

RESOLUTION NO.

15-27

**TITLE: A RESOLUTION APPROVING A WELD COUNTY ROAD 49 ACCESS CONTROL PLAN INTERGOVERNMENTAL AGREEMENT AMONG THE TOWN OF HUDSON, THE TOWN OF KEENESBURG, THE TOWN OF KERSEY, AND WELD COUNTY**

WHEREAS, the Town of Hudson, the Town of Keenesburg, the Town of Kersey, and Weld County cooperated in the drafting of an Access Control Plan (the "Plan") for that portion of Weld County Road 49 between I-76 and Colorado Highway 34 that will be improved by Weld County; and

WHEREAS, the Board of Trustees desires to cooperate in the implementation of the Plan; and

WHEREAS, the parties have prepared the WCR49 Access Control Plan Intergovernmental Agreement Among the Town of Hudson, the Town of Keenesburg, the Town of Kersey, and Weld County (the "WCR49 IGA"), attached as Exhibit A.

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


Section 1. The WCR49 IGA is hereby approved, and the Mayor and Town Clerk are authorized and directed to execute the same.

INTRODUCED, READ and PASSED this 4<sup>th</sup> day of November, 2015.



TOWN OF HUDSON, COLORADO

  
Raymond Patch, Mayor

  
Linnette Barker, Town Clerk

# EXHIBIT A

**WCR 49 ACCESS CONTROL PLAN  
INTERGOVERNMENTAL AGREEMENT  
AMONG  
THE TOWN OF HUDSON,  
THE TOWN OF KEENESBURG,  
THE TOWN OF KERSEY,  
AND  
WELD COUNTY**

**THIS AGREEMENT** is entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_ 2015, by and among the County of Weld, State of Colorado, by and through the Board of County Commissioners of the County of Weld ("County"), whose address is 915 Tenth Street, Greeley, Colorado 80631; the Town of Hudson, Colorado ("Hudson"), whose address is 557 Ash Street, Hudson, Colorado 80642; the Town of Keenesburg ("Keenesburg"), whose address is 140 South Main, Keenesburg, Colorado 80643, and the Town of Kersey ("Kersey"), whose address is 332 3<sup>rd</sup> Street, Kersey, Colorado 80644 all of said parties being referred to collectively herein as the "Agencies."

**WITNESSETH:**

**WHEREAS**, the Agencies are authorized by the provisions of Article XIV, Section 18(2)(a), Colorado Constitution, and Sections 29-1-201, *et. seq.*, C.R.S., to enter into contracts with each other for the performance of functions which they are authorized by law to perform on their own; and

**WHEREAS**, each Agency is authorized by Section 43-2-147(l) (A), C.R.S., to regulate access to public roadways within its jurisdiction; and

**WHEREAS**, the Agencies entered into an Intergovernmental Agreement dated June 29, 2011 for the purpose of developing a comprehensive and mutually acceptable Access Control Plan for the section of Weld County Road 49, between Interstate 76 and State Highway 263 (hereafter referred to as the "Segment"); and

**WHEREAS**, said Access Control Plan has been adopted by each Agency by Resolution; and

**WHEREAS**, the coordinated regulation of vehicular access to public roadways is necessary to maintain the efficient and smooth flow of traffic, to reduce the potential for traffic accidents, to protect the functional level and optimal traffic capacity, to provide an efficient spacing of traffic signals, and to protect the public health, safety and welfare; and

**WHEREAS**, the Agencies desire to provide for the coordinated regulation of vehicular access for the Weld County Road (WCR) 49 Corridor from I-76 to US 34; and

**WHEREAS**, the Agencies are authorized, by their respective governing bodies, to achieve written agreement among themselves by adopting and implementing a comprehensive and mutually acceptable Access Control Plan for the Corridor for the purposes above recited.

**NOW THEREFORE**, for and in consideration of the mutual promises and undertakings herein contained, the Agencies agree as follows:

1. The Agencies shall regulate access to the Segment in compliance with the Weld County Road 49 Access Control Plan (the "Access Control Plan") attached hereto and incorporated herein by reference. Vehicular access to the Segment shall be permitted only when such access is in compliance with the goals, objectives and policies (as set forth Section I, subsection D of the Access Control Plan), and the technical standards set forth in the Access Control Plan and this Agreement.
2. Existing accesses which were in existence prior to the adoption of the Access Control Plan and this agreement may continue in existence if the access point complies with the Access Control Plan. If there is a change of use of an existing access point the Agencies may require closure, consolidation, modification, or relocation of an access point in accordance with the Access Control Plan and this Agreement. Provided however, nothing in this Section 2 shall be deemed to authorize the Agencies to deprive access to a property in violation of Colorado law.
3. Actions taken by any Agency with regard to transportation planning and traffic operations within the Corridor shall be in conformity with the Access Control Plan.
4. When any determination is required by the Agencies in accordance with the Access Control Plan, which determinations include, but are not limited to, consideration of new access points, changes of use or access, or traffic signals, such determination by the Agencies shall be accomplished as follows:
  - a. If the determination involves property located within a municipality that is a party to this Agreement, such determination shall be accomplished by the governing body of the municipality making a request of the County, after consultation with the other Agencies to this Agreement. Determination by the County shall not be unreasonably withheld. Such determinations by the municipality and by the County shall be based upon an application of the goals, objectives, policies (as set forth Chapter 7 of the Access Control Plan) and technical standards in the Access Control Plan, which may include consideration of stamped recommendations of a Colorado licensed professional engineer.
  - b. Any request made for a determination under this Agreement shall require consideration by the governing body of the respective Agency, and such consideration shall occur within thirty (30) days of a written request for such a determination by the Agency having jurisdiction over the segment for which an approval is sought. Such determination shall not be unreasonably withheld, and determinations hereunder shall be based on application of the goals, objectives, policies (as set forth Chapter 7 of the Access Control Plan) and technical standards in the Access Control Plan, which may include consideration of stamped recommendations of a Colorado licensed professional engineer. The failure to act by an Agency within thirty (30) days of the written request shall be deemed an approval.
  - c. If the determination involves property in the unincorporated area of Weld County, such determination shall be made in accordance with the Access Control Plan.

5. Parcels of real property created after the effective date of this Agreement, which adjoin the Corridor, shall not be provided with direct access unless the location, use and design thereof conform to the provisions of the Access Control Plan.
6. In the event the County acquires for the purpose of widening or realignment, additional rights-of-way that are contiguous to any section of WCR 49 that is within the boundaries of a municipality that is a party to this Agreement, the County may, within thirty (30) days of completing said acquisition, consider petitioning to annex such rights-of-way to the municipality in order to avoid the creation of enclaves or slivers of unincorporated right-of-way contiguous to the municipalities hereto. Such consideration by the County shall not occur without the prior completion of an annexation agreement with the municipality, which shall include a requirement that the municipality assume all maintenance and operations costs associated with the right-of-way to be annexed by the municipality.
7. This Agreement is based upon and is intended to be consistent with the Access Control Plan as now or hereafter constituted. Any amendments to the Access Control Plan will be in accordance with Exhibit A of this Agreement.
8. Should any one or more sections or provisions of this Agreement be judicially determined to be invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Agreement, the intention being that the various provisions hereof are severable.
9. This Agreement is intended to be in furtherance of the exercise of the general police power of each Agency hereto, and nothing herein shall be construed to be a waiver by the Agencies of their respective police power.
10. This Agreement supersedes and controls all prior written and oral agreement and representations of the Agencies and constitutes the whole agreement between them with respect to the subject matter of this instrument. No additional or different oral representation, promise or agreement shall be binding on any Agency. This Agreement may be amended only in writing executed by all Agencies on express authorization from their respective governing bodies. While the Access Control Plan recommends updating the Plan every five years, the Agencies agree to meet annually and discuss whether a necessity exists to amend an access or termination of this Agreement. Notwithstanding the foregoing, however, this Agreement shall remain in force until terminated by written agreement of all the Agencies.
11. By signing this Agreement, the Agencies acknowledge and represent to one another that all procedures necessary to contract and execute this Agreement have been performed, and that the persons signing for each Agency have been duly authorized by such Agency to do so.
12. No portion of this Agreement shall be deemed to constitute a waiver of any immunities the parties or their officers or employees may possess, nor shall any portion of this Agreement be deemed to have created a duty of care which did not previously exist with respect to any person not a party to this Agreement.
13. It is expressly understood and agreed the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned parties and nothing in this Agreement shall give or allow any claim or right of action

whatsoever by any other person not included in this Agreement. It is the express intention of the undersigned parties that any entity other than the undersigned parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

14. Any Agency hereto may terminate this Agreement with or without cause upon ninety (90) days prior written notice to each of the other Agencies to this Agreement. However, upon termination, the terminating Agency shall be obligated to pay to the County the costs incurred (depreciated) by the County (through the intended date of termination) for the acquisition of right-of-way, construction and maintenance of the roadway located within the terminating Agency's jurisdiction. In the event of such a termination, to the extent permitted by law, the remaining Agencies hereto shall retain the ability to enforce the provisions of the Access Control Plan.
15. In the event of an inconsistency in the provisions of the Access Control Plan and those of this Agreement, then the provisions of this Agreement control.

**IN WITNESS WHEREOF**, The Agencies have executed this Agreement effective as of the day and year first written.

**Weld County, Colorado**

ATTEST:

\_\_\_\_\_  
Weld County, Chair

\_\_\_\_\_  
Clerk to the Board of County Commissioners

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

Town of Hudson, Colorado

  
\_\_\_\_\_  
Mayor, Town of Hudson

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

**Town of Keenesburg, Colorado**

ATTEST:

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Mayor, Town of Keenesburg

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Town Clerk

**Town of Kersey, Colorado**

ATTEST:

\_\_\_\_\_  
Mayor, Town of Kersey

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney



## Exhibit A

### **Plan Amendment Process**

Since conditions may change over time, it is important to specify a process for modifying the access control plan (ACP). The ACP recommends creation of a Plan Advisory Committee (PAC) comprised of one elected official representative from each of the signatories on the Intergovernmental Agreement (IGA).

This group would meet, as needed, to process any ACP amendment requests. ACP amendment requests will be submitted to and processed by Weld County to be reviewed by the PAC. ACP amendments shall be presented to the PAC within 60 days of submittal.

Applications for amendment should include a letter explaining why an access amendment is being requested and what the proposed changes would be, which shall be supported with engineering solutions. Approval of any plan amendment shall require three quarter (3/4) majority votes to be approved. The PAC agrees that any inadvertent access mislabeling or typos can be fixed by Weld County without needing a vote of the PAC.

It is recommended the PAC update the Access Control Plan every five years, but the PAC meet annually to discuss whether any amendments are warranted. Most importantly, this process would ensure continuing coordination between the corridor agencies.