

**TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 99, SERIES 2016**

**A RESOLUTION APPROVING PURCHASE AND OTHER TERMS BETWEEN THE
TOWN OF TIMNATH AND J.R. SIMPLOT COMPANY**

WHEREAS, the Town of Timnath is a Home Rule Town of the State of Colorado (the “**Town**”); and

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

WHEREAS, the Town has determined that it is necessary and in the public interest to construct various road improvements to Harmony Road including the widening of the road and the construction of a median (the “**Project**”); and

WHEREAS, the Town has determined that the acquisition of certain fee property and permanent easements purportedly owned by J.R. Simplot Company (the “**Owner**”), is necessary for completion of the Project; and

WHEREAS, on March 8, 2016, the Council passed Resolution No. 15, Series 2016 (the “**Prior Resolution**”) generally approving the acquisition, by use of eminent domain, if necessary, fee simple title to certain right of way as described and depicted in Exhibit A of the Prior Resolution (the “**Property**”), and a utility easement as described and depicted in Exhibit B of the Prior Resolution (the “**Utility Easement**”); and

WHEREAS, Section 3 of the Prior Resolution authorized the Town Manager and the Town legal counsel to continue to negotiate with the Owner on behalf of the Town; and

WHEREAS, the Town Manager and the Town legal counsel have continued negotiations with the Owner regarding the Property and the Utility Easement and now seek authorization from the Council for specific deal terms as set forth in this resolution; and

WHEREAS, after consideration, the Council has determined that authorizing and affirming these deal terms is 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 FOLLOW:

Section 1. Payment

The Town authorizes expenditure of funds up to \$250,000 to the Owner in exchange for the Property and Utility Easement as set forth in the Prior Resolution.

Section 2. Utility Easement

The Utility Easement is revised to specifically state the Owner's existing building can remain unaffected by the condemnation action.

Section 3. Access to Property

The Owner can use the Property and Utility Easement area up to February 1, 2017, at no additional charge, subject to the Town's right of access to the property for any necessary pre-construction activities.

Section 4. License Agreement

The Town will give the Owner a license agreement permitting the Owner to use any portion of the right-of-way that is not necessary for the current construction activities of the Town. The Owner may not use any portion of the right-of-way that is necessary for current construction activities. The required license agreement may be finalized by the Town Manager in consultation with the Town Planner, Engineer, Legal Counsel, and other applicable staff or consultants.

Section 5. Severability

If any part or provision of this Resolution, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Resolution that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Resolution are declared to be severable.

Section 6. Effective Date

This Resolution shall become effective upon the date of adoption provided below.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON NOVEMBER 8, 2016.



TOWN OF TIMNATH, COLORADO



Jill Grossman-Belisle, Mayor

ATTEST:



Milissa Peters, CMC
Town Clerk