AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Forest Road and Trail Act Easement; County Road #5

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Gunnison County and United States Forest Service

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

Summary:

The BOCC directed staff to request this easement after meeting with property owners late last fall. It will manage ATV traffic through the private property along this road.

Fiscal Impact: None

Submitted by: Marlene D. Crosby **Submitter's Email Address:** mcrosby@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 6/15/17

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 6/15/2017 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\jost Discharge Date: 6/16/2017

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: DCM Report

Agenda Date: 6/20/2017

Revised April 2015

Auth ID: GUN1269
Contact Name: GUNNISON COUNTY BOARD OF COMMISSIONERS
Use Code: 751

FS-2700-9f (v.09/12)
OMB No. 0596 -0082

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE

PUBLIC ROAD EASEMENT
Act of October 13, 1964, (P.L. 88-657)
36 CFR 251.50, et seq

THIS EASEMENT dated this_____day of_____, 2017 from the UNITED STATES OF AMERICA, acting by and through the Forest Service, Department of Agriculture, hereinafter called Grantor, to the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO, hereinafter called Grantee.

WITNESSETH:

WHEREAS, the Grantee has applied for a grant of an easement under the Act of October 13, 1964 (78 Stat. 1089, 16 U.S.C. 532-538), for a road over certain lands or assignable easements owned by the United States in the County of Gunnison, State of Colorado, and administered by the Forest Service, Department of Agriculture.

NOW THEREFORE, Grantor does hereby grant to Grantee an easement for a public road and highway along and across a strip of land, hereinafter defined as the right-of-way over and across the following described lands in the County of Gunnison, State of Colorado:

> Any National Forest System lands in a strip of land along the center line of the existing road known as Union Park Cutoff Road (CR55) in the northwest quarter of the southeast quarter (NW¼SE ¼) and the south half of the southwest quarter (S½SW¼) in section 22, township 14 south, range 82 west, Sixth Principal Meridian; and extending to the south half of the southeast quarter (S½SE¼) and the northeast quarter of the southwest quarter (NE¼SW¼) of section 21, township 14 south, range 82 west, Sixth Principal Meridian, **BEGINNING AT A POINT** in the northwest quarter of the southeast quarter (NW¼SE¼) in section 22, township 14 south, range 82 west, Sixth principal meridian, at the point of intersection with NFSR 765 and running southwesterly, and **ENDING AT A POINT** in the northeast quarter of the southwest quarter (NE¼SW¼) in section 21, township 14 south, range 82 west, Sixth principal meridian, at the point of intersection with NFSR 752.
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> Said easement shall be 40 feet on each side of centerline with such additional width as required for accommodation and protection of cuts and fills.

The word "right-of-way" when used herein means said strip of land whether or not there is an existing road or highway located thereon. Except where it is defined more specifically, the word "highway" shall mean roads or highways now existing or hereafter constructed on the right-of-way or any segment of such roads or highways.

The right-of-way is shown on the map labeled Exhibit "A" attached hereto and made a part hereof.

This grant is made subject to the following terms, provisions, and conditions:

1. Outstanding valid claims, if any, existing on the date of this grant.

2. The easement herein granted is limited to use of the described right-of-way for the purpose of construction, operation, and maintenance of a highway and does not include the grant of any rights for non-highway purposes or facilities; Provided, That the Forest Service shall not exercise its right to use or authorize the use of any portion of the right-of-way for non-highway purposes when such use would interfere with the free flow of traffic or impair the full use and safety of the highway; and Provided further, That nothing herein shall preclude the Forest Service from locating National Forest and other Department of Agriculture information signs on the portions of the right-of-way outside of construction limits.

3. Not applicable.

4. Any reconstruction of the highway situated on this right-of-way shall conform with plans, specifications, and written stipulations approved by the Forest Supervisor or authorized representative prior to beginning such reconstruction.

5. Consistent with highway safety standards, the Grantee shall:

a. Protect and preserve soil and vegetative cover and scenic and aesthetic values on the right-of-way outside of construction limits.

b. Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the construction operation, or maintenance of the highway, and shall vegetate and keep vegetated with suitable species all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed. The Grantee shall perform these activities where it is deemed necessary during a joint review between the authorized Forest Officer and Grantee prior to completion of the highway. The Grantee also shall maintain all terracing, water bars, leadoff ditches, or other preventive works that may be necessary to accomplish this objective. This provision also shall apply to waste disposal areas and slopes that are reshaped following slides that occur during or after construction.

6. The Grantee shall:

Establish no borrow, sand, or gravel pits; stone quarry; permanent storage areas; sites for highway-operation and maintenance facilities; camps; supply depots; or disposal areas within the right-of-way, unless shown on approved construction plans, without first obtaining approval of the authorized Forest Officer.

7. The Grantee shall maintain the right-of-way clearing by means of chemicals only after the Forest Supervisor has given specific written approval. Application for such approval must be in writing and must specify the time, method, chemicals, and the exact portion of the right-of-way to be chemically

treated.

8. The Grantee does by the acceptance of this document covenant and agree for itself, its assigns, and its successors in interest to the property here granted or any part thereof, that the covenant set forth below shall attach to and run with the land:

a. That the Grantee shall operate the described property and its appurtenant areas and its buildings and facilities whether or not on the land therein granted as a public road, in full compliance with Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to the regulations issued thereunder by the Department of Agriculture and in effect on the date of this document to the end that no person in the United States shall, on the grounds of race, sex, color, religion, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any programs or activities provided thereon; and

b. That the United States shall have the right to judicial enforcement of these covenants not only as to the Grantee, its successors and assigns, but also as to lessees and licensees doing business or extending services under contractual or other arrangements on the land therein conveyed.

9. Gunnison County may adopt such orders, rules or regulations as are reasonably necessary for the operation, protection, maintenance and use of this easement, including but not limited to restriction as to time, manner or place of vehicles, subject to the use of the road within this easement by the Grantor for National Forest purposes.

The Chief, Forest Service, may terminate this easement, or any segment thereof, (1) by consent of the Grantee, (2) by condemnation, or (3) after a five (5) year period of nonuse, by a determination to cancel after notification and opportunity for hearing as prescribed by law.

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IN WITNESS WHEREOF, the Grantor, by its Regional Forester, Forest Service, has executed this easement pursuant to the delegation of authority to the Chief, Forest Service, 7 CFR 2.60, and the delegation of authority by the Chief, Forest Service, dated August 22, 1984 (49 FR 34283), on the day and year first above written.

UNITED STATES OF AMERICA

By:_____
BRIAN FEREBEE
Regional Forester
Forest Service
Department of Agriculture

ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____
Notary Public

My commission expires: _____

ACCEPTANCE

This easement is accepted subject to all terms and conditions.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO

_____
Commissioner Chairperson

_____
Commissioner

_____
Commissioner

Burden and Non-Discrimination Statement

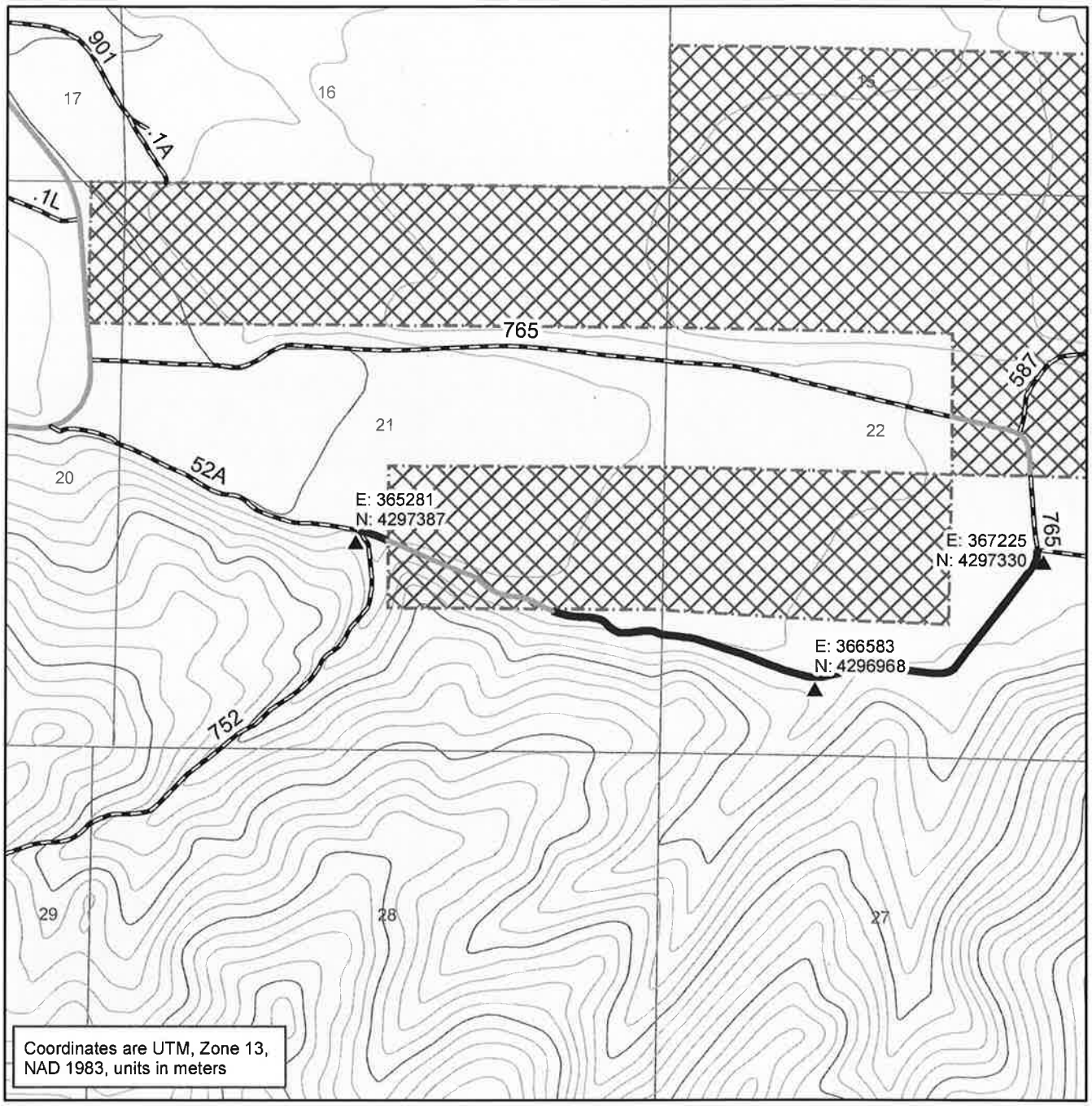
According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number/or this infonnation collection is 0596-0082. The time required to complete this infonnation collection is estimated to average one (1) hour per response, including the tirne for reviewing instructions, searching existing data sources, gathering and mai11taining the data needed, and completing and reviewing the collection of information.

The U S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, pare11tal status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derivedfiwn any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require altemati.ve means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice a11d TDD).

To file a complaint of discrimination, write USDA, Director , Office of Civil Rights, 1400 Independence Ave1111e, SW, Washington, DC 20250-9410 or call tollfi·ee (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Fedeml relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 US.C. 552a) and the Freedom of Information Act (5 US.C. 552) govern the confidentiality to be provided/or information received by the Forest Service.

EXHIBIT A



FRTA Road
NFS Road
OTHER Road
Stream
Contour

Non NFS Land
Township & Range
Gunnison Nat'l Forest

0 0.25 0.5 Miles

N

NFSR 7752A
Road Easement
For
Board of County Commissioners of the County of Gunison
Secs 21, 22 T.14S.,R.82W,. 6th PM

Length: 5516 Ft
Area: 12.6 Ac

Auth ID: GUN 1269

Date: 5/25/2017