AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Resolution; Grantaing a Subdivision Exemption

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

This resolution granting an exemption for a division of land from the definition of the terms "subdivision" and subdivided land" regarding the Shannon property crossed by Spring Creek Road is a condition of a settlement agreement and will allow for an entry of a final decree in Gunnison

Fiscal Impact: 0

Submitted by: Office of the County Attorney **Submitter's Email Address:** rmagruder@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:

Reveiwed by: GUNCOUNTY1\mhoyt Discharge Date: 11/30/2018 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 11/30/2018

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

Agenda Date: 12/4/2018

Revised April 2015

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO. _____-18

A RESOLUTION GRANTING AN EXEMPTION FOR A DIVISION OF LAND FROM THE DEFINITION OF THE TERMS "SUBDIVISION" AND "SUBDIVIDED LAND" REGARDING SHANNON PROPERTY CROSSED BY SPRING CREEK ROAD

WHEREAS, pursuant to C.R.S. § 30-28-101(10)(d), the Board of County Commissioners of Gunnison County, Colorado ("Board"), may exempt a division of land from the statutory definition of the terms "subdivision" and "subdivided land" if the Board determines that such division of land is not within the purposes of Title 30, Article 28, Part 1, Colorado Revised Statutes; and

WHEREAS, the Board is a party to Gunnison District Court Civil Action No. 16CV30047 (hereinafter the "Case") in which Kyle Ross Shannon and Laura Golden Shannon (hereinafter the "Shannons") seek a declaration that a covenant in a deed encumbering real property identified as 1670 Gunnison County Road 744 (hereinafter the "Property") is no longer enforceable; and

WHEREAS, to settle the Case, the Shannons have proposed that the Board approve and record a certain subdivision exemption plat that is based on C.R.S. §30-28-101(10)(d) which divides the Property into two parcels divided by the centerline of Spring Creek Road (hereinafter the "Shannon Subdivision Exemption Plat"); and

WHEREAS, in the Case, the Shannons and the Board have reached a settlement agreement that reads in part: "In the event that the Board does approve the subdivision exemption on terms and conditions acceptable to the Shannons, including issuance by the Board of a resolution that complies with C.R.S. § 30-28-101(10)(d), the parties shall record the duly executed subdivision exemption plat and resolution, and shall file a stipulation to entry of a final decree in the Case declaring that the restrictive covenant at issue in the Case is unenforceable. Such stipulation shall be filed by the Shannons together with a motion for entry of a final decree declaring that the restrictive covenant at issue in the Case is unenforceable. If the motion is granted, the entry of the final decree shall close the matter. If the motion is denied, the Shannons shall dismiss the Case. Neither the entry of a final decree nor dismissal of the Case shall impact the validity of the subdivision exemption and binding nature of the subdivision exemption plat."

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado that the Board grants, pursuant to C.R.S. § 30-28-101(10)(d), an exemption from the definition of the terms "subdivision" and "subdivided land," for the division of the Property effectuated by the recording of the Plat.

Further, the Board explicitly finds and resolves that nothing in this Resolution or Plat is or shall be construed to be a waiver of any applicable Gunnison County building, land use, or public health, safety or welfare requirement regarding development or use of the resultant parcels.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and adopted this 4th day of December, 2018.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By _____
Phil Chamberland, Chairperson

By _____
Jonathan Houck, Vice Chairperson

By _____
John Messner, Commissioner