AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Draft BOCC Minutes; 8-18-2015

Action Requested: Motion

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Attached are the draft 8/18/15 BOCC meeting minutes for consideration.

Fiscal Impact: None

Submitted by: Katherine Haase **Submitter's Email Address:** khaase@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ○ Required ◉ Not Required

Comments:

Reveiwed by: Discharge Date: Certificate of Insurance Required

Yes ○ No ○

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 10/27/2015

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted:

Agenda Date: 11/3/2015

Revised April 2015

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING MINUTES
August 18, 2015

The August 18, 2015 meeting was held in the Board of County Commissioners' meeting room located at 200 E. Virginia Avenue, Gunnison, Colorado. Present were:

Paula Swenson, Chairperson
Phil Chamberland, Vice-Chairperson
Jonathan Houck, Commissioner
Matthew Birnie, County Manager
Katherine Haase, Clerk to the Board
Others Present as Listed in Text

GUNNISON COUNTY BOARD OF EQUALIZATION REGULAR MEETING:

CALL TO ORDER: Chairperson Swenson called the Gunnison County Board of Equalization meeting to order at 8:30 am.

MINUTES APPROVAL: **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to approve the July 21, 22, 27, 28, 29 and 30 regular meeting minutes as presented today. Motion carried unanimously.

1. 7/21/15 Regular Meeting
2. 7/22/15 Regular Meeting
3. 7/27/15 Regular Meeting
4. 7/28/15 Regular Meeting
5. 7/29/15 Regular Meeting
6. 7/30/15 Regular Meeting

ADJOURN: **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to adjourn the Gunnison County Board of Equalization meeting. Motion carried unanimously. The meeting adjourned at 8:30 am.

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS:

CALL TO ORDER: Chairperson Swenson called the Gunnison County Board of County Commissioners meeting to order at 8:30 am.

AGENDA REVIEW: There were no changes made to the agenda.

EMPLOYEE APPRECIATION; PUBLIC WORKS STAFF MEMBERS SHAWN MCCONNELL, KEN WEBB, DALE TILLMAN, DAVID COLEMAN AND SCOTT BEVER: Deputy County Manager Marlene Crosby was present, along with Public Works employees Shawn McConnell, Ken Webb, Dale Tillman and Scott Bever. Chairperson Swenson presented letters and gift certificates to each of the employees being recognized.

BREAK: The meeting recessed from 8:33 until 8:53 am so that the Board could celebrate with the above employees.

MINUTES APPROVAL: **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to approve the meeting minutes for July 28th and August 11th as presented. Motion carried unanimously. Commissioner Houck noted an error on the July 21st meeting minutes, and the Board agreed to the modification. **Moved** by Commissioner Houck, seconded by Commissioner Chamberland to approve the July 21st meeting minutes as amended. Motion carried unanimously.

1. 7/21/15 Regular Meeting
2. 7/28/15 Special Meeting
3. 8/11/15 Special Meeting

CONSENT AGENDA: **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to approve the Consent Agenda. Motion carried unanimously.

1. Intergovernmental Agreement between Gunnison County Clerk and Recorder and Board of County Commissioners of the County of Gunnison, Colorado Regarding the Conduct and Administration of the November 3, 2015 Coordinated Election
2. Contract Amendment #3; Original Contract CMS (CLIN) #13 IHA 46657; Amendment CMS #16 IHIA 77964; Department of Human Services, Offices of Early Childhood; $84,922
3. Contractor Agreement; Christopher Klein Construction, Inc.; Mountain View Apartments Grading and Site Concrete Replacement Project; 8/18/15 thru 12/31/15; $52,159
4. Contractor Agreement; Centennial State Roofing; Mountain View Apartments Grading and Site Concrete Replacement Project; 8/18/15 thru 12/31/15; $77,600
5. West Region Healthcare Coalition Memorandum of Agreement; Colorado West All-Hazards Region Healthcare and Emergency Management Partners to Assure a Coordinated Response to Public

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Health and Medical Emergencies in Delta, Gunnison, Hinsdale, Montrose, Ouray and San Miguel Counties
6. Intergovernmental Agreement Regarding Election Costs for SB05-152 Ballot Initiative between the Board of County Commissioners of the County of Gunnison, Colorado and the City of Gunnison
7. Intergovernmental Agreement Regarding Election Costs for SB05-152 Ballot Initiative between the Board of County Commissioners of the County of Gunnison, Colorado and the Town of Mt. Crested Butte
8. Lexis for Microsoft® Office – Lexis Advance Edition; Lexis Advance® Subscription Agreement for State/Local Government; Gunnison County Attorney's Office; 8/17/15 thru 9/30/18
9. Bid Award; Grant Agreement; Gunnison-Crested Butte Regional Airport AIP Project Number 3-08-0030-050-2015, Taxiway Rehabilitation Project; $1,471,435
10. 2015 Community Grant Cycle Grant Contract; Community Foundation of the Gunnison Valley; Gunnison County Nurturing Parenting Program; 7/1/15 thru 4/30/16; $1,300

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.
1. Draft 2016 Holiday Schedule. The Board agreed to designate the Friday prior to Christmas and the Monday after Christmas as County holidays. **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to approve with this change. Motion carried unanimously.
2. Colorado Counties, Inc. Representative Designation. **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to appoint our Board chair to be our representative at the CCI meeting on 10/2/15. Motion carried unanimously.

COUNTY MANAGER'S REPORT: CM Birnie was present for discussion.
1. County Strategic Plan Update. CM Birnie informed the Board that the executive team met yesterday and team updates were provided during the meeting. All goals are on track.
2. GOCO Inspire Grant. Commissioner Houck explained that this grant is part of a new program to get more kids outside and connected, and that it may be useful for the Outdoor Discovery Center concept. Approximately $2,500 of seed money is needed to get the application and process going, and he confirmed that he had commitments from other entities in the valley to pursue this grant. The County, Western State Colorado University and the City of Gunnison will be the main stakeholders. Moved by Commissioner Chamberland, seconded by Commissioner Houck to approve the $2,500. Motion carried unanimously.
3. Aspen Land Trust; Request for Letter of Support. Commissioner Houck spoke with an ALT representative and learned that the land is 47 acres and that 8th graders have used it since 1969. There is a cabin on the property, and the ALT would like to make it available to the school district. **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to approve a letter of support. Motion carried unanimously. A letter will be drafted, and signature stamps will be used.

DEPUTY COUNTY MANAGER'S REPORT AND PROJECT UPDATES: Deputy County Manager Marlene Crosby was present for discussion.
1. Grants of Perpetual Easement; North Gunnison Sewer Project; Bill J. Barbee, $3,000; John L. Guerrieri and Donna L. Guerrieri, $6,000. DCM Crosby confirmed that the tap fees would be paid for by the project. **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to approve the perpetual easements for the North Gunnison Sewer with Bill J. Barbee, and John and Donna Guerrieri, and authorize signatures and the County Manager's signature on future easements coming through for the North Gunnison Sewer. Motion carried unanimously.
2. Approve Tap Fee Reduction; North Gunnison Sewer. DCM Crosby stated that this tap was necessary for the whole project. She will ask the County Attorney's Office to draft a document to protect the County in the event of problems in the future. **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to approve the tap fee reduction for John and Donna Guerrieri, and approve tapping into the existing tap as outlined today by Deputy County Manager Marlene Crosby with the understanding that there will be an agreement in the future and a reduction to $5,500. Motion carried unanimously.
3. Mattress Recycling. DCM Crosby informed the Board that a firm in Denver has started recycling mattresses. Handling at the landfill has been problematic with 684 mattresses brought to the landfill between 1/1 and 7/26, so she would like to utilize the new firm. The fee to persons dropping off mattresses at the landfill would be $15. In the near future, she will ask the Board to approve new landfill fees.
4. Marble Parking Lot Update. Commissioner Chamberland requested this update. DCM Crosby informed the Board that she is planning to revisit the area with the Forest Service in mid-September to continue the conversations.

VOUCHERS AND TRANSFERS APPROVAL: Finance Director Linda Nienhueser presented the voucher approval report dated August 18, 2015 and the cash transfer authorization dated July 2015 for discussion and approval. **Moved** by Commissioner Houck, seconded by Commissioner Chamberland to approve the vouchers in the amount of $1,495,436.36. Motion carried unanimously. **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to approve the cash transfer for July 2015 in the amount of in the amount of $3,048,456.74. Motion carried unanimously.

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TREASURER'S MONTHLY REPORT: County Treasurer Debbie Dunbar presented the July 2015 Treasurer's report; an investment report dated July 31, 2015; and a semi-annual financial statement for January 1, 2015 through June 30, 2015 for discussion and acceptance. **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to accept the Treasurer's Report. Motion carried unanimously. CT Dunbar raised the issue of costs associated with publishing the report in the local papers, and the Board asked her to negotiate the cost to print in the Crested Butte paper. She noted that she regularly alternates the papers each year. CM Birnie stated that the County used to put out a request for bids for the newspaper of record. CT Dunbar agreed to check into this further and the report back.

APPROVAL OF SB 152 BALLOT LANGUAGE FOR NOVEMBER, 2015 COORDINATED ELECTION; RESOLUTION SUBMITTING TO REGISTERED ELECTORS OF GUNNISON COUNTY, COLORADO AT THE NOVEMBER 3, 2015 COORDINATED ELECTION, A BALLOT QUESTION AND TITLE CONCERNING RE-ESTABLISHING THE AUTHORITY TO PROVIDE ALL SERVICES RESTRICTED BY TITLE 29, ARTICLE 27 OF THE COLORADO REVISED STATUTES: County Attorney David Baumgarten confirmed that the agreements are ready to be executed, and that the other related documents were approved on the Consent Agenda. **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to approve Resolution #2015-18, a Resolution Submitting to Registered Electors of Gunnison County, Colorado at the November 3, 2015 Coordinated Election, a Ballot Question and Title Concerning Re-Establishing the Authority to Provide All Services Restricted by Title 29, Article 27 of the Colorado Revised Statutes. Motion carried unanimously.

CONSIDERATION OF CORRESPONDENCE FROM GUNNISON COUNTY AND TOWN OF CRESTED BUTTE TO COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, WATER QUALITY CONTROL COMMISSION, REGARDING LUCKY JACK PERMIT NO. CO-0035394: CA Baumgarten explained that, several years ago, the County and Crested Butte requested that there be an addition to this permit, and that there be financial security in the event that Lucky Jack had a lapse of funding. At that time, the State and the mine contested this request. The new request for correspondence came from Crested Butte to reinvigorate the conversation, and the draft outlines what was requested years ago. **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to approve the correspondence. Motion carried unanimously.

COMMISSIONER ITEMS: This discussion began earlier than scheduled due to a gap in the meeting.

Commissioner Houck:

1. County Coalition Sage-grouse Meeting. Commissioner Houck attended this recent meeting in Montrose. John Swartout was present for that meeting as a representative from the Governor's office to give an update on the litigation process. During that meeting, the use of conservation easements was discussed, and some commissioners expressed opposition to conservation easements because of the related finality.
2. Curecanti Designation Update. Commissioner Houck informed the Board that letters inviting people to join the conversation went out to the landowners in and adjacent to the area

Commissioner Swenson:

1. Air Alliance Update. Chairperson Swenson informed the Board that Air Alliance, the non-profit engaging the business community portion of our air program, is launching. Incentives and packages have been assembled to entice businesses and second homeowners who are dependent on the airport to participate, as a personal member or a business member, for as little as $100.
2. Gunnison Valley Rural Transportation Authority Tax Initiative Update. Molly Mugglestone and Mary Burt are managing the related efforts.

PLANNING COMMISSION PRELIMINARY PLAN RECOMMENDATION; RESOLUTION APPROVING PRELIMINARY PLAN APPLICATION FOR VISTA BUSINESS, LINK, LLC FOR THE SUBDIVISION OF 13 LOTS AND THE DEVELOPMENT OF A COMMERCIAL AND INDUSTRIAL PARK: Planner Cathie Pagano and attorney Kendall Burgemeister were present for discussion.

Planner Pagano presented the recommendation and draft resolution. Mr. Burgemeister pointed out some typos in the resolution, and the Board agreed to the requested corrections. **Moved** by Commissioner Houck, seconded by Commissioner Chamberland to approve Resolution #2015-19, a Resolution Approving Preliminary Plan Application for Vista Business Park, Represented by Link, LLC for the Subdivision of 13 Lots and the Development of a Commercial and Industrial Park with the minor grammatical corrections noted. Motion carried unanimously. Planner Pagano stated that the final plat and plans would come to the Board in the near future.

UNSCHEDULED CITIZENS:

1. Alli Melton; High Country Conservation Advocates. Ms. Melton thanked the board for addressing the water treatment plant in Crested Butte. She noted that the recent spill in Durango highlights the kind of vulnerability that exists.

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ADJOURN: The meeting adjourned at 9:56 am.

_____
Paula Swenson, Chairperson

_____
Phil Chamberland, Vice-Chairperson

_____
Jonathan Houck, Commissioner

Minutes Prepared By:

_____
Katherine Haase, Deputy County Clerk

Attest:

_____
Kathy Simillion, County Clerk

GUNNISON COUNTY BOARD OF COMMISSIONERS TEXT INCLUSION INTO MINUTES

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO: 2015-18

A RESOLUTION SUBMITTING TO REGISTERED ELECTORS OF GUNNISON COUNTY, COLORADO AT THE NOVEMBER 3, 2015 COORDINATED ELECTION,
A BALLOT QUESTION AND TITLE CONCERNING RE-ESTABLISHING THE AUTHORITY TO PROVIDE ALL SERVICES RESTRICTED BY TITLE 29, ARTICLE 27
OF THE COLORADO REVISED STATUTES

WHEREAS, the County of Gunnison ("County") in the State of Colorado, is a county duly organized and existing pursuant to the Constitution (the "Constitution") and the laws of the State of Colorado; and

WHEREAS, the members of the Board of County Commissioners of the County of Gunnison, Colorado ("Board") have been duly elected, chosen and qualified; and

WHEREAS, in 2005 the Colorado General Assembly enacted Senate Bill 2005-152, which is codified at §29-27-101, et. seq. Colorado Revised Statutes, which provides that before a local government may provide advanced services, telecommunication services, or cable television services, as such services are defined in the statute, either directly or indirectly, it must call an election on the question of providing such services and obtain the approval of the majority of its registered electors voting on any such ballot question; and

WHEREAS, affordable, reliable, and innovative telecommunication services, including, but not limited to, broadband internet services, are hereby found and determined to be essential for Gunnison County's residents and businesses in today's economic environment and for quality of life; and

WHEREAS, the Board finds that re-establishing Gunnison County's authority to directly and/or indirectly provide advanced services, telecommunication services, or cable television services could be in the best interests of the community; and

WHEREAS, the Clerk and Recorder of the County of Gunnison, Colorado ("County Clerk") is conducting a Coordinated Election on November 3, 2015, pursuant to the Uniform Election Code of 1992 (Articles 1 to 13 of Title 1, Colorado Revised Statutes); and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO:

1. All action heretofore taken (not inconsistent with the provisions of this resolution) by the County, directed towards the election and the objects and purposes herein stated is, ratified, approved and confirmed. Unless otherwise defined herein, all terms used herein shall have the meanings specified in the Uniform Election Code of 1992, Title 1, Articles 1 through 13, Colorado Revised Statutes.
2. The following ballot question and title is hereby referred to all of the registered electors of Gunnison County, Colorado for the November 3, 2015 Coordinated Election:

   WITHOUT INCREASING TAXES, SHALL THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO, RE-ESTABLISH THE AUTHORITY TO PROVIDE ALL SERVICES, RESTRICTED SINCE 2005 BY TITLE 29, ARTICLE 27 OF THE COLORADO REVISED STATUTES, DESCRIBED AS "ADVANCED SERVICES" (HIGH SPEED INTERNET),

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"TELECOMMUNICATIONS SERVICES" AND "CABLE SERVICES", INCLUDING ANY NEW OR IMPROVED HIGH BANDWITH SERVICES BASED ON EXISTING OR FUTURE TECHNOLOGIES, TELECOMMUNICATIONS SERVICES AND CABLE TELEVISION SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NON-PROFIT ENTITIES, GOVERNMENTAL ENTITIES, AND OTHER USERS OF SUCH SERVICES, EITHER DIRECTLY OR INDIRECTLY, TO ANY AND ALL SERVICE AREAS, WITH PUBLIC OR PRIVATE SECTOR PARTNERS?
[ ] YES
[ ] NO

3. Said ballot question shall be voted upon only by Gunnison County, Colorado registered electors legally eligible to vote at the November 3, 2015 Coordinated Election.
4. The Designated Election Official is authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution, including, but not limited to, mailing, posting and publishing notices of the Election, mailing the mail ballot packets. The costs of the election shall be paid by the County; provided that the County may elect to reimburse itself for such cost from assessments paid by property owners.
5. The officers and employees of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this resolution, including, but not limited to, entering into an intergovernmental agreement with the County Clerk and giving notices of election required by the Uniform Election Code of 1992 (Articles 1 to 13 of Title 1, Colorado Revised Statutes).
6. All orders, bylaws and resolutions, or parts thereof, in conflict with this resolution, are hereby repealed.
7. If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.
8. This resolution shall be effective immediately upon its adoption by the Board and certification by the County Clerk.

ADOPTED AND APPROVED this 18th day of August, 2015.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

Chamberland – yes; Houck – yes; Swenson – yes.

STATE OF COLORADO)
)ss.
COUNTY OF GUNNISON)

I, Kathy Simillion, the Clerk and Recorder of the County of Gunnison, Colorado do hereby certify that:

1. The foregoing pages are a true and correct copy of a resolution ("Resolution") passed and adopted by the Board of County Commissioners of the County of Gunnison, Colorado ("Board") at a regular meeting held on August 18, 2015.
2. The Resolution was duly moved and seconded and the Resolution was adopted at the meeting of August 18, 2015 by an affirmative vote of a majority of the members of the Board as follows:
   Those Voting Aye: _____
   _____
   _____
   Those Voting Nay: _____
   Those Absent: _____
   Those Abstaining: _____
3. The members of the Board were present at such meeting and voted on the passage of such Resolution as set forth above.
4. Notice of the regular meeting of August 18, 2015 was posted at the official posting locations designated by the Board not less than twenty-four hours prior to the meeting in accordance with law.

WITNESS my hand and the seal of Gunnison County affixed this ____ day of _____, 2015.

CLERK AND RECORDER
OF THE COUNTY OF GUNNISON,
COLORADO (Seal)

_____
Kathy Simillion, Clerk and Recorder

ATTEST:
_____
Deputy County Clerk

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 19 SERIES 2015

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A RESOLUTION APPROVING PRELIMINARY PLAN APPLICATION FOR VISTA BUSINESS PARK, REPRESENTED BY LINK, LLC FOR THE SUBDIVISION OF 13 LOTS AND THE DEVELOPMENT OF A COMMERCIAL AND INDUSTRIAL PARK

WHEREAS, Link, LLC has submitted a preliminary plan application to subdivide a 28.07-acre parcel into thirteen lots, each approximately 1.1 to 2.6 acres in size, to be developed into an industrial and commercial park, with ancillary residential use on specific lots. Lots 1- 5 will be permitted to have industrial and commercial uses as specified in the Protective Covenants. Lots 7-12 are intended to be light industrial and/or commercial uses with ancillary residential uses allowed. Lot 6 is intended to be a buffer lot between the lighter industrial and commercial uses on Lots 7-12 and the heavier industrial and commercial uses on Lots 1-5. Lot 6 is not permitted to have a residence, nor are Lots 1-5. Uses and operations on Lots 6-12 are proposed to be contained wholly indoors with the exception of nurseries, employee parking, loading, unloading and storage. The impacts must be contained to the Lot and not produce more than a de minimis amount of, and in no event exceed Gunnison County standards, for noise, vibration, electrical or magnetic interference, glare, fumes, odors, dust, smoke, heat or waste.

The parcel identified as "Outlot" on the Site Plan contains an existing residence and outbuildings that the current owner, W.K. Edwards will continue to own. The "outlot" will be subject to a lifetime lease granted to the current owner of the subject property. The developer will reserve a development right to add the outlot as the thirteenth lot upon the termination or expiration of the lifetime lease, in accordance with the Colorado Common Interest Ownership Act. The outlot will be subject to the same standards and restrictions as Lots 1-5. The existing residence may remain in place; at such time that the residence is removed no new residence shall be constructed or allowed on the Outlot, in compliance with the design and use standards for Lots 1-5 and Articles 5 and 6 of the Protective Covenants.

The applicant proposes that certain, defined uses be permitted without any additional Land Use Change permit. Section 3.1 of the draft Declaration of Protective Covenants ("Declaration") addresses the uses that can be developed on the lots, uses that can be made only after review and approval by the Association and the County, and uses that are expressly prohibited. It is the Applicant's desire to create a subdivision that will allow for a diverse mix of industrial and commercial activities. The applicant has not proposed an exhaustive list of permitted uses that are allowed on the lots but rather relies on the design standards of Article 5 of the Protective Covenants to create parameters for acceptable commercial and industrial uses.

The applicant has identified (Section 3.1.1.3 of the draft Protective Covenants) that the following uses are prohibited in the Vista Business Park development: asphalt or concrete batch plants, adult oriented uses (as defined in the Gunnison County *Land Use Resolution*); mining operations, except for concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, which shall be uses permitted after review; and, veterinary clinics and animal shelters.

The applicant has identified specific uses that are allowed after review by the Property Owner's Association and Gunnison County (i.e. an additional land use change permit is required):

- The following mining operations: concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, upon compliance with *LUR* Division 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials*.
- Recreational vehicle parks and campgrounds, upon compliance with *LUR* Section 9-305: *Seasonal* Recreational *Vehicle Parks and Campgrounds*.
- Uses that require a variance from any provision of Article 5 or 6 of the Protective Covenants.

The covenants restrict retail sales in the development in Section 6.16 of the Covenants. No more than 33% of the floor area of any building shall be used for the retail sale of goods.

Marijuana cultivation, manufacturing, and/or testing facilities are expressly permitted so long as the same remain legal under Colorado law and Gunnison County regulations. Section 9-104: *Marijuana Cultivation, Manufacturing or Testing Facility* of the Gunnison County *Land Use Resolution* allows marijuana manufacturing and testing facilities in Gold Basin, Riverland or Signal Peak Industrial Parks. The location of marijuana manufacturing, testing, and/or cultivation facilities outside of those specific industrial park requires a Minor Impact Land Use Change permit, as identified in Section 9-104: G.2. Section 9-104: H. states that marijuana facilities and residential facilities cannot be collocated in the same structure. Any proposed marijuana facility in the Vista Business Park development shall be required to obtain a Minor Impact Land Use Change permit unless and until such time that the Gunnison County *Land Use Resolution* is amended. Any person may initiate an amendment to the *Land Use Resolution (LUR)*.

The Covenants require that, "merchandise, supplies, equipment, or materials of any kind, shall be stored within a building, shed or screened area." Vehicles used as part of a commercial and/or industrial use shall also be parked indoors or in a screened parking area. The subdivision will also include dedicated open space (common property), as illustrated on the site plan included in the Preliminary Plan. Some of the open space will remain undisturbed. Other portions of the open space will be utilized for the construction of augmentation ponds necessary for the operation of the Water Court-approved plan for augmentation serving the subdivision. A portion of the open space along Highway 50 will be landscaped to provide a visual buffer. The open space may be utilized for snow storage and the installation of utilities, as needed.

The parcel is located approximately two miles east of the City of Gunnison within the City's Three Mile Plan area. The parcel is legally described as 28.07 acres in the NW1/4SW1/4 and SW1/4NW1/4, Section 3, Township 49 North, Range 1 East, N.M.P.M., also known as 43950 Highway 50.

WHEREAS, after a review of the Preliminary Plan and all information, documentation and testimony related to it, the Gunnison County Planning Commission did on August 7, 2015, forward a recommendation of approval of that application to the Board of County Commissioners with certain findings and conditions; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that the Preliminary Plan for Land Use Change Permit No. 11-00035, for Link LLC, is approved, subject to each and all conditions of the Preliminary Plan recommendation document, as identified above, and the following findings and conditions:

Findings:

1. This application, by definition, is classified as a Major Impact.
2. The Gunnison County Board of Commissioners identified the subject parcel as an area appropriate for industrial development in the 2012 Land Use Analysis, Resolution No. 15, 2014.
3. The proposed development is not located adjacent to a municipality but is within the City of Gunnison Three Mile Plan area.
4. Gunnison County and the City of Gunnison have an Intergovernmental Agreement for the Three Mile Plan area.
5. Lots 1, 2, 3, 4, and 5 shall be permitted to have industrial and commercial uses as identified in the Protective Covenants. Lots 6, 7, 8, 9, 10, 11, and 12 are subject to additional restrictions in Section 6.17 of the Covenants to ensure compatibility with residential land uses. Residential uses are allowed only on Lots 7-12.
6. The parcel identified as "Outlot" contains an existing residence and outbuildings. The developer reserves a development right to add the outlot as the thirteenth lot upon the termination or expiration of the lifetime lease. The Outlot shall be permitted to have the same uses and restrictions as Lots 1-5.
7. The Protective Covenants identifies that the following uses are prohibited in the development: asphalt or concrete batch plants; adult oriented uses; mining operations; and veterinary clinics and animal shelters.
8. The Protective Covenants allow the following uses after the approval of a site specific Land use Change permit for the proposed use: concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation; recreational vehicles parks and campgrounds; any use that requires a variance from any provision of Article 5 or 6 of the Protective Covenants.
9. Marijuana cultivation, manufacturing and/or testing facilities are permitted by the Protective Covenants. Section 9-104 of the Gunnison County *Land Use Resolution* only allows the development of those facilities after a Minor Impact Land Use Change permit unless the use is in Gold Basin, Signal Peak or Riverland Industrial Parks.
10. Portions of the subject parcel are in the 100-year floodplain.
11. Gunnison County Wildlife Coordinator and the Colorado Parks and Wildlife have reviewed the application relative to Gunnison Sage-grouse impacts and found that there will be no additional impacts to the bird from the proposed development.
12. CDOT requires a right turn deceleration lane be installed on Highway 50 into Vader Lane after the sale of the eight lot in the development.
13. A CDOT access permit is required.
14. The applicant has amended the water court decree to allow for the development of individual wells on each proposed lot. The final court decree has not been issued at this time.
15. Gunnison County Fire Protection District has requested that a dry hydrant be installed at the development.
16. The landscaping plan is in compliance with Gunnison County standards and also mitigates visual impacts from the proposed development to Highway 50 traffic.
17. The applicant has requested a variance to Section 13-109: Signs relative to the size and height of the proposed sign. The request is attached as Exhibit A.
18. The proposed sign in Exhibit A is 138 square feet and 22 feet high. The applicant has not demonstrated that the hardship is not self-imposed, nor that there is a need nor that it is consistent with the neighborhood, relative to the proposed area of the sign. With respect to the height the applicant has demonstrated that there is a hardship due to the topography at the site.

Conditions:

1. Any property owner that submits a building permit application shall be required to submit a detailed narrative to Gunnison County Community Development describing how they comply with Article 5 and 6 of the Protective Covenants and are a permitted use (use that does not require an additional Land Use Change permit).
2. A Land Use Change permit shall be required for any use that includes the concentration of ores, milling, evaporation and other processing.
3. A Land Use Change permit shall be required if a proposed use in the development requires a variance from any provision of Article 5 or 6.
4. No specific uses are contemplated or approved for extraction, exploration and/or processing of minerals and construction materials.
5. Any proposed marijuana facility in Vista Business Park shall be subject to the standards of Section 9-104 of the Gunnison County *Land Use Resolution* and shall be required to obtain a Minor Impact Land Use Change permit unless and until such time that an amendment is made to the Gunnison county Land Use Resolution allowing the development of marijuana facilities with an Administrative Review Land Use Change permit.
6. Retail sales, in compliance with Section 6.16 of the Protective Covenants are allowed in the proposed development.

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7. The landowner shall sign and notarize the "Warning and Disclaimer of Floodplain Hazards Affecting Use and Occupancy of this Property," which shall be included on the Final Plat for subdivision.
8. The Development Improvements Agreement shall include a provision requiring bonding for the right turn deceleration lane.
9. A CDOT Highway Access permit is required to be submitted with the Final Plan application.
10. Evidence that a final court decree has been approved shall be submitted at Final Plan.
11. A dry hydrant, in compliance with the standards of Gunnison County Fire Protection District shall be installed.
12. The landscaping shall be installed as described in the Landscaping Plan. It shall also be included as part of the Development Improvements Agreement.
13. The variance request for a sign area greater than 70 square feet is denied. A sign 70 square feet or less, consistent with the design submitted is approved.
14. The variance request for a sign greater than 16 feet tall (approximately 22 feet in height) is approved.
15. Approval of the Preliminary Plan shall not constitute approval of the Major Impact Project, or permission to proceed with construction of any aspect of the Land Use Change. Approval shall only constitute authorization for the applicant to submit a Final Plan, in accordance with the representations made by the applicant and in response to any conditions placed on the Preliminary Plan by the Board.
16. The applicant shall be required to submit the Final Plan application within 12 months after the date of the approval of the Preliminary Plan. Failure to submit a complete Final Plan application within this time period shall render the Preliminary Plan approval null and void, and require the applicant to begin the Preliminary Plan review process again.
17. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.
18. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
19. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
20. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.
21. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

WHEREAS, this review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.

THIS APPROVAL is affected noting that decision documentation includes, but is not limited to, the application and the entire Planning Department Land Use Change Permit application file relative to this application. This approval is founded on each individual finding and requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

THIS RESOLUTION AND THE APPROVAL GRANTED HEREBY shall not be effective unless and until a copy is recorded in the Office of the Clerk and Recorder of Gunnison County.

INTRODUCED by Commissioner Houck, seconded by Commissioner Chamberland, and passed on this 18th day of August, 2015.

BOARD OF COUNTY COMMISSIONERS

Chamberland – yes; Houck – yes; Swenson – yes.

DRAFT