereafter as weather conditions permit. Seasonal adjustments will also be allowed. If any Lessee fails to undertake and complete its landscaping within the time limit previously set forth herein, the DRC may, at its option, after giving the Owner 10 days written notice, undertake and complete the landscaping of the Leasehold Area in accordance with the landscaping plan. If the DRC undertakes and completes such landscaping because of the failure of the Lessee to complete the same, the cost of such landscaping shall be assessed against Owner, and if said assessment is not paid within 30 days after written notice of such assessment from the DRC, said assessment will constitute a lien on the Leasehold Area and may be enforced by the DRC

## SECTION 11: MAINTENANCE.

**A. GUNNISON COUNTY'S RESPONSIBILITIES.**

1. **COMMON AREA MAINTENANCE.** Gunnison County shall maintain and repair all common areas and facilities located on the subject property. "Common Areas" shall include any mini-parks, and cut and fill slopes adjacent to Gold Basin Road, and all landscaped buffer areas between the interior street and Gold Basin Road.

2. **SNOW REMOVAL AND LANDSCAPING.** The cost of snow removal, irrigation, mowing, pruning, fertilizing, drainage pipes and flumes replacing and adding grass, flowers, shrubbery, trees, and other items on the common areas, medians, or right of ways.

**B. LESSEE'S MAINTENANCE RESPONSIBILITY**: Each Leasehold Area Lessee shall be responsible for the maintenance of their Leasehold Area to the boundaries and all improvements constructed thereon, including repair and maintenance of any utility lines which service said .

**C. ALLOCATION OF MAINTENANCE COSTS AND PROPERTY TAXES.** Gunnison County shall, from time to time, and at least annually, and at least 30 days in advance of the assessment date, prepare a budget for the Gold Basin Industrial Park Special Area, to determine the assessments payable by the Lessees to meet the common expenses, and allocate and assess such common expenses upon the Lessees, proportionately, according to the square feet under lease by each Lessee, with the community areas owned by Gunnison County excluded. Gunnison County shall advise all members promptly, in writing, of the amount of the assessment payable by each of them, respectively, as determined by Gunnison County and shall furnish copies of each budget on which such common expenses are based. The assessments levied by Gunnison County shall be used exclusively for the purposes of promoting the business of the Lessees, and their health, safety and welfare, and in particular, for the improvement and maintenance of any designated common areas or structures.

**D. COMMON EXPENSES.** The common expenses shall include, among other things:

1. **LIGHTS.** The cost of maintenance of lights, signs and similar amenities, if and when the same are constructed by Gunnison County.

2. **UTILITIES.** Utility expenses for the common areas or structures.

3. **INSURANCE.** the cost of all insurance premiums on all policies of insurance required to be, or which have been obtained by Gunnison County pertaining to such common areas or structures.

4. **TAXES.** Any taxes and governmental assessments which are levied against the property, or any common areas or structures; and

5. **ADMINISTRATION.** The cost of administering and enforcing these *Regulations*, and the cost of defending and protecting the Gold Basin Industrial Park Special Area from adverse private or public action in the immediate area.

**E. PAYMENT OF ANNUAL GENERAL ASSESSMENTS.** All Lessees shall be obligated to pay the assessments assessed them by Gunnison County. The first annual assessment for each Leasehold Area shall be adjusted according to the number of days remaining in the calendar year. Each assessment shall be paid by the Lessee to Gunnison County in one or more installments on the date or dates fixed by Gunnison

County. Those Leasehold Areas that have not been leased by Gunnison County shall be exempt for the assessments created by these *Regulations*, although Gunnison County shall provide such additional funds as may be necessary in order to administer the common areas in the manner provided for and contemplated in these *Regulations*. Each Lessee of a Leasehold Area, by acceptance of a lease, consents and agrees to the foregoing and waives any rights to the contrary under applicable statutory law.

1. **NO WAIVER OF LIABILITY OR ASSESSMENTS.** No Lessee may exempt himself from liability for his assessment by waiver of the use or maintenance of any of the common areas, or by abandonment of his Leasehold Area.

2. **STATEMENT OF ASSESSMENTS.** Gunnison County shall promptly provide any Lessee or prospective Lessee so requesting he same in writing, a written statement of all paid or unpaid assessments or charges or penalties due with respect to the Leasehold Area leased or the be leased.

3. **DEFAULT IN PAYMENT OF ASSESSMENTS.** Any assessment installment which is not paid when due shall be delinquent. Each assessment installment not paid within 30 days after the due date shall be subject to a late charge established by Gunnison County not exceeding $250, and such assessment installment shall also bear interest from the date of delinquency at the maximum legal rate, but not exceeding 18 per cent per annum. Furthermore, should any assessment installment not be paid when due, the entire unpaid annual assessment shall, at the option of Gunnison County, become due, and may be collected forthwith, time being of the essence. Gunnison County may, bring an action at law against the Lessee, or consider the nonpayment an event of default under the lease, and take whatever remedies are afforded under the lease for such default.

4. **REIMBURSEMENT BY LESSEES.** In the event that Gunnison County determines that the need for maintenance, repair or reconstruction as provided for in these *Regulations* is caused through the willful or negligent act of a Lessee, his tenant, guests, or invitees and is not covered or paid by insurance, then the cost, both direct and indirect, of such maintenance, repair or reconstruction shall be added to and become a part of the assessment to which such owner is subject, and shall be due and payable immediately.

## SECTION 12: AMENDMENT AND TERMINATION .

**A. TERM.** Unless earlier terminated, or extended, in accordance with this provision, and subject to any limitations set forth in this provision, these *Regulations* shall continue in full force and effect for a period of 20 years from the date of their initial approval by the Board. However, unless there shall be recorded in Gunnison County within one year before the end of such 20 year period an instrument directing the termination of these *Regulations* and approved by the Board, the Declaration shall be continued automatically without further notice for an additional period of 10 years, and thereafter for successive periods of 10 years each, unless with one year prior to expiration of any such 10 year period these *Regulations* are terminated as set forth in this Section.

1. **TERMINATION AND MODIFICATION.** These *Regulations*, and any provision contained herein, may be terminated, extended, modified or amended as to all or a portion of the Gold Basin Industrial Park Special Area upon approval by the Board.

**B. AMENDMENT.** The following process shall apply to an application for to amend these *Regulations*:

1. **INITIATION.** An amendment to these may be initiated by any of the following:

   a. **BOARD MOTION**. The Board may initiate an amendment by motion directing the Community Development Director to submit a proposed amendment and report to the Planning Commission for review and for further action pursuant to this Section.

   b. **PLANNING COMMISSION INITIATIVE**. The Planning Commission may initiate an amendment by submitting a written recommendation for proposed amendment to the Board.

   c. **COMMUNITY DEVELOPMENT DIRECTOR**. The Community Development Director may initiate an amendment by submitting a written recommendation for proposed amendment directly to the Board, or by first submitting it to the Planning Commission for review and recommendation to the Board.

d. **LESSEE**. An amendment may be initiated by any Lessee, by the submittal of an application to the Community Development Department.

2. **SUBMITTAL OF DRAFT AMENDMENT LANGUAGE**. Any initiative or application for amendment shall be submitted to the Community Development Department, and shall include at a minimum the following:

   a. **IDENTIFICATION OF APPLICANT, IF RESIDENT- OR PROPERTY OWNER-INITIATED**. The applicant's name, address, and telephone number. If the applicant is to be represented by an agent, a notarized letter signed by the applicant shall also be submitted, authorizing the agent to represent the applicant and stating the representative's name, address, and phone number.

   b. **PRECISE WORDING**. The precise wording of the proposed amendment, and the Section in which it is proposed to occur.

   c. **RATIONALE FOR PROPOSED AMENDMENT**. A concise statement of the purpose and need for the proposed amendment.

      1. **COMMUNITY DEVELOPMENT DEPARTMENT'S REVIEW**. The Community Development Department shall review the application for completeness for compliance with this Section.

      2. **PLANNING COMMISSION REVIEW**. A complete copy of the application shall be forwarded to the Planning Commission, together with a copy of the Community Development Department's report. The Planning Commission shall review the application, considering the standards of this, and shall make a recommendation to the Board to approve, approve with modifications, or deny the proposed amendment.

      3. **BOARD PUBLIC HEARING**. The Planning Commission's recommendations shall be forwarded to the Board, together with a complete copy of the application. and a copy of the Community Development Department's review. Should it deem to be in the best public interest, the Board may conduct a public hearing, providing public notice a minimum of 15 days prior to the date of hearing, and otherwise pursuant to applicable requirements of the *Gunnison County Land Use Resolution*.

      4. **BOARD REVIEW AND ACTION.** The Board shall consider the application, any relevant support materials, the Planning Commission's recommendation, as applicable, public testimony and evidence given at a public hearing, and compliance of the application with these *Regulations.* Following closure of the public hearing, the Board may, by written resolution, adopt the amendments, adopt the amendments with modifications, or deny the amendments. Such resolution shall include findings that address the review following:

         (a.) **REVIEW STANDARDS**. The decision to amend the text of the *Resolution* is at the legislative discretion of the Board and is not controlled by any one factor. The Board shall consider the following in determining whether to adopt a proposed amendment, adopt a proposed amendment with modifications, table it for further study or deny it:

            (1.) **CONSISTENCY WITH ANY COMPREHENSIVE PLAN ADOPTED BY GUNNISON COUNTY**. Consistency of the proposed amendment with any applicable comprehensive plan adopted by Gunnison County;

            (2.) **CHANGED CONDITIONS**. Changed conditions, including the economy of Gunnison County;

            (3.) **EFFECT ON THE NATURAL ENVIRONMENT**. Effect of the proposed amendment on the natural environment;

            (4.) **COMMUNITY NEEDS**. Community needs;

            (5.) **DEVELOPMENT PATTERN**. Development pattern;

            (6.) **CHANGES IN APPLICABLE LAW**. Changes in applicable law;

(7.) **PUBLIC HEALTH, SAFETY AND WELFARE**. Public health, safety and welfare;

(8.) **COMPLIANCE WITH ANY APPLICABLE INTERGOVERNMENTAL AGREEMENTS ADOPTED BY GUNNISON COUNTY.** Compliance with any applicable intergovernmental agreements adopted by Gunnison County.

## SECTION 13: AVIGATION EASEMENT

Notice is hereby given that Leasehold Areas within the Gold Basin Industrial Park Special Area are located adjacent to an airport and in close proximity to the flight and approach paths associated with that airport. Gunnison County, in adopting these *Regulations*, hereby gives and grants an avigation easement for flight over these as necessary and appropriate for aeronautical operations at such airport on condition that all such operations are conducted safely and in compliance with all applicable Federal Aviation Administration regulations. Notice is hereby given that such aeronautical operations may cause noise or otherwise disturb the occupants the s within this area.

**A. WAIVER OF CLAIMS**. Any Lessee, in entering a lease agreement with Gunnison County for use of any Leasehold Area within the Gold Basin Industrial Park Special Area thereby waives, remises and releases any right or cause of action it may now have or which it may have in the future against the Gunnison County pertaining to or resulting from the passage of aircraft in the airspace above the Lessee's Leasehold Area. However, nothing stated in the foregoing waiver, grant and release shall release any other person, including, without limitation, any assignee, transferee, or successor of the Lessee, from any cause of action pertaining to or resulting from the operation of aircraft outside the scope of this Avigation Easement, or liability for damages to any person or property resulting from the unlawful or negligent operation of any aircraft above Grantor's Property.

## SECTION 14: SEVERABILITY OF THESE *REGULATIONS*.

If any article, division, section, paragraph, clause, provision, or portion of these *Regulations* is determined to be unconstitutional or invalid by a court of competent jurisdiction, such determination shall not affect the validity of these *Regulations* as a whole or any part of these *Regulations* other than the part determined to be unconstitutional or invalid. If any application of these *Regulations* to a particular structure or Leasehold Area is determined to be unconstitutional or invalid by a court of competent jurisdiction, such determination shall not be applicable to any other structure, or Leasehold Area not specifically included or referenced in that judgment.

## SECTION 15: MISCELLANEOUS PROVISIONS.

**A. NO LIABILITY**. Gunnison County and the DRC shall not be liable for any damage, loss, or prejudice suffered or claimed by any person on account of:

1. **APPROVAL OR DISAPPROVAL OF PLANS**. The approval or disapproval of any plans, drawing and specifications, whether or not in any way defective.
2. **CONSTRUCTION OR IMPROVEMENTS.** The construction of any improvement or performance of any work, whether or not pursuant to approved plans, drawings, and specification; or
3. **LEASEHOLD AREA DEVELOPMENT.** The development of any Leasehold Area within the subject property.

**B. ALL LESSEES BOUND.** Any person who now or hereafter leases or acquires in rights in any improvements on a Leasehold Area shall be deemed to have consented and agreed to every covenant, condition, restriction and easement contained in these *Regulations*, whether or not any reference to these *Regulations* is contained in the instrument by which such person acquired such interest or lease.

**C. GUNNISON COUNTY HELD HARMLESS.** Each and every Lessee shall, and hereby does, indemnify and hold harmless Gunnison County against and from any and all claims for injury or death to persons, or damage to or loss of property arising out of the construction, use, operation or maintenance of the Gold Basin Industrial Park Special Area or the improvements hereon, the use or possession of any Leasehold Area, or the conduct of any business or other activity on any part of the Gold Basin Industrial Special Area or any Leasehold Area

**D. DESTRUCTION OF IMPROVEMENTS.** In the event any building or other improvement on a Leasehold Area is damaged or destroyed in whole or in part, by any casualty, the Lessee shall immediately undertake to restore the same to a condition and conformity with the plans and specification most recently approved by Gunnison County with respect to such building or improvement. If such restoration is not completed within two years following the casualty, or if a new plan is not submitted, approved and completed in that timeframe, the lease is terminated and the Lessee loses all rights of use and occupancy.

**E. ADDITIONS TO THE PROPERTY.** Additional real property may be annexed to the Gold Basin Industrial Park Special Area, following which such additional real property shall become a part of the Gold Basin Industrial Park Special Area, and become subject to these *Regulations*. Said annexation shall be accomplished by filing of record in the Office of the Clerk and Recorder of Gunnison, an amendment to these *Regulations*, as applicable, or other instrument executed by Gunnison County. Upon the recordation of such instrument, the provisions of these *Regulations* shall extend to such additional real property. So long as the rights of any existing Lessee or Occupant are not impaired or restricted in any way as to the approved use or occupancy of their Leasehold Area, an amendment may contain such additions and modifications of these *Regulations* and other provisions as may be necessary to reflect the different character, if any, of the added property, or as the Board may deem appropriate in the development of such property, and as are not inconsistent with the general plan and scheme of these *Regulations*.

**F. RUN WITH LAND.** Each of the requirements of these *Regulations* shall operate as covenants running with the land for the benefit of the Gold Basin Industrial Park Special Area and each Leasehold Area, and shall inure to the benefit of Gunnison County and the Lessees thereof, their heirs, successors and assigns, and shall apply to and bind Gunnison County and the Lessees of any and all of the Leasehold Areas, their heirs, successors and assigns.

**G. ASSIGNMENT.** Due to the unique Deed Restrictions put on Gunnison County by the U.S. Department of Energy in relation to this property, Gunnison County's rights and obligations continue with the land and as such, Gunnison County's responsibilities under these *Regulations* cannot be assigned.

## SECTION 16: NO PRECEDENT SET BY THIS DESIGNATION.

Neither the designation nor these *Regulations*, procedures or approvals hereunder shall be construed as a precedent for any other action.

## SECTION 17: VIOLATIONS AND ENFORCEMENT.

Failure to comply with any provision of these *Regulations* shall be deemed a violation of and shall be subject to enforcement pursuant to the *Gunnison County Land Use Resolution,* with the additional remedy that Gunnison County may terminate the Lessee's lease.

# APPENDIX

**Table 1: Minimum Parking Row and Aisle Dimensions**

| ANGLE | STALL WIDTH "A" | MINIMUM DEPTH "B" | CURB LENGTH "C" | AISLE WIDTH "D" | TOTAL DEPTH "E" |
|---|---|---|---|---|---|
| PARALLEL | 8.0' | N/A | 22.0' | 12.0' | 20.0' |
| 30 DEG | 8.0' | **16.0'** | 16.0' | 11.0' | 27.0' |
| | 8.5' | **16.4'** | 17.0' | 11.0' | 27.4' |
| | 9.0' | **16.8'** | 18.0' | 11.0' | 27.8' |
| | 9.5' | **17.3'** | 19.0' | 11.0' | 28.3' |
| 45 DEG | 8.0' | **18.4'** | 11.3' | 14.0 | 32.4' |
| | 8.5' | **18.7'** | 12.0' | 13.5' | 32.2' |
| | 9.0' | **19.1'** | 12.7' | 13.0' | 32.1' |
| | 9.5' | **19.4'** | 13.4' | 13.0' | 32.4' |
| 60 DEG | 8.0' | **19.7'** | 9.2' | 19.0' | 38.7' |
| | 8.5' | **20.0'** | 9.8' | 18.5' | 38.5' |
| | 9.0' | **20.3'** | 10.4' | 18.0' | 38.3' |
| | 9.5' | **20.5'** | 11.0' | 18.0' | 38.5' |
| 90 DEG | 8.0' | **20.'** | 8.0' | 26.0' | 44.0' |
| | 8.5' | **20.0'** | 8.5' | 25.0' | 43.0' |
| | 9.0' | **20.0'** | 9.0' | 24.0' | 42.0' |
| | 9.5' | **20.0'** | 9.5' | 24.0' | 42.0' |

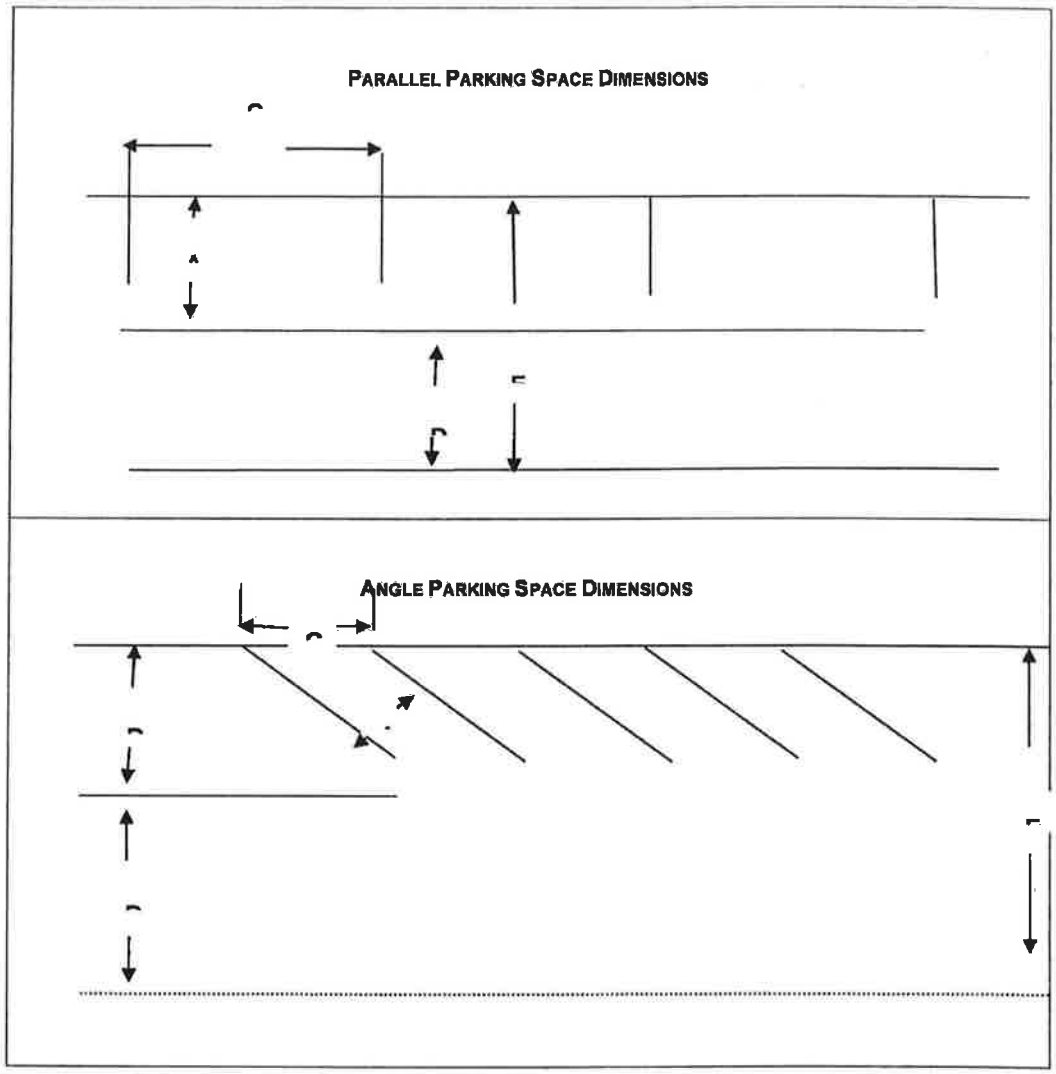

PARALLEL PARKING SPACE DIMENSIONS
ANGLE PARKING SPACE DIMENSIONS

**Table 2: Off-Street Parking Standards**

| | |
|---|---|
| • Light industrial or business | 1 space per 500 s.f. or 1 space per employee, whichever is greater, plus 1 space for each company vehicle stored on the premises |
| • Warehouse | 1 space per 1,000 s.f. or 1 space per employee whichever is greater, plus 1 space for each company vehicle stored on the premises |
| • Community buildings; Government<br>• administrative facilities, services and buildings | 1 space per 300 s.f, or 1 space per employee, whichever is greater, plus 1 space for each company vehicle stored on the premises |
| Floor area shall be measured as gross floor area within a building, exclusive of mechanical rooms, closets or storage areas and kitchen spaces, unless specifically stated otherwise.<br>Where parking requirement is on a per employee basis, employment shall reflect the maximum number on any single shift. | |

**Table 3: Maximum Permissible Noise Levels for Business, Commercial and Light Industrial Uses**

| *IMPACTED LAND USES* | *ALLOWABLE DECIBEL LEVELS BY TIME OF DAY* | |
|---|---|---|
| | ***6:00 A.M. TO 7:00 P.M.*** | ***7:00 P.M. TO 6 A.M.*** |
| **COMMERCIAL** | *60 db (A)** | *55 db (A)** |
| **LIGHT INDUSTRIAL** | *80 db (A)** | *65 db (A)** |
| **CAMPGROUNDS** | 50 db (A)* | 45 db (A)* |
| **RESIDENTIAL** | 50 db (A)* | 40 db (A)* |

# VACANT LAND

# NOT APPLICABLE

**Exhibit E**

INTERGOVERNMENTAL AGREEMENT
CONCERNING WASTEWATER TREATMENT FOR
GOLD BASIN INDUSTRIAL PARK

THIS AGREEMENT is made and entered into this 10th day of February, 2009, by and between the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO, hereinafter "COUNTY", and CITY OF GUNNISON, COLORADO, a Colorado home rule municipality, hereinafter "CITY."

R E C I T A L S:

WHEREAS, the CITY and COUNTY have previously entered into an intergovernmental agreement for the treatment of wastewater generated from properties located outside the boundaries of the CITY and in unincorporated Gunnison County, which agreement is titled the "Wastewater Treatment Facility Agreement" and dated July 3, 2001, hereinafter the "Wastewater Agreement;" and

WHEREAS, the Wastewater Agreement continues in full force and effect; and

WHEREAS, the COUNTY is developing a business and industrial park on real property owned by the COUNTY, which property is more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, hereinafter the "Industrial Park;" and

WHEREAS, the COUNTY wishes to install a wastewater collection system within the Industrial Park and to include the Industrial Park in the Dos Rios Division of the Gunnison County Sewer District; and

WHEREAS, the Industrial Park is located outside the boundaries of the CITY; and

WHEREAS, the COUNTY intends to lease sites in the Industrial Park to persons or entities who may conduct thereon businesses that generate sales tax revenue pursuant to Title 39, Article 26, Colorado Revised Statutes; and

WHEREAS, the Wastewater Agreement requires the express written consent of the CITY as a condition precedent to the CITY being obligated to accept wastewater for treatment from uses that generate sales tax revenue; and

WHEREAS, the CITY is willing to consent to accept wastewater from the Industrial Park in consideration of the performance by the COUNTY of the terms and conditions of this agreement; and

WHEREAS, the CITY and COUNTY are authorized to enter into intergovernmental agreements to provide governmental functions pursuant to §29-1-203, Colorado Revised Statutes.

NOW, THEREFORE, THIS AGREEMENT:

1. CITY CONSENT. By its execution hereof, the CITY expresses its written consent to be obligated to accept wastewater for treatment from the Industrial Park in accordance with the terms of the Wastewater Agreement.

2. PUBLIC IMPROVEMENT FEE. In consideration of the CITY'S consent contained in Section 1 of this agreement and the CITY'S continued acceptance of wastewater from the Industrial Park for treatment pursuant to the Wastewater Agreement, the COUNTY hereby agrees to the following:

A. To insert in all leases, licenses, or other agreements, by which any person or entity occupies any portion of the Industrial Park, a requirement that any such occupant of the Industrial Park pay, in addition to any rent, fees, or other charges, a public improvement fee in the amount equal to four (4) per cent of retail sales occurring within the Industrial Park, the terms of such requirement to be in the form attached hereto and incorporated herein by this reference as Exhibit B.

B. To enforce the collection from the occupants of the Industrial Park the public improvement fee and to pay to the CITY the full amount of the public improvement fee so collected.

C. That should all or any portion of the Industrial Park be sold by the County of Gunnison, to impose a covenant upon the Industrial Park requiring the future imposition of the public improvement fee and establishing a method for collection thereof and payment to the CITY.

3. PRE-TREATMENT. In order to assure that the CITY is able to comply with the terms and conditions of its wastewater discharge permit issued by the State of Colorado, Department of Health and Environment, the COUNTY hereby agrees to provide all plans and specifications for uses or changes in uses to be made in the Industrial Park so that the CITY, through its Public Works Department, may determine the level of pre-treatment of wastewater originating within the Industrial Park which is necessary. The COUNTY further agrees to impose such pre-treatment requirements upon any lessee or occupant of the Industrial Park.

4. AGREEMENT SUPPLEMENTAL TO WASTEWATER AGREEMENT. The terms and conditions of this agreement are supplemental to the terms of the Wastewater Agreement. Except as specifically set forth in this agreement, all the terms of the Wastewater Agreement shall continue in full force and effect.

BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF GUNNISON, COLORADO

By _____
Paula Swenson, Chairperson

By _____
Jim Starr, Vice Chairperson

By _____
Hap Channell, Commissioner

ATTEST:

_____
Deputy County Clerk

GUNNISON COUNTY SEAL COLORADO

OF GUNNISON, a Colorado
home rule municipality

By _____
Mayor

ATTEST:

_____
City Clerk

**Exhibit F**

CCCenterSeven, LLC

BUSINESS PLAN

July 28, 2014
Lou Costello
Member Manager

CCCenterSeven, LLC a Colorado Limited Liability Company is registered in good standing with the Secretary of State of Colorado.

The Business Purpose of the Company is to operate a retail marijuana cultivation center consistent with the Colorado Retail Marijuana Rules and the licensing regulations of Gunnison County that were recently adopted.

The Business Purpose of the Company allows for manufacturing and testing facilities as well as future retail sales, however, initially the Company will only cultivate marijuana for sale at wholesale to licensed retail stores. Future plans do include testing facilities and retail sales.

The Company has executed a Lease with Gunnison County for Leasehold 7 in the County owned Gold Basin Industrial Park. The Lease is only contingent upon receiving approval of our Retail Marijuana Cultivation License Application from the State of Colorado . Upon approval we will begin construction of our 5,000 square foot cultivation center. The building will be constructed to accommodate the build-out of the second floor should the Company be successful.
Water and Sewer will be provided by the Dos Rios Water and Sanitation District, electricity will be purchased from the City of Gunnison and natural gas by Atmos Energy.

The cultivation process consumes significant electricity and the grow lights generate a lot of heat. We are exploring heat pumps, exchangers, and heat sinks to capture the heat from the lights for other building uses. We will engage REG, Resource Engineering Group, mechanical engineers with offices in Crested Butte, CO and San Luis Obispo, CA to design an efficient system to meet the building's energy needs responsibly. We want to be the leader in responsible marijuana cultivation, which includes reducing our environmental impact on the community as much as possible.

Our building construction will put significant dollars into our community and our operation is expected to employ six full time employees and at times up to 20 part time employees.

Key employees will be hired at a later date as we near operations. Occupational Licenses will be obtained for all employees as required by State law. We plan to hire an experienced master grower who has demonstrated the ability to make cultivation successful with a quality product.

We look forward to installing a MITS (Marijuana Inventory Tracking System) and utilizing the RFID technology. Accountability is an important premise of our business, accountability to our jurisdictions, owners and employees.

Banking

Our industry faces a daunting challenge with respect to banking. Unfortunately, Federal Law drives upstanding, honest business people operating diligently under the State law underground for their banking needs. We have had discussions with a bank that understands the dilemma of the industry and will be progressive in the discussion to bank the customers they know and provide the needed service. The Bank referred us to the James M. Cole, U.S. Department of Justice, memo that provides guidance regarding marijuana enforcement to all United States Attorneys; and the February 14, 2014 Department of the Treasury Financial Crimes Enforcement Network Guidance to clarify Bank Secrecy Act ("BSA") expectations for financial institutions seeking to provide services to marijuana businesses.

Most important is Know Your Customer. We have established a banking relationship with hopes that by the time we are operational we can bank our operational business as well as during our construction period.

Standard Operating Procedures

SOP will be documented and kept at the grow facility. Strict cleanliness and operating requirements will be observed to ensure quality production. The harvest cycle of most strains is 120 days. Plant water will be filtered via a Reverse Osmosis system and all water and nutrient applications closely monitored and documented.

Carbon Filter systems will be used to control any odors from the facility.

Nutrients, fertilizers, pesticides, and chemicals that could be used in the grow process and on site include:

1. Kool Bloom Dry 16 lbs
2. General Hydroponics pH Up 1 gal
3. General Hydroponics Standard Reference pH Solution 8 oz
4. General Hydroponics pH Down 1 quart
5. General Hydroponics FloraGro 6 gals
6. General Hydroponics FloraMicro 6 gals
7. General Hydroponics FloraBloom 6 gals
8. General Hydroponics Rapid Root Enhancer
9. Nutrilife H2O2 Hydrogen Peroxide
10. Organocide Plant Doctor 1 quart
11. Advanced Nutrients pH Up Pure Concentrate 1 gal
12. Botanicare Silica Blast 5 gals
13. Botanicare Cal-Max Plus 5 gals
14. Botanicare Hydroplex Bloom Enhancer 5 gals
15. Botanicare Sweet Raw 5 gals
16. Clonex Rooting Compound 250 ml
17. Clonex Clone Solution 1 gal
18. Superthrive 1 gal
19. Extreme Gardening Azoz 6 oz

20. Extreme Gardening Mykos 1 lb

$CO_2$ will be used in the grow process and will be purchased from a vendor like Green $CO_2$ Systems.

All of these products can be found at the waytogrow.net website for complete description of product contents.

Risk Management

We continually monitor and will attempt to mitigate the significant risks currently associated with this fledgling industry. Security, safety, absolute compliance with State law and local jurisdictional rules, prompt and full payment of taxes will be done by diligent monitoring.

The more difficult risks are currently out of our control, the Federal Government position on marijuana and hemp; and the banking dilemma.

Security

Once fully functional the building will be a 24/7 operation. One to six employees will be on site approximately 12 hours per day. Off-site monitoring of all grow operations will be constantly monitored via an iPonic 600 system that will be accessed over the internet 24 hours a day on a phone or tablet.

The building will have outside motion lights, security cameras on both ends of the building, interior camera, secure doors at the building entrances, and secure interior doors to the Limited Access Area.

We also plan to use Superior Alarm and Fire Protection services and have a guard dog on site.