

**TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 51, SERIES 2016**

**A RESOLUTION RATIFYING THE TERMS OF ANNEXATION
AGREEMENT FOR THE BRANDT PROPERTY**

WHEREAS, the Town Council (“**Council**”) of the Town of Timnath, Colorado (“**Town**”) pursuant to C.R.S. § 31-15-103, has the power to pass resolutions; and

WHEREAS, the Town desires to annex real property, consisting of approximately 6.7 acres located at 6639 County Road 78, in Weld County, Colorado, as further described in Exhibit A, attached hereto and incorporated herein by reference (the “**Property**”); and

WHEREAS, the Town and James W. and Joyce E. Brandt (the “**Property Owners**”) desire to enter into a Terms of Annexation Agreement in order to provide mutual assurances and facilitate annexation of the Property (the “**Terms of Annexation Agreement**”); and

WHEREAS, the Town Council is familiar with the Terms of Annexation Agreement, and finds it to be in the best interest of the Town, its residents, and the general public.

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

Section 1. Approval

The Terms of Annexation Agreement is hereby approved in the form as attached hereto.

Section 2. Ratification

The Execution of the Terms of Annexation Agreement or other actions whatsoever conducted by the Town are hereby affirmed, ratified and made effective as of the date of the Terms of Annexation Agreement.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON JUNE 28, 2016.

TOWN OF TIMNATH, COLORADO



Jill Grossman-Belisle, Mayor

ATTEST:

Milissa Peters

Milissa Peters, CMC
Town Clerk



**TERMS OF ANNEXATION AGREEMENT
FOR THE BRANDT PROPERTY**

THIS TERMS OF ANNEXATION AGREEMENT (“**Agreement**”), is made and entered into to be effective, subject to pending approval by the Town Council, the 28th day of June, 2016, by and between the Town of Timnath, a Colorado municipal corporation (the "**Town**"), and James W. and Joyce E. Brandt, (the "**Property Owners**") and is made concerning the real property described on **Exhibit A**, attached hereto and incorporated herein by reference (“the **Property**”). This Agreement by the Town Council in an open meeting pursuant to the terms of the Colorado Open Meetings Law. The Town and Property Owners are referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

WITNESSETH:

WHEREAS, the Property consists of approximately 6.732 acres, more or less, located at 6639 County Road 78, in Weld County, Colorado; and

WHEREAS, the Parties have engaged in negotiations to effectuate the annexation of Property into the Town, and the Parties desire to enter into this Agreement in order to provide mutual assurances and facilitate annexation of the Property; and

WHEREAS, annexation of the Property will be in accordance with the terms and conditions of this Agreement, the annexation petition, if any, and the Colorado Municipal Annexation Act of 1965 (as amended, the “**Act**”), the Town of Timnath Municipal Code (the “**Code**”), and all applicable laws.

NOW, THEREFORE, in consideration of the foregoing and the terms, covenants, conditions and provisions hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which are hereby confessed and acknowledged, Parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms and conditions for annexation and development of the Property within the Town. All conditions contained herein are in addition to any and all requirements of Town and applicable state statutes, and are not intended to supersede such requirements, except as specifically provided in this Agreement. All exhibits attached hereto are incorporated herein by this reference and are an integral part hereof.

2. Fee Waiver. The Town hereby agrees to waive all Town fees associated with annexation of the Property. The Town also hereby agrees that there will be no fee for withdrawing the annexation petition before the annexation is effective and there will be no fee for disconnection. The Town further agrees to pay any additional fees ordinarily required by the Town for annexation, including but not limited to county and recording fees.

3. Withdrawal of Petition/Disconnection. Property Owners have the unilateral right to withdraw the annexation petition at any time prior to the petition’s approval. In the event that the Town does not meet, or fails to satisfy, any of the conditions set forth in this Agreement, the Property Owners shall have the option to disconnect the Property from the Town. To the extent authorized by applicable law, Property Owners’ option to disconnect pursuant to this paragraph may be exercised up to one year from the date of annexation. If Property Owners choose to waive their right to disconnect, they shall

provide written notice of such waiver to the Town. In the event that the Property is disconnected pursuant to this paragraph, this Agreement shall be terminated effective as of the date of disconnection.

4. Continued Use of Property. The Property Owners may continue all currently existing uses on their property. In the event that Property Owners deed the property to their son, he may continue all currently existing uses on the Property (the “**Property Rights**”). The Property Rights are dependent upon the continued existing agricultural use of the property, and the Property Rights shall extinguish if the property is sold to any party, or is subdivided.

5. Title and Authority. Property Owners warrant and represent to Town that they are the record owners of the Property. Property Owners understand that the Town is relying on such representations and warranties in entering into this Agreement.

6. Acknowledgement. It is expressly understood that Town cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with the Code and the laws of the State of Colorado. Nothing contained in this Agreement shall constitute or be interpreted as a repeal of existing codes or ordinances, or as a waiver or abrogation of Town's legislative, governmental, or police powers to promote and protect the health, safety and general welfare of Town or its inhabitants; nor shall this Agreement prohibit the enactment by Town of any fee, ordinance, resolution, rule or regulation which is of uniform and general application.

7. Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of Parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid, and Parties shall cooperate to cure any such defect.

8. No Duress. Parties agree that this Agreement is freely and voluntarily executed by them after extensive negotiations between them and an opportunity for each Party to obtain legal advice.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Should any Party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that exclusive venue of such suit or action shall be in Weld County, Colorado.

10. Third Party Beneficiaries. This Agreement is made by and between Parties and their successors and, to the extent permitted, assigns and solely for their benefit. No third parties, including but not limited to adjacent property owners and/or individual lot owners or buyers, shall be entitled to enforce the duties or enjoy the rights created herein.

(Signature page follows)

IN WITNESS WHEREOF, this Agreement has been executed by Parties, intending to be legally bound hereby, as of the date set forth above.

