

TOWN OF TIMNATH  
ORDINANCE NO. 2, SERIES 2012

**AN ORDINANCE APPROVING A THIRD AMENDMENT TO THE FEBRUARY 17, 2009  
INTERGOVERNMENTAL AGREEMENT ENTERED INTO BETWEEN THE TOWN OF  
TIMNATH AND THE CITY OF FORT COLLINS**

**WHEREAS**, the Town of Timnath ("Timnath") and the City of Fort Collins ("Fort Collins") entered into an intergovernmental agreement relating to annexation, growth management and related issues on February 17, 2009 ("IGA"); and

**WHEREAS**, the Timnath Town Council approved the IGA by motion at its regular Council meeting on February 11, 2009; and

**WHEREAS**, the Timnath Town Council approved the First Amendment to Intergovernmental Agreement by Ordinance on March 3, 2010; and

**WHEREAS**, the Timnath Town Council approved the Second Amendment to Intergovernmental Agreement by Ordinance on February 2, 2011; and

**WHEREAS**, Fort Collins entered into a separate intergovernmental agreement with Larimer County that established boundaries for the Fort Collins Growth Management Area (the "FCGMA"); and

**WHEREAS**, Section 2.2(b) of the IGA requires that Fort Collins seek the approval of Larimer County to amend the boundaries of the FCGMA to match the boundaries stated in the IGA by February 17, 2011; and

**WHEREAS**, the boundaries set forth in the IGA conflict with the boundaries established in the Fort Collins/Larimer County intergovernmental agreement, which also states that Fort Collins will not amend those boundaries without the consent of the County; and

**WHEREAS**, because of the conflicting obligations of Fort Collins under these two agreements, Fort Collins has requested, and Timnath has agreed, to amend the IGA and extend the deadline imposed by Section 2.2(b) for another one year period to afford Timnath and Larimer County adequate time to resolve their differences and come to agreement about the boundary between the Timnath Growth Management Area and the FCGMA; and

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Timnath, Colorado, that:

**Section 1. Approval of the Third Amendment to the IGA.** The Third Amendment to Intergovernmental Agreement Regarding Cooperation on Annexation, Growth Management and Related Issues ("Amendment"), a true copy of which shall be attached hereto and incorporated herein by reference, is hereby approved. The Mayor is hereby authorized to execute the Amendment, and the Town Clerk is directed to affix the seal of the Town thereto and attest same.

**Section 3. Severability.** If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one part

or any parts be declared unconstitutional or invalid.

**Section 5. Repealer.** All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

**Section 6. Effective Date.** This Ordinance shall take effect upon adoption at second reading, as provided by Section 3.5.5 of the Charter.

**INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH ON FIRST READING, SET FOR PUBLIC HEARING AND SECOND READING AT 6:00 P.M. ON FEBRUARY 13 or 14, 2012 AT THE TIMNATH TOWN HALL, 4800 GOODMAN STREET, TIMNATH, COLORADO AND ORDERED PUBLISHED BY TITLE THIS 24TH DAY OF JANUARY, 2012.**

**MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON FEBRUARY 13 or 14, 2012.**

TOWN OF TIMNATH

  
\_\_\_\_\_  
Jill Grossman-Belisle, Mayor

ATTEST:

  
\_\_\_\_\_  
Milissa Peters, Town Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Gary White, Town Attorney

**THIRD AMENDMENT TO INTERGOVERNMENTAL AGREEMENT**  
(Regarding Cooperation on Annexation, Growth Management and Related Issues)

**THIS THIRD AMENDMENT TO INTERGOVERNMENTAL AGREEMENT** (“Amendment”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between THE TOWN OF TIMNATH, COLORADO, a Colorado home rule town (hereinafter referred to as “Timnath”), and THE CITY OF FORT COLLINS, COLORADO, a Colorado home rule municipal corporation (hereinafter referred to as “Fort Collins”).

**RECITALS**

**WHEREAS**, on February 17, 2009, Timnath and Fort Collins entered into an intergovernmental agreement relating to annexation, growth management and related issues, which agreement resolved certain differences that had arisen between the parties regarding a variety of planning and growth management issues (the “Intergovernmental Agreement”); and

**WHEREAS**, Section 2.2(b) of the Intergovernmental Agreement requires that by February 17, 2010, Fort Collins seek the approval of Larimer County to amend the boundaries of the Fort Collins Growth Management Area (the “FCGMA”) to match the boundaries that are specified in the Intergovernmental Agreement; and

**WHEREAS**, Section 2.2(b) of the Intergovernmental Agreement also provides that irrespective of whether or not the County approves the amendment of the FCGMA, Fort Collins shall, within the same period of time, take all actions necessary to amend the boundaries of the FCGMA independently of the intergovernmental agreement between Fort Collins and Larimer County dated November 21, 2000 (the “City/County IGA”); and

**WHEREAS**, Section 2.3(b) of the Intergovernmental Agreement contains a similar provision stating that Timnath shall, within one year, amend the boundaries of its Growth Management Area (the “TGMA”) match the boundaries that are specified in the Intergovernmental Agreement; and

**WHEREAS**, due to a number of extenuating circumstances, the parties have not yet been able to accomplish the amendment of their respective growth management area boundaries; and

**WHEREAS**, on March 3, 2010, the parties executed a First Amendment to Intergovernmental Agreement and on February 2, 2011, the parties executed a Second Amendment to Intergovernmental Agreement, both of which extended the periods of time within which Fort Collins was to amend the FCGMA; and

**WHEREAS**, the parties wish to execute a third amendment to the Intergovernmental Agreement to extend until February 12, 2013, the period of time within which both parties will amend the boundaries of their growth management areas.

**NOW, THEREFORE**, in consideration of the mutual promises of the parties and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Section 2.2(b) of the Intergovernmental Agreement is hereby amended to extend the period of time within which Fort Collins must amend the FCGMA, so that such Section reads in its entirety as follows:

(b) Fort Collins shall seek the approval of Larimer County to amend the boundaries of the FCGMA in accordance with Section 2.2(a) above. In addition, and irrespective of whether or not Larimer County approves such amendment, Fort Collins shall, on or before February 12, 2013, take all actions necessary to amend those boundaries to the FCGMA as it exists independently of the Intergovernmental Agreement between Fort Collins and Larimer County, Colorado dated November 21, 2000, to conform the FCGMA to the limitations of Section 2.2(a) above, it being the intention of and agreement of the parties that the requirements of Section 2.1 shall apply to the (as hereby described and amended) FCGMA boundaries irrespective of any action by Larimer County.

2. Section 2.3(b) of the Intergovernmental Agreement is hereby amended to extend the period of time within which Timnath must amend the TGMA, so that such Section reads in its entirety as follows:

(b) Timnath shall amend the TGMA in accordance with Section 2.3(a) above on or before February 12, 2013.

3. No Further Modification. Except as expressly amended by this Amendment, the Intergovernmental Agreement is unmodified and shall continue in full force and effect.

4. Binding Agreement. Both Timnath and Fort Collins intend that this Amendment shall be binding upon them.

5. Amendments. This Amendment may only be amended, changed, modified or altered in writing, signed by both parties hereto.

6. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Colorado.

7. Jointly Drafted; Rules of Construction. The parties hereto agree that this Amendment was jointly drafted, and, therefore, waive the application of any law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

8. Defined Terms. Capitalized terms used in this Agreement but not otherwise defined herein shall have the meanings set forth in the Intergovernmental Agreement.

