AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Resolution; Releasing Butte Pasture, Lot 5, from a

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Resolution releasing Butte Pasture, Lot 5 from a Restrictive covenant recorded at Reception No 541161

Fiscal Impact:

Submitted by: Laura Seymour **Submitter's Email Address:** lseymour@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 9/28/16

Reveiwed by: Discharge Date: 9/28/2016 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 9/30/2016

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 5

Agenda Date: 10/4/2016

Revised April 2015

541161
Page: 1 of 2
04/22/2004 03:56P
S Dominguez Gunnison Cty Co 373 R 0.00 D 0.00

RESTRICTIVE COVENANT

THIS RESTRICTIVE COVENANT, made and entered into as of the 20th day of April, 2004, is by and between Butte Realty Co., a Colorado corporation ("Developer"), and the Board of County Commissioners of Gunnison County, Colorado ("County").

1. **FACTS AND PURPOSES**.

1.1 Developer has recorded the subdivision Plat of Butte Pasture as Reception No. 541141 of the Gunnison County, Colorado records ("Plat").

1.2 The County approved the Plat on condition that certain restrictions apply to Lot 5 of Butte Pasture ("Lot 5").

1.3 The purpose of this Restrictive Covenant is to document the restrictions applicable to Lot 5.

2. **RESTRICTION**. In consideration of the County's approval of the Plat, Developer hereby imposes the following deed restriction on Lot 5:

> Lot 5 shall not be sold by Developer to a person unless such person has resided in Gunnison County for at least ten years immediately preceding their ownership and who earns 80% of his, her or their income from working in Gunnison County. After the owner has occupied a primary residence on Lot 5 for three years, this Restrictive Covenant shall be released by Gunnison County.

3. **APPURTENANT AGREEMENT**. The terms and provisions of this Restrictive Covenant shall be appurtenant to Lot 5 as a covenant running with the land.

4. **MODIFICATION**. This Restrictive Covenant shall not be modified without the prior written approval of the Board of County Commissioners of Gunnison County which may be withheld in the discretion of the Board.

5. **ENFORCEMENT**. This Restrictive Covenant is for the benefit of the Board of County Commissioners of Gunnison County and may be enforced by Gunnison County.

(04/21/04)\s\butte-lot5deed.restriction

IN WITNESS WHEREOF, the parties have executed this Restrictive Covenant as of the day and year first above set forth.

DEVELOPER

Butte Realty Co., a Colorado corporation

By: _____
Robert R. Stuplich, President

COUNTY

Board of County Commissioners of Gunnison County, Colorado

By: _____
Fred R. Field, Chairman

Attest:

By: Patsy Wood Deputy
Gunnison County Clerk & Recorder

GUNNISON COUNTY SEAL COLORADO

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The above and foregoing Restrictive Covenant was acknowledged before me this 21st day of April, 2004 by Robert R. Stuplich, President of Butte Realty Co., a Colorado corporation.

Witness my hand and official seal. My Commission expires: 8/1/2007

NOTARY PUBLIC BRENDA N. WISEMAN STATE OF COLORADO

My Commission Expires 8/1/2007

Notary Public
PO Box 576
Gunnison CO 81230

(04/21/04)\s\butte-lot5deed.restriction

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY

RESOLUTION NO. 16-_____

A RESOLUTION RELEASING BUTTE PASTURE, LOT 5, FROM A RESTRICTIVE COVENANT RECORDED AT RECEPTION NO. 541161 OF THE RECORDS OF THE CLERK AND RECORDER OF GUNNISON COUNTY, COLORADO

WHEREAS, on April 20, 2004, the Board of County Commissioners of Gunnison County, Colorado ("Board") entered into a certain Restrictive Covenant ("Restrictive Covenant") by and with Butte Realty Co., which Restrictive Covenant is recorded at Reception No. 541161 of the records of the Clerk and Recorder of Gunnison County, Colorado; and

WHEREAS, the Restrictive Covenant creates and recognizes a certain restriction on Butte Pasture, Lot 5, that was a condition of approval by the Board of the subdivision Plat of the Butte Pasture recorded at Reception No. 541141 of the records of the Clerk and Recorder of Gunnison County, Colorado to wit:

> "Lot 5 shall not be sold by Developer to a person unless such person has resided in Gunnison County for at least ten years immediately preceding their ownership and who earns 80% of his, her or their income from working in Gunnison County. After the owner has occupied a primary residence on Lot 5 for three years, this Restrictive Covenant shall be released by Gunnison County."

WHEREAS, the current owners of Butte Pasture, Lot 5, have occupied a primary residence on Lot 5 for more than three years, fulfilling the requisite to have the Restrictive Covenant released by the Board;

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

1. The Restrictive Covenant recorded at Reception No. 541161 of the records of the Clerk and Recorder of Gunnison County, Colorado be and hereby is released by the Board.

2. The Gunnison County Manager—in his capacity as Gunnison County Commissioner of Deeds—is authorized to execute, on behalf of the Board, all additional legal instruments necessary to implement the intent of this Resolution.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and adopted this _____ day of _____, 2016.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

_____
Paula Swenson, Chairperson

_____
Phil Chamberland, Commissioner

_____
Jonathan Houck, Commissioner

Attest:

_____
Deputy County Clerk