AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Resolution; Opposing Amendment 74 & Proposition 11

Action Requested: Motion

Parties to the Agreement:

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

Summary:

A Resolution Opposing Amendment 74 and Proposition 112 Seeking Voter Approval to Artificially Impose Universal Oil and Gas Setbacks and Dramatically Expand Takings Law to the Detriment of Local Governments and Proper Land Use Planning and Regulation

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 9/14/18

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 9/14/2018 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\emense Discharge Date: 9/14/2018

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

Agenda Date: 9/18/2018

Revised April 2015

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

RESOLUTION NO: 2018-___

A RESOLUTION OPPOSING AMENDMENT 74 AND PROPOSITION 112 SEEKING VOTER APPROVAL TO ARTIFICIALLY IMPOSE UNIVERSAL OIL AND GAS SETBACKS AND DRAMATICALLY EXPAND TAKINGS LAW TO THE DETRIMENT OF LOCAL GOVERMENTS AND PROPER LAND USE PLANNING AND REGULATION

WHEREAS, for decades Gunnison County has maintained a Land Use Resolution process which has repeatedly and successfully promoted the health, safety, and general welfare of the citizens of Gunnison County by giving reasonable consideration to the social, economic and environmental characteristics of the community and the compatibility of proposed land use changes with existing uses;

WHEREAS, Gunnison County has consistently and historically supported responsible and sustainable economic development and industry so long as it is consistent with the requirements and principles set forth in the County's Land Use Resolution and other applicable law;

WHEREAS, Gunnison County recognizes and supports the fact that since statehood, Article II, Section 15 of the Colorado Constitution has recognized that "[p]rivate property shall not be taken or damaged, for public or private use, without just compensation[;]"

WHEREAS, this provision of our Constitution provides a private property owner the right to seek compensation from the government as a result of a "taking" of his or her property, if the property owner can demonstrate that the owner's investment backed expectations for the property is substantially diminished by the regulation and the owner has suffered a unique burden or impact from the regulation;

WHEREAS, notwithstanding this Constitutional protection for private property owners that has existed for hundreds of years as well as successful zoning and land use regulations in place across the State of Colorado, including here in Gunnison County, that protect and promote responsible economic development while at the same time recognizing private property rights, special interests have placed a new ballot measure, Amendment 74 (previously, Ballot Initiative No. 108), on the November 2018 general election ballot;

WHEREAS, Amendment 74 is seeking to substantially expand Colorado's "takings" clause to the point that local governments would likely be substantially constrained, if not essentially prevented, from implementing and enforcing land use planning and regulations;

WHEREAS, Amendment 74, if passed, would likely create a regulatory "free for all" that could result in almost no zoning or land use regulation in Colorado, severely harming the public health, safety and welfare of Colorado citizens, such as allowing dangerous or toxic

industrial operations to locate directly next to homes, schools and playgrounds;

WHEREAS, Amendment 74, if passed, would create a grave threat to the Land Use Resolution process and could lead to unfettered development in Gunnison County that would serve to undo years of responsible and economically beneficial development that has resulted in a net positive benefit to the County, its residents, and its visitors;

WHEREAS, a different group of special interests has placed another ballot measure, Proposition 112 (previously, Initiative No. 97), on the November 2018 general election ballot, and like Amendment 74, Proposition 112 threatens local land use planning and regulation to the detriment of Gunnison County's economy, residents and visitors;

WHEREAS, Proposition 112, if passed, would impose virtually across-the-board 2500-foot buffer zones, or setbacks, for new oil and gas development on non-federal lands in Colorado, regardless of whether such setbacks are necessary to protect health, safety or the environment;

WHEREAS, Gunnison County has historically supported responsible and sustainable oil and gas development in the County so long as it is consistent with and authorized by the County's Land Use Resolution as well as other applicable law;

WHEREAS, Gunnison County currently has Oil and Gas Regulations that include setbacks for the protection of public health, safety and the environment that are in addition to regulations and setbacks placed by the State of Colorado;

WHEREAS, as recognized by the County's Land Use Resolution Proposition 112's "one size fits all" oil and gas development setback requirement is unnecessary, impracticable, and could severely restrict responsible and sustainable oil and gas operations that provide revenue and job opportunities for the citizens of Gunnison County without adding any necessary additional protections to public health, safety and the environment that are not already currently included in Gunnison County's oil and gas regulations;

WHEREAS, Proposition 112's "one size fits all" oil and gas development setback requirement unduly restricts the authority of Gunnison County to preside over land use decisions in its own County, taking authority away from local governments and placing it in the hands of distant bureaucrats lacking both the knowledge and the interest in the needs and issues facing Gunnison County;

WHEREAS, Gunnison County has found success in the implementation and exercise of its local authority to create minimum setbacks for oil and gas development pursuant to its Land Use Resolution process, and, to the extent other counties do not have such a process, Gunnison County would encourage those governments to consider enacting them as opposed to Proposition 112's "one size fits all" approach; and

WHEREAS, both Amendment 74 and Proposition 112 are classic examples of the dangerous gamesmanship, lack of common sense and upside-down policy that special

interests play in the State of Colorado, most often to the detriment of the citizen;

WHEREAS, the bi-partisan Gunnison County Board of County Commissioners do not support this approach from the far left or the far right but believe that good governance comes from good common-sense decision making, listening to all sides of the party and finding ways to work together to arrive at common and collaborative solutions; and

WHEREAS, these ballot measures are certainly not that.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of the County of Gunnison, Colorado opposes Amendment 74 and Proposition 112.

INTRODUCED by Commissioner_____, seconded by Commissioner _____, and adopted this ___ day of _____, 2018.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Phil Chamberland, Chairperson

By: _____
Jonathan Houck, Commissioner

By: _____
John Messner, Commissioner

ATTEST:

_____
Deputy County Clerk