

COUNTY RESOLUTION

16-2017

FERGUS COUNTY, MONTANA

MAIDEN ROAD

WHEREAS, the Montana Transportation Commission has designated a section of the Maiden Road highway, approximately 9.7 miles in length, in Fergus County as X-14203.

WHEREAS, the Western Federal Lands Division (WFL) of the Federal Highway Administration (FHWA) at the request of the County and the Montana Department of Transportation (hereinafter "Department") has programmed for construction X-14203 with State and Federal funds.

NOW THEREFORE, BE IT RESOLVED THAT Fergus County, acting through its Board of County Commissioners concurs in the above designation, and in consideration of the construction on X-14203 paid for by the Department and/or the WFL, agrees:

1) It has reviewed and approved the construction plans for X-14203 with Project No. MT DOT 14203(1) (hereinafter "project");

2) That the Department will transfer ownership of all State property within the right-of-way and limits of the project upon completion of the project. The County, by accepting the right-of-way transfer, agrees that it will assume full maintenance responsibility, at County expense, of this section of highway known as X-14203. The County further agrees that it will maintain the property as a public right of way for transportation purposes, and that no portion of the County's interest in the property will be sold or exchanged with a private entity.

3) The WFL will acquire all necessary permits and approvals for the project (i.e., stream preservation, floodplain, 404, etc.) necessary to comply with state or federal requirements. The appropriate County officials or employees will be invited to the final inspection of the project. Upon construction and notification by the WFL, the County shall assume all responsibility for such permits and approvals, including but not limited to any maintenance requirements of the storm water pollution prevention plan (SWPPP). Said SWPPP shall be transferred to the County, or, if a transfer cannot be reasonably made, other arrangements will be made to transfer all of the requirements under the SWPPP or the issuance of a new SWPPP to the County. The WFL will be responsible for paying any fees associated with any such SWPPP until it is terminated. As further consideration, the County agrees to accept any and all maintenance and other responsibilities pursuant to any applicable SWPPP and Notice of Intent (NOI) administered by the Montana Department of Environmental Quality. The County will accept these responsibilities at the time of final inspection. At that time the SWPPP will be transferred to the County, or the County as noted above will assume the responsibilities under said SWPPP or a new SWPPP. The County agrees to execute any necessary documents or take any other steps necessary for the transfer of responsibility for the SWPPP and the NOI at the appropriate time.

4) Except for any suits, claims, actions, losses, costs or damages which are solely the result of the negligent acts or omissions or misconduct of County employees, the Department agrees that it will protect, indemnify, and save harmless the County against and from all claims, liabilities, demands, causes of action, judgments (with any costs and fees that might be awarded), and losses to them from any cause whatever from the design and construction of the project, including any suits, claims, actions, losses, costs or damages of any kind, including the County's legal expenses, made against the County by anyone arising out of, in connection with, or incidental to the project's design, engineering and construction.

Except for any suits, claims, actions, losses, costs or damages which are solely the result of the negligent acts or omissions or misconduct of Department employees, the County agrees that it will protect, indemnify, and save harmless the State and Department against and from all claims, liabilities, demands, causes of action, judgments (with any costs and fees that might be awarded), and losses to them from any cause whatever from the project, and including any suits, claims, actions, losses, costs or damages of any kind, including the State and Department's legal expenses, made against the State or Department by anyone arising out of, in connection with, or incidental to the County's acceptance of the project and its maintenance

and ownership of the project.

5) Upon construction of the project and notification by the Department, the County shall:

(a) maintain the highway project as constructed, including all traffic control devices and storm water runoff control features;

(b) remove or cause to be removed or modified, any existing or future encroachments as may be directed by the Department; and

(c) administer the access, and the legal use of the constructed sections to the satisfaction of the Department and/or the FHWA. The County, after acceptance of the completed project, agrees to protect, defend and indemnify the State and the Department, as noted above, from any claim, damage or loss arising from or due to the failure of the County to maintain the project including traffic control devices and storm water runoff devices.

6) To regulate utility occupancy on the right-of-way of this highway in conformance with occupancy regulations that comply with or are more restrictive than the requirements of ADMINISTRATIVE RULES OF MONTANA, 18.7.201 thru 18.7.241 governing "RIGHT OF WAY OCCUPANCY BY UTILITIES."

The above resolution was adopted by the Board of County Commissioners this 25 day of April, 2017.

FERGUS COUNTY, MONTANA

(COUNTY SEAL)

By ABSENT
CHAIRMAN, BOARD OF COUNTY COMMISSIONERS

ATTEST:

By Lanette Young
MEMBER, BOARD OF COUNTY COMMISSIONERS

[Signature]
CLERK AND RECORDER

By [Signature]
MEMBER, BOARD OF COUNTY COMMISSIONERS

The Montana Department of Transportation agrees to the matters contained in this Resolution.

DATED this _____ day of _____, 2017.

By: _____
Director of Transportation

_____ Approved for Legal Content