AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: MOA; Lot 22 - Rock Creek Village

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Rock Creek HOA and BOCC

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

Summary:

MOA Removing Lot 22 from Rock Creek Commons Common Interest Community

Fiscal Impact:

Submitted by: Laura Stanley **Submitter's Email Address:** lstanley@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 5/2/19

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 5/2/2019 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 5/3/2019

◉ Consent Agenda ○ Regular Agenda ○ Worksession Time Allotted: 0

Agenda Date: 5/7/2019

Revised April 2015

Memorandum of Agreement
Remainder Lot 22, Rock Creek Village and Rock Creek Commons

THIS Agreement is made as of the ___ day of _____, 2019, by the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO ("BOCC"), and the ROCK CREEK VILLAGE OWNERS' ASSOCIATION, INC., a Colorado nonprofit corporation, (the "Association").

1. BOCC is the owner of the real property described as follows:

Remainder Lot 22, Rock Creek Commons Phase 1-A according to the Plat recorded February 9, 2007 at Reception No. 572849

City of Gunnison,
County of Gunnison,
State of Colorado.
(the "Property").

2. The BOCC has requested that the Property be withdrawn from the Rock Creek Village and Rock Creek Commons Common Interest Community that is the subject of the Declaration of Grants, Covenants, Conditions and Restrictions for Rock Creek Village and Rock Creek Commons recorded September 23, 2003, at Reception No. 535106.

3. The requisite consent of the members of the Association and lienholders to approve the withdrawal has been obtained, subject to the condition that the BOCC and the Association enter into an agreement binding the parties to the terms and conditions set forth in the November 13, 2018, Memorandum attached hereto as Exhibit A.

4. The BOCC and the Association hereby agree to be bound by the terms and conditions set forth in the November 13, 2018, Memorandum attached hereto as Exhibit A.

5. In the event of a breach of this Memorandum of Agreement, the non-breaching party shall be entitled to specific performance in addition to any other legal or equitable remedies that may be available.

6. In the event of any litigation arising from or related to the interpretation or enforcement of this Memorandum of Agreement, the prevailing party shall be entitled to recover from the other party its reasonable attorney fees, in addition to other costs and expenses arising from such litigation.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

GUNNISON COUNTY:

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON,
COLORADO

By:_____
_____, Chairperson

ATTEST:

_____
_____, County Clerk

ASSOCIATION:

ROCK CREEK OWNERS' ASSOCIATION, INC.
a Colorado nonprofit corporation

By:_____
Name:
Title:

Gunnison County, CO
Community Development Department
221 N. Wisconsin St. Ste. D, Gunnison, CO 81230
Phone: (970) 641-0360 FAX: (970) 641-8585
Website: www.gunnisoncounty.org
Email: planning@gunnisoncounty.org

To: Rock Creek Homeowner's Association

From: Cathie Pagano and John Cattles

Date: November 13, 2018

Re: Response to conditions for withdrawal of Lot22A from Rock Creek common interest community

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Thank you for your consideration of withdrawal of the County's parcel, Lot 22A from the Rock Creek Village subdivision. We received a list of conditions from Kendall Burgemeister that the Rock Creek homeowners have identified.

If the Rock Creek HOA approves the withdrawal of Lot 22A from Rock Creek Village, the County will commit to the following conditions:

- Installation of parking along the north boundary of the subdivision along Rock Creek Rd.
- "The County agrees to plow the internal roads in the subdivision during the winter of 2018-19 (between November 16, 2018 and April 30, 2019). Plowing shall not include driveways or storage areas, or any areas within the subdivision other than actual roads. In order to allow for proper plowing access, the HOA shall 1) remove any speed bumps; 2) ensure that all landscaping, vehicle parking, and storage of materials are located on the dwelling side of the concrete valley pan; and 3) indicate by appropriate signage snow storage areas to prevent vehicle parking in such areas. With regard to future winters, the County agrees to discuss with the City of Gunnison potential long-term solutions for road maintenance for the internal subdivision roads." The installation of a walkway along the east side of the ditch on the eastern property line.
- The creation of an easement for pedestrian and cyclists across Lot 22A.
- The housing closest to Rock Creek subdivision (west side of Lot 22A) shall be developed in a similar scale and size as the existing housing in Rock Creek (not greater than two stories).
- Primary access to Lot 22A shall be off Colorado Street, in compliance with City of Gunnison standards. Speed mitigation measures will be considered on Blaze Trail and Rock Creek Road, as allowed by the City of Gunnison.
- The County will work with the City of Gunnison to locate the primary access road for Lot 22A as far south as practical but that matter will be determined by the City of Gunnison staff and is not in the control of Gunnison County. The County will engage in reasonable efforts to negotiate with the City to maintain the current road configuration. If the City decides, in its sole discretion, to change the configuration notwithstanding these efforts, the County will agree install at its sole expense an architectural barrier and buffer.
- Any improvements on the parcel shall comply with City of Gunnison setback requirements.

- If a common area is established, Rock Creek property owners will be allowed access.
- No more than 76 units will be developed on Lot 22A, in compliance with the City of Gunnison zoning for the property and City of Gunnison standards.
- Gunnison County will continue to invite Rock Creek property owners to participate and provide input in the development of Lot 22A.

Upon the required approval by the HOA of the exclusion of the Lot 22A and amendment to the Declaration, Gunnison County will take the necessary actions to review and approve these terms and conditions for exclusion of Lot 22A and record the necessary documents to exclude Lot 22A from Rock Creek Village. Upon approval by Gunnison County and the required members of the HOA, this will be a binding obligation on the parties and will be appurtenant restrictions and obligations on Lot 22A.