

RESOLUTION NO. 2017-157

**A RESOLUTION ACCEPTING MEMORANDUM OF AGREEMENT IN THE MATTER OF
LEWIS AND CLARK COUNTY V. GREG HAMPTON, CAUSE NO. CDV-09-526**

WHEREAS, the Board of County Commissioners filed a district court action against Greg Hampton to enforce the agricultural covenant recorded at Certificate of Survey No. 503150/A; and

WHEREAS, the District Court entered an Amended Judgment that required, among other things, that the County accept for filing a writing signed by the Board of County Commissioners and Hampton reflecting all parties' consent to the removal of the agricultural covenant; and

WHEREAS, the remaining six conditions listed in the Amended Judgment have either been met or addressed through stipulation of the parties; and

WHEREAS, a new certificate of survey was recorded at 3315645 to meet one of those six conditions; and

WHEREAS, the Board of County Commissioners consents to the removal of the agricultural covenant, recorded at COS # 503150/A, from the record of title for the property described in the attached Exhibit A and reflected in COS # 3315645

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners hereby accepts the Memorandum of Agreement attached hereto as Exhibit A.

Dated this 12 day of December, 2017.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Susan Good Geise, Chair

ATTEST:



Paulette J. DeHart, Clerk of the Board



MEMORANDUM OF AGREEMENT

This agreement entered into on the 12th day of December, 2017 between Greg Hampton and Lewis and Clark County Commissioners.

Recitals

1. The parties are parties in the case of *Lewis and Clark County v. Hampton*, Cause No. CDV 09-526. An Amended Judgment was entered in the matter on March 20, 2015.
2. An agricultural covenant was placed on what is now Mr. Hampton's property in 1993, and recorded at COS # 503150-A stating that the property would be used exclusively for agricultural purposes. It ran with the land and allowed revocation only by "mutual consent of the owners of the property . . . and the governing body of Lewis and Clark County."
3. Mr. Hampton's property, and the covenant, have been the subject of the lawsuit set forth above, including a Supreme Court decision which affirmed the District Court decision, and remanded for modification of the District Court judgment. (2014 MT 207).
4. In the March 20, 2015 Amended Judgment, the District Court, among other things required that "(T)he County shall accept for filing a writing signed by the Board of County Commissioners and Hampton reflecting all parties' consent to the removal of the agricultural covenant." The remaining six conditions listed in the Amended

Judgment have either been met or addressed through stipulation of the parties, as reflected in the August 23, 2017 Unopposed Motion for Approval of Road Improvement Plan, and the Court's August 24, 2017 Order Approving the motion.

5. A new certificate of survey (COS) was recorded 3315645 to reflect the terms of the agreement.

Agreement

1. The parties consent to the removal of the agricultural covenant, recorded at COS # 503150-A from the record of title for the property described in the attached Exhibit A, and reflected in COS 3315645.
2. The parties intend this Memorandum of Agreement to be recorded.

DATED THIS Dec. 1, 2017


Greg Hampton

DATED THIS Dec. 12, 2017


BY: _____
Lewis and Clark County Commission



ATTEST:


Paulette DeHart, Clerk of the Board

EXHIBIT A

Tract B located in the NW1/4NE1/4 of section 5, Township 9 North, Range 3 West, P.M.M., Lewis and Clark County, Montana, as shown on Certificate of Survey filed under Document No. 3315645.