

RESOLUTION NO.

16-13

TITLE: A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR THE EXTENSION OF THE WCR 49 FOUR-LANE CONTROLLED-ACCESS HIGHWAY THROUGH THE TOWN OF HUDSON, COLORADO

WHEREAS, the Town of Hudson, the Town of Keenesburg, the Town of Kersey, and Weld County adopted a joint resolution, dated October 19, 2015, approving an intergovernmental agreement regarding operation of a portion of Weld County Road 49 (“WCR49 IGA”); and


WHEREAS, the Town of Hudson and Weld County have prepared a two party intergovernmental agreement, the INTERGOVERNMENTAL AGREEMENT FOR THE EXTENSION OF THE WCR 49 FOUR-LANE CONTROLLED-ACCESS HIGHWAY THROUGH THE TOWN OF HUDSON, COLORADO acknowledging the WCR49 IGA and designating the portion of Weld County Road 49 (between WCR 18 and I-76; referred to as the “Hudson Stretch”) that is within the corporate boundaries of Town of Hudson and providing additional agreement terms, attached as Exhibit A.

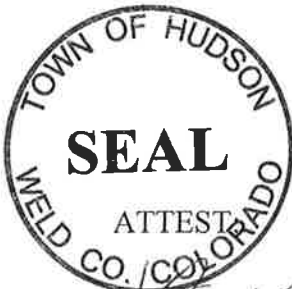
NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF HUDSON, COLORADO, AS FOLLOWS:

Section 1. The INTERGOVERNMENTAL AGREEMENT FOR THE EXTENSION OF THE WCR 49 FOUR-LANE CONTROLLED-ACCESS HIGHWAY THROUGH THE TOWN OF HUDSON, COLORADO is hereby approved, and the Mayor and Town Clerk are authorized and directed to execute the same.

INTRODUCED, READ and PASSED this 15th day of June, 2016.

TOWN OF HUDSON, COLORADO


Raymond Patch, Mayor





Linnette Barker, Town Clerk

EXHIBIT A

INTERGOVERNMENTAL AGREEMENT FOR THE EXTENSION OF THE WCR 49 FOUR-LANE CONTROLLED-ACCESS HIGHWAY THROUGH THE TOWN OF HUDSON, COLORADO

THIS INTERGOVERNMENTAL AGREEMENT is entered into this ____ day of _____, 2016, by and between the Town of Hudson, a home rule municipality of the State of Colorado, whose address is 557 Ash Street, P.O. Box 351, Hudson, Colorado 80642-0351, hereinafter referred to as "Hudson," and the County of Weld, a political subdivision of the State of Colorado, by and through the Board of County Commissioners of the County of Weld, whose address is 1150 O Street, P.O. Box 758, Greeley, Colorado 80632, hereinafter referred to as "County." The parties hereto may also be referred to herein collectively as "the Parties."

WITNESSETH:

RECITALS

WHEREAS, H.B. 15-1155 ("HB 1155") was passed by the Colorado General Assembly and signed by Governor Hickenlooper, with an effective date of August 10, 2016; and

WHEREAS, HB 1155 adds C.R.S. § 43-2-110(1.5), which authorizes counties to designate as a primary road any four-lane controlled-access county highway, the construction of which commences in 2016, that is located within the unincorporated area of the county and that intersects with an interstate highway or a United States numbered highway; and

WHEREAS, for those portions of a designated four-lane controlled-access county highway that were annexed by a municipality prior to the designation by the county, C.R.S. § 43-2-110(1.5)(m) authorizes the municipality and county to enter into an intergovernmental agreement to define the jurisdiction, responsibilities, and duties of the municipality and the county with respect to such portion of the highway as it continues through the municipality; and

WHEREAS, such intergovernmental agreements are authorized by C.R.S. § 29-1-203 and Colorado Constitution Article XIV, § 18(2)(a); and

WHEREAS, County has planned, designed, and intends to construct Weld County Road ("WCR") 49 as a four-lane controlled-access high-speed highway, to be designated on August 10, 2016, in the unincorporated area of Weld County as a Primary Road, pursuant to C.R.S. § 43-2-110(1.5), with said construction to commence in 2016 and WCR 49 intersecting with U.S. Highway 34 and I-76 (referred to herein as the "WCR 49 Highway"); and

WHEREAS, a portion of WCR 49 (between WCR 18 and I-76; referred to herein as the "Hudson Stretch") was previously annexed by Hudson; and

WHEREAS, Hudson desires to cooperate and coordinate with County to extend the WCR 49 Highway over the Hudson Stretch so as to intersect with I-76; however, the Parties also confirm by this Agreement that the Hudson Stretch is a municipal street and a component of the Town's major street system and plan pursuant to C.R.S. § 31-23-217; and

WHEREAS, Hudson and County have each adopted the WCR 49 Access Control Plan, dated December 14, 2014 (referred to herein as, "WCR 49 ACP"), which includes a set of goals and objectives, and recommendations regarding traffic signals, future comprehensive planning, school bus stops, access change of use, access to the WCR 49 corridor, load limiting of WCR 49, WCR corridor redevelopment, road cut policy, a WCR 49 corridor intergovernmental agreement, and future access control plans; and

WHEREAS, for such extension of the WCR 49 Highway over the Hudson Stretch, as described and detailed by this IGA, County will pay the entire cost to construct and provide continuous maintenance of the Hudson Stretch without seeking reimbursement of such costs from Hudson (except as to the costs of construction and installation of the improvements described in Paragraph 5, below); and

WHEREAS, County and Hudson previously entered into the "WCR 49 Access Control Plan Intergovernmental Agreement among the Town of Hudson, the Town of Keenesburg, the Town of Kersey, and Weld County," dated October 19, 2015 (the "Original WCR 49 IGA"), which agrees to implement the WCR 49 ACP along the WCR 49 Highway; and

WHEREAS, the parties hereto desire to enter into this IGA for the purpose of agreeing to the extension of the WCR 49 Highway over the Hudson Stretch and, as authorized pursuant to C.R.S. § 43-2-110(1.5)(m), to define the jurisdiction, responsibilities, and duties of the Hudson and County with respect to the Hudson Stretch.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants stated herein, the parties hereto agree as follows:

1. INCORPORATION OF RECITALS: The Parties hereby agree to and incorporate all of the recitals set forth above into this IGA.
2. EXTENSION OF THE WCR 49 HIGHWAY OVER THE HUDSON STRETCH: Hudson agrees to the extension of the WCR 49 Highway, including the proposed widening of the roadway to five lanes, over the Hudson Stretch, pursuant to the terms of this IGA. Such extension is without cost to Hudson.
3. RETENTION OF JURISDICTION BY HUDSON FOR THE HUDSON STRETCH: The Parties agree that Hudson retains jurisdiction of the Hudson Stretch as a municipal street within Hudson after such widening and improvement; however,

Hudson agrees and acknowledges that the nature and purpose of the WCR 49 Highway is a as four-lane controlled-access high-speed highway consistent with the Original WCR 49 IGA. Hudson will take no actions that will inhibit such nature and purpose except as may occur in concert with County in accordance with the terms of this IGA.

4. CONSTRUCTION AND MAINTENANCE OF HUDSON SRETCH: County agrees to pay for the entire cost of the construction of the Hudson Stretch to the four-lane controlled access standard (except for the costs of construction and installation of the improvements described in Paragraph 5, below). The term “construction” shall include, but not be limited to, the acquisition of any needed additional right-of-way, title of which shall be held by Weld County as right-of-way. Weld County agrees to maintain the Hudson Stretch, as needed, in perpetuity, at the County’s sole cost, beginning upon the completion of said construction. The term “maintain” shall include only repair of the roadway surface, shoulders, and Jim’s Creek bridge rails and culverts, and the installation and replacement, if necessary, of all route markers, directional signs, and traffic control signals, signs and control devices consistent with the Original WCR 49 IGA.

5. DEVELOPERS ALONG HUDSON STRETCH TO PAY FOR NECESSARY IMPROVEMENTS CAUSED BY THEIR DEVELOPMENTS: The Parties agree that County will pay the entire cost to construct and provide continuous maintenance of the Hudson Stretch without seeking reimbursement of such costs from Hudson. The County shall not be responsible for the cost of any improvements within the Hudson Stretch caused by development within the Town that requires connection to the four-lane controlled-access highway, or additional traffic control measures, or auxiliary lanes that are made necessary because of increased or intensified traffic entering or exiting the WCR 49 Highway caused by such developments, in accordance with the requirements of the Original WCR 49 IGA and the Manual on Uniform Traffic Control Devices (the “MUTCD”). Hudson shall be responsible for ensuring in the course of its land use approval process that such improvements are paid for, which may take the form of payments from the developers, from metro districts, or from other funding mechanisms.

6. SNOW REMOVAL AND STREET SWEEPING ON HUDSON STRETCH: Hudson shall perform snow removal and street sweeping on the Hudson Stretch and shall as necessary and to the extent practicable coordinate such activities with County’s maintenance crews to assure that the County only performs snow removal and street sweeping in the event the Town is unable to do so. Hudson agrees to pay for any damage to the road surface of the Hudson Stretch directly caused by Hudson performing snow removal or street sweeping. Hudson agrees that it alone shall be responsible for any third-party liability directly caused by its employees performing snow removal and/or street sweeping on the Hudson Stretch.

7. INCORPORATION OF ORIGINAL WCR 49 IGA: County and Hudson incorporate herein by this reference and restate the Original WCR 49 IGA consistent with C.R.S. § 43-2-110(1.5)(m) as it relates to the respective obligations of the County and Hudson, except that the County and Hudson expressly acknowledge that the termination provision in Section 14 the Original WCR 49 IGA shall no longer apply.
8. ANNEXATION OF RIGHT-OF-WAY "SLIVERS" ALONG HUDSON STRETCH: County has purchased additional rights-of-way on both sides of the Hudson Stretch. The Parties agree that annexation of all such rights-of-way into Hudson will assist law enforcement on the Hudson Stretch. County agrees to, within sixty (60) days of substantial completion of construction and the opening to traffic of the Hudson Stretch of the WCR 49 Highway, submit to Hudson a petition for annexation of such additional rights-of-way it has purchased on both sides of the Hudson Stretch. Upon annexation, the Parties agree Hudson shall have all access permitting authority consistent with the Original WCR 49 IGA and the Hudson Municipal Code. Hudson agrees that access permitting procedures, terms and standards set forth in the Hudson Municipal Code which are not commensurate with the procedures, terms and standards set forth in the Original WCR 49 IGA, shall not apply to the Hudson Stretch.
9. ANNEXATION OF WCR 49 LYING NORTH OF THE HUDSON STRETCH: Hudson agrees not to approve prior to August 10, 2016 any annexation petitions submitted to annex portion(s) of WCR 49 lying to the north of the Hudson Stretch.
10. INSTALLATION, OPERATION, AND MAINTENANCE OF TRAFFIC CONTROL SIGNALS, SIGNS AND TRAFFIC CONTROL DEVICES ON HUDSON STRETCH: County and Hudson agree that on the Hudson Stretch, the installation, operation, and maintenance of traffic control signals, signs and traffic control devices on the Hudson Stretch shall comply with the requirements of the Original WCR 49 IGA, the Hudson Municipal Code, and the MUTCD. Hudson agrees that procedures, terms and standards set forth in the Hudson Municipal Code that apply to traffic control signals, signs and traffic control devices and which are not commensurate with the procedures, terms and standards set forth in the Original WCR 49 IGA and the MUTCD, shall not apply to the Hudson Stretch. Speed limits along the Hudson Stretch shall be a standard 65 miles-per-hour, unless lower speeds are warranted pursuant to the provisions of the Original WCR 49 IGA, the Model Traffic Code, and the MUTCD. No load limits will be imposed along the Hudson Stretch without the consent of the County. The entire cost of the installation, operation, and maintenance of traffic control signals, signs and traffic control devices on the Hudson Stretch shall be paid for by County (except for the costs of construction and installation of the improvements described in Paragraph 5, above).
11. ACCESS TO THE HUDSON STRETCH: Access to the Hudson Stretch shall be

determined between Hudson and County in accordance with the terms set forth in the Original WCR 49 IGA. Hudson has previously approved in its Comprehensive Plan a major street intersection at or near 25th Avenue and WCR 49. The Parties agree that the terms of the Original WCR 49 IGA shall apply to the determination of access at that location.

12. SEVERABILITY: If any term or condition of this Agreement shall be held to be invalid, illegal, or unenforceable, this Agreement shall be construed and enforced without such provision to the extent that this Agreement is then capable of execution within the original intent of the parties hereto.
13. NO THIRD PARTY BENEFICIARY ENFORCEMENT: It is expressly understood and agreed that 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. MODIFICATION AND BREACH: This Agreement contains the entire agreement and understanding between the parties to this Agreement and supersedes any other agreements concerning the subject matter of this transaction, whether oral or written, including the agreement entitled, "WCR 49 Access Control Plan Intergovernmental Agreement Among the Town of Hudson, the Town of Keenesburg, the Town of Kersey, and Weld County." No modification, amendment, novation, renewal, or other alteration of or to this Agreement shall be deemed valid or of any force or effect whatsoever, unless mutually agreed upon in writing by the undersigned parties. No breach of any term, provision, or clause of this Agreement shall be deemed waived or excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party hereto, or waiver of, a breach by any other party, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

IN WITNESS WHEREOF, the parties hereto have signed this Amendment this ____ day
of _____, 2016.

ATTEST:
Weld County Clerk to the Board

COUNTY OF WELD, a political
subdivision of the State of Colorado

By: _____
Deputy Clerk to the Board

By: _____
Mike Freeman, Chairman
Board of County Commissioners
of the County of Weld

ATTEST:

TOWN OF HUDSON, a home rule
municipality of the State of Colorado

By: _____
Linnette Barker, Town Clerk

By: _____
Raymond Patch, Mayor