All Attachments can be obtained at the Town Administration Building, 4800 Goodman Street

TOWN OF TIMNATH
TOWN COUNCIL
Tuesday, January 14, 2014, 6:00 p.m.
Meeting will be held at Timnath Administration Building.
4800 Goodman Street, Timnath, Colorado

1. CALL TO ORDER AND ROLL CALL
   Mayor          Jill Grossman-Belisle
   Councilmember Marty Chiaramonte
   Councilmember Bill Neal
   Councilmember Paul Steinway
   Councilmember Bryan Voronin

2. AMENDMENTS TO THE AGENDA  Note: The Council may add to this agenda, any item for discussion or action.

3. PUBLIC COMMENT:  Note: It is requested that public comments be limited to three minutes. When several people wish to speak with the same position on a given item, they are requested to select a spokesperson to state that position.

4. CONSENT AGENDA
   a. Approval of the December 10, 2013, Town Council Meeting Minutes
   b. Approval of the December 17, 2013, Town Council Special Meeting Minutes
   c. Approval of the Check Registers

5. REPORTS
   a. Mayor
   b. Council
   c. Town Attorney

6. ORDER OF BUSINESS:
   a. RESOLUTION NO. 1, SERIES 2014, A Resolution of the Town Council of the Town of Timnath Approving the Village Homes Block Diversity Plan.
      Presented by Matt Blakely, Contracted Town Planner

   b. RESOLUTION NO. 2, SERIES 2014, A Resolution Making Certain Findings of Fact and Declaring Eligibility of the Proposed Annexation of a Parcel of Land to the Town of Timnath, Colorado, Known as the Brunner Farm Annexation.
      Presented by Matt Blakely, Contracted Town Planner

   c. EXECUTIVE SESSION: “For the purposes of discussion concerning the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interests under Section §24-6-402(a), C.R.S.; discussion concerning personnel matters under §24-6-402(4)(f), C.R.S.; discussion regarding positions relative to matters that may be subject to negotiations and development of a strategy for negotiations under §24-6-402(4)(e), C.R.S.; and conferences with the Town’s
All Attachments can be obtained at the Town Administration Building, 4800 Goodman Street
attorney for purposes of receiving legal advice on specific legal questions under §24-6-402(4)(b), C.R.S.”
Presented by the Contracted Town Attorney

d. RESOLUTION NO. 3, SERIES 2014, A Resolution Approving the Public/Private Partnership Agreement Regarding Gateway Timnath South.
Presented by Robert Rogers, Contracted Town Attorney

e. DISCUSSION/POSSIBLE ACTION: Auditor Selection

f. ORDINANCE NO. 20, SERIES 2013, SECOND READING, PUBLIC HEARING, An Ordinance Approving a Vacation of The Former I-25 Frontage Road at the Southeast Corner of I-25 and Harmony Road and Setting a Public Hearing for January 14, 2014 at 6:00 p.m.
Presented by Matt Blakely, Contracted Town Planner

Presented by April Getchius, Town Manager

h. RESOLUTION NO. 5, SERIES 2014, A Resolution Regarding Annual Administrative Matters for the Town of Timnath.
Presented by Robert Rogers, Contracted Town Attorney

7. ADJOURNMENT
1. CALL TO ORDER AND ROLL CALL:
Mayor Grossman-Belisle called to order the meeting of the Town Council on Tuesday, December 10, 2013, at 6:07 PM

Present:
- Mayor Jill Grossman-Belisle
- Councilmember Bill Neal
- Councilmember Paul Steinway

Absent:
- Councilmember Marty Chiaramonte
- Councilmember Bryan Voronin

Also Present:
- April Getchius, Town Manager
- Stephanie Price, Administrative Assistant
- Dezire Sanchez, Accountant
- Gary White, Contracted Town Attorney
- Don Taranto, Contracted Town Engineer
- Matt Blakely, Contracted Town Planner
- Brian Williamson, Contracted Town Planner
- Phil Goldstein
- Tami Baggett
- Scott Baggett
- Dino DiTullio
- Dave Guetig
- Joe Park
- Sheri Welch

2. AMENDMENTS TO THE AGENDA:
- Item 6b, 6c and 6g will be combined.
- Item 6d, 6e and 6f will be combined.

3. PUBLIC COMMENT ON NON-AGENDA ITEMS:
- Ms. Tami Baggett presented letters from owners in Serratoga Falls to Town Council members. Residents are concerned with issues related to Serratoga Falls.

4. CONSENT AGENDA:
a. Approval of the November 26, 2013, Town Council Meeting Minutes
b. Approval of the Check Register

Councilmember Steinway moved to approve the consent agenda. Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.

5. REPORTS:
   a. Mayor – The Mayor noted that the Annual Town of Timnath Lighting Ceremony was held on December 6, 2013. Accolades were given to all those that helped to make it a success with special acknowledgement given to Cody Speaker and Nick Scharffbillig in the Public Works Department.
   b. Council – None
   c. Town Attorney – None

6. ORDER OF BUSINESS:
   a. RESOLUTION NO. 44, SERIES 2013, A Resolution of the Town Council of the Town of Timnath Finding a Petition for Annexation of the Property Known as The Brunner Farm Annexation to be in Substantial Compliance with the Provisions of the Act, Initiating Annexation Proceedings and Setting A Public Hearing Thereon.

      Staff Comments:
      • Mr. Blakely spoke with Council about the proposed resolution and annexation agreement.
      A public hearing will be set for January 14, 2014.

      Town Council Questions and Comments: None.
      Councilmember Neal moved to approve RESOLUTION NO. 44, SERIES 2013, A Resolution of the Town Council of the Town of Timnath Finding a Petition for Annexation of the Property Known as The Brunner Farm Annexation to be in Substantial Compliance with the Provisions of the Act, Initiating Annexation Proceedings and Setting A Public Hearing Thereon. Councilmember Steinway seconded the motion. The motion passed unanimously by voice vote.

   b. ORDINANCE NO. 15, SERIES 2013, SECOND READING, PUBLIC HEARING, An Ordinance Approving the Annexation of Certain Real Property to be Known as The I-25 And Harmony Southeast Annexation and an Amended and Restated Annexation and Development Agreement, to The Town of Timnath, Colorado, Generally Located South of Harmony Road, West Of Weitzel Rd, Southeast of and Adjacent To I-25, North of and Adjacent To Swetsville Zoo Rd.

      Mayor Grossman-Belisle opened the public hearing at 6:19 p.m.

      Staff Comments: None

      Public Comments: None

      Mayor Grossman-Belisle closed the public hearing at 6:19 p.m.
Town Council Questions and Comments: None

Councilmember Steinway moved to continue to December 17, 2013, at 6:00 p.m. ORDINANCE NO. 15, SERIES 2013, SECOND READING, PUBLIC HEARING, An Ordinance Approving the Annexation of Certain Real Property to be Known as The I-25 And Harmony Southeast Annexation and an Amended and Restated Annexation and Development Agreement, to The Town of Timnath, Colorado, Generally Located South of Harmony Road, West Of Weitzel Rd, Southeast of and Adjacent To I-25, North of and Adjacent To Swetsville Zoo Rd. Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.

c. ORDINANCE NO. 16, SERIES 2013, SECOND READING, PUBLIC HEARING, An Ordinance Amending the Official Zoning Map of The Town Of Timnath for The Purpose of Zoning Certain Real Property To C-2, Community Commercial Zoning District Known as The I-25 and Harmony Southeast Annexation (Located South Of Harmony Road, West of Weitzel Rd, Southeast of and Adjacent to I-25, North of and Adjacent to Swetsville Zoo Road). Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.

Mayor Grossman-Belisle opened the public hearing at 6:19 p.m.

Staff Comments: None

Public Comments: None

Mayor Grossman-Belisle closed the public hearing at 6:19 p.m.

Town Council Questions and Comments: None

Councilmember Steinway moved to continue to December 17, 2013, at 6:00 p.m. ORDINANCE NO. 16, SERIES 2013, SECOND READING, PUBLIC HEARING, An Ordinance Amending the Official Zoning Map of The Town Of Timnath for The Purpose of Zoning Certain Real Property To C-2, Community Commercial Zoning District Known as The I-25 and Harmony Southeast Annexation (Located South Of Harmony Road, West of Weitzel Rd, Southeast of and Adjacent to I-25, North of and Adjacent to Swetsville Zoo Road). Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.

d. RESOLUTION NO. 45, SERIES 2013, A Resolution of the Town Council of the Town of Timnath Approving the Sketch Plan for Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road and East of and Adjacent to Interstate 25.

Staff Comments: None.

Town Council Questions and Comments: None.

Councilmember Neal moved to continue to December 17, 2013, at 6:00 p.m. RESOLUTION NO. 45, SERIES 2013, A Resolution of the Town Council of the Town of Timnath Approving the Sketch Plan for Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road and East of and Adjacent to Interstate 25. Councilmember Steinway seconded the motion. The motion passed unanimously by voice vote.

e. RESOLUTION NO. 46, SERIES 2013, A Resolution of The Town Council of The Town of Timnath Approving The Preliminary Plat for Gateway Timnath South Subdivision,
Generally Located South of and Adjacent to Harmony Road and East of and Adjacent to Interstate 25.

Staff Comments: None.

Town Council Questions and Comments: None.

Councilmember Neal moved to continue to December 17, 2013 at 6:00 p.m. RESOLUTION NO. 46, SERIES 2013, A Resolution of The Town Council of The Town of Timnath Approving The Preliminary Plat for Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road and East of and Adjacent to Interstate 25. Councilmember Steinway seconded the motion. The motion passed unanimously by voice vote.

f. RESOLUTION NO. 47, SERIES 2013, A Resolution of The Town Council of The Town of Timnath Approving the Final Plat for Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road and East of and Adjacent to Interstate 25. Councilmember Steinway seconded the motion. The motion passed unanimously by voice vote.

g. ORDINANCE NO. 17, SERIES 2013, SECOND READING, PUBLIC HEARING, An Ordinance Amending the Official Zoning Map of the Town of Timnath for the Purpose of Amending the Approved Planned Development Overlay Zoning District for Certain Real Property to be Known as Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road, West of and Adjacent to Weitzel Street, and North Of And Adjacent To Swetsville Zoo Road. Mayor Grossman-Belisle opened the public hearing at 6:19 p.m.

Staff Comments: None

Public Comments: None

Mayor Grossman-Belisle closed the public hearing at 6:19 p.m.

Town Council Questions and Comments: None

Councilmember Steinway moved to continue to December 17, 2013, at 6:00 p.m. ORDINANCE NO. 17, SERIES 2013, SECOND READING, PUBLIC HEARING, An Ordinance Amending the Official Zoning Map of the Town of Timnath for the Purpose of Amending the Approved Planned Development Overlay Zoning District for Certain Real Property to be Known as Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road, West of and Adjacent to Weitzel Street, and...
North Of And Adjacent To Swetsville Zoo Road. **Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.**


Mayor Grossman-Belisle opened the public hearing at 6:20 p.m.

Staff Comments: None

Public Comments: None

Mayor Grossman-Belisle closed the public hearing at 6:20 p.m.

**Councilmember Neal moved to approve ORDINANCE NO. 18, SERIES 2013, SECOND READING, PUBLIC HEARING,** An Ordinance of The Town Council of The Town of Timnath, Summarizing Expenditures and Revenues for Each Fund and Adopting a Budget for the Town of Timnath, Colorado, for the Calendar Year Beginning on the First Day of January, 2014, and Ending on the Last Day of December, 2014. **Councilmember Steinway seconded the motion. The motion passed unanimously by voice vote.**

**i. ORDINANCE NO. 19, SERIES 2013, SECOND READING, PUBLIC HEARING,** An Ordinance of the Town Council of the Town Of Timnath Colorado, Appropriating Sums of Money to the Various Funds and Spending Agencies, in the Amount and for the Purpose as Set Forth Below, for the Town of Timnath, Colorado, for the 2014 Budget Year.

Mayor Grossman-Belisle opened the public hearing at 6:20 p.m.

Staff Comments: None

Public Comments: None

Mayor Grossman-Belisle closed the public hearing at 6:20 p.m.

**Councilmember Neal moved to approve ORDINANCE NO. 19, SERIES 2013, SECOND READING, PUBLIC HEARING,** An Ordinance of the Town Council of the Town Of Timnath Colorado, Appropriating Sums of Money to the Various Funds and Spending Agencies, in the Amount and for the Purpose as Set Forth Below, for the Town Of Timnath, Colorado, for the 2014 Budget Year. **Councilmember Steinway seconded the motion. The motion passed unanimously by voice vote.**

Staff Comments: None.

Town Council Questions and Comments: None.

**Councilmember Steinway moved to approve RESOLUTION NO. 43, SERIES 2013, A Resolution Levying General Property Taxes for the Year 2014, to Help Defray the Costs of Government for the Town of Timnath, Colorado, for the 2014 Budget Year. Councilmember Neal seconded the motion. The motion passed unanimously by voice vote**

k. **REMOVED - EXECUTIVE SESSION**: “For the purposes of discussion concerning the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interests under Section §24-6-402(a), C.R.S.; discussion concerning personnel matters under §24-6-402(4)(f), C.R.S.; discussion regarding positions relative to matters that may be subject to negotiations and development of a strategy for negotiations under §24-6-402(4)(e), C.R.S.; and conferences with the Town’s attorney for purposes of receiving legal advice on specific legal questions under §24-6-402(4)(b), C.R.S.”

7. **ADJOURNMENT**:

Mayor Grossman-Belisle adjourned the meeting 6:21 p.m.


**TOWN OF TIMNATH**

_____________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

_____________________________________
Milissa Peters, Town Clerk
Town of Timnath
Regular Meeting Minutes
Tuesday, December 17, 2013, immediately
following the Timnath Development Authority meeting at 6:00 p.m.
Meeting was held at Timnath Administration Building,
4800 Goodman Street, Timnath, Colorado

1. CALL TO ORDER AND ROLL CALL:
Mayor Grossman-Belisle called to order the meeting of the Town Council on Tuesday,
December 17, 2013, at 6:02 p.m.

Present:
   a. Mayor Jill Grossman-Belisle
   b. Councilmember Bill Neal
   c. Councilmember Paul Steinway
   d. Councilmember Bryan Voronin

Absent:
   a. Councilmember Marty Chiaramonte

Also Present:
   a. April Getchius, Town Manager
   b. Stephanie Price, Administrative Assistant
   c. Dezire Sanchez, Accountant
   d. Gary White, Contracted Town Attorney
   e. Don Taranto, Contracted Town Engineer
   f. Matt Blakely, Contracted Town Planner
   g. Brian Williamson, Contracted Town Planner
   h. Phil Goldstein
   i. Joe Park
   j. Dave Guetig
   k. Will Welch
   l. Sheri Welch
   m. Jennifer Murillo

2. AMENDMENTS TO THE AGENDA:
   a. Items 5c, d and e will be acted on in one motion

3. PUBLIC COMMENT ON NON-AGENDA ITEMS:
   a. None

4. REPORTS:
   a. Engineering/Public Works – Included in Packet
   b. Community Development/Code Enforcement – Included in Packet
   c. Law Enforcement – Included in Packet
d. Town Manager – Included in Packet
e. Mayor - None
f. Council - None
g. Town Attorney - None

5. ORDER OF BUSINESS:

a. ORDINANCE NO. 15, SERIES 2013, SECOND READING, PUBLIC HEARING,
   An Ordinance Approving the Annexation of Certain Real Property to be Known as The I-25 and Harmony Southeast Annexation and an Amended and Restated Annexation and Development Agreement to the Town of Timnath, Colorado, Generally Located South of Harmony Road, West of Weitzel Rd, Southeast of and Adjacent to I-25, North of and Adjacent to Swetsville Zoo Rd.
   Mayor Grossman-Belisle opened the public hearing at 6:02 p.m.
   Staff Comments: None
   Public Comment: None
   Mayor Grossman-Belisle closed the public hearing at 6:02 p.m.
   Town Council Questions and Comments: None
   Councilmember Neal moved to approve ORDINANCE NO. 15, SERIES 2013, SECOND READING, PUBLIC HEARING, An Ordinance Approving the Annexation of Certain Real Property to be Known as The I-25 and Harmony Southeast Annexation and an Amended and Restated Annexation and Development Agreement to the Town of Timnath, Colorado, Generally Located South Of Harmony Road, West of Weitzel Rd, Southeast of and Adjacent to I-25, North of and Adjacent to Swetsville Zoo Rd. Councilmember Voronin seconded the motion. The motion passed unanimously by voice vote.

b. ORDINANCE NO. 16, SERIES 2013, SECOND READING, PUBLIC HEARING,
   An Ordinance Amending the Official Zoning Map of The Town of Timnath for the Purpose of Zoning Certain Real Property to C-2, Community Commercial Zoning District Known as The I-25 and Harmony Southeast Annexation (Located South of Harmony Road, West of Weitzel Rd, Southeast, Southeast of and Adjacent To I-25, North of and Adjacent To Swetsville Zoo Rd. Southeast of and Adjacent to I-25, North of and Adjacent to Swetsville Zoo Road.)
   Mayor Grossman-Belisle opened the public hearing at 6:02 p.m.
   Staff Comments: None
   Public Comment: None
   Mayor Grossman-Belisle closed the public hearing at 6:02 p.m.
   Town Council Questions and Comments: None.
Councilmember Neal moved to approve ORDINANCE NO. 16, SERIES 2013, SECOND READING, PUBLIC HEARING, An Ordinance Amending the Official Zoning Map of The Town Of Timnath for The Purpose of Zoning Certain Real Property To C-2, Community Commercial Zoning District Known as The I-25 and Harmony Southeast Annexation (Located South Of Harmony Road, West of Weitzel Rd, Southeast of and Adjacent to I-25, North of and Adjacent to Swetsville Zoo Road). **Councilmember Voronin seconded the motion. The motion passed unanimously by voice vote.**

c. RESOLUTION NO. 45, SERIES 2013, A Resolution of the Town Council of the Town of Timnath Approving the Sketch Plan for Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road and East of and Adjacent to Interstate 25.

Staff Comments:
- Mr. Blakely spoke with Council about the proposed resolution.

Town Council Questions and Comments: None
**Councilmember Steinway moved to approve RESOLUTION NO. 45, SERIES 2013, A Resolution of the Town Council of the Town of Timnath Approving the Sketch Plan for Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road and East of and Adjacent to Interstate 25. Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.**

d. RESOLUTION NO. 46, SERIES 2013, A Resolution of The Town Council of The Town of Timnath Approving The Preliminary Plat for Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road and East of and Adjacent to Interstate 25.

Staff Comments: None

Town Council Questions and Comments: None
**Councilmember Steinway moved to approve RESOLUTION NO. 46, SERIES 2013, A Resolution of The Town Council of The Town of Timnath Approving The Preliminary Plat for Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road and East of and Adjacent to Interstate 25. Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.**

e. RESOLUTION NO. 47, SERIES 2013, A Resolution of The Town Council of The Town of Timnath Approving the Final Plat for Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road and East of and Adjacent to Interstate 25.

Staff Comments: None
Town Council Questions and Comments: None

Councilmember Steinway moved to approve RESOLUTION NO. 47, SERIES 2013, A Resolution of The Town Council of The Town of Timnath Approving the Final Plat for Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road and East of and Adjacent to Interstate 25. Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.

f. ORDINANCE NO. 17, SERIES 2013, SECOND READING, PUBLIC HEARING,
An Ordinance Amending the Official Zoning Map of the Town of Timnath for the Purpose of Amending the Approved Planned Development Overlay Zoning District for Certain Real Property to be Known as Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road, West of and Adjacent to Weitzel Street, and North Of And Adjacent To Swetsville Zoo Road.

Mayor Grossman-Belisle opened the public hearing at 6:06 p.m.

Staff Comments:
- Mr. Blakely spoke with Council about the proposed ordinance.

Staff Comments: None

Public Comment: None

Mayor Grossman-Belisle closed the public hearing at 6:06 p.m.

Town Council Questions and Comments: None

Councilmember Neal moved to approve ORDINANCE NO. 17, SERIES 2013, SECOND READING, PUBLIC HEARING, An Ordinance Amending the Official Zoning Map of the Town of Timnath for the Purpose of Amending the Approved Planned Development Overlay Zoning District for Certain Real Property to be Known as Gateway Timnath South Subdivision, Generally Located South of and Adjacent to Harmony Road, West of and Adjacent to Weitzel Street, and North Of And Adjacent To Swetsville Zoo Road. Councilmember Voronin seconded the motion. The motion passed unanimously by voice vote.

g. ORDINANCE NO. 20, SERIES 2013, RIGHT OF WAY VACATION ORDINANCE FIRST READING,
An Ordinance Approving a Vacation of The Former I-25 Frontage Road at the Southeast Corner of I-25 and Harmony Road and Setting a Public Hearing for January 14, 2013, at 6:00 p.m.

Staff Comments: None

Town Council Questions and Comments: Mayor Grossman-Belisle asked that a correction to the December 17, 2013, agenda under 5g be revised to say A Public Hearing is set for January 14, 2014, at 6:00 p.m.

Councilmember Steinway moved to approve ORDINANCE NO. 20, SERIES 2013, RIGHT OF WAY VACATION ORDINANCE FIRST READING, An Ordinance Approving a Vacation of The Former I-25 Frontage Road at the Southeast Corner of I-25 and Harmony Road
and Setting a Public Hearing for January 14, 2014, at 6:00 p.m. Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.

h. EXECUTIVE SESSION: “For the purposes of discussion concerning the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interests under Section §24-6-402(a), C.R.S.; discussion concerning personnel matters under §24-6-402(4)(f), C.R.S.; discussion regarding positions relative to matters that may be subject to negotiations and development of a strategy for negotiations under §24-6-402(4)(e), C.R.S.; and conferences with the Town’s attorney for purposes of receiving legal advice on specific legal questions under §24-6-402(4)(b), C.R.S.”

Councilmember Neal moved to enter into EXECUTIVE SESSION: “For discussion regarding positions relative to matters that may be subject to negotiations and development of a strategy for negotiations under §24-6-402(4)(e), C.R.S.” Councilmember Steinway seconded the motion. The motion passed unanimously by voice vote.

Council went into Executive Session at 6:09 p.m.
The regular meeting reconvened at 7:04 p.m.

6. ADJOURNMENT:

Mayor Grossman-Belisle adjourned the meeting 7:05 p.m.


TOWN OF TIMNATH

_____________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

_____________________________________
Milissa Peters, Town Clerk
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Dated: ____________________________

Mayor: ____________________________

City Council: ____________________

______________________________

______________________________

City Recorder: __________________

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Report Criteria:
Invoices with totals above $0.00 included.
Only unpaid invoices included.
## Report Criteria:
- Invoices with totals above $0.00 included.
- Only unpaid invoices included.

### Vendor: Alsco
- **Vendor Name**: LLAR901741
- **Invoice Number**: LLAR901741
- **Description**: 01/02/2014 Mat Service
- **Invoice Date**: 01/02/2014
- **Net Invoice Amount**: 37.72

Total Alsco: 37.72

### Vendor: April Getchius
- **Vendor Name**: 01012014
- **Invoice Number**: January 2014 mileage
- **Invoice Date**: 01/01/2014
- **Net Invoice Amount**: 400.00

Total April Getchius: 400.00

### Vendor: AT&T MOBILITY
- **Vendor Name**: 12252013
- **Invoice Number**: 11/18/13-12/17/13 Cell phones
- **Invoice Date**: 12/25/2013
- **Net Invoice Amount**: 107.35

Total AT&T MOBILITY: 469.07

### Vendor: BBVA Compass Bank CC
- **Vendor Name**: AG12072013
- **Invoice Number**: AG-Rustic Oven
- **Invoice Date**: 12/07/2013
- **Net Invoice Amount**: 33.62

- **Vendor Name**: AG12072013
- **Invoice Number**: AG-Target
- **Invoice Date**: 12/07/2013
- **Net Invoice Amount**: 215.19

- **Vendor Name**: AG12072013
- **Invoice Number**: AG-Party City
- **Invoice Date**: 12/07/2013
- **Net Invoice Amount**: 4.32

Total BBVA Compass Bank CC: 3,389.55

### Vendor: BRIAN'S ELECTRIC COMPANY
- **Vendor Name**: 1681
- **Description**: Replace failed GFI receptacles
- **Invoice Date**: 12/16/2013
- **Net Invoice Amount**: 520.80

Total BRIAN'S ELECTRIC COMPANY: 520.80
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Total Fine Tree Service, Inc.: 4,870.00

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Total JOHN DEERE GOVERNMENT & NATION: 2,352.68

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Total King Surveyors, Inc.: 390.00

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### Town of Timnath

### Payment Approval Report - check register


Jan 06, 2014  03:17PM

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Dated: ______________________________________________________

Mayor: ______________________________________________________

City Council: ______________________________________________________

City Recorder: _____________________________________________________

Report Criteria:
- Invoices with totals above $0.00 included.
- Only unpaid invoices included.
**EXECUTIVE SUMMARY:** Town Staff has sought proposals from firms to conduct the 2013 Town Audit. Staff received three proposals and will be engaging Wagner Barnes & Griggs.

**STAFF RECOMMENDATION:** Based on working experience with both Wagner Barnes & Griggs and Haynie & Company, the Town Manager will engage Wagner Barnes & Griggs to conduct the 2013 audit.

**KEY POINTS/SUPPORTING INFORMATION:**
While periodic, mandatory rotation of auditors is not a requirement of Colorado governmental entities, rotating auditors after several years (e.g., every three to five years) is fiscally prudent and brings various advantages, including but not limited to, a fresh perspective, enhancement in audit quality, and competitive audit fees. Additionally, the Colorado State Auditor’s Office highly recommends that, at minimum, governmental entities rotate their auditor at least every five years, unless there is a strong basis for not doing so. RubinBrown has been the Town auditor for the past three years. Town staff felt it would be advantageous to solicit bids for conducting the 2013 Town audit from the incumbent as well as other accounting firms that specialize in performing governmental audits. Moreover, based on the fact that the Town was anticipating receiving federal grant monies in excess of $500,000 during fiscal year 2013, the Town would be required to also have a Single-Audit 133 done which requires audit staff to have certain/specific credentials. Soliciting bids for the 2013 audit would assist in determining whether the current auditor has such experience and credentials and what the related costs would be to conduct the single audit work.

Upon solicitation for request for proposals, the Town received three bids with the following related fees for performing both the 2013 audit and the Single Audit 133:
- Rubin Brown - $24,000
- Wagner Barnes & Griggs $18,650 (plus out-of-pocket costs, estimated at $300-$400)
- Haynie & Company $15,000 (includes out-of-pocket costs)

All three firms above have required experience and credentials to perform single audit work.

In reviewing the bid submitted by Wagner Barnes & Griggs (see attachment), the firm has extensive experience in performing audits for governments. Of the audits that the firm conducts, over 75% of them are for governmental entities. The partner-in-charge who would serve as engagement partner on the audit has over 30 years of auditing governments. Wagner Barnes & Griggs is known in the profession as being high quality and trained auditors while being reasonably priced.
**ADVANTAGES:**  Securing a new auditor provides a fresh prospective on the Town’s internal controls and financial statements. Additionally, having Wagner Barnes & Griggs conduct the audit will translate in a reduction of audit fees by more than 20%.

**DISADVANTAGES:**
None.

**FINANCIAL IMPACT:**  The Town would experience savings of approximately $5,000 (i.e., based on bid proposed by current auditor). The cost of the Audit is within the Town Manager’s expenditure authority and is included in the FY2014 budget.

**RECOMMENDED MOTION:**  None needed.

**ATTACHMENTS:**  Auditor’s proposal.
October 21, 2013
To the Honorable Mayor and Town Council
Town of Timnath
Timnath, Colorado

We are pleased to propose audit services, and to confirm our understanding of the services we are to provide for the Town of Timnath, Colorado for the year ended December 31, 2013.

In response to your request for proposal, we offer the following:

• We are experienced in audits of local governments. Our firm currently performs 116 audits. Of these, 89 are local government audits ranging in size from approximately $500,000 to $40,000,000 in annual revenues. We also perform eighteen audits of nonprofit organizations and ten for-profit entities. We are experienced in yellow-book and single audits, and have several professionals on staff that have the necessary qualifications to perform such audits.

• Generally accepted auditing standards, and yellow-book standards, require auditors to assess internal control procedures as part of an audit. Accordingly, we have a thorough knowledge of internal control processes and procedures at small to medium size organizations. We also have familiarity with your contract accounting firm.

• We anticipate performing fieldwork in mid-May to early June, based on the timeline provided by your contract CFO, and issuing our report prior to the July 31 deadline for filing audits with the state auditor.

• We will assign Eric Barnes, partner with over thirty years experience, and Cherry von Stroh, engagement manager with thirteen years experience in auditing, to your audit. We will assign a staff auditor to perform account and internal control testing. All professionals assigned to the audit will have yellow-book qualifications. Our estimate of the total fees is in the “engagement administration” section of this proposal.

We will audit the financial statements of the governmental activities and each major fund, including the related notes to the financial statements, which collectively comprise the basic financial statements, of the Town of Timnath (the Town) as of and for the year ended December 31, 2013. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management’s discussion and analysis (MD&A), to supplement the Town’s basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Town’s MD&A in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management’s responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the MD&A because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to the auditing procedures applied to the financial statements as a whole:

1) General Fund – Schedule of Revenues, Expenditures, and Changes in Fund Balances – Budget and Actual.
2) Grants Fund – Schedule of Revenues, Expenditures, and Changes in Fund Balances – Budget and Actual.
3) Timnath Development Authority – Schedule of Revenues, Expenditures, and Changes in Fund Balances – Budget and Actual.
We have also been engaged to report on supplementary information other than RSI that accompanies the Town's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

1) Schedule of expenditures of federal awards.

2) Schedules of Revenues, Expenditures, and Changes in Fund Balances – Budget and Actual for Nonmajor Governmental Funds.

3) Local Highway Finance Report

Audit Objectives

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on—

- Internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with Government Auditing Standards.

- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.

The reports on internal control and compliance will each include a paragraph that states that the purpose of the report is solely to describe (1) the scope of testing of internal control over financial reporting and compliance and the result of that testing and not to provide an opinion on the effectiveness of internal control over financial reporting or on compliance, (2) the scope of testing internal control over compliance for major programs and major program compliance and the result of that testing and to provide an opinion on compliance but not to provide an opinion on the effectiveness of internal control over compliance, and (3) that the report is an integral part of an audit performed in accordance with Government Auditing Standards in considering internal control over financial reporting and compliance and OMB Circular A-133 in considering internal control over compliance and major program compliance. The paragraph will also state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include tests of accounting records, a determination of major program(s) in accordance with OMB Circular A-133, and other procedures we consider necessary to enable us to express such opinions and to render the required reports. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements or the Single Audit compliance opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

Management Responsibilities

Management is responsible for the basic financial statements, schedule of expenditures of federal awards, and all accompanying information as well as all representations contained therein. Management is also responsible for identifying government award programs and understanding and complying with the compliance requirements, and for preparation of the schedule of expenditures of federal awards in accordance with the requirements of OMB Circular A-133. You will be required to acknowledge in the written representation letter our assistance, if any, with preparation of the financial statements and schedule of expenditures of federal awards and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. You agree to assume all management responsibilities for any nonaudit services we provide; oversee the services by designating an individual, preferably from senior
management, who possesses suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Management is responsible for establishing and maintaining effective internal controls, including internal controls over compliance, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met and that there is reasonable assurance that government programs are administered in compliance with compliance requirements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for ensuring that management is reliable and financial information is reliable and properly recorded. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities also include identifying significant vendor relationships in which the vendor has responsibility for program compliance and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the Town involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the Town received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants. Additionally, as required by OMB Circular A-133, it is management’s responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan. The summary schedule of prior audit findings, if applicable, should be available for our review upon commencement of fieldwork.

You are responsible for preparation of the schedule of expenditures of federal awards in conformity with OMB Circular A-133. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with OMB Circular A-133; (2) that you believe the schedule of expenditures of federal awards, including its form and content, is fairly presented in accordance with OMB Circular A-133; (3) that the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) that you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) that the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.
Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

**Audit Procedures—General**

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, Government Auditing Standards do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and Government Auditing Standards. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, if applicable, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

**Audit Procedures—Internal Control**

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to Government Auditing Standards.

As required by OMB Circular A-133, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to OMB Circular A-133.
An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, Government Auditing Standards, and OMB Circular A-133.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town’s compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to Government Auditing Standards.

OMB Circular A-133 requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the OMB Circular A-133 Compliance Supplement for the types of compliance requirements that could have a direct and material effect on each of the Town’s major programs. The purpose of these procedures will be to express an opinion on the Town’s compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to OMB Circular A-133.

Engagement Administration, Fees, and Other

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees or contract accountants will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management’s responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors’ reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors’ reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits.

The audit documentation for this engagement is the property of Wagner Barnes & Griggs, PC and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to a cognizant or oversight agency for audit, or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Wagner Barnes & Griggs, PC personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by a cognizant or oversight agency for audit, or pass-through entity. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.
We expect to conduct the audit fieldwork in accordance with the time frame schedule provided by your contract CFO in the request for proposal, and to issue our reports no later than July 31, 2014, unless circumstances arise that require an extension of time to September 30, 2014. Eric Barnes is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Our fee for these services, including the single audit, will be $18,650, plus out-of-pocket costs (such as postage, travel, etc.). Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and contract accountants, and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

**Contractor Certification Regarding Illegal Aliens – Public Contracts for Services**

Pursuant to the requirements of Section 8-17.5–102(1), C.R.S., we hereby certify to the District that we do not knowingly employ or contract with an illegal alien who will perform work under the Agreement and that we participate in the E-Verify Program or Department Program (as defined in Sections 8-17.5-101(3.3) and (3.7), C.R.S.) in order to confirm the employment eligibility of all employees of Wagner Barnes & Griggs, PC who are newly hired to perform work under the Agreement.

In accordance with Section 8-17.5-102(2)(a), C.R.S., we shall not:

1) Knowingly employ or contract with an illegal alien to perform work under the Agreement; or

2) Enter into a contract with a subcontractor that fails to certify to us that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

We represent and warrant that we have confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement through participation in either the E-Verify Program or the Department Program.

We are prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while the Agreement is in effect.

If we obtain actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, we shall:

1) Notify the subcontractor and the District within three days that we have actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

2) Terminate the subcontract with the subcontractor if within three days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that we shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

We shall comply with any reasonable request by the Colorado Department of Labor and Employment ("Department") made in the course of an investigation that the Department is undertaking, pursuant to the law.

If we violate any provision of Section 8-17.5–102(1), C.R.S., the District may terminate the Agreement immediately and we shall be liable to the District for actual and consequential damages of the District resulting from such termination, and the District shall report such violation by us to the Colorado Secretary of State, as required by law.
We appreciate the opportunity to be of service to the Town of Timnath and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

Wagner Barnes & Griggs, PC

RESPONSE:
This letter correctly sets forth the understanding of Town of Timnath, Colorado.

Board member signature:

______________________________
Title: __________________________
Date: __________________________
**TOWN COUNCIL COMMUNICATION**

<table>
<thead>
<tr>
<th>Meeting Date:</th>
<th>Item: Ordinance No. 20, Series 2013, an ordinance approving a Vacation of the former I-25 Frontage Road at the southeast corner of I-25 and Harmony Road</th>
<th>Ordinance √</th>
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<tbody>
<tr>
<td>1/14/14</td>
<td></td>
<td>Resolution</td>
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<tr>
<td>Presented by:</td>
<td>Matt Blakely</td>
<td>Discussion</td>
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<tr>
<td></td>
<td><strong>EXECUTIVE SUMMARY:</strong> The Town of Timnath currently owns property that made up the I-25 frontage road right of way that was deeded to the Town by CDOT in 2008. This right of way was abandoned for the purposes of providing frontage road access with the addition of Swetsville Zoo Road and Weitzel Street. The Town has determined that there are no adverse impacts with this right of way vacation.</td>
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<tr>
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<td><strong>STAFF RECOMMENDATION:</strong> Staff recommends approval of the ordinance authorizing the vacation of the former I-25 frontage road right of way.</td>
<td></td>
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</tbody>
</table>
|               | **KEY POINTS/SUPPORTING INFORMATION:**  
|               | • The Town owns certain real property described in the attached Ordinance.  
|               | • This vacation will not leave any adjoining lands without an established public road for similar access purposes.  
|               | • Per the state statute the Town may divest itself of its right, title or interest in and to the roadway, or any portion thereof, upon vacation of such roadway by ordinance. |
|               | **ADVANTAGES:**  
|               | • Cleans up property previously owned by CDOT and currently owned by the Town. This property will be utilized for future commercial development. |
|               | **DISADVANTAGES:**  
|               | • None. |
|               | **FINANCIAL IMPACT:**  
|               | • None. |
|               | **RECOMMENDED MOTION:**  
|               | • I move to approve Ordinance No. 20, Series 2013 entitled An Ordinance approving a Vacation of the former I-25 Frontage Road at the southeast corner of I-25 and Harmony Road. |
|               | **ATTACHMENTS:**  
|               | 1. Ordinance No. 20, 2013  
|               | a. Exhibit A – Legal Description |
AN ORDINANCE APPROVING A VACATION OF THE FORMER
I-25 FRONTAGE ROAD AT THE SOUTHEAST CORNER OF
I-25 AND HARMONY ROAD

WHEREAS, the Town of Timnath (the “Town”) owns that certain real property
more particularly described in EXHIBIT A attached hereto and incorporated herein by
this reference (the “Property”) upon the 2008 relocation of an I-25 frontage road near
the southeast corner of I-25 and Harmony Road; and

WHEREAS, title to the Property is vested with the Town pursuant to that certain
Bargain and Sale Deed from the State of Colorado, Department of Transportation,
dated December 11, 2008 and recorded in the Larimer County records at
Reception No. 20080077765; and

WHEREAS, the proposed vacation of the Property will not leave any adjoining
lands without an established public road for similar access purposes; and

WHEREAS, pursuant to C.R.S. § 43-2-303(1)(a) and 43-2-303(2)(f), the Town
may divest itself of its right, title or interest in and to the roadway, or any portion thereof,
upon the vacation of such roadway by ordinance; and

WHEREAS, the Town deems it necessary and in the best interest of the health,
safety and welfare of the public to vacate the Property subject to the terms and
conditions provided in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE
TOWN OF TIMNATH, COLORADO:

Section 1. Findings.

1. The Recitals set forth above are hereby incorporated into Town Council’s
findings.

2. The Town Council hereby finds that the vacation is in accordance with
applicable law and requirements governing vacation.

3. The Town Council hereby vacates the Property with the condition that such
vacation shall be effective upon recordation of a bargain and sale deed for the Property
from the Town to the adjacent fee simple title owners abutting the Property.
Section 2. Public Hearing

The Town Council held a public hearing on Tuesday, January 14, 2014 regarding the vacation of the Property.

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 Town Council hereby declares that it would have adopted this Ordinance and each part or parts hereof irrespective of the fact than any one or parts be declared unconstitutional or invalid.

Section 4. Effective Date.

This Ordinance shall take effect upon adoption at second reading, as provided by Section 3.5.5 of the Charter; subject to Section 1 (2) above, which provides, in applicable part, that the vacation of the Property shall be only effective upon recordation of a bargain and sale deed for the Property from the Town to the adjacent fee simple title owners abutting the Property. The Town Clerk shall certify to the passage of this Ordinance and make not less than one copy of the adopted Ordinance available for inspection by the public during regular business hours.

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 JANUARY 14, 2014, AT THE TIMNATH ADMINISTRATION BUILDING, 4800 GOODMAN STREET, TIMNATH, COLORADO AND ORDERED PUBLISHED BY TITLE THIS 14TH DAY OF JANUARY, 2013.

MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON THE 14TH DAY OF JANUARY, 2014.

TOWN OF TIMNATH

____________________________________
Bryan Voronin, Mayor Pro Tem

ATTEST:

____________________________
Milissa Peters, Town Clerk
EXHIBIT A

Legal Description of Property Vacated

A tract or parcel of land No. 5 REV. of the Department of Transportation, State of Colorado, Project No. IR-1M(CX)025-3(111) containing 0.290 hectares (0.718 acres), more or less; being a portion of a parcel of land as described at reception number 96019965 of the Larimer County Clerk and Recorder's Office, lying in the NE 1/4 of Section 3, Township 6 North, Range 69 West, of the Sixth Principal Meridian, in Larimer County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the northwest corner of the northeast quarter of said Section 3, thence along the westerly line of the northeast quarter of said Section 3 S 02° 03' 56" E, a distance of 287.239 meters (942.38 feet), thence departing said westerly line N 87° 56' 02" E, a distance of 27.532 meters (90.33 feet) to a point, said point being on the easterly right-of-way of Interstate 25 as described in Book 1227, Page 214, said point also being the true POINT OF BEGINNING;

1. Thence along said easterly right-of-way line N 14° 18' 10" E, a distance of 134.619 meters (441.66 feet);
2. Thence departing said easterly right-of-way line S 22° 35' 20" E, a distance of 25.676 meters (84.24 feet);
3. Thence N 44° 24' 48" E, a distance of 32.956 meters (108.12 feet) to a point on the westerly line of a parcel of land as described in Book 1802, page 744;
4. Thence along a westerly line of said parcel of land S 22° 35' 20" E, a distance of 26.025 meters (85.38 feet) to an angle point on the westerly line of said parcel of land;
5. Thence continuing along a westerly line of said parcel of land S 67° 24' 40" W, a distance of 15.149 meters (49.70 feet) to an angle point on the westerly line of said parcel of land;
6. Thence continuing along a westerly line of said parcel of land S 20° 05' 20" E, a distance of 13.253 meters (43.48 feet);
7. Thence departing said westerly line S 44° 24' 48" W, a distance of 25.940 meters (85.23 feet) to a point of curvature;
8. Thence along the arc of a curve to the left, said curve having a central angle of 19° 48' 16", an arc distance of 81.228 meters (266.50 feet), a radius of 235.000 meters (771.00 feet) and a chord bearing S 34° 30' 40" W, with a chord distance of 80.824 meters (265.17 feet) to the true POINT OF BEGINNING.

The above described tract or parcel contains 0.290 hectares/ 2,504.385 square meters (0.718 acres/31,263 square feet), more or less.

BASES OF BEARING: Being a line between CDOT control point No. 505 (M.P. 265.05), a 3 1/4" diameter aluminum cap and CDOT control point No. 529 (M.P. 265.29), a 3 1/4" diameter aluminum cap, said line bears N 02° 14' 57" W, a distance of 397.99 meters (1,305.74 feet), determined by a Global Positioning Systems control survey, performed by CDOT. Said control points are standard type 2 CDOT control monuments as shown on project right-of-way plans.
EXECUTIVE SUMMARY: In June of 2013 the Planning Commission and the Town Council approved a Block Diversity Plan for this development. Since that time Village Homes has requested a few minor modifications to the plan, and Staff has reviewed and approved those changes since they are minor in nature and did not change the intent of the Block Diversity Plan. Recently, Village Homes has requested a significant change to the Block Diversity Plan, adding 21 new elevations and removing 36 elevations, which staff determined would need to be reviewed by the Planning Commission and the Town Council. This communication reflects these changes to the Block Diversity Plan.

Village Homes is the applicant for this Block Diversity Plan and is developing all 271 single-family detached homes within the Timnath Ranch Subdivision, First Filing 2nd Amended Final Plat.

KEY POINTS/SUPPORTING INFORMATION:

Owner: Village Homes
Applicant: Village Homes, Rob Johnson

Application Type: Block Diversity Plan
Case Number: BD 2013-001

Location: North of and adjacent to River Pass Road (CR36), east of and adjacent to Three Bell Parkway (CR3), and south of and adjacent to the Great Western Railroad ROW.

PLANNING COMMISSION ACTION:
On January 7, 2014 at their regular meeting the Town of Timnath Planning Commission unanimously (5-0) recommended approval of the revised Block Diversity Plan Matrix to Town Council with the following condition:

- Allow Staff to approve amendments administratively to the Block Diversity Plan Matrix that reflect minor changes (+/-10%) to the architectural floor plans, elevations, options, or addition of models that maintain the intent of the code and styles provided herein.

RECOMMENDED MOTION:
Staff recommends approval Resolution No. 1, Series 2014, and the included Block Diversity Plan Matrix, in lieu of a Block Diversity Plan, for the Timnath Ranch Subdivision, First Filing 2nd Amended Final Plat with the following condition:

- Allow Staff to approve amendments administratively to the Block Diversity Plan Matrix that reflect minor changes (+/-10%) to the architectural floor plans, elevations, options, or addition of models that maintain the intent of the code and styles provided herein.

ATTACHMENTS:
1. Resolution No. 1, Series 2014
2. Block Diversity Plan Matrix – REVISED JANUARY 2014
3. West Village at Timnath Ranch Product Diagram
4. Architectural Elevations and Plans
TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 01, SERIES 2014

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIMNATH
APPROVING TIMNATH RANCH SUBDIVISION, FIRST FILING 2ND AMENDED
FINAL PLAT REVISED BLOCK DIVERSITY PLAN, GENERALLY LOCATED NORTH
OF AND ADJACENT TO RIVER PASS ROAD (CR36), EAST OF AND ADJACENT
TO THREE BELL PARKWAY (CR3), AND SOUTH OF AND ADJACENT TO THE
GREAT WESTERN RAILROAD ROW

WHEREAS, THE PLANNING COMMISSION OF THE TOWN OF TIMNATH ON
MAY 22, 2013, HAS REVIEWED THE BLOCK DIVERSITY PLAN MATRIX PER THE
TOWN’S MUNICIPAL CODE SECTION 16.2.18 RESIDENTIAL ARCHITECTURE;

WHEREAS, THE PLANNING COMMISSION OF THE TOWN OF TIMNATH
RECOMMENDED APPROVAL OF THE BLOCK DIVERSITY PLAN MATRIX IN LIEU
OF A BLOCK DIVERSITY PLAN TO THE TOWN COUNCIL OF THE TOWN OF
TIMNATH;

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH,
COLORADO:

Section 1. The Town Council of the Town of Timnath, Colorado hereby:

1. Approves the Timnath Ranch Subdivision, First Filing 2nd Amended Final Plat
   Revised Block Diversity Plan Matrix, attached hereto;

2. Authorizes staff to approve amendments administratively to the Block Diversity
   Plan Matrix that reflect minor changes (+/- 10%) to the architectural styles or
   residence locations.

Section 2. Effective Date:

This Resolution shall be effective upon adoption.

PASSED, APPROVED AND ADOPTED THIS 14TH DAY OF JANUARY, 2014.

TOWN OF TIMNATH, COLORADO

______________________________
Jill Grossman-Belisle, Mayor

ATTEST:

______________________________
Milissa Peters, Town Clerk
Timnath Ranch 1st Filing, 2nd Amended Plat - Village Homes Block Diversity Martix - Revised January 2014

<table>
<thead>
<tr>
<th>Model Type Abbreviations</th>
<th>Trim Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>A - Traditional</td>
<td>BCraftsman</td>
</tr>
<tr>
<td>B - Farm House</td>
<td></td>
</tr>
<tr>
<td>C - Prairie</td>
<td></td>
</tr>
<tr>
<td>D - Craftsman</td>
<td></td>
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<tr>
<td>E - German</td>
<td></td>
</tr>
<tr>
<td>F - Lakefront</td>
<td></td>
</tr>
<tr>
<td>GS - Guest Suite</td>
<td></td>
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</table>

Notes:
1. The Congress 3003 Series also includes the Chatfield 3003G Series.
2. Models on the matrix indicated by an "X" cannot be located adjacent to each other or directly across the street from one another. Directly across the street shall be defined as lots sharing 50% or more frontage.
3. Each residential block face shall contain at least 4 residential models that have significant variation. Models shall be considered by Plan Name and Number, and does not include Codes or Trim Options (i.e. Washington/3004).
4. Any street-facing garage doors shall be setback at least 22 feet from back of sidewalk or property line, whichever is more restrictive.
5. Bay windows are not allowed to encroach into the side yard setbacks.
6. Color scheme must be different on houses located next to each other.

<table>
<thead>
<tr>
<th>Model</th>
<th>3003-B-4C</th>
<th>3003-C</th>
<th>3003-D-4C</th>
<th>3004-B</th>
<th>3004-C</th>
<th>3004-E</th>
<th>3005-B</th>
<th>3005-D</th>
<th>3006-B</th>
<th>3006-D-3C</th>
<th>3007-B</th>
<th>3007-C-3C</th>
<th>3007-D</th>
<th>3007-D-3C</th>
<th>3008-B</th>
<th>3008-C</th>
<th>3009-B-4C</th>
<th>3009-C</th>
<th>3009-C-4C</th>
<th>3009-D</th>
<th>3009-D-4C</th>
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<td>x</td>
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</tbody>
</table>
This map is an artist's depiction only. It does not show all of Timnath and surrounding areas and surrounding the community and is not drawn to scale. Do not rely on this map for specific and accurate information about this community and the surrounding areas.
Elevation B - Craftsman
2511 SF

First Floor

Plan 3003-B
The Chatfield

Second Floor

05.17.13

The Park Collection at Timnath Ranch

VillageHomes
Elevation B - Craftsman
2511 SF

First Floor

Plan 3003-C
The Chatfield

05.17.13

The Park Collection at Timnath Ranch

Village Homes
Elevation D - Farmhouse
2511 SF

05.17.13

The Park Collection at Timnath Ranch

Plan 3003-D
The Chatfield

VILLAGE HOMES
Elevation D - Farmhouse
2511 SF

Plan 3003-D-4C
The Chatfield

05.17.13

The Park Collection at Timnath Ranch

VILLAGE HOMES
Elevation B - Craftsman
2549 SF

First Floor

Plan 3004-B
The Washington

Second Floor

05.17.13

The Park Collection at Timnath Ranch

VILLAGEHOMES
Elevation C - Prairie
2549 SF

Plan 3004-C-4C
The Washington

05.17.13

The Park Collection at Timnath Ranch

Village Homes
Elevation D - Farmhouse
2549 SF

First Floor

Plan 3004-D
The Washington

Second Floor

05.17.13

The Park Collection at Timnath Ranch

VILLAGEHOMES
Elevation B - Craftsman
1964 SF

First Floor

Plan 3006-B
The Overland

Second Floor

05.17.13

The Park Collection at Timnath Ranch

VillageHomes
Elevation B - Craftsman
1964 SF

First Floor

Plan 3006-B-3C
The Overland

Second Floor

05.17.13

The Park Collection at Timnath Ranch

VillageHomes
Elevation D - Farmhouse
1964 SF

Plan 3006-D
The Overland

05.17.13

The Park Collection at Timnath Ranch

VILLAGEHOMES
Elevation D - Farmhouse
1964 SF

First Floor

Plan 3006-D-3C
The Overland

Second Floor

05.17.13

The Park Collection at Timnath Ranch

Village Homes
Elevation B - Craftsman
1968 SF

First Floor

Plan 3007-B
The Garland

05.17.13

The Park Collection at Timnath Ranch

VILLAGEHOMES
Elevation B - Craftsman
1968 SF

Plan 3007-B-4C
The Garland

05.17.13

The Park Collection at Timnath Ranch
Elevation D - Farmhouse
1968 SF

Plan 3007-D
The Garland

05.17.13
The Park Collection at Timnath Ranch

VILLAGE HOMES
Elevation B - Craftsman
2407 SF

First Floor

Plan 3009-B-4C
The Westwood

05.17.13

VillageHomes

The Park Collection
Elevation B - Craftsman
2286 SF

Plan 3701-B
The Austin

10.15.13

The Sonnet Collection at Timnath Ranch

VILLAGEHOMES
Elevation F - Lakefront Cottage
2286 SF

Plan 3701-F
The Austin

The Sonnet Collection at Timnath Ranch
Elevation B - Craftsman
2327 SF

Timnath Ranch

Plan 3702-B

THE SARATOG

VILLAGE HOMES
Elevation B - Craftsman
2327 SF

First Floor

Plan 3702-B-GS
THE RANCHER

08.20.13

Timnath Ranch

Village Homes
Elevation D - Farmhouse
3103 SF

10.15.13
The Sonnet Collection at Timnath Ranch

Plan 3703-D
The Alcott

VillageHomes
Elevation F - Lakefront Cottage
3103 SF

First Floor

Plan 3703-F
The Alcott

Second Floor

The Sonnet Collection at Timnath Ranch
Elevation D - Farmhouse
3154 SF

First Floor

Plan 3704-D
The Garnett

Second Floor

05.17.13
The Sonnet Collection at Timnath Ranch

VILLAGEHOMES
Elevation D - Farmhouse
3246 SF

First Floor

Opt. Deck/Patio
Great Room
Flex/Study
Pwdr
Dining
Foyer
3-Car Garage

Second Floor

Plan 3705-D
The Keats

The Sonnet Collection at Timnath Ranch

VillageHomes
Elevation B- Craftsman
3495 SF

10.15.13
The Sonnet Collection at Timnath Ranch

Plan 3706-B
The Saxton

VillageHomes
Elevation F - Lakefront Cottage
3495 SF

05.17.13
The Sonnet Collection at Timnath Ranch

VILLAGE HOMES
TOWN COUNCIL COMMUNICATION

Meeting Date: 1/14/2014

Presented by: Matt Blakely

Item: Resolution 2, Series 2014, A RESOLUTION MAKING CERTAIN FINDINGS OF FACT AND DECLARING ELIGIBILITY OF THE PROPOSED ANNEXATION OF A PARCEL OF LAND TO THE TOWN OF TIMNATH, COLORADO, KNOWN AS THE BRUNNER FARM ANNEXATION

EXECUTIVE SUMMARY: This is a public hearing for a resolution in which it is determined that the property is eligible for annexation and that an election is not required as set forth in the Colorado Revised Statutes.

If the Council finds that the annexation is in compliance with the requirements of the Act and the Town of Timnath Land Use Code; and that an election is not required under the Act; and that no additional terms and conditions are to be imposed, at the conclusion of the public hearing the Council shall adopt the attached resolution containing the findings of fact and conclusions.

On January 7, 2014 at their regular meeting the Town of Timnath Planning Commission passed Resolution 1, Series 2014 unanimously (5-0) without conditions. This Planning Commission Resolution recommends approval of the annexation to the Town of Timnath Town Council.

This annexation consists of a 108.44 acre parcel of land currently residing in Larimer County. The property is located to the south of and adjacent to CR 36/River Pass Road, and west of and adjacent to Three Bell Parkway. The applicant is proposing 202 units for a density of approximately 2 DU/per acre, which is consistent with the Town’s Adopted Comprehensive Plan. This will create a new residential development parcel in the Town of Timnath. The petition has been reviewed against all applicable local code requirements and the Colorado Revised Statutes.

STAFF RECOMMENDATION:
Staff has reviewed the application and annexation petition and has prepared an Annexation Impact Report, and has determined that all the elements required by statute are present for annexation. All comments received from governmental entities affected by the annexation are included in this communication. Staff recommends the approval of this resolution to proceed with the annexation the aforementioned property.

KEY POINTS/SUPPORTING INFORMATION:
Owner: Grant and Gregory Brunner, GL Brunner Farms, LLC and Timnath Holdings, LLC
Applicant: Jim Birdsall, The Birdsall Group
Application Type: Annexation Petition  Case Number: AX-2013-001
## Process Schedule

<table>
<thead>
<tr>
<th>Task</th>
<th>Description</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-application</td>
<td>With property owner, Mayor, and town staff</td>
<td>07/19/13</td>
</tr>
<tr>
<td>Application Submitted</td>
<td></td>
<td>08/16/13</td>
</tr>
<tr>
<td>Acceptance of Application</td>
<td></td>
<td>08/20/13</td>
</tr>
<tr>
<td>Town Council</td>
<td>Substantial compliance</td>
<td>12/02/13</td>
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<td>Referral Agency Notification</td>
<td>Referral comments were due by 09/13/13.</td>
<td>08/20/13</td>
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<tr>
<td>Comments Issued</td>
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<td>10/02/13</td>
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<tr>
<td>Notices</td>
<td>Signs posted on property</td>
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<td></td>
<td>Notifications posted at Town of Timnath and Post Office</td>
<td>12/20/13</td>
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<td>Notifications in Fort Collins Coloradoan</td>
<td>12/13; 12/20; 12/27; 01/03/14; 01/10/14</td>
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<td></td>
<td>Mailing to adjacent property owners</td>
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<tr>
<td>Planning Commission</td>
<td>Public hearing</td>
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<td>Town Council</td>
<td>Eligibility hearing</td>
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<td>First reading, Annexation and Zoning</td>
<td>01/28/14</td>
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<tr>
<td>Town Council</td>
<td>Second reading, Annexation and Zoning</td>
<td>02/11/14</td>
</tr>
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</table>

**Location:** South of and adjacent to CR 36/River Pass Road, and west of and adjacent to Three Bell Parkway

**Parcel Size (Acres):** Approximately 108.44 acres

**Existing Zoning:** FA-1

**Proposed Zoning:** R-2, Single Family Residential and M-U, Mixed Use

**Existing Land Use:** Vacant

**Proposed Land Use:** Single Family Residential

**SERVICES:**
- **Water:** Fort Collins – Loveland Water District
- **Sewer:** South Fort Collins Sanitation District
- **Fire:** Poudre Fire Authority
- **Special Districts:** None

**Adjacent Zoning/Land Uses:**
<table>
<thead>
<tr>
<th>Direction</th>
<th>Zoning</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>CR 36; Agricultural (FA-1)</td>
<td>Residential/farming</td>
</tr>
<tr>
<td>South</td>
<td>Agricultural (FA-1)</td>
<td>Residential/farming</td>
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<tr>
<td>East</td>
<td>C-2 and R-2; Three Bell Parkway</td>
<td>Community Commercial and Residential</td>
</tr>
<tr>
<td>West</td>
<td>Agricultural (FA-1)</td>
<td>Residential/farming</td>
</tr>
</tbody>
</table>

ADVANTAGES:
- The addition of this parcel to the Town of Timnath will be consistent with the existing residential character of the Town of Timnath
- Consistent with the Town of Timnath Comprehensive Plan
- Increase in the amount of residential land within the Town of Timnath GMA

DISADVANTAGES:
- Increase in services supplied by Town
- Increase in road infrastructure requiring Town maintenance

FINANCIAL IMPACT:
- Increase in use tax and property taxes

PLANNING COMMISSION ACTION:
On January 7, 2014 at their regular meeting the Town of Timnath Planning Commission passed Resolution 1, Series 2014 unanimously (5-0) without conditions. This Planning Commission Resolution recommends approval of the annexation to the Town of Timnath Town Council.

RECOMMENDED MOTION:
- Finding that a complete application was submitted and reviewed in accordance with all applicable Town of Timnath regulations, criteria outlined in section 16.13 of the Town of Timnath Municipal Code, and C.R.S. 31-12-101 et. seq. have been met, I move to approve Resolution No. 2, Series 2014, a Resolution making certain findings of fact and declaring eligibility of the proposed annexation of a parcel of land to the Town of Timnath, Colorado, known as the Brunner Farm Annexation.

ATTACHMENTS:
1. Resolution 5, Series 2014
2. Annexation Petition
3. Annexation Map
4. Annexation Impact Report
5. Draft Annexation Agreement
6. Comments from governmental agencies affected by the annexation
WHEREAS, the Town has provided notice of public hearing on the proposed annexation by publication once per week for four successive weeks and by registered mail to the Clerk of the Board of County Commissioners, the County Attorney, the school district and to any special district having property in the area to be annexed; and

WHEREAS, the Town has prepared an Annexation Impact Report per C.R.S. 31-12-108.5, as the area being annexed is more than 10 acres in size; and

WHEREAS, the Town Council has completed a public hearing to determine if the proposed annexation complies with Sections 31-12-104 and 105, Colorado Revised Statutes, to establish eligibility for annexation.

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO:

Section 1. Findings.

A. The Town Council hereby finds and concludes with regard to the annexation of the property described in Exhibit A attached hereto and incorporated herein, that not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the existing boundaries of the Town; and therefore, because of such contiguity, a community of interest exists between the property proposed to be annexed and the Town; the property proposed to be annexed is urban or will be urbanized in the near future, and that the property proposed to be annexed is integrated or is capable of being integrated with the Town.

B. The Town Council hereby finds and concludes that no land held in identical ownership has been divided or included without written consent of the owner thereof; that no annexation proceedings have been commenced by another municipality; that the annexation will not result in the detachment of the area from a school district; that the annexation will not result in the extension of a municipal boundary more than three miles; that the Town has in place a plan for said three mile area; and that in establishing the boundaries of the area to be annexed the entire width of any street or alley is included within the area annexed.
C. The Town Council hereby finds and concludes that an election is not required, and no additional terms or conditions are to be imposed upon the area to be annexed other than set forth in the Annexation Agreement attached hereto as Exhibit B.

Section 2. Effective Date

This Resolution shall be effective upon adoption.

PASSED, APPROVED AND ADOPTED THIS 14th DAY OF JANUARY, 2014.
THE VOTE UPON ROLL CALL BEING AS FOLLOWS:

For: ____________
Against: _________
Abstain: _________

FOR THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO

TOWN OF TIMNATH

By: ____________________________
Jill Grossman-Belisle, Mayor

ATTEST:

_____________________________
Milissa Peters, Town Clerk
EXHIBIT A

Legal Description of Proposed Annexation

(See Attached)
EXHIBIT B

Annexation Agreement

(See Attached)
ANNEXATION AGREEMENT FOR THE [NAME OF ANNEXATION PROPERTY]

THIS AMENDED AND RESTATED ANNEXATION AGREEMENT ("Agreement"), is made and entered into to be effective the ____ day of __________, 201_, by and between Town of Timnath, a Colorado municipal corporation ("Town") and [NAME OF PROPERTY OWNER], a [ ] ("Property Owner" and collectively, the "Parties") and is made concerning the real property described on Exhibit A attached hereto and incorporated herein by reference ("the Property") generally known as the "[NAME OF ANNEXATION PROPERTY]".

WITNESSETH:

WHEREAS, the Property consists of approximately [NUMBER OF ACRES] acres, more or less, located [GENERAL DESCRIPTION OF LOCATION OF ANNEXED PROPERTY]; and

WHEREAS, Town and [PROPERTY OWNER] will be entering into a subdivision improvement agreement (the (SIA"), which will be recorded in the real estate records of [NAME OF COUNTY] County, Colorado, and which will govern the construction of public improvements on the property and will serve as a condition precedent to approval of by the Town of any future plat or plats associated with the Property; and

WHEREAS, it is the intent of Parties that this Agreement contains all the obligations of Parties which shall be performed by Parties with respect to annexation of the Property.

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:

AGREEMENT

1. Purpose. The purpose of this Agreement is to set forth the terms and conditions for annexation and development of the Property within Town, and the fees to be paid by Property Owner upon annexation of the Property. 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. Annexation of Property. The Property shall be annexed to Town by ordinance, not by election, in accordance with the terms of this Agreement, including[ANY INCLUDED RIGHTS OF WAY AND ROADS], as shown on the annexation map attached hereto as Exhibit B. The annexation of the Property is subject to this Agreement and the Amended and Restated Subdivision Improvement Agreement executed contemporaneously herewith.

3. Zoning and Development of the Property. The Property was zoned [TYPE OF ZONING] effective [DATE OF ZONING]. Property Owner will develop the Property in
accordance with the Final Plat subject to modification thereof to accommodate [INSERT ANY ACCOMMODATIONS OR DELETE] depicted in Exhibit C which shall be constructed by Property Owner. The Property, or any portion thereof, may be rezoned and the Final Plat amended with the consent of Town and Property Owner, but without amending or modifying this Agreement.

4. **Water Utilities.** Property Owner shall obtain water service from the [NAME OF WATER PROVIDER].

5. **Sanitary Sewer Utilities.** Property Owner shall obtain sewer service from [NAME OF SEWER PROVIDER].

6. **Early Grading of the Property.** Property Owner may desire to perform over-lot grading of future “Phases” of the Property and construct drainage facilities prior to submission and/or approval of the final plat for any phase of development of the Property. Property Owner may perform such over-lot grading and construct such drainage facilities only upon approval by Town of an acceptable erosion control plan, a grading plan and a drainage plan. Property Owner recognizes that the erosion control plan may require temporary and/or permanent drainage improvements.

7. **Utilities and Infrastructure.** Parties recognize that Town does not provide infrastructure to serve the Property and Property Owner will be responsible for extending all utilities and streets to serve the Property. Failure of Property Owner to obtain utilities or provide streets to the Property shall not be grounds for disconnection.

8. **Water and Water Rights.** Property Owner acknowledges that Property Owner shall be required to meet Town Code requirements for irrigation of common areas, open space areas, and parks. Property Owner shall not be required to provide to Town any water or water rights, well or well rights, reservoir or storage rights, stock in mutual ditch and irrigation companies, units of the, or any other water or water rights appurtenant to or historically used in connection with the Property except as otherwise set forth herein.

9. **Coordination with Adjacent Properties.** Property Owner shall coordinate with owners of properties within Town adjacent to the Property to provide pedestrian and vehicular access between the Property and the adjacent properties as may be necessary to implement Town’s current transportation plan.

10. **Obligations Run with the Land.** This Agreement and the annexation map shall be recorded in the real estate records of Larimer County and all obligations herein shall run with the land and shall be binding upon and inure to the benefit of Parties hereto and their respective heirs, personal representatives, successors, and, to the extent permitted, assigns as the case may be.

11. **Cure of Legal Defects.** In the event that the annexation or zoning of the Property or any portion of this Agreement, is declared void or unenforceable by final court action, Parties shall cooperate to cure any legal defects cited by the court, and immediately upon such cure,
Town shall reinstitute and complete proceedings to annex and zone the Property according to the terms of this Agreement and to otherwise carry out the terms and provisions hereof.

12. **Vested Property Rights.**

   a. **Acknowledgements.** Parties acknowledge the following:

      1. The Property is estimated to have a minimum [NUMBER OF YEARS] ([___]) year build-out period and is expected to be constructed in [NUMBER OF PHASES] ([___]) phases.

      2. Property Owner will be required to make substantial financial commitments and complete major public infrastructure improvements in the early phases of the development of the Property.

      3. A material consideration of Property Owner’s annexation of the Property and Property Owner’s willingness to develop the Property within Town (rather than developing the Property within the County or another municipality) is Town’s agreement to permit development of the Property in accordance with the terms and conditions of this Agreement and the Final Plat, particularly the vested property rights granted herein.

      4. Property Owner waives any vested property rights which may have been granted by any governmental entity prior to the date of this Agreement.

   b. **Vesting of Property Rights.** In recognition of the size of the development contemplated under this Agreement, the substantial financial investment and time required to complete the development of the Property, the phased development of the Property and the possible impact of economic cycles and varying market conditions during the course of development, Town agrees to grant extended vested property rights in this Agreement pursuant to Section 16.5.2 of the Timnath Municipal Code in accordance with the following “performance vesting” schedule. The initial vesting period for the Property shall be from annexation of the Property through [INITIAL VESTING DATE] (“Vesting Period.”) Thereafter extended vested property rights shall be granted according to the following provisions and expressly on the conditions stated herein and in the Amended and Restated Subdivision Improvement Agreement executed contemporaneously herewith. Such extended vested property rights shall be available to Property Owner for each “Phase” (defined below) of proposed development of the Property as depicted in **Exhibit C** attached hereto an incorporated herein by this reference shall be subject to vesting of property rights, conditionally and serially, as follows:
The initial Vesting Period shall be through [INITIAL VESTING DATE].

(1) If Phase I is “completed through build-out” by [INITIAL VESTING DATE], the Vesting Period shall be extended through [FIRST EXTENDED VESTING DATE], on condition that Property Owner applies to Town by [INITIAL VESTING DATE], and receives from Town, in writing, a letter authorized by Town Council concurring that Phase I has been completed through build-out by [INITIAL VESTING DATE].

(2) If Phase II is completed through build-out by [FIRST EXTENDED VESTING DATE], the Vesting Period shall be extended through [SECOND EXTENDED VESTING DATE], on condition that Property Owner applies to Town by [FIRST EXTENDED VESTING DATE], and receives from Town, in writing, a letter authorized by Town Council concurring that Phase II has been completed through build-out by [FIRST EXTENDED VESTING DATE].

(3) If Phase III is completed through build-out by [SECOND EXTENDED VESTING DATE], the Vesting Period shall be extended through [THIRD EXTENDED VESTING DATE], on condition that Property Owner applies to Town by [SECOND EXTENDED VESTING DATE], and receives from Town, in writing, a letter authorized by Town Council concurring that Phase III has been completed through build-out by [SECOND EXTENDED VESTING DATE].

For purposes of extended vested rights, the term “completed through build-out” shall mean, as respects a Phase of the Property, that (i) all public improvements required by Town for such Phase (per Town Code or agreement between Parties) have been constructed by Property Owner and that Initial Acceptance and provision to Town of Warranty Security has occurred pursuant to the Amended and Restated Subdivision Improvement Agreement, (ii) that the Water District and the Sewer District have finally accepted the water and wastewater improvements and evidence thereof has been provided to Town, and (iii) that all obligations of Property Owner in the Amended and Restated Subdivision Improvement Agreement and this Agreement as the same may affect Property within such Phase have been performed to the satisfaction of Town in its sole reasonable discretion.

c. Compliance with Agreement and Final Plat. Pursuant to the contractual commitments made herein, Property Owner shall have vested property rights to undertake and complete the development and use of the Property under the terms and conditions of this Agreement, the Amended and Restated Subdivision Improvement Agreement, and the Final Plat.
d. **Final Plat.** The Final Plat shall be considered a site specific development plan as defined by Colorado law and the Timnath Municipal Code for the conditional Vesting Period identified above for the Property and conditional extended vesting periods for Phases II through [X] of the Property.

e. **Limitation on Vested Rights.** Notwithstanding anything in this Section to the contrary, in no event shall the vested rights granted herein prevent Town, by its citizens through initiative or referendum or by Town Council, from acting as reasonably necessary to protect property, businesses or residents within Town from natural or man-made hazards, which hazards if uncorrected would pose a serious threat to the public health, safety and welfare of residents, businesses or properties within Town.

f. **Infrastructure Standards.** Parties acknowledge and agree that Town Code and Town’s then-existing design and construction standards shall be applicable to all future construction of items historically considered to be public in nature, including generally, water lines, sewer lines, streets, drainage improvements, park improvements, traffic safety and control devices, etc. common to similar developments in Town. Accordingly, the vested rights previously granted and extended herein shall not include design and construction standards for public improvements.

13. **Town Ordinances, Regulations, Codes, Policies, and Procedures.** To the extent consistent with vested property rights granted above, the provisions of this Agreement, and the Final Plat, Parties agree that all Town ordinances, regulations, codes, policies and procedures in effect at the time of the application or act being interpreted shall be applicable to the use and development of the Property. If such are inconsistent with the vested property rights granted herein, such inconsistent ordinance, regulation, code, policy or procedure shall apply to development of the Property only if, in Town’s sole reasonable discretion, such is necessary to preserve the public’s health, safety and welfare. If the Property is replatted in any manner, all ordinances, regulations, codes, policies and procedures in effect at the time of replat shall be applicable to the use and development of the Property that is subject to the replat.

14. **Breach by Property Owner - Town's Remedies.** In the event of a breach of any of the terms and conditions of this Agreement by Property Owner, and until such breach is corrected, Town may take such action as permitted and/or authorized by law, this Agreement, and/or the ordinances of Town as Town reasonably deems necessary, to protect the public health, safety and welfare; to protect lot buyers and builders; and to protect the citizens of Town from undue hardship and undue risk. These remedies include, but are not limited to:

a. The refusal to issue any building permit;
b. The revocation of any building permit previously issued under which construction directly related to such building permit has not commenced, except a building permit previously issued to a third party;

c. Refusal to accept further land use applications for the Property;

d. Disconnection of the Property from Town;

e. Specific performance of this Agreement;

f. Denial or revocation of any utility tap connection;

g. Placement of a lien on the Property to be collected with the property taxes;

h. Any other remedy available at law or equity.

Unless necessary to protect the immediate health, safety and welfare of Town or to protect Town’s interest with regard to security given for the completion of the public improvements, Town shall provide Property Owner thirty (30) days prior written notice of its intent to take any action under this paragraph, specifying the claimed breach or default of such person or entity. If during such thirty (30) day period Property Owner commences to cure the breach described in the notice and proceeds reasonably thereafter to cure the breach, any action taken by Town to enforce this Agreement shall be discontinued and no further action shall be taken by Town upon and to the extent that a breach of this Agreement is cured.

15. Breach by Town: Property Owner’s Remedies. Property Owner shall have any and all remedies against Town for breach of this Agreement available at law or in equity for a material breach of this Agreement by Town, including the right to seek statutory disconnection for a material breach which substantially impairs Property Owner’s ability to develop the Property. Property Owner acknowledges that Town is currently providing municipal services for the benefit of the Property, including but not limited to administrative services and operations and maintenance of [PROPERTY RECEIVING SERVICES] for the benefit of the Property.

16. Attorney’s Fees. In the event of any litigation to enforce or construe the terms of this Agreement, the substantially prevailing party shall be entitled to payment of its costs of litigation, including attorney fees, by the other party.

17. 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 Town 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 that is of uniform or general application; subject to the limitation on fee increases set forth in the Amended and Restated Subdivision Improvement Agreement.
18. **Notice.** All notices required under this Agreement shall be in writing and shall be hand-delivered or sent by facsimile, or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of Parties herein set forth. All notices so given shall be considered effective on the date of delivery, or facsimile if sent during normal business hours, or seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either party by notice so given may change the address to which further notices shall be sent.

**Notice to Town:**

Town of Timnath  
4800 Goodman Street  
Timnath, Colorado 80547  
Telephone: (970) 224-3211  
Facsimile: (970) 224-3217

with copy to:

Gary R. White, Esq.  
White, Bear & Ankele Professional Corporation  
2154 E. Commons Ave., Suite 2000  
Centennial, CO 80122  
Telephone: (303) 858-1800  
Facsimile: (303) 858-1802

**Notice to Property Owner:**

[NAME]  
[ADDRESS]  
[ADDRESS]  
[ADDRESS]  
Telephone: [PHONE]  
Facsimile: [FAX]

with a copy to:

[NAME]  
[ADDRESS]  
[ADDRESS]  
Telephone: [PHONE]  
Facsimile: [FAX]

19. **Assignment.** Property Owner shall have the right to assign or transfer all or any of its interests, rights, or obligations under this Agreement to any person or entity that is an “affiliate” of Property Owner without the consent of Town. Property Owner shall also have the right to assign or transfer all or any of its interests, rights, or obligations under this Agreement to any other person or entity having the legal authority and financial ability to perform the obligations being assigned to such person or entity after at least thirty (30) days prior written notice to Town. Upon such notice and written assumption of the obligations of Property Owner by an assignee, the assignor shall be relieved of any further obligations or liability with respect to the performance of any of the duties or obligations of Property Owner arising after the date such duties and obligations are assumed by the Assignee. The term “affiliate” as used hereinabove, shall mean and refer to any person or entity, directly or indirectly, controlling, controlled by, or
under common control with Property Owner. The terms “controlling,” “controlled by,” or “under common control with,” shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity whether through the ownership of voting securities or otherwise.

20. **Title and Authority.** Property Owner warrants and represents to Town that it is the record owner of the Property, except for county roads shown on the annexation map. Each person signing this Agreement on behalf of an entity represents and warrants that he or she has full power and authority to enter into this Agreement on behalf of the entity. Property Owner and the undersigned individuals understand that Town is relying on such representations and warranties in entering into this Agreement.

21. **Entire Agreement - Amendments.** This Agreement embodies the whole agreement of Parties with respect to the annexation of the Property to Town and development of the Property within Town. There are no promises, terms, conditions, or obligations other than those contained herein, which shall supersede all previous communications, representations or agreements, either verbal or written, between Parties hereto. This Agreement may be amended by written agreement between Property Owner and Town. In the event that the Property is subdivided and lots are sold to different individuals in the future, this Agreement may be amended by agreement between Property Owner and Town, without consent of such lot owners to the extent such amendment does not adversely affect such other lot owners in a material manner.

22. **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.

23. **Effective Date-Termination.** This Agreement shall be effective and binding upon Parties but shall not affect the effective date of the ordinance annexing the Property to Town. This Agreement shall be terminated and considered null and void on the date of disconnection if the Property is disconnected from Town as a result of a Disconnection Event as contained herein.

24. **Further Assurances.** Parties shall execute such additional documents and take such additional action as may be necessary to effectuate the intent of this Agreement.

25. **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.

26. **Execution and Counterparts.** This Agreement may be executed and filed in any number of counterparts, all of which when taken together shall constitute the entire agreement of Parties. Signature pages may be removed from any counterpart and attached to another counterpart to constitute a single document.
27. **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 venue of such suit or action shall be in Larimer County, Colorado.

28. **Time is of the Essence.** Time is of the essence for both parties with respect to the obligations herein. Parties agree that they will each act in as expeditious a manner as reasonably possible in performing the obligations herein.

29. **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.

30. **Modifications.** This Agreement shall not be amended except by subsequent written agreement of Parties.

31. **Integration.** 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 documents approved by the Board of Trustees at a public meeting, Town Code and the laws of the State of Colorado.

32. **Captions.** The captions to this Agreement are inserted only for the purpose of convenient reference and in no way define, limit or prescribe the scope or intent of this Agreement or any part thereof.

33. **Force Majeure.** Whenever Property Owner is required to complete construction, repair or replacement of Public Improvements by an agreed deadline, such Property Owner shall be entitled to an extensions of time equal to a delay in completing the foregoing, due to unforeseeable causes beyond the control and without the fault or negligence of such Property Owner, including but not restricted to, acts of God, weather, fires and strikes.

34. **Approvals.** Whenever approval or acceptance of Town is necessary pursuant to any provisions of this Agreement, Town shall act reasonably and in a timely manner in responding to such request for approval or acceptance.
IN WITNESS WHEREOF, this Agreement has been executed by Parties, intending to be legally bound hereby, as of the date set forth above.

TOWN: TOWN OF TIMNATH, COLORADO,
A Municipal Corporation

ATTEST:

By: ___________________________
   Jill Grossman-Belisle, Mayor

_____________________________
Milissa Peters, Town Clerk

PROPERTY OWNER: [PROPERTY OWNER]

By: ___________________________
   [NAME AND TITLE]

STATE OF COLORADO )
) ss.
COUNTY OF LARIMER )

The foregoing instrument was acknowledged before me this ____ day of [MONTH], 201- , by [NAME AND TITLE].

WITNESS my hand and official seal.

_____________________________
Notary Public
My Commission expires:___________
EXHIBIT A
(Property)
EXHIBIT B
(Annexed Property)
EXHIBIT C
(Phasing Plan)
Annexation Impact Report Requirements

Pursuant to C.R.S. Section 31-12-108.5, this document fulfills the Annexation Impact Report requirements for annexations in excess of 10 acres. The Town of Timnath has prepared the following report to satisfy said requirements and it contains the following items:

1. A map of the municipality and adjacent territory to show the following:
   a. The present and proposed boundaries of the municipality in the vicinity of the proposed annexation;
   b. The present streets, major trunk water mains, sewer interceptors and outfalls, other utility lines and ditches, and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation; and
   c. The existing and proposed land use pattern in the areas to be annexed.
2. A copy of any draft or final preannexation agreement, if available;
3. A statement setting forth the plans of the municipality for extending to or otherwise providing for, within the area to be annexed, municipal services performed by or on behalf of the municipality at the time of annexation;
4. A statement setting forth the method under which the municipality plans to finance the extension of the municipal services into the area to be annexed;
5. A statement identifying existing districts within the area to be annexed; and
6. A statement on the effect of annexation upon local-public school district systems, including the estimated number of students generated and the capital construction required to educate such students.

Project Summary

The Brunner Farm Annexation is intended to be subdivided into 202 single family lots with a variety of lot sizes ranging from 7,000 square feet to lots that will be 1/3 – acre in size. Overall gross density is 1.99 dwelling units per acre. The 108.4-acre site is located south of County Road 36 and west of Three Bell Parkway (see attached annexation map). The east side of the property is contiguous to existing Town of Timnath right-of-way along Three Bell Parkway. The Timnath South Subdivision is directly east of the site. In addition, the proposed annexation is located within the Town of Timnath Growth Management Area (GMA) Boundary.

Assessment of Community Need

Timnath, Colorado is a growing community. The Brunner Farm Annexation will ultimately create a desirable product for future homeowners who want to move to the area and build on a larger than average lot and take advantage of the unobstructed views that this property offers. The community will encourage the use of pedestrian and bicycling by utilizing the local street, sidewalk and trail networks. The property is within walking distance to Bethke Elementary and future planned employment and commercial adjacent to Harmony Road.
The development is compatible with the Town Timnath Comprehensive Plan adopted April 23, 2013 and is a desirable addition to the Town. Specifically, the following goals, objectives and action items as outlined in the Town’s Comprehensive Plan, are being achieved by this annexation:

1. Develop land within Timnath by targeting non-residential development and allowing housing to develop based on market demand and the ability of the Town to provide services.
2. New development, redevelopment, and infrastructure investment should strive to promote healthy communities and active lifestyles by providing or encouraging enhanced bicycle and pedestrian circulation, access, and safety along roads near areas of employment, schools, and parks.
3. Target pedestrian and cycling infrastructure investments in areas near employment centers, schools, public parks and trails and as outlined in the PROST plan.
4. Ensure that zoning changes conform to the Comprehensive Plan.
5. Incorporate a plan consistency requirement into the zoning code.
6. Where feasible, annex lands adjacent to existing development prior to annexing other undeveloped areas to the town.
7. Enhance the quality of community amenities as a means of ensuring Timnath’s attractiveness to future employers.
8. Create a schedule for ongoing improvements to Timnath’s pathway system, including acquisition of rights-of-way for future development, agreements with private developers for path and trail construction, and other approaches.
9. Continue to pursue pathway and trail development and extensions throughout the GMA.
10. Develop a well-balanced transportation system that supports automobile, pedestrian and bicycle movement.
11. Provide on- and off-street bicycle lanes as well as sidewalks along urban streets throughout the community.
12. Require sidewalks on all streets in development approvals. All street reconstruction should include sidewalks.
13. Consider alternative transportation projects when prioritizing future parks, open space, and trails for the Parks, Recreation, Open Space and Trails Plan.
14. Develop a safe and efficient transportation system utilizing complete street concepts where feasible.
15. Design street cross-sections to include easily identifiable spaces for all users: drivers, pedestrians, and bicyclists, as appropriate.
16. Provide frequent street crossings in developed areas with easily accessible pedestrian signals at intersections.
17. Develop an off-road pedestrian, bicycle and equestrian trail system that connects open spaces and recreation areas in and around Timnath as adopted in the Parks Recreation Open Space and Trails Plan.
18. Refer to the trails adopted in the Parks Recreation Open Space and Trails Plan during development review and require new trails be constructed or the right-of-way for new trails be provided as new developments are approved.
19. Provide an adequate level of public facilities, infrastructure and services for the residents of Timnath.
20. Require adequate infrastructure concurrent with development.
21. Review and monitor agreements with utility providers to ensure infrastructure will be planned and installed consistent with the Comprehensive Plan in a timely, efficient and cost effective manner.
22. Require new developments to connect to existing water and sewer systems and prohibit the proliferation of small private water and sewer systems.
23. Require developers to pay for 100% of the cost of providing infrastructure to support new developments, except when the development is part of a public private partnership in which case the costs may be shared.
24. Coordinate with special districts and authorities that provide community services to ensure an appropriate level of service is maintained as the Town grows.
25. The Town will build upon its natural assets in providing a connected, balanced system of parks, trails, open space and recreation facilities that is equitably distributed and accessible to all residents.
26. Provide 2.5 acres of neighborhood parkland and 5.5 acres of community parkland for every 1,000 residents.
27. Develop requirements for parkland dedication in land or payment in lieu of land for all subdivision development.
28. Rely on private development to provide pocket parks within 0.25 mile of every resident in new subdivisions, and to meet a level of service of .5 acres per 1,000 population.
29. Locate neighborhood parks within 0.5 mile of the neighbors they are intended to serve, and in locations that are comfortably and safely accessible by pedestrians and bicyclists.
30. Design parks to provide for a variety of experiences that appeal to a broad range of interests, abilities and ages.
31. Provide accessible facilities and rehabilitate existing facilities to meet the requirements of the Americans with Disabilities Act (ADA).
32. Provide safe, enjoyable and comprehensive bicycle and pedestrian connections throughout Timnath.
33. Provide a multi-purpose community-wide core trail system that connects major destinations (e.g., neighborhood and community parks, regional trail systems, open space areas, recreation centers, schools, downtown, major event centers, etc.) and provides opportunities for trail loops with areas of interest along the route.
34. Connect neighborhood parks and neighborhood schools to a community-wide trail system with neighborhood connector (local) trails that are provided for and maintained by private development (where feasible and appropriate in the context of the neighborhood design).
35. Provide pedestrian and bicycle access (bike lanes and routes as appropriate for the road classification) throughout neighborhoods to facilitate safe, enjoyable routes between homes, parks and recreational amenities.
36. Ensure that new residential development contributes its fair share for parks and recreational facilities to the extent allowed by state law and Town code.
37. Town expansion and growth will recognize and design with the natural amenities within the community including wildlife, habitat, waterways and groundwater.

Summary of services extended to potential development by the Town of Timnath
Transportation System

Transportation improvements will include improvements to Three Bell Parkway and County Road 36 (River Pass Road). The Town of Timnath will maintain the areas within all public right-of-ways between back of curb to back of curb. The adjacent land owner or metropolitan district will be responsible for maintenance of the sidewalk, parkway, and irrigation within all public right-of-ways behind the back of curb.

Additional traffic impacts of the Brunner Farm Annexation will be minimal to the existing surrounding transportation system infrastructure. The primary concern is with the increased demand to Three Bell Parkway and Harmony Road. This intersection has recently been upgraded with a traffic signal to increase the level of service. Three Bell Parkway has been improved to near ultimate conditions as well as all local streets within Timnath South First and Second Filings. The intersection of Three Bell Parkway and Summerfields Parkway provides one access point to Timnath South Third Filing and the Brunner Annexation. There is another opportunity for an access point mid-way on Three Bell Parkway. A third access is off of County Road 36. A traffic study will determine what improvements, if any, need to be made to the surrounding roads.
Law Enforcement Impact

Initially, law enforcement will experience an increase in thefts and suspicious incidents within the construction area and complaints from the closest neighborhoods concerning the construction zone. We will work with the builders and make recommendations concerning how to secure the work sites and buildings. As the homes are occupied and the neighborhood matures an increase in residential alarms, accidents, and traffic and neighborhood complaints will occur.

An additional officer is being added in late 2014. As build out occurs there will be the need for another officer to assist with commercial and residential case reporting and investigations.

Financing methods for municipal services provided by of the Town of Timnath

Municipal services provided directly by the Town will be funded in part by income generated from property and sales taxes as well as development impact fees and building permit fees. Portions of the property taxes generated will be distributed to the appropriate taxing entities within the Town per mil levee distribution amounts.

Summary of services provided on behalf of the Town of Timnath

School Impact

The Poudre School District provides education for the Timnath youth. Currently Poudre School District has two elementary schools within the Town limits, Bethke Elementary and Timnath Elementary. They currently hold property within or adjacent to the Town limits for a future middle school and high school. They are in the process of updating a regional planning study. They have been in contact with the Town and the Town has provided anticipated development potential including immediate and mid range projections including the Brunner Farm Annexation. The Town hasn’t been informed of any objections to the addition of this development and the added pressure to the current school district facilities.

Water and Sewer Service

Sanitary Service: The Brunner Farm Annexation will petition for inclusion in the South Fort Collins Sanitation District. The property can be served physically by existing infrastructure in Timnath South and/or the future sewer main being installed at or near the intersection of Three Bell Parkway and County Road 36 (River Pass Road) located at the northeast corner of the property.

Water Service: This property is currently included in the Fort Collins-Loveland Water District and will be served with potable water by said district. Mains within County Road 36 (River Pass Road) on the north side and within Three Bell Parkway on the east side will be improved as needed for development of this property.

Non-potable Water Service: This property has access to non-potable water by way of the Akin Lateral if said use is desired with development.

Storm Drainage Impacts

This property historically drains from the center of the property to either the east or west. The eastern half of the property will be routed through existing infrastructure in Timnath South and will ultimately outfall to the Greeley No. 2 Ditch at or below the 10-year historic runoff rate in the 100-year storm event, per the
ditch requirements. The west half of the property will discharge to the Poudre River or to existing drainage ways connected to the Poudre River and within the floodplain.

To mitigate negative effects of stormwater discharge from this property, water quality ponds or structure will be implemented per Town standards. The western half of this property will discharge un-detained to the Poudre River or channels directly connected to the River so long as downstream properties are not negatively affected by said actions. Where necessary, peak runoff rates to the Poudre River will be designed not to exceed historic rates for any given design storm, or may require additional detention as will be determined during design of the system. The eastern half of the property will be detained to attenuate stormwater runoff. All stormwater facilities utilized to mitigate negative stormwater effects for the development of this property will be in either onsite or those owned and maintained by parties with interest in the project.

No regional stormwater facilities are known to be affected by the proposed development of the property. There is floodplain/floodway located along the western property boundary but 20’ or more below where development generally would be planned. Any floodplain development will follow all legal regulations and requirements.

The property is the final discharge point of the Akin Lateral. This irrigation ditch will be evaluated for use within the proposed development. If no longer needed the irrigation lateral will be terminated prior to the property. No irrigation tailwater is known to discharge across the property.

**Telephone, Electric, Gas, and Cable Utility Impacts**

These utility services will be provided by Xcel Energy, Century Link, and Comcast. Each of these providers currently provide service to the adjacent development and have infrastructure suitable to serve the Brunner Farm Annexation.

**Fire District Impact**

Poudre Fire Authority currently provides fire district services to the annexed portions of Timnath. The Brunner Farm Annexation will be required to petition for inclusion to the Poudre Valley Fire Protection District and exclusion from the Windsor-Severance Fire Protection District.

Currently the Town is working with PFA to develop a fire station that will better serve the residents of Timnath. The fire station be located north of this development off of Harmony Road. The district has been working with the Town and reviewing the Town’s projected growth patterns and anticipated this development and the increased density in population.

**Environmental Impacts of the Proposed Development**

The property abuts and contains a portion of the floodplain for the Poudre River along the west property line. The portion of the property containing the floodplain is proposed to be undisturbed and platted as a non-buildable outlot. This future outlot does contain jurisdictional wetlands that will remain undisturbed. The remainder of the site is farmed agricultural fields with limited natural vegetation. There are no anticipated direct adverse impacts on local wildlife or environmental resources in these areas. The indirect impact to wildlife or environmental resources are unknown at this time.
Economic Development Potential

Changing property from an agricultural use to a residential use will have a direct increase in property tax revenues to the County and to the Town as well as any other taxing districts within the Town.

Existing and Adjacent Land Uses

North – Unincorporated Larimer County and zoned FA-1.

West – Unincorporated Larimer County and zoned FA-1.

South – Unincorporated Larimer County and zoned FA-1.

East – All adjacent land to the east is within the Town of Timnath Municipal boundary and is zoned R-2, Single-Family Residential and C-2, Community Commercial.

Attachments:
1. Annexation Map
2. Draft Annexation Agreement
3. Annexation Petition
PETITION FOR ANNEXATION

PETITION FOR ANNEXATION TO THE TOWN OF TIMNATH, COLORADO

THE UNDERSIGNED, being "landowners" as defined in C.R.S. § 31-12-103(6), hereby Petition the Town of Timnath, Colorado (the "Town") for annexation for the following described property and further state:

1. The legal description of the land which Landowners request to be annexed to the municipality is attached hereto as Exhibit "A", hereinafter referred to as the "Property."

2. It is desirable and necessary that the Property be annexed to the Town.

3. The following requirements of C.R.S. § 31-12-104 exist or have been met:
   a. Not less than 1/6th of the perimeter of the Property is contiguous with the Town.
   b. A community of interest exists between the Property and the Town. The Property is urban or will be urbanized in the near future; and the Property is capable of being integrated into the Town.

4. None of the limitations provided in C.R.S. § 31-12-105 are applicable and the requirements of that statute have been met because of the following:
   a. The annexation of the Property will not result in the Property being divided into separate parts or parcels under identical ownership;
   b. No land area within the Property held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate comprising 20 acres or more and having a valuation for assessment in excess of $200,000 for ad valorem tax purposes has been included in the area of the Property to be annexed without the written consent of the landowners thereof;
   c. No annexation proceedings have been commenced for annexation of any part of the Property by any other municipality;
   d. The entire width of all streets and alleys to be included within the area annexed are included;
   e. The annexation of the Property will not result in the detachment of area from any school district or the attachment of same to another school district; and
   f. Annexation by the Town of the Property will not have the effect of, and will not result in, the denial of reasonable access to landowners, owners of an
easement, or owners of a franchise adjoining a platted street or alley, inasmuch as annexation of the Property will not result in annexation of a platted street or alley which is not bounded on both sides by the Town.

5. The annexation of the Property will not have the effect of extending a boundary of the Town more than three miles in any direction from any point of the municipal boundary in the past 12 months.

6. The Petitioners comprise the owners in fee of more than 50 percent of the area of the Property, exclusive of public streets and alleys, and comprise more than 50 percent of the landowners of the Property. The legal description of the land owned by each signer of this petition is shown on Exhibit A.

7. The Petitioners request that the Town Council approve the annexation of the Property.

8. This Petition is accompanied by four (4) copies of an annexation boundary map in the form required by C.R.S. § 31-12-102(1)(d) and attached as Exhibit B.

9. The Petitioners reserve the right to withdraw this Petition in the event the Property is not zoned in accordance with the Annexation Agreement, if any.

10. This instrument may be executed in one or more counterparts, all of which taken together shall constitute the same document.
PETITIONERS:

GL Brunner Farms LLC and Timnath Holdings, LLC

By: [Signature]

Mailing Address: 5650 Greenwood Plaza Blvd, Suite 250G
Greenwood Village CO 80111

STATE OF COLORADO
COUNTY OF

) ) s.s.

Subscribed and sworn to before me this ___ day of ____, 2013, by
Grant Brunner and AS MANAGER OF GL Brunner Farms LLC and
Timnath Holdings LLC.

Witness my hand and official seal.

My commission expires: December 17, 2014

BRANDEE YEAGER
Notary Public
State of Colorado

My Commission Expires December 17, 2014
AFFIDAVIT OF CIRCULATOR IN SUPPORT OF PETITION
[Required for all petitions, including those signed by a single owner]

STATE OF COLORADO  )
COUNTY OF [Larimer] ) ss.

Dino DiTullio being first duly sworn
states as follows:

a. I have circulated the foregoing Petition for Annexation to the Town of
   Timnath set forth herein.

b. I know the persons whose names are subscribed to the foregoing Petition
   on behalf of the Petitioners.

c. The signatures on the foregoing Petition were affixed in my presence and
   each signature is a true, genuine and correct signature of the person it
   purports to be.

d. To the best of my knowledge and belief, the persons whose names are
   affixed to the foregoing Petition are authorized to sign such document on
   behalf of Petitioners.

CIRCULATOR

Dino DiTullio

STATE OF COLORADO  )
COUNTY OF [Larimer] ) ss.

Dino DiTullio

Subscribed and sworn to before me this 13th day of November, 2013, by
Witness my hand and official seal.

My commission expires: 2/22/2014

GUY D. JOHNSON
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20104007029
MY COMMISSION EXPIRES FEBRUARY 22, 2014

Notary Public
EXHIBIT A

LEGAL DESCRIPTION OF
PROPERTY PROPOSED FOR ANNEXATION

BRUNNER FARM ANNEXATION TO TIMNATH

That portion of Section Two (2) and Section Eleven (11), Township Six North (T.6N.)
Range Sixty-Eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), County of
Larimer, State of Colorado and being more particularly described as follows:
Considering the North line of the Northeast Quarter of said Section 11 as bearing North
88°35'28" East with all other bearings herein relative thereto:

BEGINNING at the North Quarter Corner of Section 11; thence along the North line of
Northeast Quarter of Section 11, North 88° 35' 28" East, 543.04 feet; thence, North 01°
24' 35" West, 30.00 feet to the North right-of-way line of County Road 36; thence along
said North line, North 88° 35' 28" East, 1967.75 feet to the West right-of-way line of
County Road 3; thence along said West line, South 00° 51' 03" East, 60.00 feet; thence
continuing along said West line, South 00° 34' 57" East, 2495.04 feet; thence, North 77°
19' 47" West, 1304.81 feet to a point on the West line of the Southeast Quarter of the
Northeast Quarter; thence along said West line, North 00° 11' 36" East, 692.14 feet;
thence, North 23° 51' 18" West, 213.43 feet to a point on the South line of the Northwest
Quarter of the Northeast Quarter; thence along said South line, South 88° 48' 49" West,
1201.12
feet to the Center North Sixteenth Corner of Section 11; thence along the West line of
the Northeast Quarter of Section 11, North 00° 58' 24" East, 1314.70 feet to the Point of
Beginning.

The above described tract of land contains 4,723,611 square feet or 108.439 acres
more or less and is subject to all easements and right-of-way now on record or existing.
EXHIBIT B

ANNEXATION BOUNDARY MAP

[Attached]
September 3, 2013

Mr. Matt Blakely, Town Planner
Town of Timnath
4800 Goodman Street
Timnath, CO 80547

RE: Brunner Farm Annexation

Dear Mr. Blakely,

The Fort Collins - Loveland Water District and the South Fort Collins Sanitation District have reviewed the above mentioned project and submit the following comments.

The District’s records indicate that the property is not within the service area of the South Fort Collins Sanitation District and, therefore, sanitary sewer service is contingent upon the land being included into the District boundary, which must be approved by the Board of Directors. The cost to petition into the District is $50.00 per acre and requires approximately two months for public notice.

Please do not hesitate to contact me at 226-3104, extension 104, if you have any questions or require additional information.

Respectfully,

Mr. Terry W. Farrill, P.E.
District Engineer

xc: Mr. Michael D. DiTullio, District Manager
G.L Brunner Farms, LLC
MEMORANDUM

TO: Matt Blakely  
   Town Planner  
   Town of Timnath, P.O. Box 37, 4100 Main Street, Timnath, CO 80547

FROM: Clint Jones, Larimer County Engineering Department

DATE: August 29, 2013

SUBJECT: Brunner Farm Annexation - Timnath Referral

Project Description/Background:
This is an application for an annexation and future development of the 108 acre parcel south of County Road 36 and west of County Road 3. It appears that approximately 216 residential lots are proposed for this site.

Review Criteria:
Larimer County appreciates the opportunity to review this project, and recognizes that this project is different than a project subject to Larimer County regulations. Many of the recommendations stated below are based on issues and concerns that commonly arise with similar projects in the County. We have requested information and made recommendations that we feel are essential to this project and its impacts to the site and surrounding areas.

Transportation/Access Issues:
1. The County’s expectation is that the Town will annex the full Right-of-Way of all the roads adjacent to the annexation. It appears that, as part of this requirement, the full width of right-of-way for County Road 36 will be annexed adjacent to the site.
2. This development will have significant impacts to the County road system. Therefore, we would like to review any future Traffic Impact Studies and have the opportunity to provide recommendations for development required road improvements that will be needed to maintain a safe and adequate road system.
3. It appears that there will be approximately 216 lots developed at this site, which translates into around 2000 additional vehicle trips per day on the surrounding road network. The County’s Land Use Code stipulates that all developments must provide adequate public facilities to their development and therefore, County Staff is hopeful that the Town will look outside their Town boundaries at the transportation improvements that will be needed to accommodate these additional trips and associated impacts to the roads in the unincorporated areas of the County.

Stormwater Management and Irrigation Issues:
1. Drainage and Erosion control should be closely analyzed and designed as to not impact upstream or downstream properties. The County would require on-site detention of the 100-year event with an outlet that releases flows at historic rates with adequate water quality. We would like the opportunity to review and comment on the Drainage and Erosion Control plans for this site.
Staff Recommendation:
Thank you for the opportunity to comment on the proposal. Please feel free to contact me at (970) 498-5727 or cdjones@larimer.org if you have any questions.

cc: Dan Kunis, Larimer County Planning Department file
September 3, 2013

Matt Blakely, Town Planner
Community Development
Town of Timnath
4800 Goodman Street
Timnath, CO 80547

RE: Brunner Farm Annexation

This letter acknowledges receipt of the notice of public hearing and annexation plat for the above annexation to the Town of Timnath. Staff from the Larimer County Planning, Engineering and Health departments recently reviewed these materials.

It is Larimer County Engineering’s expectation that as part of the annexation, the entire right of way of any Larimer County roads adjacent to the property will also be annexed.

If the annexation is approved and the project moves forward, Larimer County Engineering would recommend that a traffic impact study and drainage report be required. County Engineering would appreciate the opportunity to review these reports as to the impacts the development will have on the transportation and drainage facilities in the unincorporated portions of the County. County Engineering requests that any County transportation or drainage facilities that are not adequate to handle the additional development be made adequate.

Please feel free to contact me at 498-7680, or email dkunis@larimer.org, if you have any questions.

Sincerely,

Dan Kunis
GIS Specialist
September 3, 2013

Mr. Matt Blakely, Town Planner
Town of Timnath
4800 Goodman Street
Timnath, CO 80547

RE: Brunner Farm Annexation

Dear Mr. Blakely,

The Fort Collins - Loveland Water District and the South Fort Collins Sanitation District have reviewed the above mentioned project and submit the following comments.

The District’s records indicate that the property is not within the service area of the South Fort Collins Sanitation District and, therefore, sanitary sewer service is contingent upon the land being included into the District boundary, which must be approved by the Board of Directors. The cost to petition into the District is $50.00 per acre and requires approximately two months for public notice.

Please do not hesitate to contact me at 226-3104, extension 104, if you have any questions or require additional information.

Respectfully,

Mr. Terry W. Farrill, P.E.
District Engineer

xc: Mr. Michael D. DiTullio, District Manager
G L Brunner Farms, LLC
We are interested in your review of the following Project

**Project:** Brunner Farm Annexation  
**Case #** AX-2013-001

**Location:** South of and adjacent to County Road 36 (River Pass Rd) and West of and adjacent to Three Bell Pkwy.

**Applicant(s):**  
G L Brunner Farms, LLC  
5650 Greenwood Plaza Blvd, Suite 250 G  
Greenwood Village CO 80111  
Phone: 303-332-4708  
Fax:  
Email: greg@buynowcolorado.com

**Owner(s):**  
G L Brunner Farms, LLC  
5650 Greenwood Plaza Blvd, Suite 250 G  
Greenwood Village CO 80111  
Phone: 303-332-4708  
Fax:  
Email: greg@buynowcolorado.com

**Summary:** The Brunner Farm Annexation is a 108.249 acre site that is intended to be subdivided into single family lots with a variety of sizes ranging from 7,000 sq. ft. to 1/3 acre. Future zoning will be R-2.

**Please Reply By:** September 17, 2013

**Reply to:** Matt Blakely, Town Planner  
(mblakely@timnathgov.com)  
Phone: (970) 224-3211  
Fax: (970) 224-3217

**Organization / Agency:** Timnath Engineering  

**Comments:** NO COMMENT ON ANNEXATION

CONCEPT PLAN DATED 8-14-13 ROADWAY LAYOUT NOT NECESSARILY APPROVED AS PART OF ANNEXATION AND SUBJECT TO TOWN DESIGN CRITERIA

This application has been sent to you for your review and comment. Any comments or issues you may consider relevant to this request would be appreciated. If you have any questions regarding the application, please contact the Planner listed above.

Town of Timnath  
Phone: (970) 224-3211 Fax: (970) 224-3217  
www.TimnathGov.com  
4800 Goodman St. Timnath, CO 80547
Town of Timnath
Referral Notice
August 20, 2013

We are interested in your review of the following Project

Project: Brunner Farm Annexation
Case #: AX-2013-001

Location: South of and adjacent to County Road 36 (River Pass Rd) and West of and adjacent to Three Bell Pkwy.

Applicant(s): G L Brunner Farms, LLC
5650 Greenwood Plaza Blvd, Suite 250 G
Greenwood Village  CO  80111
Phone: 303-332-4708
Email: greg@buynowcolorado.com

Owner(s): G L Brunner Farms, LLC
5650 Greenwood Plaza Blvd, Suite 250 G
Greenwood Village  CO  80111
Phone: 303-332-4708
Fax: 
Email: greg@buynowcolorado.com

Summary: The Brunner Farm Annexation is a 108.249 acre site that is intended to be subdivided into single family lots with a variety of sizes ranging from 7,000 sq. ft. to 1/3 acre. Future zoning will be R-2.

Please Reply By: September 12, 2013

Reply to: Matt Blakely, Town Planner
mblakely@timnathgov.com
Phone: (970) 224-3211
Fax: (970) 224-3217

Organization / Agency: Timnath Engineering

Comments: NO COMMENT ON ANNEXATION

CONCEPT PLAN DATED 8-14-13 ROADWAY LAYOUT NOT NECESSARILY APPROVED AS PART OF ANNEXATION AND SUBJECT TO TOWN DESIGN CRITERIA

This application has been sent to you for your review and comment. Any comments or issues you may consider relevant to this request would be appreciated. If you have any questions regarding the application, please contact the Planner listed above.

Town of Timnath
Phone: (970) 224-3211  Fax: (970) 224-3217
www.TimpanthGov.com
4800 Goodman St. Timnath, CO 80547
### EXECUTIVE SUMMARY:
This resolution will approve a Public/Private Partnership Agreement ("P3 Agreement") among the Timnath Development Authority, the Town of Timnath, Cache La Poudre Investors South, LLC and Cache La Poudre Development South, LLC for the purposes of developing a Costco in Timnath and will approve a Covenant Agreement between the Timnath Authority and Cache La Poudre Investors South.

### STAFF RECOMMENDATION:
Staff recommends approval of Resolution No. 3, Series 2014.

### KEY POINTS/SUPPORTING INFORMATION:
- Costco is proposing to build on Weitzel Drive and Harmony Road in 2014. The purpose of this P3 agreement is to establish the terms for a public/private partnership and the construction of infrastructure improvements.
- The Agreement also includes a covenant agreement that will protect the TDA’s investments if Costco fails to open.

### ADVANTAGES:
- Costco will have significant impact on Timnath. Costco’s influence is felt beyond the revenue generation. The accounting and consulting firm of Baker Tilly analyzed Costco’s effect.
  - **Employment.** Baker Tilly analyzes the employment in three areas: direct impact, indirect impact and induced impact. Indirect impact is generally the jobs that are created as a result of the primary employer (Costco) buying from suppliers and others. Induced impacts are impacts that result from increases in local incomes.
    - Baker Tilly estimates that there will be 124 direct impact construction jobs and over 70 indirect and induced impact construction jobs.
    - The firm also estimates a direct impact of over 200 full time positions for the operation of Costco and over 40 indirect or induced new jobs.
  - **Wages.** Costco is known to pay higher than market wages with the average hourly wage of $20.51. Cashiers with the company that have been there more than 5 years earn an average of over $50,000 per year. In addition, employees receive strong benefit packages and part time employees who work more than 23 hours per week receive benefits after six months.
  - **Corporate Citizenship.** Costco is well known for its philanthropy and community involvement. The company designates 1% of its pre-tax profit to charitable organizations and supports everything from its scholarship fund to children’s hospitals to school reading programs.

### DISADVANTAGES:
Increased traffic, but the agreement provides for off-site improvements that will accommodate expected traffic volumes.
<table>
<thead>
<tr>
<th><strong>FINANCIAL IMPACT:</strong></th>
<th>The ongoing revenue sources will provide for debt service and opportunities to invest in infrastructure or other improvements elsewhere in the TDA.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RECOMMENDED MOTION:</strong></td>
<td>I move approval of Resolution No. 3, Series 2014, A Resolution Approving the Public/Private Partnership Agreement Regarding Gateway Timnath South</td>
</tr>
<tr>
<td><strong>ATTACHMENTS:</strong></td>
<td>1. Resolution No. 3, Series 2014</td>
</tr>
</tbody>
</table>
TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 3, SERIES 2014

A RESOLUTION APPROVING A PUBLIC(PRIVATE PARTNERSHIP AGREEMENT REGARDING GATEWAY TIMNATH SOUTH

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

WHEREAS, attached hereto as Exhibit A is the Public/Private Partnership Agreement Regarding Gateway Timnath South Between the Timnath Development Authority, Cache La Poudre Investors South, LLC, Cache La Poudre Development South, LLC, and The Town of Timnath (with respect to Sections 2.3, 2.4 and 2.5 only) (the “Agreement”); and

WHEREAS, the Town Council is familiar with the 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 Agreement is hereby approved in substantially the form as attached hereto, subject to technical or otherwise non-substantive modifications, as deemed necessary by the Town Manager in consultation with the Town Planner, Engineer, Legal Counsel, and other applicable staff or consultants.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON JANUARY 14, 2014,

TOWN OF TIMNATH, COLORADO

__________________________
Jill Grossman-Belisle, Mayor

ATTEST:

__________________________
Milissa Peters, Town Clerk
EXHIBIT A

AGREEMENT
PUBLIC/PRIVATE PARTNERSHIP AGREEMENT REGARDING GATEWAY TIMNATH SOUTH

By and Between

TIMNATH DEVELOPMENT AUTHORITY

and

CACHE LA POUDRE INVESTORS SOUTH, LLC

and

CACHE LA POUDRE DEVELOPMENT SOUTH, LLC

and

THE TOWN OF TIMNATH (with respect to Sections 2.3, 2.4 and 2.5 only)

Dated as of January 14, 2014
PUBLIC/PRIVATE PARTNERSHIP AGREEMENT REGARDING GATEWAY TIMNATH SOUTH

THIS PUBLIC/PRIVATE PARTNERSHIP AGREEMENT REGARDING GATEWAY TIMNATH SOUTH dated as of January 14, 2014 (this “Agreement”), is made by and between the TIMNATH DEVELOPMENT AUTHORITY, a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado (together with any successors thereto, the “Authority”), CACHE LA Poudre Investors South, LLC, a Colorado limited liability company (“Owner”); CACHE LA Poudre Development South, LLC, a Colorado limited liability company (the “Developer”) and the TOWN OF TIMNATH, a municipal corporation of the State of Colorado (“Town”) (with respect to Sections 2.3, 2.4 and 2.5 only).

Recitals

Capitalized terms used in these Recitals not otherwise defined herein have the meanings set forth in Section 1.2 of this Agreement. This Agreement is made with respect to the following facts:

A. The Authority is a body corporate and has been duly created, organized, established and authorized to transact business and exercise its powers as an urban renewal authority within the Town, all under and pursuant to the Act. On December 4, 2004, the Authority approved that certain Timnath Urban Renewal Plan (as amended on March 7, 2007, and as may be subsequently amended from time to time, the “Plan”). Among other things, the Plan authorizes the Authority to undertake necessary actions to facilitate redevelopment within the area included within the Plan (the “Plan Area”) and within the immediate vicinity.

B. Costco Wholesale Corporation, a Washington corporation (“Costco Inc.”) has selected a site within the Town as an ideal location to own, construct and operate a membership warehouse club in a building containing approximately 150,000 square feet, including, without limitation, an integrated tire sales and installation center, together with a free-standing fuel-filling facility, and parking and other improvements associated with all of the foregoing and a liquor store that may be operated by third party entity (collectively, the “Costco”).

C. Costco Inc. desires to open and operate the Costco on that certain real property more particularly described in Exhibit A, a copy of which is attached hereto and incorporated herein by reference (the “Costco Property”). Owner owns or is the contract purchaser of the Costco Property. Owner had previously planned to develop the Costco Property, along with additional property adjacent thereto that Owner also owns, for commercial uses. Owner desires to facilitate the development of the Costco in accordance with the terms and conditions of this Agreement.

D. In reliance on the Authority’s performance specified herein, Owner executed that certain Purchase and Sale Agreement between Owner and Costco Inc. (the “PSA”) to convey the Property directly to Costco Inc. upon the Authority’s agreement to: (i) compensate Owner directly for Costco Inc.’s acquisition of the Costco Property through the Land Payment and Reimbursements (as such terms are defined below); and (ii) pay for the completion of the
Improvements (as such term is defined below). Upon occurrence of these events, Costco Inc. will take fee simple ownership of the Costco Property. The Authority has determined the opportunity for the Costco to locate within the Town promotes the Authority’s, as well as the Town’s, economic policy goals and objectives.

E. A small portion of the Costco Property that will be utilized by Costco for parking uses only is located outside the boundaries of the Plan Area but will be located within the boundaries of the Town as further described in this Agreement. The portion of the Costco Property located outside the Plan Area is depicted on Exhibit B, a copy of which is attached hereto and incorporated herein by reference (the “Non-TDA Property”).

F. In connection with certain Costco Inc. requirements set forth in the PSA, the Authority will finance and cause the completion of the Costco Off-Site Improvements (as such term is defined below) and the Developer will complete and the Authority will finance the Costco On-Site Improvements (as such term is defined below) in accordance with the terms and conditions of this Agreement.

G. In addition to this Agreement, the following documents set forth other relevant aspects of the development of the Costco Property, as further described in Section 2.4: (i) the Amended and Restated Annexation and Development Agreement (as such term is defined below), (ii) the Restrictive Covenant (as such term is defined below), (iii) the Site Development Agreement (as such term is defined below); and (v) the Authority’s adoption of a resolution detailing and acknowledging the allocation of Sale Tax increment within the Plan Area.

H. Redevelopment of the Property is necessary to implement specific objectives and goals of the Plan, including, without limitation, (i) enhancing the aesthetic appearance of the area to make it more appealing by creating a regional commercial corridor as the gateway to the Town offering additional provisions of goods and services to surrounding residents, (ii) upgrading public infrastructure and commercial uses that provide jobs and services to the both the local and regional population through the creation of quality jobs with higher than average wages for similar positions, employee benefits and internal advancement opportunities; and (iii) increased revenue to the Town from significant sales and property tax revenues anticipated from the Costco. Pursuant to the Act and the Plan, the Authority has the power to utilize tax increment financing (“TIF”) revenues to implement Plan objectives and goals.

Agreement

NOW, THEREFORE, in consideration of the terms conditions and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1 DEFINITIONS AND GENERAL PROVISIONS.

Section 1.1 Internal References. Unless otherwise stated, references in this Agreement to sections, subsections, or exhibits are internal to this Agreement.
Section 1.2 Definitions. As used in this Agreement, the following terms will have the following meanings:

“Act” means the Colorado Urban Renewal Law, constituting sections 31-25-101, et seq., C.R.S.

“Additional Property” means that certain real property located adjacent to the real property currently owned by Owner, consisting of approximately five acres, as more particularly depicted on the Concept Plan. A portion of the Additional Property is included within the Costco Property. Owner is the contract purchaser of the Additional Property, as further discussed in Section 3.3.

“Affiliate” means any entity of which Owner or Developer is the managing member or managing partner.

“Agreement” has the meaning set forth in the first paragraph of this Agreement.

“Amended and Restated Annexation and Development Agreement” has the meaning set forth in Section 2.4.

“Authority” has the meaning set forth in the first paragraph of this Agreement.

“Board” means the Board of Commissioners for the Authority.

“Commencement of Construction” means Developer’s commencement of physical construction of the Costco On-Site Improvements.

“Concept Plan” means the concept plan for the Costco set forth on Exhibit C.

“Cost Overrun Reimbursements” has the meaning set forth in Section 4.8.

“Costco Closing” means the events described in Section 3.4.

“Costco Closing Conditions” has the meaning set forth in Section 3.3.

“Costco Closing Date” means the date set forth in the PSA set for closing of Costco Inc.’s acquisition of the Costco Property, or such date to which Owner and the Authority may agree in writing.

“Costco Damages” has meaning set forth in Section 4.5.

“Costco Incremental Sales Taxes” means the portion of the Sales Taxes derived from the Costco retail activity within the TDA Property that is in excess of the Sales Tax Base Amount.

“Costco On-Site Improvements” means all of the improvements that Developer will cause to be constructed and the Authority will pay for under this Agreement on the parcels of real estate comprising the Costco Property and surrounding vicinity, as set forth on Exhibit D.
“Costco On-Site Improvements Budget” means the budget for the Costco On-Site Improvements as reflected in Exhibit D-1.

“Costco Off-Site Improvements” means all of the improvements that the Authority intends to construct or cause to be constructed under this Agreement, as set forth on Exhibit E, in the vicinity of the Costco Property.

“Costco Property” means that certain real property more particularly described on Exhibit A that Costco Inc. is under contract to purchase from Owner, subject to the terms and conditions of the PSA and this Agreement. The Costco Property includes property already owned by Owner, a portion of the Additional Property and a portion of the Excess Property as depicted on the Concept Plan.

“County” means the County of Larimer, State of Colorado.

“Developer” has the meaning set forth in the first paragraph of this Agreement.

“District Court” means the District Court in and for the County.

“Effective Date” means thirty-five (35) days after the parties’ final approval of this Agreement; provided no appeals or legal challenges to this Agreement have been filed challenging the same.

“Excess Property” means that certain real property currently owned by the Town as depicted on the Concept Plan. The Excess Property consists of previously utilized right-of-way for the I-25 frontage road that has been relocated.

“Fiscal Year” means the Authority’s fiscal year, which currently begins on January 1 of each year and ends on December 31 of the same year.

“Gateway Timnath South” means all of the real property subject to the PD Overlay and Plat, including the Costco Property.

“Improvements” means collectively, Costco On-Site Improvements and Costco Off-Site Improvements.

“Land Payment” means payment in the amount of Three Million Nine Hundred Sixteen Thousand Two Hundred and Forty Dollars ($3,916,240.00)

“Lender” means Compass Mortgage Corporation, and its successors or assigns as the lender for the Loan.

“Loan” means the Authority’s loan with Lender which will be an amount sufficient enough to pay for the Land Payment, Reimbursements and Improvements.

“Loan Closing Date” means the date of the closing of the Loan which shall occur no later than two (2) business days prior to the Costco Closing.
“Loan Documents” means the loan documents associated with the Loan setting forth the Loan Requirements.

“Loan Requirements” means, principal, interest, reserves and other amounts required to be paid from time to time pursuant to the Loan Documents. In addition, Loan Requirements may include the pledge to Lender of the Authority’s Share of Costco Incremental Sales Tax Revenues pursuant to Section 2.2 below as well as any other required form of collateral but under no circumstances will the Loan Documents include a pledge of Owner’s Business Incentive.

“Municipal Code” means, collectively, the Timnath Municipal Code and the Town’s home rule Charter, as may be amended from time to time.

“Non-TDA Property” means that portion of the Costco Property not located in the TDA, as set forth on Exhibit B.

“Notice Address” means the address for notice set forth below, as amended from time to time:

Authority: Timnath Development Authority
4800 Goodman Street
Timnath, Colorado 80547
Attention: April Getchius

With a copy to: White, Bear, Ankele, Tanaka, & Waldron, Professional Corporation
2154 E. Commons Avenue, Suite 2000
Centennial, Colorado 80122
Attn: Gary White

Owner/Developer: Cache La Poudre Investors South, LLC/Cache La Poudre Development South, LLC
c/o Goldberg Properties, Inc.
195 W. 12th Avenue
Denver, Colorado 80204
Attention: Mark Goldberg

With a copy to: Packard Dierking, LLC
2595 Canyon Blvd. Suite 200
Boulder, Colorado 80302
Attn: Keirstin Beck

“Owner” means Cache La Poudre Investors South, LLC.

“Owner’s Business Incentive” has the meaning set forth in Section 2.2.

“Payment Request” means a written request for payment for the Costco On-Site Improvements costs given by Developer to the Authority in the form reasonably specified by the Authority.
“PD Overlay” means the final, approved Amended PD Overlay for Gateway Timnath South, which includes the Costco Property, the Excess Property, the Additional Property and other property owned by Owner.

“Plat” means the final, approved subdivision plat for Gateway Timnath South, Filing 2, which includes the Costco Property, the Excess Property, the Additional Property and other property owned by Owner.

“Plan” has the meaning set forth in the Recitals to this Agreement.

“Plan Area” means the boundaries of the Authority.

“Reimbursements” means those certain expenditures incurred by Owner for the benefit of the Costco as more fully described on Exhibit F.

“Repurchase Closing” has the meaning set forth in Section 2.3.

“Restrictive Covenant” means that certain form of Restrictive Covenant attached hereto as Exhibit G that will be executed by Owner, if at all, at the Repurchase Closing.

“Sales Tax Base Amount” that portion of sales taxes equal to the amount collected within the boundaries of the Plan Area in the twelve-month period ending on November 30, 2004, as certified by the Town Manager, and as may be adjusted in the future pursuant to applicable law and regulations.

“Sales Taxes” means the Town’s sales tax on all taxable transactions occurring within the Plan Area at the rate and upon the terms and conditions set forth in the Municipal Code.

“Seller’s Rights Agreement” has the meaning set forth in Section 2.3.

“TDA Property” means that portion of the Costco Property located within the Plan Area, as depicted on Exhibit B.

“Term” has the meaning set forth in Section 2.2.

“Town” has the meaning set forth in the Recitals to this Agreement. The Town is only a party to this Agreement with respect to Sections 2.3, 2.4 and 2.5.

“Use Tax” means the Town use tax on all subject transactions occurring within the Town at the rate and upon the terms and conditions set forth in the Municipal Code.

Section 1.3 Exhibits.

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit A</td>
<td>Legal Description of the Costco Property</td>
</tr>
<tr>
<td>Exhibit B</td>
<td>Depiction of TDA Property and Non-TDA Property</td>
</tr>
<tr>
<td>Exhibit C</td>
<td>Concept Plan</td>
</tr>
<tr>
<td>Exhibit D</td>
<td>Costco On-Site Improvements</td>
</tr>
<tr>
<td>Exhibit D-1</td>
<td>Costco On-Site Improvements Budget</td>
</tr>
</tbody>
</table>
SECTION 2  PUBLIC/PRIVATE PARTNERSHIP.

Section 2.1  Public/Private Partnership. Owner will proceed with the Costco Closing, subject to satisfaction of the Costco Closing Conditions, in consideration for the Authority’s commitment to (i) pay Owner the Land Payment at the Costco Closing minus the Deferred Land Payment, as further described in Sections 3.4 and 4.7; (ii) pay Owner the Reimbursements at the Costco Closing, as further described in Section 3.4; and (iii) remit to Owner the Owner’s Business Incentive, as further described in Section 2.2 below.

Section 2.2  Owner’s Business Incentive. Pursuant to the Plan, the Authority will receive the Costco Incremental Sales Taxes in connection with the operation of the Costco. Commencing on the first day the Costco is open for business on the Costco Property and continuing for a period of five years after the anniversary of such date, plus such additional time as necessary for the Owner to recover an additional amount equal to half of the Cost Overrun Reimbursement, exclusive of carry costs (the “Term”), the Authority will remit to Owner an amount equal to fifty percent (50%) of the Costco Incremental Sales Taxes actually collected during the Term, subject to the requirements of Section 4.8 (collectively, “Owner’s Business Incentive”). The parties acknowledge that the remaining fifty percent (50%) of the Costco Incremental Sales Taxes shall continue to be divided between the Authority and the Town pursuant to the Plan.

(a)  Owner’s Business Incentive will be paid to Owner on a calendar year quarterly basis throughout Term, with each payment due within forty-five (45) days after the last day of the previous quarter. Concurrently with remittance of such quarterly payments, the Authority will provide Owner with a written accounting of all Costco Incremental Sales Taxes received and a calculation of Owner’s Business Incentive during the corresponding payment quarter (each a “Business Incentive Report”). The form of the Business Incentive Report is attached hereto as Exhibit G.

(b)  For up to twelve (12) months after its receipt of any Business Incentive Report, Owner may, in its sole discretion, audit or contest the Authority’s computation of Owner’s Business Incentive and the Authority’s preparation of said Business Incentive Report. Any audit requested by Owner will be performed by an independent auditor using generally accepted government accounting principles with all audit costs, including the Town’s costs in facilitating the audit, to be initially paid by Owner. If an audit reveals a discrepancy between the amount of Owner’s Business Incentive due to Owner and the actual amount paid by the Authority during the applicable audit period in excess of ten percent (10%), then the Authority will reimburse Owner for all costs incurred in the audit plus interest on the amounts due and not actually paid to Owner at the interest rate set forth in the Loan plus two percent (2%), but in no event more than six percent (6%), accruing from the date such amount was due to the date paid. Notwithstanding anything to the contrary set forth in this Agreement, the foregoing audit rights
will survive the expiration of the Term and permit Owner to request an audit up to twelve (12) months after the expiration of the Term. Notwithstanding any other provision in this paragraph, Owner shall conduct no more than one audit per year.

Section 2.3 Costco’s Failure to Open. At the Costco Closing, Owner and Costco Inc. will execute an agreement (the “Seller’s Rights Agreement”) to provide, among other things, certain rights if Costco Inc. fails to open the Costco for business to the public for a period of one day on or before June 1, 2015 (the “Costco Opening Date”), in accordance with the following scenarios:

a. If none of the Costco On-Site Improvements have been completed and Costco Inc. has not completed or caused to be completed any improvements to the Costco Property following the Costco Closing, Owner may repurchase the Costco Property in accordance with the terms of the Seller’s Rights Agreement (the “Repurchase Right”). In such an event, Owner will timely exercise the Repurchase Right and proceed with the closing for the Costco Property (the “Repurchase Closing”). At the Repurchase Closing, Costco, Inc. is obligated to pay for all brokers’ commissions amounts incurred in the Costco Closing, not to exceed Three Hundred Thousand Dollars ($300,000.00). In such an instance, Owner will direct Costco Inc. to pay any amounts due and owing pursuant to the Seller’s Rights Agreement, only to the extent such amounts were previously paid by the Authority and such amounts are attributable to payments previously made by the Authority (for example, one half of the brokers’ commission is being paid by Owner and this amount will not be recoverable by the Authority), directly to the Authority. Owner’s obligation with respect to the foregoing is to direct Costco Inc. to pay such amounts owed to the Authority, as provided herein, directly to the Authority and to execute any documentation reasonably required by the Authority in enforcing Costco’s payment obligation, including, without limitation, an assignment of Owner’s right to receive said payment, but Owner shall have no liability whatsoever for Costco Inc.’s failure to make such payment.

b. If any Costco On-Site Improvements have been completed, but Costco Inc. has not completed or caused the completion of any improvements to the Costco Property following the Costco Closing, Owner may exercise the Repurchase Right. In such an event, Owner will timely exercise the Repurchase Right and proceed with the Repurchase Closing. At the Repurchase Closing, Costco is obligated to pay the following amounts: (i) all brokers’ commissions which have been incurred in connection with the Costco Closing, not to exceed Three Hundred Thousand Dollars ($300,000.00); plus (ii) all costs and expenses incurred by the Authority for the hard costs associated with Costco On-Site Improvements as of the earlier of: (A) the date Costco, Inc. delivers a “stop work” notice to Owner, provided that such "stop work" notice shall not relieve Costco Inc.’s reimbursement obligations for materials delivered for the Costco On-Site Improvements, or items of Costco On-Site Improvements that must be completed for the safety and compliance of the Costco Property following receipt of the “stop work” notice; and (B) the date of the Repurchase Closing, not to exceed Five Million Four Hundred Ninety-Two Thousand One Hundred Ninety-Three Dollars ($5,492,193.00) (the “On-Site Maximum”). In such an instance, Owner will direct Costco Inc. to pay any amounts due and owing pursuant to the Seller’s Rights Agreement, only to the extent such amounts were previously paid by the Authority and such amounts are attributable to payments previously made by the Authority (for example, one half of the real estate commission and the Off-Site Detention and Pad Costs are being paid by Owner and these amounts not be recoverable by the Authority), directly to the
Authority. Owner’s obligation with respect to the foregoing is to direct Costco Inc. to pay such amounts owed to the Authority, as provided herein, directly to the Authority and to execute any documentation reasonably required by the Authority in enforcing Costco’s payment obligation, including, without limitation, an assignment of Owner’s right to receive said payment, but Owner shall have no liability whatsoever for Costco Inc.’s failure to make such payment.

c. If any Costco On-Site Improvements have been completed or caused the completion of improvements to the Costco Property following the Costco Closing, then Costco Inc., will retain title to the Costco Property and is obligated to pay the following amounts in accordance with Seller’s Rights Agreement: (i) all brokers’ commissions which have been incurred in connection with the Costco Closing, not to exceed Two Hundred Thousand Dollars ($200,000.00); plus (ii) all costs and expenses incurred for the Costco On-Site Improvements as of the date Costco delivers a “stop work” notice to Owner, provided that such "stop work" notice shall not relieve Costco’s reimbursement obligations for materials delivered for Costco On-Site Improvements, or items of Costco On-Site Improvements that must be completed for the safety and compliance of the Costco Property following receipt of the "stop work" notice; plus (iii) the amount of the Land Payment. In such an instance, Owner will direct Costco Inc. to pay any amounts due and owing pursuant to the Seller’s Rights Agreement, only to the extent such amounts were previously paid by the Authority and such amounts are attributable to payments previously made by the Authority (for example, one half of the real estate commission and the Off-Site Detention and Pad Costs are being paid by Owner and these amounts not be recoverable by the Authority), directly to the Authority. Owner’s obligation with respect to the foregoing is to direct Costco Inc. to pay such amounts owed to the Authority, as provided herein, directly to the Authority and to execute any documentation reasonably required by the Authority in enforcing Costco’s payment obligation, including, without limitation, an assignment of Owner’s right to receive said payment, but Owner shall have no liability whatsoever for Costco Inc.’s failure to make such payment.

d. The Authority’s participation in this transaction is predicated upon its intent to stimulate increased sales and property tax revenues within the Town to further implement the goals and objectives of the Plan. To ensure achievement of this objective, Owner will execute and cause the recordation of that certain form of restrictive covenant set forth on Exhibit G (the “Restrictive Covenant”) at the Repurchase Closing, if it occurs.

Section 2.4 Additional Agreements/Resolutions. In addition to this Agreement, the following agreements/resolutions relate to the development of the Costco Property and each party has or will execute or adopt the same, as applicable, as further described below:

(a) The PSA that addresses Costco Inc.’s intended acquisition of the Costco Property;

(b) Contemporaneously with this Agreement, Owner, the owner of the Additional Property, the Town and the Authority will enter into that certain Amended and Restated Annexation and Development Agreement that will address, among other things, vested property rights, development requirements, standards and other related provisions to the development of Gateway Timnath South (the “Amended and Restated Annexation and Development Agreement”).
(c) At the Costco Closing, Costco Inc. and Owner will enter into that certain Site Development Agreement which will, among other things, further define obligations related to the completion of the Improvements (the “Site Development Agreement”);

(d) At the Costco Closing, Costco Inc. and Owner will enter into a Seller’s Rights Agreement;

(e) Not less than 15 days prior to the Costco Closing, the Authority will adopt a resolution regarding the Sales Tax Increment (the “Plan Increment”) within the Plan Area, which resolution will acknowledge the allocation of the Costco Sales Tax Increment amongst the Authority, the Town, and the Owner, as set forth in Section 2.2; acknowledge the Sales Tax Base Amount; and ratify various past actions of the Authority; and

(f) At the Repurchase Closing, if it occurs, Owner will execute and cause the recordation the Restrictive Covenant.

Section 2.5 Use Tax. The Town hereby waives any Use Tax associated with the completion of the Improvements.

SECTION 3 LOAN CLOSING AND COSTCO CLOSING.

Section 3.1 Loan Resolution. Not less than five days before the Loan Closing Date, the Authority will adopt a final resolution authorizing the Authority to proceed with the Loan Closing.

Section 3.2 Closing of Loan. The Loan will close on the Loan Closing Date. The Authority acknowledges that the Costco PSA includes certain performance security requirements for the completion of the Improvements. As such, the Loan Documents will provide that all required funds needed for the completion of the Improvements will be set aside exclusively for this purpose. The Authority will obtain written confirmation from the Lender, in a form acceptable to Costco Inc., that the necessary Loan proceeds needed for the completion of the Improvements will be held used for necessary payments related to the same (the “Set Aside Letter”).

Section 3.3 Costco Closing Conditions. On or before the Costco Closing Date, the following conditions must occur, each of which being an express condition to the Costco Closing (each a “Costco Closing Condition”, collectively, the “Costco Closing Conditions”):

(a) The Town has approved the annexation of the Excess Property and Additional Property, such approval is considered non-appealable, and the applicable annexation map is ready for recordation.

(b) The Town has approved the PD Overlay, such approval is considered non-appealable, and the PD Overlay is ready for recordation.

(c) The Town has approved the Plat, such approval is considered non-appealable and the Plat is ready for recordation.
(d) The Authority has closed the Loan with the Lender as provided in Section 3.2.

(e) Owner has closed on the conveyance of the Additional Property and the deed facilitating the conveyance of the same to Owner is ready for recordation.

(f) The Town has taken all necessary action required for conveyance of the Excess Property and the deed facilitating the same is ready for recordation.

(g) Owner is in a position to convey title to the Costco Property to Costco Inc., in accordance with the requirements of the PSA, as reasonably determined by Owner.

(h) Owner has not received notice from Costco Inc. indicating its intent to not proceed with the Costco Closing.

(i) The Authority has provided Owner an executed copy of the construction contract for the completion of the Off-Site Improvements and a copy of the final design plans and required permits from the County for the same.

(j) Developer or Owner has provided the Authority with an executed copy of the construction contract for the completion of the On-Site Improvements and a copy of the final design plans and required permits from the County for the same.

(k) The Authority has provided Costco Inc. the Set Aside Letter.

**Section 3.4 Costco Closing.** If the Costco Closing Conditions are satisfied, Owner will proceed with the Costco Closing subject to the terms and conditions of the PSA. The Costco Closing will take place on the Costco Closing Date. At the Costco Closing, the following will occur contemporaneously:

(a) The annexation map for the Additional Property and the Excess Property will be recorded.

(b) The PD Overlay will be recorded.

(c) The deed conveying the Additional Property to Owner and/or its designee will be recorded.

(d) The deed conveying the Excess Property to Owner and/or its designee will be recorded.

(e) The Plat will be recorded.

(f) The Authority will pay the Land Payment minus the Deferred Land Payment to Owner.

(g) The Authority will pay the Reimbursements to Owner.
(h) The deed conveying the Costco Property to Costco Inc. in accordance with the PSA will be recorded.

(i) All permits required for the completion of the Costco, Costco On-Site Improvements and Costco Off-Site Improvements have been obtained by the applicable parties.

SECTION 4 COMPLETION OF THE IMPROVEMENTS

Section 4.1 Construction of Costco On-Site Improvements. Subject to the terms and conditions of this Agreement, Developer will cause the design and construction of the Costco On-Site Improvements and the Off-Site drainage improvements and obtain all applicable lien waivers for completion of the same. Developer specifically covenants to the Authority to complete the Costco On-Site Improvements and Off-Site drainage improvements.

Section 4.2 On-Site Improvements Construction Contract. Throughout the contractor selection process for the Costco On-Site Improvements, Developer will provide the designated Authority representative with monthly updates and all materials related thereto. At least ten (10) business days prior to executing any construction contract for the completion of the Costco On-Site Improvements, Developer will provide the designated Authority representative with a copy of the proposed construction contract, which will include General Conditions and any other customary accompanying or ancillary documents which may be reasonably requested by the Authority (the “Construction Contract”). Additionally, the Developer shall provide a complete budget of the total costs to be incurred for the Construction Contract, plus any reserves or allowances for overruns that may be incurred. The Construction Contract will be subject to the approval of the designated Authority representative, which will not be unreasonably withheld or delayed, prior to Developer executing such Construction Contract. It will be unreasonable for the Authority to withhold consent if the related costs to be incurred conform to good construction management practices and prevailing market values and rates for arm’s-length transactions, so long as such improvements are within the Costco On-Site Improvements Budget set forth on Exhibit D-1.

Section 4.3 Payment Requests. In order to receive any payment for the Costco On-Site Improvements, Developer will provide the Authority with a Payment Request (the form of which shall be agreed upon by all parties prior to the execution of the Construction Contract), provided however that Payment Requests will be submitted no more frequently than once per month. The Payment Request will indicate the applicable Costco On-Site Improvements to be paid to Owner and such other information as the Authority may from time to time reasonably require, such as, for example, evidence substantiating any or all of the Costco On-Site Improvements costs indicated in such notice. The Payment Request will further include (a) a copy of all contractor invoices associated with the Payment Request; (b) a certification by Owner that all Costco On-Site Improvements costs requested in such Payment Request were actually incurred in the completion of the Costco On-Site Improvements and have not been previously requested pursuant to a prior Payment Request; (c) a certification by the engineer of the subject Costco On-Site Improvements that the Costco On-Site Improvements made therewith were constructed in compliance with the approved Construction Plans, applicable laws, ordinances and regulations; (d) a certification that all contractor and materialman lien rights have been released; and (e) an explanation of any cost overruns of more than ten percent (10%) for the
subject Costco On-Site Improvements. Notwithstanding anything to the contrary in this Agreement, the Authority’s obligation to commence payments to Developer will not occur until the date that Commencement of Construction has occurred.

**Section 4.4 Payment for Improvements.** No later than thirty (30) days following receipt by the Authority of a Payment Request, the Authority will pay to Developer the costs of the Costco On-Site Improvements for which Developer has submitted such Payment Request. With respect to the Costco Off-Site Improvements, the Authority will timely pay all costs associated with the same. The Authority will, or will cause the Lender, to hold sufficient funds in such amount as required by the Set-Aside Letter to complete the Improvements with such funds held until the date on which Developer has submitted its final Payment Request and all costs for the Improvements have been paid in full.

**Section 4.5 Costco Damages.** It is expressly understood that, pursuant to the PSA and Site Development Agreement, Costco Inc. will impose liquidated damages associated with the failure to deliver the Improvements in a timely manner in the amount of Ten Thousand Dollars ($10,0000.00) per day (collectively, the “Costco Damages”). The Authority shall be responsible for payment of any Costco Damages directly to Costco Inc. if such damages are imposed as a result of the Authority’s failure to timely complete the Costco Off-Site Improvements. The Owner and Developer shall be jointly and severally responsible for payment of any Costco Damages directly to Costco Inc. if such damages are imposed as a result of the Developer’s failure to timely complete the Costco On-Site Improvements. Notwithstanding the foregoing, Owner and Developer shall have no liability with respect to the Costco Damages whatsoever if the inability to complete the Costco On-Site Improvements was due to the Authority’s failure to pay for the same in accordance with this Agreement. In such an instance, the Authority will be solely responsible for payment of the Costco Damages directly to Costco Inc. However, in the event that Costco exercises its self help remedy and draws upon Authority funds in order to complete all or a portion of the On-Site or Off-Site Improvements as provided for in the Set-Aside Letter to be agreed to by the Authority and Costco, the Authority shall not be liable for any additional Costco Damages accruing in connection with said portion of the On-Site or Off-Site Improvements after the date said funds are drawn but only to the extent specifically permitted, if at all, by Costco Inc. in the Set-Aside Letter.

**Section 4.6 Milestone Dates.**

(a) As further described in Section 4.1, 4.2 and 4.3, above, Developer will proceed with the Costco On-Site Improvements in accordance with Costco Inc.’s requirements set forth in the PSA and the Site Development Agreement. Developer specifically covenants to the Authority to exercise all diligent and reasonable efforts to design and complete the Costco On-Site Improvements by the corresponding “Milestone Date” set forth below:

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Milestone Date</th>
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<tbody>
<tr>
<td>Approval of all required permits</td>
<td>On or before Costco Closing Date</td>
</tr>
<tr>
<td>Commencement of Construction</td>
<td>60 days after Costco Closing Date</td>
</tr>
</tbody>
</table>
Completion of Construction    August 31, 2014

(b) Developer acknowledges and agrees that if the Costco On-Site Improvements are not constructed by the corresponding Milestone Date above, including the permits required for the completion of the off-site drainage improvements necessary for the Costco Property, then the Authority will have the right, but not the obligation, to exercise self-help and complete the same upon written notice to the Developer of such intention. Notwithstanding the foregoing, it is expressly understood that any opportunity for the Authority to exercise self-help regarding the completion of the Costco On-Site Improvements is subordinate in every respect to the self-help right Costco Inc. is provided pursuant to the Site Development Agreement and Set-Aside Letter. As provided for in the Amended and Restated Annexation Agreement, in no event shall the Authority be financially responsible for the Offsite Drainage Improvements.

(c) The Authority will, with proceeds from the Loan, finance and cause the design and construction of the Costco Off-Site Improvements in accordance with Costco Inc.’s requirements set forth in the PSA and the Site Development Agreement. Notwithstanding anything to the contrary set forth herein, a portion of Costco On-Site Improvements are located outside the boundaries of the Town and require certain approvals and permits from the County to complete which the Authority will cause to be obtained by the date specified below. The Authority specifically covenants to Owner to exercise all diligent and reasonable efforts to design and complete the Costco Off-Site Improvements by the corresponding “Milestone Date” set forth below:

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Milestone Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approval of all required permits</td>
<td>On or before Costco Closing Date</td>
</tr>
<tr>
<td>Commencement of Construction</td>
<td>60 days after Costco Closing Date</td>
</tr>
<tr>
<td>Completion of Construction</td>
<td>August 1, 2014</td>
</tr>
</tbody>
</table>

The Authority acknowledges and agrees that if the Costco Off-Site Improvements are not constructed by the corresponding Milestone Date above, then Developer will have the right, but not the obligation, to exercise self-help and complete the same upon written notice to the Authority of such intention. In such an instance, the Costco Off-Site Improvements will, for purposes of this Agreement, be considered to be included within the scope of the Costco On-Site Improvements and all applicable provisions set forth in this Agreement governing the same will be applicable to the Costco Off-Site Improvements.

Section 4.7 Land Payment Deferral. Notwithstanding anything to the contrary set forth in this Agreement, Owner will receive a deferred payment of a portion of the Land Payment in the amount of One Million Six Hundred Thousand Dollars ($1,600,000.00) (the “Deferred Land Payment”), as needed to accommodate the Costco Closing. The Deferred Land Payment shall be due and owing from the Authority to the Owner on the first day that the Costco is open for business to the public on the Costco Property.
**Section 4.8  Costco On-Site Improvements Overruns.** The initial total costs anticipated for the Costco On-Site Improvements was estimated at [**$3,337,627.00**] (the “Initial Budget”). As reflected in the Costco On-Site Improvements Budget, the current estimated total cost of the Costco On-Site Improvements (less the Off-Site Detention and Outlot Costs as defined in Section 4.9 below) is approximately [**$5,028,407.85 plus a five percent contingency as set forth on Exhibit D-1**, roughly [**$1,600,000**] over the Initial Budget (the “Anticipated Cost Overrun”). To facilitate the Costco Closing and address the Anticipated Cost Overrun, the Authority will increase the Loan an amount equal to the Anticipated Cost Overrun in accordance with this Section 4.8. Notwithstanding anything to the contrary herein, the Authority will be entitled to recover the amount equal to the difference between the actual cost paid by the Authority for the Costco On-Site Improvements and the Initial Budget, plus the Authority’s actual interest carry costs on the same (collectively, the “Cost Overrun Reimbursements”). The Authority will receive the Cost Overrun Reimbursements in equal quarterly payments during the first sixteen quarters of the Term (individually, each a “Cost Overrun Reimbursement”) as a first priority from the Costco Sales Tax Increment as provided herein. After payment of the Cost Overrun Reimbursement as provided herein, the remaining Costco Sales Tax Increment is addressed in Section 2.2. Owner shall be responsible for all amounts in excess of those amounts listed in the Costco On-Site Improvements Budget. However, in the event that unforeseeable expenses are incurred in connection with the On-Site Improvements, including, without limitation, expenses due to severe or extraordinary weather conditions, as defined in the Construction Contract, unknown site conditions, as defined in the Construction Contract, and other similar force majeure events, and such unforeseeable expenses are entirely out of Owner’s control, the parties will adjust the Costco On-Site Improvements Budget to account for said unforeseeable expenses. Such unforeseeable expenses shall not include delays caused by Owner’s lack of, or inability to obtain materials or third-party governmental approvals necessary to complete the Costco On-Site Improvements.

**Section 4.9  Pad Site Costs.** The Costco On-Site Improvements Budget excludes approximately [**$468,000**] that is attributable to off-site detention for all of the property subject to the Plat, including the Costco Property and other expenses related to pad sites owned or to be owned by Owner adjacent to the Costco Property. Notwithstanding anything to the contrary set forth in this Agreement, Owner will be solely responsible for these costs and expenses, including any overruns to current estimates for the same (“**Offsite Detention and Pad Costs**”).

**SECTION 5  EVENTS OF DEFAULT; REMEDIES.**

**Section 5.1  Expiration or Termination During Pendency of Legal Challenge.** Notwithstanding any contrary provision of this Agreement, if a legal challenge or action is filed with respect to this Agreement, this Agreement shall not expire or terminate during the pendency of the same, unless earlier terminated or modified by a written amendment signed by all parties hereto. If any legal challenge successfully voids, enjoins, or otherwise invalidates, this Agreement or any portion thereof, the Authority, Owner and Developer shall cooperate in attempting to cure the legal defect in a manner that most fully implements the intent and purpose of this Agreement, if available.

**Section 5.2  Effect of Approval.** As of the Effective Date, this Agreement is considered fully approved by the parties, effective under applicable law, and constitutes an
enforceable contract between the parties. This Agreement will be considered irrepealable until the parties have fully satisfied their obligations set forth herein, unless otherwise agreed to by all parties.

Section 5.3 Default by a Party. A “breach” or “default” by a party means a party's failure to fulfill or perform any material obligation of the applicable party contained in this Agreement.

Section 5.4 Notices of Default. In the event of any non-monetary default by a party under this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of such default, at the Notice Address specified in Section 1.2, and the defaulting party shall have twenty (20) days from and after receipt of such notice is considered effective pursuant to Section 6.8 to cure such default. If such default is not of a type which can be cured within such 20-day period and the defaulting party gives written notice to the non-defaulting party within such 20-day period that it is actively and diligently pursuing such cure, the defaulting party shall have a reasonable period of time given the nature of the default following the end of such 20-day period to cure such default, provided that such defaulting party is at all times within such additional time period actively and diligently pursuing such cure. In the event of a monetary default by a party under this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of such default, at the address specified in Section 1.2, and the defaulting party shall have five (5) days from and after receipt of such notice is considered effective pursuant to Section 6.8 to cure such default.

Section 5.5 Remedies for Default by the Authority. If Default by the Authority occurs and is continuing hereunder, Owner may (i) seek any available remedy at law for actual out-of-pocket expenses, specifically including, without limitation, the Costco Damages due to the Authority’s (i) failure to complete the Costco Off-Site Improvements; (ii) failure to properly pay for the Costco On-Site Improvements as required by this Agreement; or (iii) failure to adhere to the terms and conditions of the Set Aside Letter, but not including any other consequential damages, lost profits or punitive damages; or (ii) seek enforcement of the Authority’s obligations hereunder by any equitable remedies, such as specific performance or injunction, to the extent allowed by law.

Section 5.6 Remedies for Default by Owner. If Default by Owner or Developer occurs and is continuing hereunder, the Authority may (i) seek any available remedy at law for actual out-of-pocket expenses, specifically including the Costco Damages due to Developer’s failure to complete the Costco On-Site Improvements but not including any other consequential damages, lost profits or punitive damages; or (ii) seek enforcement of Owner’s or Developer’s obligations hereunder by any equitable remedies, such as specific performance or injunction.

Section 5.7 Action to Terminate. If the Costco Closing Conditions are not satisfied on or before March 30, 2014, then either the Authority or the Owner may terminate this Agreement by written notice delivered to the other parties hereto in accordance with Section 6.8. Termination will be effective on the date specified in such notice.
SECTION 6 MISCELLANEOUS

Section 6.1 Venue. Venue for any action to enforce or interpret the terms of this Agreement shall be in District Court, Larimer County, Colorado.

Section 6.2 Expiration. This Agreement shall upon the earlier of the following: (i) completion and full Authority payment for the Costco On-Site Improvements and Costco Off-Site Improvements and the Authority’s full payment of the Owner’s Business Incentive as provided in this Agreement; or (ii) fifteen (15) years from the Effective Date.

Section 6.3 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.

Section 6.4 Assignment. This Agreement is a valid, binding and legally enforceable obligation of the parties. This Agreement may not be assigned or delegated by a party without the prior written consent of the other party; provided, however, that Owner or Developer may assign or delegate its rights and obligations under this Agreement to an Affiliate of Owner or Developer, as applicable, that is under control or common control with Owner or Developer, upon providing written notice to the Authority. It is expressly understood that the right of Owner to receive the amounts set forth in Section 1.2 is considered personal to Owner and will not be considered to benefit any successors in interest to Owner unless Owner specifically provides for the same in writing to the Authority.

Section 6.5 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

Section 6.6 No Third-Party Beneficiaries. Subject to Section 2.4 only, it is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, their successors and assigns, and nothing contained in this Agreement shall give or allow any claim or right of action by any other or third person under this Agreement. It is the express intention of the parties that any person other than the parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

Section 6.7 Amendment of Agreement. This Agreement may only amended or terminated by mutual consent in writing of Owner, Developer and the Authority, following the any required public notice and public hearing procedures. For the purposes of any amendment to this Agreement, “Owner” will only mean Cache La Poudre Investors South, LLC and any entity or person to whom Cache La Poudre Investors South, LLC has specifically granted, in writing, the power to enter into such amendment.

Section 6.8 Notices. All notices, certificates or other communications hereunder will be sufficiently given and will be deemed given when given by hand delivery, Federal Express or similar overnight delivery, or mailed by certified or registered mail, postage prepaid. If given by certified or registered mail, the same will be deemed to have been given and received as of the first to occur: (i) actual receipt by the intended party; or (ii) five days after a certified or
registered letter containing such notice is sent via US mail. Such Notice Addresses for the parties are set forth in Section 1.2. However, any party may designate, by written notice to the other party, an alternative address where notices may be sent.

Section 6.9 Waiver. No failure by either party hereto to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement, or to exercise any right or remedy consequent upon a breach of this Agreement, will constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Either party by giving written notice to the other party may, but will not be required to, waive any of its rights or any conditions to any of its obligations hereunder. No waiver will affect or alter the remainder of this Agreement, and each and every covenant, agreement, term and condition of this Agreement not specifically referenced in a written waiver notice will continue in full force and effect with respect to any other then existing or subsequent breach.

Section 6.10 Attorneys’ Fees. In any proceeding brought to enforce the provisions of this Agreement, the court will award the prevailing party therein reasonable attorneys’ fees, actual court costs and other expenses incurred.

Section 6.11 Titles of Sections. Any titles of the several parts and Sections of this Agreement are inserted for convenience of reference only and will be disregarded in construing or interpreting any of its provisions.

Section 6.12 Authority Not a Partner. Notwithstanding any language in this Agreement or any other agreement, representation or warranty to the contrary, the Authority will not be deemed or construed to be a partner or joint venturer of Owner or Developer.

Section 6.13 Further Assurances. The parties hereto agree to execute such documents, and take such action, as will be reasonably requested by the other party hereto to confirm or clarify the intent of the provisions hereof and to effectuate the terms herein contained and the intent hereof.

Section 6.14 Time of Essence. Time is of the essence of this Agreement. The parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

Section 6.15 Severability. If any provision, covenant, or portion of this Agreement, or its application to any person, entity or property, is held invalid, such invalidity will not affect the application or validity of any other provisions, covenants or portions of this Agreement and, to that end, any provisions, covenants, or portions of this Agreement are declared to be severable.

Section 6.16 Good Faith; Consent or Approval. In performance of this Agreement or in considering any requested extension of time, the parties agree that each will act in good faith and will not act unreasonably, arbitrarily, or capriciously. Except as otherwise provided in this Agreement, whenever consent or approval of either party is required, such consent or approval will not be unreasonably withheld, conditioned or delayed.
Section 6.17 Jointly Drafted; Rules of Construction. The parties hereto agree that this Agreement 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.
IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officials to place their hands and seals upon this Agreement as of the date first written above.

TIMNATH DEVELOPMENT AUTHORITY, a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado

Attest:

By: ________________________________  By: ________________________________
   Secretary

(SEAL)

Approved as to form:

By: ________________________________  By: ________________________________
   Town Attorney  Mayor

TOWN OF TIMNATH, a municipal corporation in the State of Colorado (with respect to Sections 2.3, 2.4 and 2.5 only)

CACHE LA PoudRE INVESTORS SOUTH, LLC, a Colorado limited liability company

By: ________________________________
   Mark Goldberg, Manager

By: ________________________________
   William McDowell, Manager
CACHE LA Poudre Development South, LLC, a Colorado limited liability company

By: ____________________________
    Mark Goldberg, Manager

By: ____________________________
    William McDowell, Manager

STATE OF COLORADO

) ss.
COUNTY OF

The foregoing instrument was acknowledged before me this _____ day of ______________, 2014, by Mark Goldberg, as Manager of Cache La Poudre Investors South, LLC, a Colorado limited liability company.

Witness my hand and official seal.

______________________________
Notary Public
My commission expires:___________

STATE OF COLORADO

) ss.
COUNTY OF

The foregoing instrument was acknowledged before me this _____ day of ______________, 2014, by William McDowell, as Manager of Cache La Poudre Investors South, LLC, a Colorado limited liability company.

Witness my hand and official seal.

______________________________
Notary Public
My commission expires:___________
STATE OF COLORADO
COUNTY OF

The foregoing instrument was acknowledged before me this _____ day of ______________, 2014, by Mark Goldberg, as Manager of Cache La Poudre Development South, LLC, a Colorado limited liability company.

Witness my hand and official seal.

______________________________
Notary Public
My commission expires:__________

STATE OF COLORADO
COUNTY OF

The foregoing instrument was acknowledged before me this _____ day of ______________, 2014, by William McDowell, as Manager of Cache La Poudre Development South, LLC, a Colorado limited liability company.

Witness my hand and official seal.

______________________________
Notary Public
My commission expires:__________
Exhibit A
LEGAL DESCRIPTION OF THE COSTCO PROPERTY

[Follows this Page]
Exhibit B
DEPICTION OF TDA PROPERTY AND NON-TDA PROPERTY
Exhibit D
COSTCO ON-SITE IMPROVEMENTS
Exhibit E
COSTCO OFF-SITE IMPROVEMENTS
<table>
<thead>
<tr>
<th>Service</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate Commissions</td>
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</tr>
<tr>
<td>Civil Design</td>
<td>250,000</td>
</tr>
<tr>
<td>Traffic Engineering</td>
<td>20,000</td>
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<tr>
<td>Soil Engineering</td>
<td>10,000</td>
</tr>
<tr>
<td>Environmental</td>
<td>10,000</td>
</tr>
<tr>
<td>LOMR</td>
<td>25,000</td>
</tr>
<tr>
<td>Development Fee 5% (on-site soft costs)</td>
<td>166,891</td>
</tr>
</tbody>
</table>
Exhibit G
FORM OF BUSINESS INCENTIVE REPORT
Exhibit H
FORM OF RESTRICTIVE COVENANT
Exhibit I
# TIMNATH TOWN COUNCIL COMMUNICATION

**Meeting Date:** 1/14/14  
**Presented by:** April D. Getchius, AICP Town Manager  
**Ordinance** ☐  
**Resolution** ✓  
**Discussion** ☐  
**For Information** ☐  
**Item:** A Resolution Granting a Leave of Absence to Planning Commission Alternate Donald Risden

**EXECUTIVE SUMMARY:** Alternate Planning Commissioner Donald Risden has been called to military service and will be in training and then serving in Afghanistan for 2014. He has requested that his position on the Planning Commission be held until his return. The attached resolution provides for a leave of absence for Mr. Risden until his return from service.

**STAFF RECOMMENDATION:** Mr. Risden has served exceptionally well as a Planning Commissioner. We are grateful for his service and would recommend approval of the resolution to assure a place on the Commission upon Mr. Risden’s return. Mr. Risden serves as an alternate and although his input will be missed, granting him a leave of absence will have minimal impact on Planning Commission quorums.

**KEY POINTS/SUPPORTING INFORMATION:** There is no specific process for granting a leave of absence for Planning Commissioners, but the Town Council appoints Planning Commissioners. In order to accommodate Mr. Risden’s absence, Staff worked with the Town Attorney to develop this resolution.

**ADVANTAGES:** The Planning Commission will retain a valuable member upon his return from service.

**DISADVANTAGES:** None.

**FINANCIAL IMPACT:** None.

**RECOMMENDED MOTION:** I move approval of Resolution No. 4, Series 2014 A Resolution Granting a Leave of Absence to Alternate Planning Commissioner Don Risden.

**ATTACHMENTS:** 1. Resolution No 4, Series 2014
TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 4, SERIES 2014

A RESOLUTION GRANTING A LEAVE OF ABSENCE TO
PLANNING COMMISSION ALTERNATE
DONALD RISDEN

WHEREAS, Donald Risden currently serves as an alternate on the Timnath Planning
Commission for a term that began on April 1, 2013 and will end, pursuant to Section 2.7.2 of the
Timnath Municipal Code, on March 31, 2017; and

WHEREAS, Mr. Risden is a member of the Colorado National Guard whose unit will be
deployed to Afghanistan for a period beginning in January 2014 and ending in December 2014; and

WHEREAS, Section 2.7.3 of the Timnath Municipal Code requires that all members of
the Planning Commission be residents of the Town; and

WHEREAS, the Service members Civil Relief Act of 2003 allows military personnel to
maintain their legal residence in the place where a military member intends to return to after
deployment; and

WHEREAS, the Timnath Planning Commission is able to conduct regular business and
take official action without the presence of Mr. Risden; and

WHEREAS, Mr. Risden desires to continue his term of office as an alternate on the
Timnath Planning Commission; and

WHEREAS, the Town Council wishes to honor Mr. Risden’s commitment, dedication,
and service to America.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF TIMNATH, COLORADO AS FOLLOWS:

Section 1. The Town Council hereby grants Mr. Risden a Leave of Absence from the
Timnath Planning Commission. At the end of the Leave of Absence, Mr. Risden will resume his
regular duties as an alternate on the Timnath Planning Commission.

Section 2. Mr. Risden’s Leave of Absence will take effect January 1, 2014, and will end
December 31, 2014.
INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON JANUARY 14TH, 2014,

TOWN OF TIMNATH, COLORADO

________________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

________________________________________
Milissa Peters, Town Clerk
WHEREAS, the Town Council has a duty to perform certain obligations on a recurring basis in order to assure the efficient operation of the Town; and

WHEREAS, the Town Council has directed the administrative work of the Town to be accomplished by its Town Manager, Town Clerk, Town Planner and consultants who act as the Town Attorney, Town Engineer, Director of Public Works, and Building Inspector, (collectively the "Staff"); and

WHEREAS, the Town Council desires to confirm certain general procedures for the conduct of its business and to authorize its elected officials and Staff to perform certain administrative activities; and

WHEREAS, the matters set forth in this Resolution are statements of intention, and may be modified by action of the Town Council, from time to time, without prior notice except where required by law and without waiving on a continuing basis these or other policies established by the Town and its Charter (the "Charter");

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

1. Pursuant to Article III, Section 3.11 of the Charter, the Town Council determines to hold regular meetings on the 2nd and 4th Tuesday of every month at 6:00 p.m., at 4800 Goodman Street, 80547 in Timnath, Colorado.

2. Should an individual City Council member or the Mayor choose to abstain from any particular matter on the agenda for reasons of potential conflict of interest, he or she shall be considered in attendance at the meeting for purposes of meeting quorum requirements.

3. The Town Council shall attempt to follow, as nearly as is reasonably practical, the rules of order set forth in "Robert's Rules of Order" which rules are intended to be advisory only and not mandatory.

4. Pursuant to Article III, Section 11.4 of the Charter, and in addition to Paragraph 1 of this Resolution, the Town Council may hold a work session as the Mayor or any Council member may request the work session and the council approves the request. At least twenty-four hours written notice will be given to each Council member and by public notice through posting procedures established by this Resolution. No quorum shall be required at any such study session and no legally binding or formal action shall be taken at any such session.
5. Pursuant to Article III, Section 3.5.6 of the Charter, Town Council designates the U.S. Post Office serving Timnath, Colorado, and the Town’s website as the posting places for notices of meetings, in accordance with Section 24-6-402(2)(c), C.R.S., which were not otherwise posted under Title 31, C.R.S. The Town Council directs the Town Clerk to prepare notices for posting at the specified location.

6. The Town Council designates the *Coloradoan* as the newspaper of general circulation within the boundaries of the City, and wherein all legal notices and publications for the Town shall be published, unless otherwise required by state law.

7. The Town Manager shall be designated as the contact person with the Colorado Division of Local Government.

8. The Town Council acknowledges that in accordance with section 24-6-203, C.R.S., each Town Council member who receives from another person any item including, but not limited to gifts, honoraria, or other benefits as described in subsection (3) of that section in connection with his or her public service is required to file with the Town Clerk on or before January 15, April 15, July 15, and October 15 of each year, on a form prescribed by the Secretary of State, a report detailing the value and items received covering the period since the last report. If a Town Council member does not receive any such item, he or she will not be required to file such report. The Secretary of State form is available to Town Council members from the Town Clerk.

9. Minutes of all Town Council regular and special meetings shall be taken by the Town Clerk stating only the subject matter and final action taken by Town Council, together with such supplemental notes as are requested by the Town Council members and which are approved by the Mayor or by majority vote of the Town Council including the Mayor. Public meetings may be tape recorded for purposes of assisting the Town Clerk to prepare accurately the official written Minutes. Tape recordings shall not constitute the official record of the Town Council nor shall they constitute public records within the meaning of Colorado law. Each executive session discussion shall be electronically recorded as required by subsection 24-6-402(d.5)(I)(A), C.R.S., and each recording shall be retained for ninety (90) days after the date of the recording pursuant to subsection 24-6-402(d.5)(I)(E), C.R.S.

10. The Town Council hereby appoints Gary R. White, Esq. of White, Bear and Ankele, P.C., as the Town Attorney, to act as the Town Attorney in all legal matters, with authority to engage or use associates as Mr. White deems appropriate after advising the Town Council.

12. The Town Council hereby appoints Stewart Olive as the Timnath Municipal Judge with compensation to be fixed at $150 per hour for court sessions and administrative paperwork.

13. The Town Clerk is hereby appointed as the "Designated Election Official" of the Town for any elections to be held by the Town. In accordance with Section 1-1-111(2), C.R.S., the Town Council hereby grants all powers and authority for the proper conduct of the election to the Designated Election Official, including but not limited to appointing election judges, appointing a canvass board and cancellation, if applicable, of the election. The Town Attorney is appointed as the Assistant Designated Election Official.
14. The Finance Director shall be responsible for preparation of the budget in consultation with the Town Manager for the Town, shall manage the accounting and auditing services for the Town to be performed by such persons as are authorized by the Town Council, shall manage the public funds in accordance with all applicable Colorado laws and only by direction of the Town Council, and shall report to the Town Council on a monthly basis in written form the status of the Town's financial accounts and records.

15. The Town Council directs the Town Manager to work with the Finance Director to submit a proposed budget for the Town and Timnath Development Authority to the Town Council by October 15, 2014 and to schedule a public hearing on the proposed budget; to prepare a final budget and budget resolution, to prepare amendments to the budget if necessary, and to file the approved budget and any amendments thereto with the proper governmental entities in accordance with the Local Government Budget Law of Colorado, sections 29-1-101 to 29-1-115, C.R.S.

16. The Town Council directs the Finance Director to prepare and file with the Department of Local Affairs on or before March 1, 2014 in accordance with Article 58, C.R.S., if required, the annual public securities report for non-rated public securities issued by the Town.

17. The Town Council directs the Town Attorney to coordinate with the Town Manager on the preparation and filing of any continuing annual disclosure report required to be filed in accordance with the Securities Exchange Commission Rule 15c2-12, if required.

18. The Town Council directs the Town Clerk, in consultation with the Town Attorney, to prepare and file an informational listing of all contracts in effect with other political subdivisions with the Division of Local Government on or before February 1, 2014, as required by section 29-1-205, C.R.S.

19. The Town Council directs the Town Attorney to prepare the Unclaimed Property Act report and forward to the State Treasurer by November 1, 2014, if there is property presumed abandoned and subject to custody as unclaimed property, in accordance with section 38-13-110, C.R.S., if required.

20. The Town Council directs the Town Manager or his designee to prepare an accurate official Town map for filing with the County Assessor and Clerk and Recorder as changes are made to the official Town map. A copy of the official Town map, showing the Town's boundaries, shall be kept on file at 4800 Goodman Street, Timnath, Colorado, and shall be available for examination by all interested persons.

21. As of this date, the Town Council hereby reaffirms all existing contractual relationships subject to annual appropriation.

22. The Town Council directs that an audit of the financial statements be prepared and submitted to the Town Council within six (6) months after fiscal year end. The Town
Council further directs that the audit be filed with the State Auditor no later than thirty (30) days after the fiscal year audit is received by the Town, as required by section 29-1-603, C.R.S.

23. The Town Council directs the Town Manager to obtain proposals for insurance and to insure the Town against all or any part of the Town's liability for injury, to insure the Mayor, Town Council members, and Town employees acting within the scope of employment by the Town Council against all or any part of such liability for any injury, and to insure against the expense of defending a claim for injury against the Town or its Town Council. The Town Council will annually review all insurance policies in effect.

24. The fee schedules contained in past resolutions or ordinances for services which might be provided by the Town Manager, Town Clerk, the Town Engineer/Public Works Director, or the Director of Community Development to members of the public, including certification of documents, notarization of signatures, and other activities shall be extended indefinitely. Any resolution or ordinance concerning fee schedules that is passed subsequent to this Resolution shall supersede the provisions of this section.

25. These procedures, rules, and duties may be supplemented from time to time in written format either by adoption of additional resolutions or by action reflected in the minutes for the Town Council.

ADOPTED AND APPROVED THIS 14th DAY OF JANUARY, 2014.

TOWN OF TIMNATH

By: _________________________________
    Jill Grossman-Belisle, Mayor

ATTEST:

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

WHEREAS, Robert Flockhart and Sandra Flockhart (hereinafter referred to as the “Flockharts”) has filed suit against the town; and

WHEREAS, on January 10, 2014 the Flockharts and the Town entered into mediation and reached a proposed Stipulation and Agreement, a copy of which is attached hereto as Exhibit A (the “Agreement”)

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

Section 1. Approval and Authorization

The Agreement is hereby approved in substantially the form as attached hereto, subject to technical or otherwise non-substantive modifications, as deemed necessary by the Town Manager in consultation with the Town Planner, Engineer, Legal Counsel, and other applicable staff or consultants.


TOWN OF TIMNATH, COLORADO

Jill Grossman-Belisle, Mayor

ATTEST:

Milissa Peters, Town Clerk
**TOWN COUNCIL COMMUNICATION**

| Meeting Date: | January 14 2014 | Item: EXECUTIVE SESSION: “For the purposes of discussion concerning the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interests under Section §24-6-402(a), C.R.S.; discussion concerning personnel matters under §24-6-402(4)(f), C.R.S.; discussion regarding positions relative to matters that may be subject to negotiations and development of a strategy for negotiations under §24-6-402(4)(e), C.R.S.; and conferences with the Town’s attorney for purposes of receiving legal advice on specific legal questions under §24-6-402(4)(b), C.R.S.” |
| Presented by: | Gary White | Ordinance □ | Resolution □ | Discussion X |

**KEY POINTS/SUPPORTING INFORMATION:**

**EXECUTIVE SESSION:** “For the purposes of discussion concerning the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interests under Section §24-6-402(a), C.R.S.; discussion concerning personnel matters under §24-6-402(4)(f), C.R.S.; discussion regarding positions relative to matters that may be subject to negotiations and development of a strategy for negotiations under §24-6-402(4)(e), C.R.S.; and conferences with the Town’s attorney for purposes of receiving legal advice on specific legal questions under §24-6-402(4)(b), C.R.S.”

**ADVANTAGES:**
N/A

**DISADVANTAGES:**
N/A

**FINANCIAL IMPACT:**
N/A

**RECOMMENDATIONS:**
I move to enter into Executive Session “For ____________________________________________.”

**ATTACHMENTS:**
N/A