AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: DRAFT BOCC Meeting Minutes; 12/4/18

Action Requested: Motion

Parties to the Agreement:

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

Summary:

The draft 12/4/18 Regular Meeting minutes are attached for consideration.

Fiscal Impact:

Submitted by: Liz Mense **Submitter's Email Address:** EMense@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 12/12/18

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 12/12/2018 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 12/12/2018

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

Agenda Date: 12/18/2018

Revised April 2015

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING MINUTES
December 4, 2018

The December 4, 2018 meeting was held in the Board of County Commissioners' meeting room located at 200 E. Virginia Avenue, Gunnison, Colorado. Present were:

Phil Chamberland, Chairperson
Jonathan Houck, Vice-Chairperson
John Messner, Commissioner (ABSENT)
Matthew Birnie, County Manager
Elizabeth Mense, Deputy County Clerk
Others Present as Listed in Text

CALL TO ORDER: Chairperson Chamberland called the meeting to order at 8:31 am.

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

MINUTES APPROVAL: **Moved** by Commissioner Houck, seconded by Commissioner Chamberland to approve the meeting minutes of 11/06/18 as presented. Motion carried unanimously.

1. 11/06/18 Regular Meeting

CONSENT AGENDA: **Moved** by Commissioner Houck, seconded by Commissioner Chamberland to approve the Consent Agenda as presented with the exception of item No. 4. Motion carried.

1. Resolution; A Resolution Adopting the 2018 Gunnison County, Colorado Personal Data Privacy Policy
2. Liquor License Renewal; Red Mountain Liquors
3. Notice of Lease Renewal; Gunnison County & Zions First National Bank
4. **PULLED FOR FURTHER DISCUSSION:** Certification; Increase in Level of Services
5. Engagement Letter; Arbitrage Compliance Services
6. Contract Amendment; EIAF 8504; Gunnison County CNG Vehicles
7. Amendment; Gunnison County Attorney Agreement
8. Grant Agreement; Colorado Department of Transportation Aeronautics Division; Gunnison-Crested Butte Regional Airport
9. Grant of Temporary Easement; Raisig

Consent Agenda Item No. 4; Certification; Increase in Level of Services:
Commissioner Houck requested additional details regarding this item. County Manager explained that this pertains to Federal property that was changed to Non-Federal property, therefore making it taxable.
Moved by Commissioner Houck, seconded by Commissioner Chamberland to approve Consent Agenda item No. 4; Certification; Increase in Level of Services. Motion carried.

SCHEDULING:

1. Commissioner Houck requested that Elizabeth Mense RSVP County Manager Birnie, Commissioner Houck, and Commissioner-Elect Mason for the Mayors and Managers meeting hosted by the Community Foundation of the Gunnison Valley on 12/6/18.
2. Commissioner Chamberland will not be in attendance for the Mill Levy Certification on 12/21/18 but he can call in, if needed.
3. County Manager Birnie will be out of the office for the Budget Adoption on Friday, 12/14/18. He will try to call in.

COUNTY MANAGER'S REPORT: County Manager Birnie was present for discussion.

1. County Manager Birnie discussed the Local Marketing District funds for the Gunnison-Crested Butte Tourism Association board. County Manager Birnie is meeting with John Norton this week and will touch base with the Board again after that meeting.

DEPUTY COUNTY MANAGER'S REPORT: Deputy County Manager Marlene Crosby was present for the discussion.

1. Request to Plow; County Road 743; Ivy:
Commissioner Houck inquired about impact to winter recreation access and wildlife. DCM Crosby said there is no significant impact and that this request has been reviewed and approved by the Planning Commission.
Moved by Commissioner Chamberland, seconded by Commissioner Houck to approve the request to plow County Road 743 as presented. Motion carried.

2. Intergovernmental Agreement; Public Works:
DCM Crosby explained that this is first draft of the Intergovernmental Agreement for a co-op bid for asphalt. The initial draft doesn't include signature blocks by design, as it is currently being reviewed by the other parties.

Moved by Commissioner Houck, seconded by Commissioner Chamberland to delegate signature authority for the Intergovernmental Agreement to County Manager Birnie once finalized. Motion carried.

Resolution; 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:
Deputy County Attorney Matthew Hoyt was present for the discussion. Kendall Burgemeister, Attorney for Kyle & Laura Shannon, was also present. Attorney Burgemeister explained the request, discussed the court proceedings and processes that took place and welcomed questions from the Board.
Moved by Commissioner Houck, seconded by Commissioner Chamberland to approve Resolution 2018-45; 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 and authorize Board signature. Motion carried.

COMMISSIONER ITEMS: This item occurred earlier in the meeting due to be ahead of schedule.
Phil Chamberland-
1. Commissioner Chamberland recently attended the Colorado Cooperative meeting. He provided an update on what the Cooperative does and who it encompasses.

Resolution; A Resolution Approving Land Use Change Permit No. LUC-2018-00044 A Land Use Change Permit for AFC Development, LLC Multi-Family Unit Allocation and Building Type Lots M1-1 through M1-15, Lot M1, Buckhorn Ranch Filing No. 2B:
Neal Starkebaum, Assistant Director of Community and Economic Development was present for the discussion. The property owner, Mark Spencer, was also present for the discussion**.**
Mr. Starkebaum provided an overview of the request and discussed the Planning Commission recommendation. Questions were welcomed from the Board.
Moved by Commissioner Houck, seconded by Commissioner Chamberland to approve Resolution 2018-46; A Resolution Approving Land Use Change Permit No. LUC-2018-00044 A Land Use Change Permit for AFC Development, LLC Multi-Family Unit Allocation and Building Type Lots M1-1 through M1-15, Lot M1, Buckhorn Ranch Filing No. 2B as presented. Motion carried.

CONTINUED COMMISSIONER ITEMS:
Jonathan Houck-
1. Commissioner Houck recently attended a meeting with the Grand Mesa Uncompahgre & Gunnison National Forest (GMUG) planning team regarding the Forest Plan Revision.
2. Commissioner Houck will be meeting with the Stockgrowers regarding the Sage-Grouse litigation.

UNSCHEDULED CITIZENS: There were no Unscheduled Citizens present

ADJOURN: **Moved** by Commissioner Chamberland, seconded by Commissioner Houck to adjourn the meeting. The meeting adjourned at 9:04 am.

_____
Phil Chamberland, Chairperson

_____
Jonathan Houck, Vice-Chairperson

(Absent from meeting – no signature)
_____
John Messner, Commissioner

Minutes Prepared By:

_____
Elizabeth Mense, 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: 2018-44

A RESOLUTION ADOPTING THE 2018 GUNNISON COUNTY, COLORADO
PERSONAL DATA PRIVACY POLICY

WHEREAS, Colo. Rev. Stat. § 24-73-101(1) (2018) states:

> "Each governmental entity in the state that maintains paper or electronic documents during the course of business that contain personal identifying information shall develop a written policy for the destruction or proper disposal of those paper and electronic documents containing personal identifying information. Unless otherwise required by state or federal law or regulation, the written policy must require that, when such paper or electronic documents are no longer needed, the governmental entity destroy or arrange for the destruction of such paper and electronic documents within its custody or control that contain personal identifying information by shredding, erasing, or otherwise modifying the personal identifying information in the paper or electronic documents to make the personal identifying information unreadable or indecipherable through any means";

WHEREAS, by virtue of House Bill 18-1128, Colo. Rev. Stat. § 6-1-713 (2018), Colo. Rev. Stat. § 6-1-713.5 (2018), Colo. Rev. Stat. § 6-1-716 (2018), and Colo. Rev. Stat. §§ 24-73-101 to 103 (2018) have been amended to provide stronger protections for consumer data and consumer data privacy;

WHEREAS, Gunnison County's current policies, procedures and practices follow and honor the requirements of the foregoing statutes, but it is prudent to set forth the requirements of those laws in a single policy to help ensure compliance; and

WHEREAS, because to date no court of competent and controlling jurisdiction has interpreted House Bill 18-1128, it is prudent that any policy of the County in relation to House BILL 18-1128 adopt the same language of the changes made by House Bill 18-1128;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado, that, effective immediately from the date this Resolution is passed by such Board, the attached *Gunnison County, Colorado Personal Data Privacy Policy* shall be and hereby is approved and adopted as the primary guidance tool for personal data protection and personal data privacy for all Departments under the supervision and control of the Gunnison County Board of County Commissioners and to all County elected officials' offices and departments of Gunnison County, Colorado.

FURTHER, any and all future amendments of the *Gunnison County, Colorado Personal Data Privacy Policy,* dated December 4, 2018 (Exhibit A), may be approved and adopted by motion of the Board.

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

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

Chamberland – yes; Houck – yes; Messner – absent.

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PERSONAL DATA PRIVACY POLICY

Policy Name:	Personal Data Privacy Policy		**Policy Number:**	1.2.11.3	
Approval Authority:	Gunnison County Board of County Commissioners	**Date of Adoption:**	November 13, 2018	**Effective Date:**	12/4/18
Adoption Document:	Resolution #2018-44	**Policy Custodian:**	Gunnison County Administration Department		
Review Date:	December 2023	**Review Frequency:**	Every Five (5) Years after the Date of Adoption.		

PURPOSE

To help ensure ongoing and continuing compliance with the Act.

SCOPE

This Policy shall apply to all Departments under the supervision and control of the Gunnison County Board of County Commissioners and to all County elected officials' offices and departments.

DEFINITIONS

"Act" means that legislation passed by the Colorado Legislature as House Bill 18-1128, "Concerning Strengthening Protections for Consumer Data Privacy," and signed into law on May 29, 2018 by the Governor of the State of Colorado.

"Biometric Data" means unique biometric data generated from measurements or analysis of human body characteristics for the purpose of authenticating the individual when he or she accesses an online account.

"Departments" means, collectively, the following departments and offices of Gunnison County: Board of County Commissioners, Administration, Airport, Assessor's Office, County Attorney's Office, Clerk & Recorder's Office, Community and Economic Development, Coroner's Office, Colorado State University Extension, Emergency Management, Facilities and Grounds, Geographic Information Services, Health and Human Services, Information Technology, Juvenile Services, Public Trustee, Public Works, Sheriff's Office, Treasurer's Office, and Veterans' Services.

"Determination that a Security Breach Occurred" means the point in time at which there is sufficient evidence to conclude that a security breach has taken place.

"**Gunnison County"** means Gunnison County, Colorado, acting by and through the Gunnison County Board of County Commissioners, including all Departments under the supervision and control of the Gunnison County Board of County Commissioners and all County elected officials' offices and departments.

"Encrypted" means rendered unusable, unreadable, or indecipherable to an unauthorized person through a security technology or methodology generally accepted in the field of information security.

"Medical Information" means any information about a consumer's medical or mental health treatment or diagnosis by a health care professional.

"Notice" means:

- Written notice to the postal address listed in the records of Gunnison County;
- Telephonic notice;
- Electronic notice, if a primary means of communication by Gunnison County with a Colorado resident is by electronic means or the notice provided is consistent with the provisions regarding electronic records and signatures set forth in the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. § 7001 et seq.; or
- Substitute notice, if Gunnison County demonstrates that the cost of providing notice will exceed two hundred fifty thousand dollars ($250,000.00), the affected class of persons to be notified exceeds two hundred fifty thousand (250,000) Colorado residents, or the

Gunnison County does not have sufficient contact information to provide notice. Substitute notice consists of all of the following:

- o E-mail notice if Gunnison County has e-mail addresses for the members of the affected class of Colorado residents;
- o Conspicuous posting of the notice on the website page of Gunnison County if Gunnison County maintains one; and
- o Notification to major statewide media.

"Personal Identifying Information" means, a social security number; a personal identification number; a password; a pass code; an official state or government-issued driver's license or identification card number; a government passport number; biometric data, as defined in Colo. Rev. Stat. § 6-1-716 (1)(a) (2018); an employer, student, or military identification number; or a financial transaction device, as defined in Colo. Rev. Stat. § 18-5-701(3) (2018).

"Personal Information" means (A) a Colorado resident's first name or first initial and last name in combination with any one or more of the following data elements that relate to the resident, when the data elements are not encrypted, redacted, or secured by any other method rendering the name or the element unreadable or unusable: social security number; driver's license number or identification card number; student, military, or passport identification number; medical information; health insurance identification number; or biometric data; (B) a Colorado resident's username or e-mail address, in combination with a password or security questions and answers, that would permit access to an online account; or (C) a Colorado resident's account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to that account.

- **"Personal Information"** does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records or widely distributed media.

"Security Breach" means the unauthorized acquisition of unencrypted computerized data that compromises the security, confidentiality, or integrity of personal information maintained by Gunnison County. Good faith acquisition of personal information by an employee or agent of Gunnison County for the purpose of the County is not a security breach if the personal information is not used for a purpose unrelated to the lawful government purpose or is not subject to further unauthorized disclosure.

The definitions of Article 73 of Title 24, Colorado Revised Statutes are further hereby incorporated into this Policy except where any such definition conflicts with the definitions contained in this policy; in that case, the definitions contained in this policy shall control.

POLICY STATEMENTS

Applicability. This Policy shall apply to all Departments under the supervision and control of the Gunnison County Board of County Commissioners and to all County elected officials' offices and departments.

Disposal of Personal Identifying Information. It shall be the policy for all Departments that, unless otherwise required by state or federal law or regulation, when such paper or electronic documents containing personal identifying information are no longer needed by the Departments, the Departments shall destroy or arrange for the destruction of such paper and electronic documents within the Departments' custody or control by shredding, erasing, or otherwise modifying the personal identifying information in the paper or electronic documents to make the personal identifying information unreadable or indecipherable through any means.

The Departments shall implement inter-departmental procedures and policies which address the specific nature of their offices to ensure compliance with this Policy and the Act.

Protection of Personal Identifying Information. All Departments shall protect personal identifying information from unauthorized access, use, modification, disclosure, or destruction. The Departments, with assistance from the Information Technology Department, shall implement and maintain reasonable security procedures and practices that are appropriate to the nature of the personal identifying information the nature and size of Gunnison County.

The Departments shall require that all contracts with third parties which could result in the exchange of personal identifying information include contractual terms to ensure third parties are subject to and abiding by the terms of the Act and this Policy.

Notification of Security Breach. A Department shall immediately notify the County Manager when it becomes aware that a Security Breach may have occurred. The County Manager, in conjunction

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with the notifying Department, shall immediately notify the County's Information Technology Department. The Information Technology Department shall conduct in good faith a prompt investigation to determine the likelihood that personal information has been or will be misused. Gunnison County shall give Notice, as provided below, to the affected Colorado residents unless the investigation determines that the misuse of information about a Colorado resident has not occurred and is not reasonably likely to occur.

Notice must be made in the most expedient time possible and without unreasonable delay, but not later than thirty (30) days after the date of determination that a Security Breach occurred, consistent with the legitimate needs of law enforcement and any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system.

If Gunnison County is required to provide notice the following information shall be provided to all affected Colorado residents:

- The date, estimated date, or estimated date range of the security breach;
- A description of the personal information that was acquired or reasonably believed to have been acquired as part of the security breach;
- Information that the resident can use to contact Gunnison County to inquire about the security breach;
- The toll-free numbers, addresses, and websites for consumer reporting agencies;
- The toll-free number, address, and website for the federal trade commission; and
- A statement that the resident can obtain information from the federal trade commission and the credit reporting agencies about fraud alerts and security freezes.

If an investigation by Gunnison County determines that the type of personal information described within this Policy has been misused or is reasonably likely to be misused, then Gunnison County shall, in addition to the notice and in the most expedient time possible and without unreasonable delay, but not later than thirty (30) days after the date of determination that a security breach occurred, consistent with the legitimate needs of law enforcement and consistent with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system:

- Direct the person whose personal information has been breached to promptly change his or her password and security question or answer, as applicable, or to take other steps appropriate to protect the online account with the person or business and all other online accounts for which the person whose personal information has been breached uses the same username or e-mail address and password or security question or answer.
- For log-in credentials of an e-mail account furnished by Gunnison County, Gunnison County shall not comply with this policy by providing the security breach notification to that e-mail address, but may instead comply with this policy by providing notice through other methods, as defined in this policy, or by clear and conspicuous notice delivered to the resident online when the resident is connected to the online account from an internet protocol address or online location from which Gunnison County knows the resident customarily accesses the account.

The breach of encrypted or otherwise secured personal information must be disclosed in accordance with this policy if the confidential process, encryption key, or other means to decipher the secured information was also acquired in the security breach or was reasonably believed to have been acquired.

Departments are prohibited from charging the cost of providing such notice to individuals.

Nothing in this policy prohibits the notice described in this policy from containing additional information, including any information that may be required by state or federal law.

If the Departments use a third-party service provider to maintain computerized data that includes personal information, then the third-party service provider shall give notice to and cooperate with Gunnison County in the event of a security breach that compromises such computerized data, including notifying Gunnison County of any security breach in the most expedient time and without unreasonable delay following discovery of a security breach, if misuse of personal information about a Colorado resident occurred or is likely to occur. Cooperation includes sharing with Gunnison County information relevant to the security breach; except that such cooperation does not require the disclosure of confidential business information or trade secrets.

Notice required by this policy may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation and the law enforcement agency has notified Gunnison County

not to send notice required by this policy. Notice required by this policy must be made in good faith, in the most expedient time possible and without unreasonable delay, but not later than thirty (30) days after the law enforcement agency determines that notification will no longer impede the investigation, and has notified Gunnison County that it is appropriate to send the notice required by this policy.

If Gunnison County is required to notify more than one thousand (1,000) Colorado residents of a security breach pursuant to this policy, Gunnison County shall also notify, in the most expedient time possible and without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by the federal "Fair Credit Reporting Act", 15 U.S.C. § 1681a (p), of the anticipated date of the notification to the residents and the approximate number of residents who are to be notified. Nothing in this policy requires Gunnison County to provide to the consumer reporting agency the names or other personal information of security breach notice recipients. This policy does not apply to a person who is subject to Title V of the federal "Gramm-Leach-Bliley Act", 15 U.S.C. § 6801 et seq.

A waiver of these notification rights or responsibilities is void as against public policy.

Reporting of Security Breach. In the event Gunnison County must notify Colorado residents of a data breach pursuant to this policy, Gunnison County shall provide notice of any security breach to the Colorado attorney general in the most expedient time possible and without unreasonable delay, but not later than thirty (30) days after the date of determination that a security breach occurred, if the security breach is reasonably believed to have affected five hundred (500) Colorado residents or more, unless the investigation determines that the misuse of information about a Colorado resident has not occurred and is not likely to occur.

The breach of encrypted or otherwise secured personal information must be disclosed in accordance with this policy if the confidential process, encryption key, or other means to decipher the secured information was also acquired or was reasonably believed to have been acquired in the security breach.

If Gunnison County is required to notify more than one thousand (1,000) Colorado residents of a security breach pursuant to this Policy, Gunnison County shall also notify, in the most expedient time possible and without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by the federal "Fair Credit Reporting Act", 15 U.S.C. § 1681a (p), of the anticipated date of the notification to the residents and the approximate number of residents who are to be notified. Nothing in this Policy requires Gunnison County to provide to the consumer reporting agency the names or other personal information of security breach notice recipients. This policy does not apply to a person who is subject to Title V of the federal "Gramm-Leach-Bliley Act", 15 U.S.C. § 6801 et seq.

COMPLIANCE

This policy shall be complied with in all respects. Revisions to this policy may occur and every attempt will be made to provide prior notice of any such change. However, when deemed necessary in order to fully protect the County's interests, the interest of the public, and to more fully protect the safety of the public, including employees governed by this policy, this policy may be changed without notice.

APPLICABLE LEGISLATION AND/OR RELATED REGULATIONS, POLICIES AND FORMS

The Act mandates that all governmental entities have in place a policy for the protection, destruction, and proper disposal of paper and electronic documents containing personal identifying information (PII). Because as of the date of this Policy no Court of competent and controlling jurisdiction has interpreted the Act, and to help ensure ongoing and continuing compliance, this Policy contains, to the extent possible, the same or substantially similar language as is contained in the Act. To the extent any such Court interprets or invalidates any portion of the Act, this Policy may need to be amended.

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BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO. 2018-45

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 Houck, seconded by Commissioner Chamberland, and adopted this 4th day of December, 2018.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

Chamberland – yes; Houck – yes; Messner – absent.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY
RESOLUTION NO. 18-46

A RESOLUTION APPROVING LAND USE CHANGE PERMIT NO. LUC-2018-00044
A LAND USE CHANGE PERMIT FOR AFC DEVELOPMENT, LLC
MULTI-FAMILY UNIT ALLOCATION AND BUILDING TYPE
LOTS M1-1 THROUGH M1-15, LOT M1, BUCKHORN RANCH FILING No. 2B

WHEREAS, AFC Development, LLC, represented by Martin Spencer, has requested clarification of development restrictions on multi-family lots M1-1 through M1-15, Lot M1 Buckhorn Ranch Filing No. 2B; and

WHEREAS, this Resolution is intended to clarify, reconcile and amend the allocation of the multi-family units and multi-family building type identified in previous County approvals for Lots M1-1 through M1-15, Lot M1, Buckhorn Ranch Filing No. 2B, as formalized in a *Declaration of Covenants, Conditions and Restrictions for Lots*

M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B, executed by the owner and the Buckhorn Ranch Homeowners Association (HOA) October 31, 2018 (attached).

AND WHEREAS, the request to clarify the allocation and building type of multi-family units on Lots M1-1 through M1-15, Lot M1, Buckhorn Ranch Filing No. 2B, was reviewed by the Planning Commission, with a unanimous Recommendation of approval to the Board of County Commissioners, with certain Findings and Conditions:

FINDINGS:

1. The County intends to clarify, reconcile and amend the allocation of building types identified in previous County approvals for Lots M1-1 through M1-15, Buckhorn Ranch Filing No. 2B, by adoption of the *Declaration of Covenants, Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B*, dated October 31, 2018.

2. Buckhorn Ranch Filing No. 2B, Lot M1 was approved as a multi-family tract, including a total of 104 multi-family units, pursuant to Board of County Commissioner's Resolution No. 1997-24, adopted May 6, 1997, which approved the Buckhorn Ranch Filing II Preliminary Plan, subject to all conditions imposed by the Planning Commission's Recommendation of July 12, 1996. The Planning Commission's Preliminary Plan Recommendation included Condition No. 7:

   Approval of this Filing II is specific to the numbers and types of units detailed in this Recommendation's Project Description, in the "Addendum to Preliminary Plan Submittal...Regarding Detail of M-1, M-2 and M-3," and as limited by the Declaration of Protective Covenants submitted as part of this Preliminary Plan.

   ***Lot M-1**: 72 multifamily units plus two buildings of 16 studio units each; the 72 multifamily units are to be located on 17 lots which are allocated as three (3) duplex lots, ten (10) four-plex lots, three (3) six-plex lots and one (1) eight-plex lot. Sizes will average between 1,000-1,400 with a maximum of 1,800 square feet.*

3. Buckhorn Ranch Filing No. 2B Final Plan, was approved by Board of County Commissioners, April 7, 2004 Resolution No. 2004-22**,** (Reception No. 541321) including Condition No. 3:

   Design and construction of multiple family units on Lots M-1, M-2 and M-3, require separate Land Use Change Permits. The concept of number of units and determination of compliance with land use policies and design guidelines have been considered as parts of the organic whole of this overall subdivision development. As elements of this Filing 2b, development on the multiple-family lots will be considered "pending land use change applications" and will be reviewed pursuant to Section 1-106 A. Pending Land Use Change Permit Applications, of the 2001 Gunnison County Land Use Resolution. Single-family homes and duplexes shall initially be classified and reviewed as Administrative Review Projects.

4. Buckhorn Ranch Filing No. 2B Plat, platted Lot M1 into 17 lots, April 7, 2004 (Reception No. 541321).

5. Stallion Park, Lots M1-16 and M1-17 was approved for 32 housing units, as eight (8) 4-plexes. Twenty four multi-family units have been constructed on Lots M1-16 & M1-17, in six four-plex buildings; the Apache, Estonian, Dartmoor, Bavarian, Cimarron, and Foxtrot Condominiums. Two additional four-plex buildings are currently under construction, for a total of 32-units.

7. 72 multi-family units are approved on Lots M1-1 through M-15. The proposal contemplates no change to the number of previously approved multifamily units for Lot M1, Buckhorn Ranch Filing No. 2B.

8. The concept of the number of units and determination of compliance with land use policies and design guidelines has been considered as parts of the organic whole of the overall Buckhorn Ranch Filing No. 2B subdivision development.

9. The request provides for the reasonable development of the remaining multi-family lots in Lot M1, based upon the lot size differential, and allowance for flexibility in building types.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that Land Use Change Permit No. 2018-00044, AFC Development LLC, is approved with the following conditions:

1. A land use change permit is not required for development on Lots M1-1 through M1-15, Buckhorn Ranch Filing No. 2B, so long as the development is consistent with the unit allocation identified in the *Declaration of Covenants, Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B, October 31, 2018.*

2. The minimum building type configuration for any lot is a duplex.

3. Prior to recordation of the Board Resolution, the applicant shall record the *Declaration of Covenants,*

DRAFT

Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B, October 31, 2018, with the Office of the Clerk and Recorder of Gunnison County.

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 4th day of December, 2018.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

Chamberland – yes; Houck – yes; Messner – absent.