

RESOLUTION NO.

11-26  
Series of 2011

**TITLE: A RESOLUTION MAKING CERTAIN FINDINGS OF FACT REGARDING THE PROPOSED ANNEXATION OF A PARCEL OF LAND TO THE TOWN OF HUDSON, COLORADO, KNOWN AS THE RITCHIE-ROY ANNEXATION**

WHEREAS, a Petition in Annexation was filed with the Town Clerk requesting the annexation of certain unincorporated territory located in the County of Weld, State of Colorado, otherwise known as the RRK Annexation, and described in the attached **Exhibit A**;

WHEREAS, said Petition in Annexation was forwarded by the Town Clerk to the Board of Trustees;

WHEREAS, the Board of Trustees of the Town of Hudson, Colorado, by resolution passed on September 7, 2011, found substantial compliance of said Petition with C.R.S. § 31-12-107(1);

WHEREAS, the Board of Trustees of the Town of Hudson, Colorado, conducted a public hearing on October 19, 2011, as required by law to determine if the proposed annexation complies with C.R.S. §§ 31-12-104 and 31-12-105 to establish eligibility for annexation of that property described in Exhibit A;

WHEREAS, public notice of such public hearing was published once a week for four consecutive weeks and notice by registered mail was given to the Clerk of the Board of County Commissioners, the County Attorney, the school district and to any special district having territory in the area to be annexed as required by law;

WHEREAS, the public hearing on said annexation Petition was conducted in accordance with the requirements of the law; and

WHEREAS, pursuant to C.R.S. § 31-12-110, the Board of Trustees, sitting as the governing body of the Town of Hudson, Colorado, is required to set forth its findings of fact and its conclusion as to the eligibility for annexation to the Town of Hudson of the property described in Exhibit A.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUDSON, COLORADO, AS FOLLOWS:

Section 1. With regard to the annexation of the territory described in **Exhibit A**, attached hereto and incorporated herein, the applicable provisions of C.R.S. § 31-12-104 have been met, in that not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the existing boundaries of the Town; and therefore, because of such contiguity, a

community of interest exists between the territory proposed to be annexed and the Town; the territory proposed to be annexed is urban or will be urbanized in the near future, and the territory proposed to be annexed is integrated or is capable of being integrated with the Town.

Section 2. The applicable provisions of C.R.S. § 31-12-105 have been met in that no land held in identical ownership has been divided or included without written consent of the owner thereof; that no annexation proceedings have been commenced by another municipality; that the annexation will not result in the detachment of area from a school district; that the annexation will not result in the extension of a municipal boundary more than three miles; that the Town has in place a plan for said three mile area; and that in establishing the boundaries of the area to be annexed the entire width of any street or alley is included within the area annexed.

Section 3. An annexation election is not required under C.R.S. § 31-12-107(2) and that no additional terms or conditions are to be imposed upon the area to be annexed other than as contained in the Annexation Agreement, a copy of which is attached hereto and incorporated herein as **Exhibit B**.

Section 4. The Annexation Agreement (Exhibit B) between the Town of Hudson and Grant A. Ritchey, Dawn D. Ritchey, Clyde E. Roy and Carolyn S. Roy, is hereby approved, and the Mayor and Town Clerk are authorized and directed to execute the same.


Section 5. The property described in the attached Exhibit A is eligible for annexation to the Town of Hudson and all requirements of law have been met for such annexation, including the requirements of C.R.S. §§ 31-12-104 and 31-12-105, as amended.

Section 6. An ordinance annexing to the Town of Hudson that property described in the attached Exhibit A shall be considered by this Board of Trustees pursuant to C.R.S. § 31-12-111.

Section 7. Effective Date. This resolution shall take effect upon adoption by the Board of Trustees. However, by operation of C.R.S. § 31-12-113(2), the annexation will not become effective until the Town Clerk completes the filings required by statute.

INTRODUCED, READ and PASSED this 16<sup>th</sup> day of November, 2011.

TOWN OF HUDSON, COLORADO

  
\_\_\_\_\_  
Neal Pontius, Mayor



ATTEST

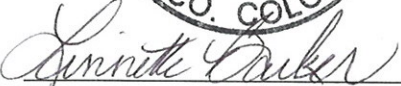
  
\_\_\_\_\_  
Linnette Barker, CMC, Town Clerk

EXHIBIT A

PROPERTY DESCRIPTION - RITCHEY/ROY ANNEXATION TO THE TOWN OF HUDSON

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 2 AND IN THE SOUTHEAST QUARTER OF SECTION 3, ALL IN TOWNSHIP 1 NORTH, RANGE 65 WEST OF THE 6th P.M., WELD COUNTY, COLORADO, PARCEL 1 AND PARCEL 2 BEING THAT TRACT OF LAND DESCRIBED IN CHICAGO TITLE OF COLORADO INC. TITLE COMMITMENT NO. 1243913, DATED OCTOBER 10, 2001 AND THE NORTH HALF OF EIGHTH AVENUE OF THE VACATED TOWN OF HUDSON LYING EASTERLY OF INTERSTATE 76 RIGHT-OF-WAY, THE PERIMETER OF SAID TRACTS OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 2 AND CONSIDERING THE WEST LINE OF SAID SOUTHWEST QUARTER TO BEAR NORTH 00° 27' 00" EAST AND WITH ALL OTHER BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO;

THENCE NORTH 00° 27' 00" EAST, 1427.04 FEET ALONG SAID WEST LINE TO THE CENTERLINE OF EIGHTH AVE. OF THE VACATED TOWN OF HUDSON AND THE TRUE POINT

OF BEGINNING;

THENCE SOUTH 89° 14' 31" WEST, 486.45 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 76;

THENCE NORTH 55° 16' 30" EAST, 53.69 FEET ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE TO THE SOUTHWEST CORNER OF SAID PARCEL 2;

THENCE NORTH 55° 16' 30" EAST, 541.30 FEET, CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY TO THE NORTHEAST CORNER OF SAID PARCEL 2 AND THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 2;

THENCE NORTH 55° 16' 30" EAST, 793.16 FEET, CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE TO THE WEST RIGHT-OF-WAY LINE OF THE NERES CANAL;

THENCE ALONG SAID WEST RIGHT-OF-WAY LINE BY THE FOLLOWING 2 (TWO) COURSES;

1) SOUTH 42° 08' 25" EAST, 315.87 FEET;

2) SOUTH 17° 35' 02" EAST, 127.21 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF WELD COUNTY ROAD;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE BY THE FOLLOWING 2 (TWO) COURSES;

1) SOUTH 52° 36' 12" WEST, 456.68 FEET;

2) SOUTH 53° 41' 30" WEST, 194.52 FEET;

THENCE SOUTH 89° 03' 56" WEST, 385.12 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 2 AND THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2;

THENCE SOUTH 00° 27' 00" WEST, 30.01 FEET ALONG SAID WEST LINE TO THE TRUE POINT OF BEGINNING.

Contains 10.85 acres more or less and is subject to all existing easements and / or rights-of-way of record and as existing on the ground.

EXHIBIT B  
ANNEXATION AGREEMENT

**ANNEXATION AGREEMENT**  
**RITCHEY/ROY ANNEXATION**

THIS AGREEMENT is voluntarily made and entered into this \_\_\_ day of \_\_\_\_\_, 2011, by and between the Town of Hudson, a Colorado statutory municipality (hereinafter referred to as the "Town"), and, Grant A. Ritchey, Dawn D. Ritchey, Clyde E. Roy and Carolyn S. Roy their heirs, successors, and assigns (hereinafter referred to as the "Property Owner").

**RECITALS:**

A. The Property Owner is the owner of certain real property (the "Property") situated in the County of Weld, State of Colorado, which Property is described in Exhibit A attached hereto and made a part hereof.

B. The Property Owner desires to have the Property annexed to the Town.

C. The Town wishes to annex the Property into the Town and shall consider the zoning application for the Property upon the condition that this Agreement is approved by the Town and is executed by the Town and the Property Owner.

NOW, THEREFORE, in consideration of the foregoing recitals, mutual covenants, and promises set forth below, the receipt and sufficiency of which are mutually acknowledged, the Town and the Property Owner hereby agree as follows:

1. Annexation. The annexation of the Property shall be in accordance with the Colorado Municipal Annexation Act of 1965, as amended.

2. Purpose. The purpose of this Agreement is to set forth the terms, conditions, and fees to be paid by the Property Owner upon annexation and initial development of the Property. Unless otherwise expressly provided to the contrary herein, all conditions contained herein are in addition to any and all requirements of the Town of Hudson Zoning Ordinance and Subdivision Regulations, as amended, any and all state statutes, and other sections of the ordinances of the Town of Hudson.

3. Utilities; Water and Sewer Services.

a. Groundwater Rights. Property Owner shall, no later than ten (10) days following the effective date of Annexation, dedicate to the Town by separate deed, assignment, consent agreement or other appropriate document any water rights currently attached or appurtenant to the Property, including the nontributary and not-nontributary water underlying and/or appurtenant to the Property. The conveyance to the Town of all nontributary water associated with and/or appurtenant to the Property by executing the Nontributary Ground Water Consent Agreement attached hereto as exhibit C and the Quit Claim Deed attached hereto as Exhibit D.

b. Water & Sewer Service. The Town shall provide water and sewer service to the Property at its standard rates. Property Owner shall extend water and sewer services to the property as follows:

- i. To the extent water and/or sewer lines are to be constructed to connect to municipal service, the construction of such lines shall be the obligation and at the sole expense of the Property Owner, and the construction and extension of any necessary lines and associated infrastructure shall be constructed in accordance with Town standards and specifications.
- ii. The parties acknowledge that municipal water service is available to the Property at this time and that the existing single family home on the Property is connected to the town's water system. At the time of development of the Property all new development shall be connected to the town's water system as may be required by the site plan for the proposed use and according to Town regulations. At the time of development of the Property fire protection facilities shall be constructed by the Owner in accordance with the recommendations of the Hudson Fire Protection District.
- iii. The parties acknowledge that municipal sanitary sewer services are not available to the Property at this time and are not planned to be available in the near future. The Town shall not require that the property be connected to municipal sanitary sewer until such time as these services are available within four hundred (400) feet of any subdivided lot within the Property. Owners agree that when municipal sanitary sewer services are available within four hundred (400) feet of any lot or lots within the Property they will connect all buildings on such lot or lots to said municipal sewer services at their own expense, and will pay all applicable charges in effect at the time of connection. The Town will cooperate with the Owner in facilitating such connections.

The Property Owners may continue to use the existing septic system associated with the single family home on the Property, provided such system is in compliance with applicable Weld County regulations. The Property Owner acknowledges that the lack of municipal sanitary services severely reduces the potential future use of the Property and that unless sanitary sewer is extended to the Property uses that do not generate waste in excess of that which can be served by an approved septic system will be permitted.

- iv. Until an on-site sewage disposal plan is provided for the property by the Property Owners and approved by Weld County there will be no building permits for additional buildings on the Property unless the proposed buildings do not require septic service.

- c. Water supply. At the time of issuance of building permits for any water-consuming development on the Property, the Property Owner shall, in accordance with the prevailing requirements of the Town of Hudson Municipal Code (the "Code"), provide raw water rights and/or water supplies to the Town sufficient to support anticipated treated water demand.
- d. Water Conservation. Upon connection of new development to the Town's water system, the Property Owner agrees to implement water-conservation measures for all new facilities developed on the Property. To the extent the Town imposes water restrictions, the same shall be applied uniformly to all properties and water users served by the Town, such that the Property is treated uniformly with all other properties.
- e. Water and Sewer Tap Fees. The Town shall determine the appropriate water and sewer tap fees based on the prevailing requirements of the Code.
- f. Conveyance of Public Facilities; Limitations. All public streets, public water mains, public sewer mains and other public facilities constructed by Property Owner either directly or through the Financing Districts will be conveyed to the Town.
- g. Other Utilities. The Property Owner agrees at its sole expense to provide electric, gas, telephone and other utility services to the Property.
- h. Northern Colorado Water Conservancy District. On or before the Effective Date of Annexation, the Property Owner will provide the Town with evidence that an application has been made to include the Property within the Northern Colorado Water Conservancy District and the associated Municipal Sub-district.

4. Zoning and Development.

- a. The Property Owner hereby consents to zoning the Property I-1, Industrial One. Uses permitted in the I-1 zoning district, as they might change from time to time, shall be considered uses by right, except that the Property Owner agrees, as a condition of annexation, that the following excluded land use is not permitted on the Property:
  - 1) Sexually oriented businesses as described in Section 16-56 (14) and subsections in the Hudson Development Code.
- b. Town Fees. The Property Owner hereby agrees to pay the Town the actual cost plus fifteen percent (15%) to defray the administrative and review expenses of the Town, and for engineering, surveying, and legal services rendered in connection with the review of the annexation of the Property, which cost shall be determined by the Town Administrator. In addition, the Property Owner shall reimburse the Town for the actual cost of making corrections or additions to the official Town Map, with a fee for recording such map, if necessary, and

accompanying documents with the County Clerk and Recorder. The Property Owner further agrees to pay all impact fees as established by Town ordinance at the time this Agreement is executed and such additional impact fees as may be in effect at the time of development of the Property (as evidenced by plat approval) so long as said additional impact fees are assessed or adopted Town-wide except as specifically provided by this Agreement. The Town may withhold any plat approval or withhold the issuance of any permits for construction or occupancy for failure to pay Town fees as provided herein. All fees recited in this Agreement shall be subject to amendment by the Board of Trustees by ordinance so long as any amendment is Town-wide. Any amendment to the fees shall be incorporated into this Agreement as if originally set forth herein.

c. Prior to any development of the Property, the Property must be subdivided and a Site Development Plan must be submitted and approved according to the requirements of Chapter 16 of the Code. The terms of construction and dedication by the Property Owner of public improvements to serve the Property shall be described in a Subdivision Agreement executed at the time of subdivision approval.

d. Permitted Development. Property Owner shall develop the Property in accordance with this Agreement, Town ordinances and regulations, and applicable state and federal law and regulations, as follows:

- i. Property Owner specifically agrees that the design, improvement, construction, development and use of the Property shall be in conformance with, and that the Property Owner shall comply with, all the Town ordinances and resolutions, including, without limitation, ordinances and resolutions pertaining to annexation, subdivision, zoning, storm drainage, building construction, utilities and flood control. The Town shall allow and permit the development of the Property upon submittal of proper application and payment of fees imposed by Town ordinances and regulations. In the case of conflict between Town ordinances and regulations and the terms of this Agreement, this Agreement shall control.
- ii. Until such time as the Property Owner submits a site plan for the property, development of the Property and such site plan is approved by the Town, development of the property shall consist of the existing single family home on the site.

5. Streets. The Property adjoins an I-76 frontage road known as Hudson Drive, classified as a minor collector street by the Town. Property Owner agrees to cooperate with the Town in possible future improvements to the roadway, including dedication in fee simple, at the request of the Town, of up to twenty (20) feet of additional street right-of-way along the edge of the Property adjoining Hudson Drive, said dedication being accomplished on the subdivision plat of the Property or by separate instrument within thirty (30) days of request of such dedication by the Town.



6. Vested Rights.

a. Waiver. The Property Owner waives any prior vested property rights acquired in Weld County so long as the Property remains annexed into the Town.

b. Vested Rights Petition. Upon approval of a "site specific development plan" as defined in C.R.S. §24-68-102(4), Property Owner may petition the Town for creation of vested rights for all or a portion of the Property. Vested rights approved by the Town shall have a duration of three (3) years after the date of approval. Extension of this period of vesting may be granted by the Town in its sole discretion, upon request of Property Owner or its designated successors and assigns.

c. Compliance with General Regulations. The establishment of vested rights shall not preclude the application of Town regulations of general applicability including, but not limited to, the application of local improvement districts, building, fire, plumbing, engineering, electrical and mechanical codes, or the application of regional, state or federal regulations, as all of the foregoing exist on the date of this Agreement or may be enacted or amended after the date hereof, except as otherwise provided herein. Property Owner does not waive its rights to oppose adoption of any such regulations.

7. Remedies. The Property Owner's remedies against the Town for the Town's breach of this Agreement are limited to breach of contract claims. The Town's remedies under this Agreement include, but are not limited to, the following:

a. The refusal to issue any building permit or certificate of occupancy.

b. The revocation of any building permit previously issued under which construction directly related to such building permit has not commenced, except a building permit previously issued to a third party.

c. A demand that the security given for the completion of the public improvements be paid or honored.

b. Any other remedy available at law.

8. Authority of the Town. Nothing contained in this Agreement shall constitute or be interpreted as a repeal of existing codes or ordinances or as a waiver or abrogation of the Town's legislative, governmental, or police powers to promote and protect the health, safety and general welfare of the Town or its inhabitants; nor shall this Agreement prohibit the enactment by the Town of any fee that is of uniform or general application.

9. Force Majeure -- Development Restrictions or Delays. In the event of the unavailability of water and sewer taps necessary for the development and use of the Property pursuant to the Development Plan, or in the event of the imposition of any moratorium or other ordinance or action by the Town or any other governmental or quasi-governmental authority which materially prevents or delays development or use of the Property in accordance with the

Development Plan, the Property Owner's obligations hereunder to pay fees or to construct improvements shall be suspended for a period of time equal to the time period in which such described events either delay or prevent development or use of the Property in accordance with the Development Plan. The term "material" as used herein means the inability of the Property Owner to obtain plat approval, building permits or certificates of occupancy.

10. Termination. If the zoning as set forth above is not approved by ordinance, or if the annexation of the Property is for any reason not completed, or this Agreement is not approved by the Board of Trustees, then this Agreement shall be null and void and of no force and effect whatsoever, and any monies paid will be reimbursed to the Property Owner.

11. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the heirs, transferees, successors and assigns hereof, and shall constitute covenants running with the land. This Agreement shall be recorded with the County Clerk of Weld County, Colorado, at Property Owner's expense. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction. In the event this Agreement is terminated as permitted herein, and the Property is not annexed, Town agrees to execute a sufficient release for recording.

12. Recordation of Agreement. This Agreement shall be recorded with the Clerk and Recorder of Weld County, Colorado, shall run with the land, and shall be binding upon and shall inure to the benefit of the heirs, successors, and permitted assigns of the parties hereto.

13. Effective Date. This Agreement shall be effective and binding upon the parties immediately upon the effective date of an ordinance annexing and zoning the Property, regardless of whether the Agreement is executed prior to the effective date of said ordinance annexing and zoning the Property.

14. Severability. It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

15. Municipal Services. Subject to the provisions of Section 8 of this Agreement, the Town agrees to make available to the Property all of the usual municipal services in accordance with the ordinances and policies of the Town. Property Owner acknowledges that Town services do not include, as of the date of the execution of this Agreement, fire protection or emergency medical services.

16. Governing Law. The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that venue of such suit or action shall be in Weld County, Colorado.

17. Notice. All notice required under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective on the earlier of actual receipt or seventy-two (72) hours after deposit in the United States Mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

To the Town:                      Town Administrator  
   557 Ash Street  
   Box 351  
   Hudson, Colorado 80642

To the Property Owners:      Grant A. Ritchey, Dawn D. Ritchey

\_\_\_\_\_  
\_\_\_\_\_  
Clyde E. Roy, Carolyn S. Roy  
14951 E. 112<sup>th</sup> Avenue  
Brighton, CO 80603

18. Amendments. This Agreement may be amended by the Town and the Property Owner. Such amendments shall be in writing, shall be recorded with the County Clerk of Weld County, Colorado, shall be covenants running with the land, and shall be binding upon all persons or entities having an interest in the Property subject to the amendment unless otherwise specified in the amendment. Except as otherwise provided herein, this Agreement shall not be amended unless approved in writing by all parties hereto.

19. Entire Agreement. This Agreement embodies the entire agreement of parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties.

20. Assignment. As used in this Agreement, the term "Property Owner" shall include any of the heirs, transferees, successors or assigns of Property Owner, and all such parties shall have the right to enforce this Agreement, and shall be subject to the terms of this Agreement, as if they were the original parties thereto.

21. Effect of Town Ordinances and Resolutions. As used in this Agreement, unless otherwise specifically provided herein, any reference to any provision of any Town ordinance, resolution or policy is intended to refer to any subsequent amendments or revisions to such ordinance, resolution or policy and the parties agree that such amendments or revisions shall be binding upon Property Owner.

22. Legislative Discretion. The Property Owner acknowledges that the annexation and zoning of the Property are subject to the legislative discretion of the Board of Trustees of the Town of Hudson. No assurances of annexation or zoning have been made or relied upon by Property Owner. In the event that, in the exercise of its legislative discretion, any action with

respect to the Property herein contemplated is not taken, then the sole and exclusive remedy for the breach hereof accompanied by the exercise of such discretion, shall be the withdrawal of the petition for annexation by the Property Owner, or disconnection from the Town in accordance with state law, as may be appropriate.

IN WITNESS WHEREOF the parties have signed this Agreement as of the date set forth above.

TOWN OF HUDSON, COLORADO

By: \_\_\_\_\_  
Neal Pontius, Mayor

ATTEST:

\_\_\_\_\_  
Linnette Barker, Town Clerk

PROPERTY OWNERS:

By: \_\_\_\_\_  
Grant A. Ritchey

\_\_\_\_\_  
Dawn D. Ritchey

\_\_\_\_\_  
Clyde E. Roy

\_\_\_\_\_  
Carolyn S. Roy

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was subscribed, sworn to, and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by \_\_\_\_\_.

My commission expires: \_\_\_\_\_

(S E A L)

\_\_\_\_\_  
Notary Public