

RESOLUTION NO. 17

SERIES 2021

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN, SUMMIT COUNTY GOVERNMENT, THE TOWN OF BLUE RIVER, AND
THE STATE OF COLORADO, DEPARTMENT OF TRANSPORTATION

WHEREAS, the Town of Breckenridge, Summit County Government, the Town of Blue River and the State of Colorado, Department of Transportation (individually an “Agency” and collectively, 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 that they are authorized by law to perform on their own; and

WHEREAS, each Agency is authorized by Section 43-2-147(1)(a), C.R.S., to regulate access to public highways within its jurisdiction; and

WHEREAS, the coordinated regulation of vehicular access to public highways is necessary to maintain the efficient and smooth flow of traffic without compromising pedestrian and alternative modes of transportation circulation, to reduce the potential for traffic accidents, to protect the functional level and optimize the 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 section of Colorado State Highway 9 between M.P 77.49 and M.P. 86.26 (Carroll Lane to Broken Lance Drive) (hereinafter referred to as the “Segment”), which is within the jurisdiction of the Agencies; and

WHEREAS, the Agencies desire to collaborate to assure all transportation modes including pedestrian, bicycle, vehicle, and mass transit are given sufficient consideration and adequate funding support with each transportation improvement project that affects access within the identified project limits; and

WHEREAS, the Agencies are authorized pursuant to Section 2.12 of the 2002 State Highway Access Code, 2 C.C.R. 601-1 (the “Access Code”) to achieve such objective by written agreement among themselves adopting and implementing a comprehensive and mutually acceptable highway access control plan for the Segment for the purposes recited above; and

WHEREAS, the development of the Access Control Plan adheres to the requirements of the Access Code, Section 2.12; and WHEREAS, a proposed Intergovernmental Agreement between the Agencies has been prepared, a copy of which is marked **Exhibit “A”**, attached hereto, and incorporated herein by reference; and

WHEREAS, the Town Council has reviewed the proposed Intergovernmental Agreement and finds and determines that it would be in the best interest of the Town to enter into such agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO, as follows:

Section 1. The proposed Intergovernmental Agreement the Town of Breckenridge, Summit County Government, the Town of Blue River and the State of Colorado, Department of Transportation (**Exhibit “A”** hereto) is approved, and the Mayor is hereby authorized, empowered, and directed to execute such agreement for and on behalf of the Town of Breckenridge.

Section 2. This resolution shall become effective upon its adoption.

RESOLUTION APPROVED AND ADOPTED THIS 13TH DAY OF JULY, 2021.

EXHIBIT "A"

**INTERGOVERNMENTAL AGREEMENT
AMONG
THE COUNTY OF SUMMIT, THE
TOWN OF BLUE RIVER,
THE TOWN OF BRECKENRIDGE,
AND
THE STATE OF COLORADO
DEPARTMENT OF TRANSPORTATION**

THIS AGREEMENT (hereinafter referred to as the "Agreement") is entered into effective as of the date defined below by and among the County of Summit, the Town of Blue River, the Town of Breckenridge (hereinafter referred to collectively as the "County and Towns"), and the State of Colorado, Department of Transportation (hereinafter referred to as the "Department"), said parties being referred to collectively herein as the "Agencies."

RECITALS:

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 that they are authorized by law to perform on their own; and

WHEREAS, Each Agency is authorized by Section 43-2-147(1)(a), C.R.S., to regulate access to public highways within its jurisdiction; and

WHEREAS, The coordinated regulation of vehicular access to public highways is necessary to maintain the efficient and smooth flow of traffic without compromising pedestrian and alternative modes of transportation circulation, to reduce the potential for traffic accidents, to protect the functional level and optimize the 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 section of Colorado State Highway 9 between M.P. 77.49 and M.P. 86.26 (Carroll Lane to Broken Lance Drive) (hereinafter referred to as the "Segment"), which is within the jurisdiction of the Agencies; and

WHEREAS, The Agencies desire to collaborate to assure all transportation modes including pedestrian, bicycle, vehicle, and mass transit are given sufficient consideration and adequate funding support with each transportation improvement project that affects access within the identified project limits; and

WHEREAS, The Agencies are authorized pursuant to Section 2.12 of the 2002 State Highway Access Code, 2 C.C.R. 601-1 (the "Access Code") to achieve such objective by written

agreement among themselves adopting and implementing a comprehensive and mutually acceptable highway access control plan for the Segment for the purposes recited above; and

WHEREAS, The development of this Access Control Plan adheres to the requirements of the Access Code, Section 2.12.

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

1. The Access Control Plan dated May 2021 for the Segment (hereinafter referred to as the "Access Control Plan") is attached hereto as Exhibit A and incorporated herein.
2. The Agencies shall regulate access to the Segment in compliance with the Access Control Plan, the Highway Access Law, section 43-2-147, C.R.S., (the "Access Law") and the applicable sections of the Access Code. Vehicular access to the Segment shall be permitted when such access is in compliance with the Access Control Plan, the Access Law and the applicable sections of the Access Code.
3. Accesses that were in existence in compliance with the Access Law prior to the effective date of this Agreement may continue in existence until such time as a change in the access is required by the Access Control Plan or in the course of highway reconstruction. When closure, modification, or relocation of access is necessary or required, the Agency(ies) having jurisdiction shall utilize appropriate legal process to affect such action.
4. Actions taken by any Agency with regard to transportation planning and traffic operations within the areas described in the Access Control Plan shall be in conformity with this Agreement. Per Section 2.12 (3) of the Access Code, design waivers may be approved if agreed upon by the Agencies having jurisdiction.
5. Parcels of real property created after the effective date of this Agreement that adjoin the Segment shall not be provided with direct access to the Segment unless the location, use and design thereof conform to the provisions of this Agreement.
6. This Agreement supersedes and controls all prior written and oral agreements and representations of the Agencies concerning regulating vehicular access to the Segment. This agreement may be amended only in writing executed by the Agencies with express authorization from their respective governing bodies or legally designated officials. To the extent the Access Control Plan, attached as Exhibit A to this Agreement, is modified by a change, closure, relocation, consolidation or addition of an access, the Agencies may amend the attached Exhibit A so long as the amendment to the Access Control Plan is executed in writing and amended in accord with the Access Law and Access Code. The Access Control Plan Amendment Process has been included in Exhibit B. This Agreement is based upon and is intended to be consistent with the Access Law and the Access Code as now or hereafter constituted. An amendment to either the Access Law or the Access Code that becomes effective after the effective date of this Agreement and that conflicts irreconcilably with an

express provision of this Agreement may be grounds for revision of this Agreement.

7. This Agreement does not create any current financial obligation for any Agency. Any future financial obligation of any Agency shall be subject to the execution of an appropriate encumbrance document, where required. Agencies involved in or affected by any particular or site-specific undertaking provided for herein will cooperate with each other to agree upon a fair and equitable allocation of the costs associated therewith, however, notwithstanding any provision of this Agreement, no Agency shall be required to expend its public funds for such undertaking without the express prior approval of its governing body, director, and if required, state controller. All financial obligations of the Agencies hereunder shall be contingent upon sufficient funds therefore being appropriated, budgeted, and otherwise made available as provided by law.
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 supersedes and controls all prior written and oral agreements 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 either Agency. This Agreement may be amended or terminated only in writing executed by the Agencies on express authorization from their respective governing bodies or legally designated officials.
10. By signing this Agreement, the Agencies acknowledge and represent to one another that all procedures necessary to validly 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.
11. No portion of this Agreement shall be deemed to constitute a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, C.R.S. Section 24-10-101, et. seq. Nor shall any portion of this Agreement be deemed to have created a duty of care that did not previously exist with respect to any person not a party to this Agreement.
12. 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.
13. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one original Agreement. Facsimile signature shall

be as effective as an original signature.

14. Effective Date. The Effective Date of this Agreement shall be the date of the last party to sign.
15. Notwithstanding any provision in this Agreement, including all Exhibits, to the contrary, the initial term of this Agreement shall be five (5) years from the Effective Date in paragraph 14 ("Initial Term") with up to nine (9) five-year extensions (each five-year extension referred to in this paragraph as an "Extension"). An Extension shall automatically commence on the five-year anniversary of the Effective Date of the prior term unless a Party provides timely notice to all other Parties of an intent to terminate. To be timely, a notice of intent to terminate must be sent via U.S. Mail postage prepaid to each Party at the last known address not less than one hundred and twenty (120) days prior to the end of the Initial Term or an Extension. Upon issuance of a timely notice to terminate:
 - i. At least ninety (90) days prior to the end of the Initial Term or an Extension, the Agencies shall meet to discuss the operation of the Agreement, the basis for any termination, and whether the basis for termination may be addressed or remedied to permit the extension of the Agreement.
 - ii. The Agencies shall have sixty (60) days to resolve any issues with the Agreement and determine whether the Agreement can be extended.
 - iii. Not less than thirty (30) days prior to the end of the Initial Term or an Extension, all Agencies must agree in writing to extend the Agreement.

If the Parties fail to extend the Agreement as provided in subparagraphs i-iii above, the Agreement shall terminate at the end of the then current term.

IN WITNESS WHEREOF, the Agencies have executed this Agreement effective as of the day and year last above written.

County of Summit, Colorado

ATTEST:

Commissioner, County of Summit

County Clerk

APPROVED AS TO FORM:

County Attorney

Date

Town of Blue River, Colorado

ATTEST:

Mayor, Town of Blue River

Town Clerk

Date

APPROVED AS TO FORM:

Town Attorney

Date

Town of Breckenridge, Colorado

ATTEST:

Mayor, Town of Breckenridge

Town Clerk

Date

APPROVED AS TO FORM:

Town Attorney

Date

State of Colorado
Department of Transportation

Chief Engineer Date

CONCUR:

Regional Transportation Director Date

“EXHIBIT – A”
SOUTH SUMMIT COLORADO STATE HIGHWAY 9
MP 77.49-MP 86.26
ACCESS CONTROL
PLAN JANUARY 2020

The County of Summit, the Town of Blue River, the Town of Breckenridge, and the State of Colorado Department of Transportation

I. PURPOSE

The purpose of this Access Control Plan is to provide the Agencies with a comprehensive roadway access control plan for the pertinent segment of Colorado State Highway 9 between MP 77.49 and MP 86.26 (Carroll Lane to Broken Lance Drive).

II. AUTHORITY

The development of this Access Control Plan was completed pursuant to the requirements of the Access Code, Section 2.12, and adopted by the attached Agreement.

III. RESPONSIBILITIES

It is the responsibility of each of the Agencies to this Access Control Plan to ensure that vehicular access to the Segment shall only be in conformance with this Access Control Plan. The cost of access improvements, closures and modifications shall be determined pursuant to section 43-2-147(6) C.R.S., the Agreement, and this Access Control Plan. All access construction shall be consistent with the design criteria and specifications of the Access Code.

IV. EXISTING AND FUTURE ACCESS

- A. The attached table provides a listing of each existing and future access point in the Segment. For each access point the following information is provided: location, description of the current access status, the future configuration ("Future Configuration"), and the condition(s) for change ("ACP Table"). All access points in the Segment are defined in the ACP Table by the approximate Department reference point (in hundredths of a mile) based on CDOT Highway Segment Description Milepost for Colorado State Highway 9 at Carroll Lane MP 77.49. All access points are located at the approximate centerline of the access (+/- 50 feet) unless otherwise noted in the ACP Table. Exhibits graphically illustrating the Future Configuration are attached for reference. In case of discrepancy between the Access Control Plan, the graphic depictions of the Future Configuration and the ACP Table, shall be resolved in the following order of precedence:
1. Access Control Plan;
 2. ACP Table;
 3. Graphic depictions of Future Configuration.
- B. All highway design and construction will be based on the assumption that the Segment will have a sufficient cross section to accommodate all travel lanes and sufficient right-of-way to accommodate longitudinal installation of utilities.

V. ACCESS MODIFICATION

Any proposed access modification, including but not limited to adding a new access, must be in compliance with this Agreement and the Access Code design standards unless the Agency or Agencies having jurisdiction approves a design waiver under the waiver subsection of the Access Code.

Exhibit A
South Summit Colorado State Highway 9
Access Control Plan

Any access to Colorado Highway 9 in the Segment which requires modification or closure pursuant to this Access Control Plan may be brought into conformance with this Access Control Plan, when a formal written request documenting reasons for the change is presented and only so long as the Agency(ies) having jurisdiction and the Department concur. The existence of one or more of the following conditions may justify an Agency's request for access modification:

- a. The access is determined to be detrimental to the public's health, safety and welfare;
- b. The access has developed an accident history that in the opinion of the Agency(ies) having jurisdiction or the Department is correctable by restricting the access;
- c. The access restrictions are necessitated by a change in road or traffic conditions;
- d. The Agency(ies) having jurisdiction approved a change in the use of the property that causes a change in the type of access operation as defined by the Access Code;
- e. A highway reconstruction project provides the opportunity to make highway and Future Configuration access improvements in support of this Access Control Plan; or
- f. The existing development does not allow for the proposed street and road network.

Access construction shall be consistent with the design and specifications of the Access Code.

“EXHIBIT - B”
SOUTH SUMMIT COLORADO STATE HIGHWAY 9
(MP 77.49-MP 86.26)
ACCESS CONTROL PLAN
AMENDMENT PROCESS

1. A request for an amendment of the Access Control Plan may be initiated by one of the Agencies. The initiating Agency will be responsible for the costs associated with completing and documenting the Amendment.
2. Amendment requests must be submitted to and agreed upon by the Agencies having jurisdiction: . The property or properties that are directly affected by the proposed amendment must be located within a jurisdiction’s boundaries or within the boundaries of a legally recognized planning area, such as a Growth Management Area, for the jurisdiction to be considered an Agency having jurisdiction. Because the Segment is a state highway, the Department is an Agency having jurisdiction.
3. An amendment request shall include hard copy and electronic files of the following:
 - a) Description of the proposed amendment to the Access Control Plan, ACP Table or exhibits
 - b) Justification for the proposed amendment
 - c) Traffic Impact Study or analysis, depending upon the magnitude of the change requested. Any Agency having jurisdiction can request a Traffic Impact Study or analysis if such document has not been included in the amendment request.
 - d) Amended ACP Table
 - e) Amended Access Control Plan Exhibit(s)/Map(s)
4. The Agencies shall review the submittal concurrently for completeness and for consistency with the access objectives, principles, and strategies described in the *South Summit Colorado State Highway 9 Access and Conceptual Trail Design Study* (Stolfus & Associates, Inc., January, 2020) report for this corridor and with the design criteria and permit process of the State Highway Access Code.
5. Prior to approval of an amendment, all property owners directly affected by the amendment must be notified in writing and be given thirty (30) calendar days to state any objections. If an objection is lodged, approval of the amendment must be referred to the Agencies respective governing bodies. Depending on the magnitude of the change requested, a public meeting may be required. Any Agency can request a public meeting. The Agency initiating the amendment request shall be responsible for all public notification and public process, unless otherwise agreed to by the Agencies.
6. Amendments must be approved in writing by the following authorized designated officials: Regional Transportation Director for the Department, County Manager, and/or Town Manager, if so authorized by their elected officials. At the authorized designated official’s discretion, approval may be referred to their respective governing bodies identified below:
 - a) Chief Engineer for the Department;
 - b) Board of County Commissioners for Summit County;
 - c) Town Council for the Town of Breckenridge; and

Exhibit B
South Summit Colorado State Highway 9
Access Control Plan Amendment
Process

- d) Board of Trustees for the Town of Blue River.
7. A written amendment must include the following:
- a) Declarations page defining the parties, effective date, and details of the amendment. Refer to sample amendment attached to the Agreement as Exhibit C.
 - b) Signatures page for authorized designated officials. Refer to Exhibit C.
 - c) Proposed amendment to Access Control Plan, ACP Table and any exhibits. The ACP Table and any exhibits should be replaced in their entirety.
- A signed amendment must be attached to the original Agreement.
8. If all Agencies having jurisdiction do not agree on a proposed amendment, the content of the Access Control Plan, in effect at the time the amendment was requested, remains intact.