



BOARD OF COUNTY COMMISSIONER REGULAR MEETING

August 30, 2022

Administration Building

560 Dodge St., Delta, CO 81416

8:30 AM

PLEDGE OF ALLEGIANCE

ADDITIONS TO THE AGENDA

APPROVAL OF AGENDA

CONSTITUENT TIME: This is the time for members of the public to present issues of concern or interest to the Board. All issues requiring further research will be forwarded to the appropriate staff for response at a later time. No decisions are made by the BoCC during constituent time.

COMMISSIONER BUSINESS

1. Gray and Black Market Marijuana Enforcement Grant Program
Notice of Funding Availability/Application Guidelines
2. Board's consideration of allocating Private Activity Bond to Delta Housing Authority

8:45 AM

PLANNING

1. Pre-Land Use Code Projects
Receive update on the disposition of 3 development applications/projects that preceded adoption of the 2021 Land Use Code.

9:00 AM

COUNTY ATTORNEY - JOHN BAIER

1. REGULAR SESSION:
 1. Board's consideration of renewal lease for Blake Field Hangar #167 LeVay Living Trust
2. EXECUTIVE SESSION:

Matters required to be held confidential pursuant to Council of Environmental Quality National Policy Act 40 CFR 1501.7-8. §24-6-402(4)(c), C.R.S.

 1. Grand Mesa Uncompahgre and Gunnison, United States Forest Service cooperating agency plan presentation

11:00 AM

PRESENTATION AND DISCUSSION OF 2021 AUDIT - PETE BLAIR- BLAIR AND ASSOCIATES, P.C.

12:00 PM

ADJOURN

The next Board of County Commissioner Meeting is Tuesday, September 6, 2022

CERTIFICATION OF POSTING

On Friday, August 26, 2022 at 12:30 PM, Amanda Porter did post the above AGENDA as public notice of the 08/30/2022 meeting. The official notice is placed on the front entrance of the Delta County Courthouse located at 501 Palmer, Delta, Colorado.



FY 2022-2023

**GRAY & BLACK MARKET MARIJUANA ENFORCEMENT GRANT PROGRAM
NOTICE OF FUNDING AVAILABILITY/APPLICATION GUIDELINES**

PROGRAM PURPOSE:

To provide financial assistance grants to local law enforcement agencies and district attorneys through the local government for the investigation and prosecution costs associated with unlicensed marijuana cultivation or distribution operations.

By filling out the online portal application, Colorado County and Municipal applicants are opting into the grant program. Grant amounts will be determined using a formula based on the jurisdictions population.

The grant program has four (4) funding priorities:

- 1.) Rural areas
- 2.) Large scale operations
- 3.) Organized crime operations
- 4.) Operations that divert marijuana outside of Colorado

In accordance with CRS 24-32-119, rural areas will receive priority funding. To achieve this, rural area population figures will be weighted heavier. Rural areas are defined in C.R.S. 24-32-119 as:

- a) A county with a population of less than 200,000 people, according to the most recently available population statistics of the United States Bureau of the Census; or
- b) A municipality with a population of less than 30,000 people according to the most recent statistics of the United States Bureau of the Census that is located 10 miles or more from a municipality with a population of more than 50,000 people.

DOLA will confirm applicants meet the “rural area” definition at the time of submittal.

TOTAL FUNDING AVAILABLE:

\$900,000 - Fiscal Years 2022 and 2023 (through June 30, 2023)

APPLICATION TIMELINE:

- August 18, 2022: Notice of Funding Availability (NOFA) disseminated and application posted on the DOLA Grants Portal.
- September 30, 2022: Application closes at midnight.

CONTACTS:

Gray & Black Market Marijuana Enforcement Grant Program:

- DOLA grants portal application: https://dola.colorado.gov/grants_portal/
- Ella Bowman
Grant Program Manager
(303) 864-7896
ella.bowman@state.co.us

ONLINE APPLICATION PROCESS:

The grant application process is available electronically. All applications must be submitted using the online grants portal to be considered for an award. Please allow yourself plenty of time to become familiar with the system. Local governments will need to create an account, log into the system, and complete each section of the application for electronic submittal. You will be able to save and close a partially completed page of your online application and return to complete it at a later time.

IMPORTANT DETAILS:

- In order to receive a grant, local governments apply annually. Those that do apply must agree to:
 - Provide the name and title (honorific) of your current chief elected official: (e.g. mayor, council president, or a county commissioner chair) the Honorific field must be filled in. Any other title must be cleared with the Program Manager, Ella Bowman before the application is submitted. If any of the field(s) are left blank or have incorrect information the application will be suspended and returned so that necessary corrections can be made, and resubmitted.
 - Spend funds on statutory priorities,
 - Cooperate with district attorneys to cover prosecution expenses as defined in statute,
 - Report quarterly/annually on how funds were spent and the effectiveness of the program.
- This is a financial assistance grant for investigations and/or prosecution expenses of unlicensed marijuana cultivation or distribution operations. Some examples may include:
 - Personnel/overtime
 - Contractual services
 - Equipment and supplies

- Travel
 - Pre-trial incarceration expenses
 - Medical expenses related to injury or exposure during a marijuana investigation
 - Purchase of information (informants) or evidence (contraband)
- For the full text of the statute see : C.R.S. 24-32-119

APPLICATION OVERVIEW:

A. Applicant/Contact Information

1. Local Government name (All applicants must be county or municipal local governments)
2. Principal Representative is the Chief Elected Official (e.g. Mayor, County Commissioner Chair)
3. Responsible Administrator is the designated contact person/responsible administrator for the application

B. Honorific/Title

C. Applicant Affirmations

D. Board Approval/Tabor

1. Official board action: Every application must provide the date the city/town/county board, council or trustees authorized the submittal of the grant application.
2. TABOR: The funds for the Gray & Black Market Enforcement Grant program are state funds and may be subject to TABOR. Local jurisdictions are responsible for their own TABOR compliance. Please consult with your legal counsel regarding TABOR limits for the local government applicant(s) **before** submitting an application.

E. State Acceptance of Application



August 8, 2022

Delta Board of County Commissioners
560 Dodge Street
Delta, CO 81416

VIA EMAIL

Dear Delta County Board of County Commissioners,

Thank you for the opportunity to respectfully request a reservation of Delta County's 2022, 2023 and 2024 Private Activity Bond cap ("PAB"). The Delta Housing Authority intends to pool those PAB amounts from the County to use for the eventual rehabilitation of our existing Villas at the Bluff affordable housing property in Delta. Villas at the Bluff is a 48-unit affordable housing property that will be exiting its initial 15-year compliance period on December 31, 2023, and therefore eligible for a possible re-syndication and rehabilitation of the property after that date. To be eligible for this re-financing scenario, we will need 4% low-income housing tax credits ("LIHTC") which need to be paired with PAB per the tax code. While financial feasibility will be determined next year and in 2024, the reservation of these PAB represents a first step in the process.

If you are amenable to this idea, we can investigate the details going forward. Thank you in advance, and please let us know if you have any questions.

Sincerely,

Ute Jantz
Executive Director
Delta Housing Authority

CC: Robbie Baird LeValley, County Administrator



STAFF REPORT

Delta County Board of County Commissioners

**Delta County Administrative Building
560 Dodge Street, Delta, CO 81416**

Tuesday, August 30, 2022 @ 10:00 a.m.

Pre-Land Use Code Projects

Receive update on the disposition of 3 development applications/projects that preceded adoption of the 2021 Land Use Code.

RECOMMENDATIONS:

Staff recommends that the BoCC take the following actions:

- A. Expire the following projects that were set to expire 8/2/2022 per BoCC Action on 7/5/2022:
 - 1. SUB20-010 (Tribble). **Expire**
 - 2. SUB19-007 (Buck Horn). **Expire**
 - 3. SUB20-033 (Nate & Sarah). **Expire**

Report Prepared by: Kate Kelly, Planner I

SUMMARY:

On July 5, 2022, following multiple attempts to resolve outstanding issues, the BoCC voted 3-0 to expire MJ09-004 (Moon Dance), SUB20-021 (DM Crossing), and MJ06-022 (Cedar Mesa Estates). Based on attempts to clear issues, the BoCC granted one final extension for SUB20-010 (Tribble), SUB19-007 (Buck Horn), and SUB20-033 (Nate & Sarah) until August 2, 2022, with direction for staff to send notice via certified mail. Staff sent an email, that included an Extension Letter, to the applicants and Project



Surveyors on July 8, 2022. Staff then sent the same Letter of Extension to the applicants by certified mail on July 11, 2022, as requested by the BoCC.

Staff received communications (attached) for the Tribble Subdivision. As of writing this report, Staff has not received a final Road Maintenance Agreement for the Tribble Subdivision, and there has been no communication from the other two applicants (see discussion below). Therefore, staff is recommending that the BoCC expire the remaining three (3) pre-LUC applications. Any of the expired/vacated applications interested in proceeding can (will need to) apply under the Land Use Code.

DISCUSSION:

Staff finds that three (3) projects, which were granted extensions until 8/2/2022, have not been completed by the most recent deadline. Staff has afforded the applicants of these projects multiple opportunities to complete their projects in a timely manner; however, efforts to address condition compliance or any other issues that have been brought forward by Staff have not been met for various reasons. Extensions that were requested have expired and no new extensions have been applied for. Therefore, Staff recommends the BoCC expire the following applications:

1. **SUB20-010 (Tribble). Expire SUB20-010**

Conditions require a fully executed Road Maintenance Agreement. An agreement was provided but lacked important information. Meanwhile, a structure has been built on Lot 1. That development was not contingent on this agreement, but County records indicate that no access permit was issued prior to developing the site. A septic permit (Permit #035-20) was issued by the Health Department on April 8, 2020 based on an inactive (expired) address. Staff sent a letter to the applicant on March 21, 2022 in regards to the access, address, and septic for Lot 1 and an extension was granted until June 1, 2022. The applicant sent an email on May 25, 2022 asking for an extension until July 1, 2022, as the applicant had hired an attorney to review the Road Maintenance Agreement and assist with providing an agreement that addresses the maintenance of the road appropriately.

Staff sent a letter, certified mail, explaining the Board action for one last extension (August 2, 2022). Staff received communications for an extension of timeline on August 1, 2022 (Attached), from a Ms. Courtney Rodwell, who introduced herself as the girlfriend of the applicant for the Tribble Subdivision. Ms. Rodwell stated that they were in the process of obtaining all required signatures for a revised Road Maintenance Agreement. The applicant was informed that they had until August 30, 2022 to submit the Agreement, as this was the date that the applications would be taken to the Board for expiration.

Staff finds that the revised agreement has been drafted that better reflects what is needed. However, the applicant noted that there is one party to the agreement that would like some wording changed. As of writing this report, the agreement has not been submitted for this application and no communications have been



received since August 2, 2022 when staff informed Ms. Rodwell that the applicant would have until August 30, 2022, to submit the required information. Therefore, Staff is recommending that the BoCC expire this application.

2. SUB19-007 (Buck Horn). **Expire SUB19-007**

Conditions required proof of water, electrical service (DMEA), permitted access for Lot 2, and to pay final fees. Notice of Extension was sent to the applicant and the project surveyor on January 25, 2022, providing time to complete these conditions. The project surveyor asked for an extension until 6/1/2022 to finish the condition compliance and submit a signed Final Plat to the Planning Department. Staff understood that the applicant was pursuing drilling a well but was held up due to a backlog of work for the well driller. There have been multiple communications between staff and Mr. Morgan where he continues to wait for a well to be drilled to see if there is an adequate water supply for a subdivision. In May staff was informed of a boundary dispute where the well was to be drilled, which caused further delay. Mr. Morgan stated that until the boundary dispute is settled, the well cannot be drilled. There has been no change in the status of this dispute and the above mentioned conditions are still outstanding. The applicant has stated that if there is not enough water to suffice subdivision requirements, they will withdraw their application for subdivision. Staff recommends expiring the application and the applicant can apply under the LUC when they are ready.

3. SUB20-033 (Nate & Sarah). **Expire SUB20-033**

PC provided direction for the Sketch Plan on 4/14/2021. BoCC tabled a request for County to Vacate a 60-foot ROW pending a Shared Road Maintenance Agreement. The subdivision process (pre-LUC) requires completing the Sketch Plan at the PC and BoCC. Once the Sketch is approved, a Final Plat must go to the BoCC for acceptance. Notice was sent to the applicant and the project surveyor on January 27, 2022. There have been multiple communications, including discussion at BoCC meetings, relative to the vacation. The last time this went to the BoCC (on January 18, 2022), the project surveyor was present. The BoCC provided direction to resolve the neighbor dispute relative to the right-of-way. There has been no progress since that time. Staff recommends that the BoCC expire this application, and the applicant can apply under the LUC when they are ready - that may require a variance or rezone. Under the LUC, the subdivision proposed by SUB20-033 would require a variance (BOA) and Minor Plat (Administrative).

Attachments:

- Communications for Tribble Subdivision (dated August 1 & 2, 2022)
 - o DRAFT Road Maintenance Agreement

Re: SUB20-010 Tribble Subdivision - Extension Letter

1 message

Courtney Rodwell <[REDACTED]>

Mon, Aug 1, 2022 at 12:02 PM

To: khenderson@deltacounty.com, kkelly@deltacounty.com, cholm@deltacounty.com

Hello,

This is Courtney Rodwell, girlfriend of Seth Tribble, he is out of cell and email service working in a remote area and has asked that I reach out to you.

I am emailing you concerning the SUB20-010 Tribble Subdivision. We have been able to have a road maintenance agreement between the 3260 Rd Land Owners written up and have been in the process of receiving signatures from each of the land owners. We have been able to get signatures from Jerald & Laree Dance, Carl & Deb Miller, Kathy & Harvey Diderikson and Seth Tribble. We are currently waiting on signature from Lara Goodwin, however, after her reading the agreement there is some language that she would like to change. Because of this we will need to obtain signatures on the updated document to submit. Unfortunately, Lara Goodwin recently lost her mother and has been out of the area. Out of respect for her and her family at this time we are asking to see if we can extend the timeframe to obtain these required documents so that she can deal with her personal matters because it will require sitting down with her to go over what changes she may like to make.

I have attached the current agreement and plat with it for reference as to show that we have made progress towards obtaining these documents, the current signed copy of the agreement is in possession of a local notary. The county should have the final plat of SUB20-010 Tribble Subdivision in hand.

Thank you for your consideration and time.

Courtney Rodwell

On Fri, Jul 29, 2022 at 3:59 PM Seth Tribble <[REDACTED]> wrote:

----- Forwarded message -----

From: **Kim Henderson** <khenderson@deltacounty.com>

Date: Fri, Jul 8, 2022, 2:05 PM

Subject: SUB20-010 Tribble Subdivision - Extension Letter

To: <[REDACTED]>

Cc: Kate Kelly <kkelly@deltacounty.com>, Carl Holm <cholm@deltacounty.com>

Good Afternoon,

Please see the attached Letter of Extension for the Tribble Subdivision SUB20-010.

Kindest Regards,

Kim Henderson
Administrative Assistant
[295 W. 6th St.](#)
[Delta, Co 81416](#)
970-874-2110

NOTICE: This email transmission from the County of Delta, and any documents, files, or previous email messages attached to it, are intended solely for the individual(s) to whom it is addressed and may contain information that is confidential, legally privileged, and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any unauthorized review, forwarding, printing, copying, distribution, or use of this transmission or the information it contains is strictly prohibited. A misdirected transmittal of this email does not constitute waiver of any applicable privilege. If you received this transmission in error, please immediately notify the sender and delete the original transmission and its attachments. Notwithstanding the foregoing, sender and receiver should be aware that all incoming and outgoing emails may be subject to the Colorado Open Records Act, C.R.S. 24-72-200.1 et seq. Thank you.



2 attachments



3260 Road Landowners.pdf

449K



3260 Rd Private Road Maintenance Covenant.pdf

151K

SUB20-010 Tribble Subdivision - Extension Letter

Kate Kelly <kkelly@deltacounty.com>

Tue, Aug 2, 2022 at 10:51 AM

To: Courtney Rodwell <[REDACTED]>

Cc: Kim Henderson <khenderson@deltacounty.com>

Good Morning Courtney,

Thank you for reaching out. As stated in the letter and email that were sent to Seth on July 8th, the Board of County Commissioners voted to extend this application to August 2, 2022. This extension was to be the **final** extension. However, Staff is taking this application, among others, to the Board on August 30, 2022. Therefore, you have an extension until then to complete the Road Maintenance Agreement. With that being said, as this is the final piece that is needed to complete condition compliance, staff is willing to take the Final Plat to the Board on August 30th for approval without the agreement (if it cannot be completed by said date). However, if the Board approves the Final Plat, staff will **not** record the plat until the Road Maintenance Agreement is signed and notarized (completed) by all required parties. What this means is that even though the Board might approve the Final Plat, the application will **not** be finalized until the Plat, Deeds, and Agreement are all recorded; meaning, that Lot 2 cannot be sold until all documents are recorded and the parcel is created.

If you have any questions, please let me know.

Regards,
Kate

[Quoted text hidden]

--

Kate Kelly
Planner I
295 W 6th Street
Delta, CO 81416
970-874-2110

SUB20-010 Tribble Subdivision - Extension Letter

Courtney Rodwell <[REDACTED]>
To: Kate Kelly <kkelly@deltacounty.com>

Tue, Aug 2, 2022 at 1:33 PM

Thank you so much for that explanation Kate!

Depending on changes that need to be made per neighbor requests we should have the Road Maintenance Agreement no problem. If there is any documentation that is currently missing I am able to get that to you as well, just let me know and I will submit what is needed.

Thank you,

Courtney

--

Courtney N. Rodwell
[REDACTED]

Please note: I am often in and out of cell service please leave a message when you call, or email me.

[Quoted text hidden]

Courtney N. Rodwell
[REDACTED]

Please note: I am often in and out of cell service please leave a message when you call, or email me.

3260 Private Road Maintenance Covenant

This covenant and agreement is made by and among the owners of lands located in Delta County, Colorado, which have existing access to Colorado State Highway 92 by way of a road known as 3260 Road, a dedicated public road, not accepted for maintenance by the County Commissioners of Delta County, Colorado, identified as follows:

Jerald B Dance & Laree Dance 9862 – 3260 Rd. Hotchkiss, CO 81419	Assessor's Tax Account No. R006962
Kathy Didericksen & Harvey Didericksen 9730 – 3260 Rd. Hotchkiss, CO 81419	Assessor's Tax Account No. R006961
Carl M. Miller & Debra A. Miller 9707 – 3260 Rd. Hotchkiss, CO 81419	Assessor's Tax Account No. R006960
Lara Goodwin 9718 – 3260 Rd. Hotchkiss, CO 81419	Assessor's Tax Account No. R020047
Richard S. Tribble 9703 – 3260 Rd. Hotchkiss, CO 81419	Assessor's Tax Account No. R020048
Nancy J. Davis No Number – 3260 Rd. Hotchkiss, CO 81419	Assessor's Tax Account No. R006957

(Collectively referred to herein as the "3260 Road Landowners")

1. 3260 Road was originally dedicated to the private use of lot owners on the amended plat of Didericksen Minor Subdivision, Parcel C - Exemption No. 1610, recorded September 6, 1995, under Reception no. 489227 of the real estate records for Delta County, Colorado (including a previous dedication of road access shown on exemption plat recorded December 7, 1976, under Reception No. 361038, Book 3 at page 76, Delta County real estate records) then designated as 3265 Road on said plat. (Hereinafter referred to as "the original 3260 Road.")
2. Additional private right of way access was dedicated to the use of the owners of the lots in Cherp Subdivision on the plat thereof recorded under Reception No. 573080 of the real estate records for Delta County, Colorado (hereinafter referred to as the Cherp Extension of 3260 Road".)
3. The term "3260 Road" herein refers to the original 3260 Road together with the Cherp Extension of 3260 Road.
4. The 3260 Road Landowners desire to provide for the maintenance and repair of the

road improvements for 3260 Road allocating the costs thereof on an equitable basis among the lots served with access by 3260 Road.

NOW, THEREFORE, for good and valuable consideration in the mutual promises and covenants stated herein, it is COVENANTED AND AGREED as follows:

5. The 3260 Road Landowners hereby create and impose this covenant upon the lands under their ownership, for the mutual benefit of all of the owners of the lots or parcels, which lands are more particularly described on Schedule A attached hereto and incorporated herein by this reference.
6. 3260 Road Landowners hereby ratify and confirm the private road dedications made on the amended plat of Didericksen Subdivision and the plat of Cherp Subdivision, described hereinabove, which dedicated a 60-foot right of way for 3260 Road to the common use of the owners of said subdivisions, for the benefit of the owners of the lots served thereby, their heirs, successors, and assigns, for road access purposes and motor vehicle ingress to, and egress from Colorado State Highway 92 to each of said lots. The physical road within said easement is referred to herein as "the Access Road."
7. The full extent of the 60' private road easement for 3260 Road shall be available for use for road purposes only by the owners of the lots served thereby.
8. All costs of maintenance, repair, and gravel surfacing of the Access Road shall be borne as follows:
 - a. Maintenance Costs for the original 3260 Road shall be borne equally among all of the 3260 Road Landowners.
 - b. Maintenance Costs for the Cherp Extension of 3260 Road shall be borne equally by the owners of lots in Cherp Subdivision, including any future re-subdivision thereof.
9. The Access Road shall not be paved without the consent of all of the owners of the Lots shown on this plat.
10. No owner shall make use of the road, or conduct any maintenance or repair upon the access road, in a manner which causes unreasonable damage to the road surface or road drainage improvements including culverts and barrow ditches
11. Subject to the allocation of road maintenance costs set forth in paragraph 8 hereinabove, an owner who desires to take action for the maintenance or repair of the access road, including, without limitation, gravel surfacing, may give notice of such action to the other owner(s), in writing, of his or her intention to perform such maintenance or repair with an estimate of the cost thereof. If the other owner(s) fail(s) to make any objection to the road maintenance or repair proposal within 7 days after

such notice, the owner proposing the work may proceed to perform the work or contract for the performance of the work as proposed and upon completion shall be entitled to recover the other owner's share of the reasonable costs thereof from the other owners. The other owner's share of the reasonable costs of the work shall constitute a lien against the other owner's lot enforceable by special execution and levy in the same manner as that provided for the foreclosure of mortgages on real property. Such lien may be asserted by the recording of a statement of road maintenance lien executed by the claiming party in the real estate records of Delta County not later than 4 months after completion of the work and shall have priority for enforcement from the date of such recording.

12. In the event that the other owner(s) make(s) a written objection to the proposal for maintenance and repair of the access road within the time allowed above, the owner proposing the work may proceed with the same at his or her initial expense reserving the right to initiate a civil action for recovery of the other owner's share of the reasonable cost of the work from the other owner(s) in a court of competent jurisdiction (to be tried to the Court without a jury). The Court shall have authority to determine the reasonableness of the maintenance and repair work performed and the reasonableness of the costs thereof and to award one half of such costs to the owner who performed or contracted for the work.
13. A party who enforces his or her rights under this agreement as the substantially prevailing party in a civil action shall be entitled to recover his or her costs of such action, including reasonable attorney fees.
14. Any written notice required by this agreement may be given by certified mail, return receipt requested, or by priority (trackable) mail to the address of the recipient as shown by the records of the Delta County Assessor for real property tax purposes and shall be effective upon depositing of the same in the United States mail, postage prepaid, without regard to acceptance of such certified mail by the addressee. Such notice may also be given by electronic mail if the owners share email addresses and if such electronic messages are acknowledged by the addressee by "read receipt" or otherwise.
15. This covenant shall be binding upon the parties hereto, their heirs, successors, and assigns and shall run with the land depicted on this plat binding on all future owners of the Lots shown hereon.

Executed effective when signed by all of the 3260 Road Landowners.

Lot Owned

Lot 2, Dderickson Mnor Subdiv: (Amended)

2862-3260 Rd. R006962

Landowner(s)

Jerald B. Dance

Signature

Date

Laree Dance

Signature

Date

Lot 1 Didericksen Minor Subdiv: (Amended)

9730 3260 Rd. R006961

Kathy Didericksen

Signature

Date

Harvey Didericksen

Signature

Date

Lot 1 Cherp Subdivision

9718 3260 Rd. R020047

Lara Goodwin

Signature

Date

Lot 2 Cherp Subdivision

9703 3260 Rd. R020048

Richard S. Tribble

Signature

Date

Part Sec 35-14-93

9707 3260 Rd. R006960

Carl M. Miller

Signature

Date

Debra A. Miller

Signature

Date

Unnumbered 3260 Rd.

Hotchkiss, CO R006957

Nancy J. Davis

Signature

Date

Schedule A: ATTACHMENT TO PRIVATE ROAD MAINTENANCE COVENANT FOR 3260 ROAD
Lands bound by covenant:

Lands of Jerald B Dance and Laree Dance:

Lot 2 of Didericksen Minor Subdivision according to the amended plat thereof recorded under Reception No. 489227, Delta County real estate records.

Lands of Carl M. Miller and Debra A. Miller:

Part of the W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 35, Township 14 South, Range 93 West, 6th P.M. described as follows:

Beginning at a point on the West Line of the said W $\frac{1}{2}$ NE $\frac{1}{4}$ whence the North $\frac{1}{4}$ Comer of said Section 35 (An existing nail in Colorado State Highway No.92 with a Witness Comer to the South) bears North $00^{\circ}15'20''$ East 1745.04 feet, considering the line between said $\frac{1}{4}$ Comer and the Northeast Comer of said Section 35 (An existing nail with a witness Comer to the South by P.L.S. 1456) to bear South $88^{\circ}55'00''$ East from the Right-Of-Way map said Highway No.92, and all other bearings to be relative thereto; Thence North $00^{\circ}15'20''$ East 440.47 feet on the said West Line of the W $\frac{1}{2}$ NE $\frac{1}{4}$ Thence South $88^{\circ}54'54''$ East 677.38 feet; Thence North $00^{\circ}15'40''$ East 66.35 feet; Thence South $89^{\circ}44'00''$ East 28.00 feet; Thence South $00^{\circ}15'40''$ West 44.50 feet to an existing fence comer; thence South $89^{\circ}29'11''$ East 12.00 feet along existing fence line; thence South $01^{\circ}32'32''$ West 452.57 feet along an existing fence line and the projection thereof and North $89^{\circ}44'40''$ West 707.15 feet to the point of beginning.

Lands of Kathy Didericksen and Harvey Didericksen

Lot 1 of Didericksen Minor Subdivision according to the amended plat thereof recorded under Reception No. 489227, Delta County real estate records.

Lands of Lara Goodwin:

Lot I of Cherp Minor Subdivision according to the plat thereof recorded under Reception No. 576080, Delta County Real Estate Records.

Lands of Richard S. Tribble:

Lot 2 of Cherp Minor Subdivision according to the plat thereof recorded under Reception

Lands of Nancy J. Davis:

Part of W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, Township 14 South, Range 93 West of the 6th P.M., described as follows:

Beginning at a point of the West Line of the W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35 whence the North $\frac{1}{4}$ Comer of said Section 35 bears North $00^{\circ}11'$ East 657.8 feet; thence South $89^{\circ}12'$ East 658.7 feet to a point on a line adjacent to and parallel with the East line of the W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 35; thence South $00^{\circ}14'$ West 653.9 feet along said adjacent line; thence North $88^{\circ}35'$ West 658.3 feet, more or less, to a point on said West line of the W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 35; thence North $00^{\circ}11'$ East 646.8 feet, more or less along said West line to the point of beginning.

**AIRPORT GROUND LEASE
BLAKE FIELD AIRPORT**

THIS AGREEMENT made this ____ day of August, 2022, between County of Delta, State of Colorado, a body corporate and politic, acting by and through its Board of County Commissioners, herein called Lessor, and Levay Living Trust, of PO Box 5113, Mohave, AZ 86446, herein called Lessee.

WITNESSETH:

IN CONSIDERATION of the mutual covenants and payments herein contained, the parties agree as follows:

1. (a) The Lessor hereby leases to the Lessee land as located on Exhibit A (pages 1 and 2), attached hereto and incorporated by reference, on which is currently sited a hangar measuring 50' x 50' as well as a propane tank (60' x 85' total leased area) for the purpose of a private, non-commercial airplane storage. The designated location on Exhibit A, attached hereto.

(b) The specific space number assigned is Space 167.

(c) This is a renewal lease for an existing hangar. The original hangar lease is recorded at **Reception No. 738557**.

(d) Rented space includes area for location of propane tank.

2. (a) Lessee shall use the hangar for non-commercial use only. For purposes of this lease, the sublease of space to other aircraft owners for aircraft storage shall be considered "non-commercial. Subject to approval by Lessor, Lessee may, while remaining fully responsible for this lease, sublet all or a portion of the hangar to other airplane owners for private non-commercial airplane storage. Lessee shall impose on all approved sub-lessees the same terms set forth in this Lease to provide for the rights and protections afforded to Lessor hereunder. All subleases shall be consistent with and subordinate to this Lease. Lessee shall provide to Lessor a copy of every sublease executed by Lessee. No sublease shall relieve Lessee of any obligation under this Lease. Upon approval of any sublease the Lessee shall provide the Lessor a complying policy of adequate Hangar-Keeper's liability insurance.

(b) Lessee shall not use hangar for commercial purposes unless approved by separate agreement. It is understood that the Lessee or an approved sub-Lessee may invite a commercial operator to perform services with respect to an airplane or airplanes owned or leased by, in the possession of, and under the control of the Lessee or approved sub-Lessee, in the hangar placed upon the premises leased hereunder, but before any commercial enterprise, including but not limited to airplane repair, inspection, avionics, flight instruction, etc., may conduct its operations within the property leased herein, the owner/operator of said business must comply with all operating standards established by the Lessor for commercial operators, must have obtained any authorization required by the Lessor to conduct its commercial operations on the property, and must carry insurance covering those operations as required by the Lessor.

s:\Co\CoOff&Comm\Airports\Blake\ Leases_____

(c) This provision is not intended to limit or restrict the ability of the owners of the airplane(s) stored in the hangar to work on their own plane(s) in accordance with FAA Regulations; however, for the purposes of this lease, any person who works on the airplane of a Lessee or Sub-Lessee for compensation (cash or in kind) is deemed to be a commercial enterprise.

3. Lessee shall have possession subject to the terms of this Lease from July 1, 2023, until June 30, 2047 (25 years, 0 months). Thereafter, this lease may be renewed for a subsequent 25-year extension upon giving of written notice by Lessee to Lessor not more than one hundred eighty (180) days nor less than sixty (60) days prior to the expiration of the preceding lease term, upon mutual and written agreement by the Lessor, and specifically contingent upon the following express conditions:

- (a) Lessee is in compliance with this lease at the time written notice is given; and
- (b) At the sole discretion of the Lessor, the hangar constructed on the premises is in good physical and sound structural condition and does not constitute a safety risk to person or property.

4. Title to the hangar shall remain vested in the Lessee. Upon termination of the Lease, and any extensions authorized pursuant to paragraph 3, the Lessee shall remove all personal property from the premises, including the hangar, within thirty (30) days.

5. As consideration for this lease, Lessee shall pay to the Lessor fifteen cents (15¢) per square foot per year, (which includes a five-foot wide easement on either side of the hangar as well as an additional area for the location of the propane tank, See Exhibit A, page 2), totaling \$765.00 per year. This rental shall be paid annually, in advance of the first day of January of each year, beginning January 1, 2023. Lessee shall have the privilege to prepay any amount at any time without penalty. For each five (5) year period succeeding the first five-year period, the land rental may be reestablished by the Lessor based upon changes in the U.S. City Average Consumer Price Index for all Urban Consumers (CPI-U).

6. These entire agreements are upon the conditions that if (a) Lessee shall fail to pay rent when due, or (b) Lessee shall fail or neglect to do or perform or observe any of the covenants contained herein on Lessee's part to be kept and performed, including payment of taxes and insurance, and such default shall continue for a period of not less than 30 days after Lessor has notified Lessee in writing of Lessee's default hereunder, or if Lessee shall be declared to be bankrupt or insolvent according to law, or if any assignment of its property shall be made for the benefit of creditors, or upon the destruction of Lessee's hangar buildings without replacement thereof within a period of six months, this lease shall be terminated. Upon default hereunder, Lessor shall have the right to possess and use the hangar constructed hereunder, even after termination, until the defaulted payments are either paid or collected, including interest, costs and attorney fees.

7. During the term of this lease, Lessee shall carry such insurance, either on the building or in the form of a general liability policy, which will protect Lessor from liability claims resulting from Lessee's use of Lessor's property, naming the Lessor as additional insured. Lessee shall provide

current certificates of insurance to the Lessor at the time the hangar is constructed and every year thereafter. The coverage shall be the limits as determined in the Colorado Governmental Immunity Act, as it shall be amended; current limit requirements are \$424,000 per person/occurrence, \$1,195,000 aggregate/occurrence. See paragraph 2(a) above for Lessee's possible responsibility to provide Hangar-Keeper's liability insurance.

8. Lessee agrees to maintain all of the leased premises herein and buildings, improvements, alterations, or additions in a reasonably safe and clean condition and to permit no unsightly accumulation of debris or trash where it is visible to the general public visiting or using the airport. Lessee shall not erect, paint or maintain any signs whatsoever upon the premises without first securing the written consent of the Lessor.

9. Lessor may, at its expense, extend electric power so that it is accessible to Lessee's hangar. At such time as such power is accessible to Lessee's hangar, Lessee shall have the right to connect to the power supply upon payment to Lessor of a pro-rata share of its actual costs to extend such power. Lessee shall bear the expense of extending electrical power from a centrally located transformer to the hangar.

10. With the consent of the Lessor, the Lessee shall have the right, at its sole expense, to construct, install and maintain or to have constructed, installed and maintained, all necessary tap lines and sewage lines, and to connect the same to convenient supply lines on or off the leased premises pursuant to the Uniform Plumbing Code, and to receive all said utilities and services. The Lessee shall pay all charges for utilities and services consumed by it on the leased premises, and shall provide and maintain, at its sole expense, such telephone facilities and services as it may deem necessary. Any power and telephone lines constructed or installed by or for the Lessee shall be placed underground. The Lessor agrees to grant, without charge, rights-of-way across the Lessor's land for any such pipelines, telephone lines or other utility installations provided the alignment, location and timing meet the approval of Lessor. The Lessor is under no obligation to furnish at its expense snow removal or janitorial services or any other utility for the leased premises.

11. Lessee shall comply with all laws and regulations of the Lessor, the County, the State of Colorado and the United States of America now in force or hereafter amended or adopted pertaining to operation and maintenance of an airport; and further, shall comply with the provisions of Exhibit B, attached hereto and by reference made a part hereof.

12. During the term of this lease, the Lessee shall be responsible for the payment of any real estate and personal property taxes to Delta County, if such are legally assessed against the said building and/or leasehold.

13. The Lessee shall be permitted to sell, assign and transfer its right, title and interest in and to this Lease and said building only upon the prior written consent of the Lessor. Such consent shall not be unreasonably withheld.

14. This Lease conveys only a leasehold interest in the Premises on the terms and for the purposes provided herein, and it conveys no other rights, title, or interest of any kind. Among the

rights reserved to Lessor, Lessor reserves a right of flight for the passage of aircraft in the air, a right to cause such noise as may at any time be inherent in the operation of aircraft, and all other rights, including, but not limited to, water, minerals, oil, and gas.

15. Lessor for itself and its employees, officers, directors, agents, contractors, and other representatives reserves the right to enter the hangar for any purpose relating to any emergency, security, or safety concern, or to investigate or remediate potential threats or hazards. Entry under this provision shall not constitute a trespass or a violation of any rights.

16. Lessee is not authorized to install or operate any signage outside of enclosed structures on the hangar, or at the airport, except with prior written approval of Lessor (which may be given or withheld in Lessor's sole discretion). Any approved signage shall be at Lessee's expense and shall comply with all applicable laws and regulations. Lessee shall not advertise or permit others to advertise at the airport by any means, whether or not the advertising is for profit.

17. Lessee agrees to indemnify, hold harmless, and defend Lessor and its officers, agents, and employees from and against losses of every kind and character that arise out of or relate to: (i) any use, occupancy, or operations at the Hangar or the airport by Lessee or Lessee's associates; or (ii) any wrongful, reckless, or negligent act or omission of Lessee or Lessee's associates. The obligation stated in this section shall survive the expiration or other termination of this Lease with respect to matters arising before such expiration or other termination. These duties shall apply whether or not the allegations made are found to be true.

18. Lessee assumes all risk of the use of the hangar and the airport, and the Lessee hereby knowingly, voluntarily, and intentionally waives any and all losses, liabilities, claims, and causes of action, of every kind and character, that may exist now or in the future (including, but not limited to, claims for business interruption and for damage to any aircraft) against Lessor and its officers, employees, and volunteers arising from or relating to Lessee's use, occupancy, or operations at the hangar or the airport.

19. Lessee shall not cause or permit any hazardous material to be used, produced, stored, transported, brought upon, or released on, under, or about the hangar or the airport by Lessee or Lessee's associates in violation of any environmental law.

20. Lessee shall not encumber or permit the encumbrance of any real property at the airport. Lessee shall not encumber or permit the encumbrance of any of Lessee's rights under this Lease without Lessor's prior written consent, in Lessor's sole discretion. Any purported encumbrance of rights in violation of this section is void.

21. If any portion of the Hangar is damaged in any manner, Lessee shall promptly remove from the airport all debris and cause repairs to be made to restore the same to an orderly and safe condition. All work shall be performed in accordance with plans and specifications that are approved by Lessor as being consistent with or better than the original improvements.

22. Lessee is responsible for any damage or loss to any aircraft. Lessee shall obtain insurance coverage for any aircraft as Lessee may determine.

23. Lessee is responsible for all costs of business interruption, however incurred, and Lessee may purchase business interruption insurance as Lessee may determine.

24. Lessee warrants and represents that it has the right, power, and legal capacity to enter into and perform its obligations under this Lease as a legal, valid, and binding obligation of the Lessee.

25. Notice provided under this lease shall be by regular first class mail to the following addresses:

Lessor:
Delta County
Board of County Commissioners
560 Dodge Street
Delta, CO 81416

Lessee:
LeVay Living Trust
c/o Bradley LeVay
PO Box 5113
Mohave, AZ 86446

26. Upon execution hereof, this Lease shall inure to the benefit of and be binding upon the parties hereto, their heirs, successors, assigns and personal representatives.

IN WITNESS WHEREOF, the parties have set their signatures the day and year first above written.

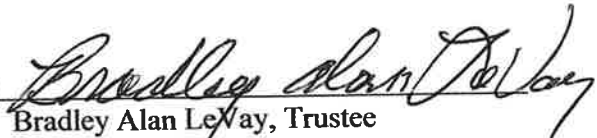
LESSOR:
BOARD OF COUNTY COMMISSIONERS
OF DELTA COUNTY, COLORADO

ATTEST:

By: _____
Don Suppes, Chair

Teri A. Stephenson
Delta County Clerk and Recorder

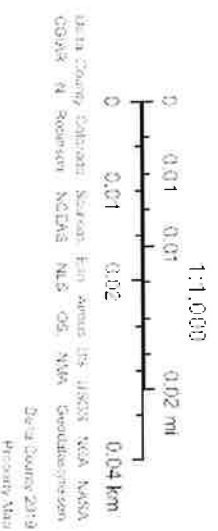
LESSEE:
LeVay Living Trust

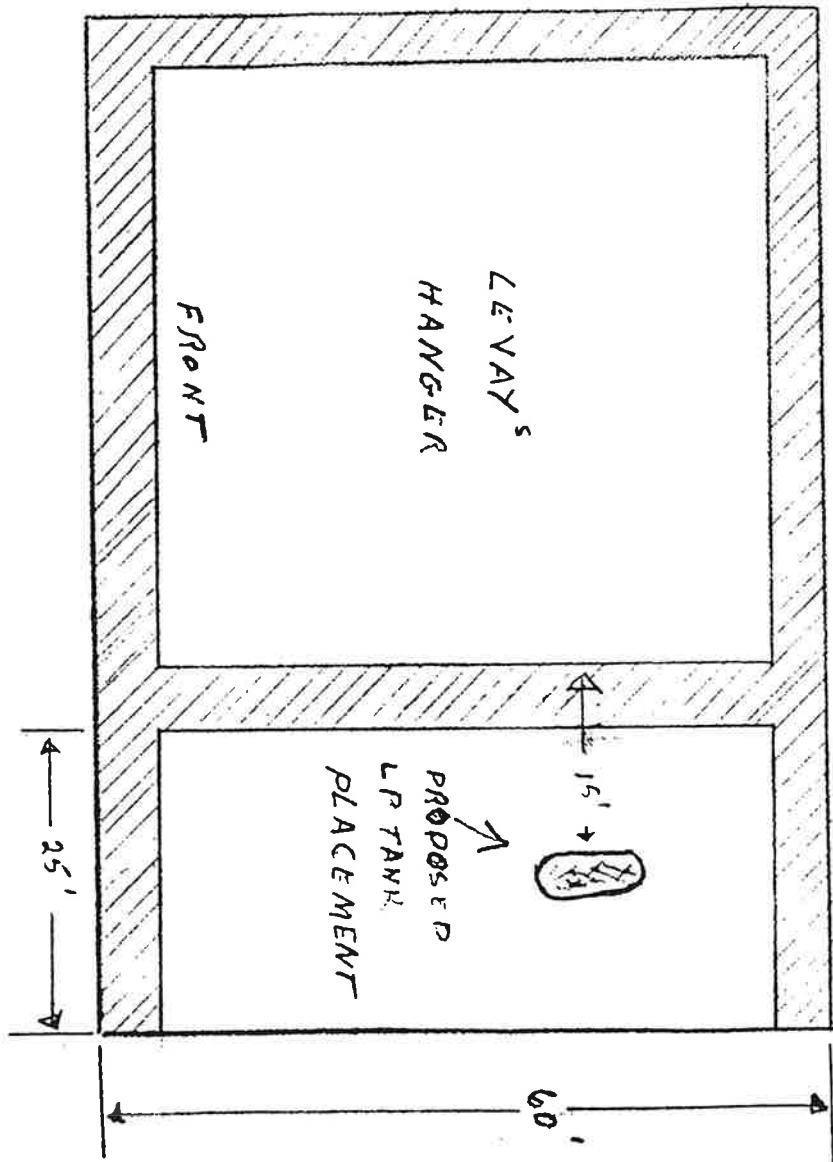
By: 
Bradley Alan LeVay, Trustee
Statement of Authority recorded at
Reception No. 681250

Page 24 of 26



Page 1





11-30-98

TANK TO BE ABOVE GROUND UNTIL SPRING, AT THAT TIME THE PROPER TANK WILL BE AVAILABLE FOR BURIAL.
 IF THE TANK WERE TO BE PLACED BEHIND THE HANGER IT WOULD REQUIRE A SERVICE ROAD AND POSSIBLY SOME POWER LINES TO BE MOVED OR PROTECTED.

KEN LE VAY

EXHIBIT A

Page 2

COUNTY ATTORNEY'S AGENDA

Board of County Commissioners

Regular Meeting

August 30, 2022

REGULAR SESSION:

1. Board's consideration of renewal lease for Blake Field hangar #167 LeVay Living Trust.

EXECUTIVE SESSION:

Matters required to be held confidential pursuant to Council of Environmental Quality National Environmental Policy Act 40 CFR 1501.7-8. §24-6-402(4)(c), C.R.S.

1. Grand Mesa Uncompahgre and Gunnison, United States Forest Service cooperating agency plan.