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

2. CONSENT AGENDA
   a. Approval of the January 14, 2014 Timnath Development Authority Meeting Minutes

3. GENERAL BUSINESS:
   a. RESOLUTION NO. TDA-2, SERIES 2014, A Resolution Approving the Loan Cooperation Agreement
   b. RESOLUTION NO. TDA-3, SERIES 2014, A Resolution Approving the Compass Loan Documents
   c. RESOLUTION NO. TDA-4, SERIES 2014, A Resolution Approving the Connell Construction Agreement
   d. RESOLUTION NO. TDA-5, SERIES 2014, A Resolution Approving Bond Counsel with Kutak Rock, LLP

4. REPORTS
   a. TDA Chair
   b. TDA Commissioners
   c. TDA Attorney

5. ADJOURNMENT
1. CALL TO ORDER AND ROLL CALL
Chairperson Grossman-Belisle called to order the regular meeting of the Timnath Development Authority on Tuesday, January 14, 2014, at 7:17 p.m.

Present:
- Chairperson Jill Grossman-Belisle
- Commissioner Marty Chiaramonte
- Commissioner Bill Neal
- Commissioner Paul Steinway
- Commissioner Bryan Voronin

Also Present:
- April Getchius, Town Manager
- Robert Rogers, Contacted Town Attorney
- Don Taranto, Contracted Town Engineer
- Milissa Peters, Town Clerk
- Matt Blakely, Contracted Town Planner

2. CONSENT AGENDA
a. Approval of the December 10, 2013 Timnath Development Authority Meeting Minutes
b. Approval of the December 17, 2013 Timnath Development Authority Meeting Minutes

Commissioner Neal moved to approve THE CONSENT AGENDA. Commissioner Chiaramonte seconded the motion. The motion passed unanimously by voice vote.

3. GENERAL BUSINESS:
   a. RESOLUTION NO. TDA-1, SERIES 2014, A Resolution Approving the Public/Private Partnership Agreement Regarding Gateway Timnath South.

Commissioner Neal moved to approve RESOLUTION NO. TDA-1, SERIES 2014, A Resolution Approving the Public/Private Partnership Agreement Regarding Gateway Timnath South 2. Commissioner Chiaramonte seconded the motion. The motion passed unanimously by voice vote.

4. REPORTS
   a. TDA Chair - No reports
   b. TDA Commissioners – No reports
   c. TDA Attorney – No reports
5. ADJOURNMENT

Chairperson Grossman-Belisle adjourned the meeting at 7:18 p.m.


TIMNATH DEVELOPMENT AUTHORITY

____________________________
Jill Grossman-Belisle, Chairperson

ATTEST:

____________________________
Milissa Peters, Secretary
<table>
<thead>
<tr>
<th>Meeting Date:</th>
<th>Item: A Resolution Approving the Second Amendment to the Loan Cooperation Agreement</th>
<th>Ordinance □ Resolution ✓ Discussion □ For Information □</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/28/14</td>
<td>Presented by: April D. Getchius, AICP Town Manager</td>
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**EXECUTIVE SUMMARY:** The purpose of this resolution is amend the Loan Cooperation Agreement between the Timnath Development Authority (TDA) and the Town of Timnath to accommodate changes in borrowing. The agreement is being finalized and will be forwarded to Town Council prior to the January 28th meeting.

**STAFF RECOMMENDATION:** Staff recommends approval of this resolution.

**KEY POINTS/SUPPORTING INFORMATION:** As the TDA and the Town restructure debt, it will require an amendment to the Cooperation Agreement on collection and transmittal of funds, etc.

**ADVANTAGES:** Allows for the restructuring of debt to fund capital improvement projects.

**DISADVANTAGES:** None.

**FINANCIAL IMPACT:** The TDA will be responsible for debt repayment.

**RECOMMENDED MOTION:** I move to approve Resolution No. 9, Series 2014 entitled A Resolution Approving the Second Amendment to the Cooperation Agreement.

**ATTACHMENTS:** Resolution.
A RESOLUTION APPROVING THE SECOND AMENDMENT TO COOPERATION AGREEMENT

WHEREAS, the Board of Commissioners of the Timnath Development Authority (the “TDA”), pursuant to the provisions of the Colorado Revised Statutes, has the power to pass resolutions and enter into contracts and agreements; and

WHEREAS, attached hereto as Exhibit A is the Second Amendment to Cooperation Agreement between the Town of Timnath, Colorado and the Timnath Development Authority; and

WHEREAS, the Board of Commissioners is familiar with the Agreement and finds its terms to be in the best interest of the TDA, the residents within its boundaries, and the general public.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TIMNATH DEVELOPMENT AUTHORITY, 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 Chairperson in consultation with applicable staff and consultants.

INTRODUCED, MOVED, AND ADOPTED ON JANUARY 28, 2014,

TIMNATH DEVELOPMENT AUTHORITY

______________________________
Jill Grossman-Belisle, Chairperson

ATTEST:

______________________________
Milissa Peters, Secretary
<table>
<thead>
<tr>
<th>Meeting Date:</th>
<th>Item: A Resolution Approving the Compass Loan Documents</th>
<th>Ordinance □</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/28/14</td>
<td>Resolution □</td>
<td>Discussion □</td>
</tr>
<tr>
<td>Presented by:</td>
<td>Present by: April D. Getchius, AICP Town Manager</td>
<td>For Information □</td>
</tr>
</tbody>
</table>

**EXECUTIVE SUMMARY:** These documents are being finalized and will be forwarded to Council prior to the January 28, 2014 meeting.

**STAFF RECOMMENDATION:**

**KEY POINTS/SUPPORTING INFORMATION:**

**ADVANTAGES:**

**DISADVANTAGES:**
None.

**FINANCIAL IMPACT:**

**RECOMMENDED MOTION:**

**ATTACHMENTS:**
CERTIFIED RECORD
OF
PROCEEDINGS OF
THE BOARD OF COMMISSIONERS
OF
TIMNATH DEVELOPMENT AUTHORITY
As Borrower

Relating to a resolution authorizing the issuance of:

Up to $36,725,000
Timnath Development Authority
In the Town of Timnath
Larimer County, Colorado
Refunding and Improvement Loan
Series 2014

Adopted on January 28, 2014

This cover page is not a part of the following resolution and is included solely for the convenience of the reader.
(Attach copy of notice of meeting, as posted)
STATE OF COLORADO )
COUNTY OF LARIMER ) ss.
TIMNATH DEVELOPMENT AUTHORITY )

As the Clerk of the Board of Commissioners of Timnath Development Authority, in the Town of Timnath, Larimer County, Colorado (the “Authority”), I do hereby certify that:

1. Attached is a true and correct copy of Resolution No. TDA-____-2014 (the “Resolution”) adopted by the Authority’s Board of Commissioners (the “Board” or “Board of Commissioners”) at a regular meeting held at 6:00 p.m. on January 28, 2014 at the Timnath Administration Building, 4800 Goodman Street, Timnath, Colorado, 80547.

2. Notice of such meeting, in the form preceding this certification, was posted as required by law.

3. The Resolution was duly moved, seconded and adopted at such meeting by the affirmative vote of a majority of the members of the Board of Commissioners as follows:

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<thead>
<tr>
<th>Commissioners</th>
<th>Attendance</th>
<th>Voting</th>
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<tbody>
<tr>
<td></td>
<td>Present in Person</td>
<td>Present via Telecommunications Device</td>
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<tr>
<td>Jill Grossman-Belisle, Chair</td>
<td>_______</td>
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<tr>
<td>Bryan Voronin, Vice Chair</td>
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<td>Marty Ciaramonte</td>
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<td>Bill Neal</td>
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<tr>
<td>Paul Steinway</td>
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</tbody>
</table>

4. The Resolution was duly approved by the Board, signed by the Chairperson or Vice Chairperson of the Board, attested by the Clerk of the Authority and recorded in the minutes of the Authority.

5. The meeting at which the Resolution was adopted was noticed, and all proceedings relating to the adoption of the Resolution were conducted in accordance with all applicable bylaws, rules, regulations and resolutions of the Authority, in accordance with the normal procedures of the Authority relating to such matters, and in accordance with applicable statutes of the State of Colorado and in accordance with all other applicable laws.

WITNESS my hand this 28th day of January, 2014.

By __________________________________________
Clerk
RESOLUTION NO. TDA-___-2014

A RESOLUTION AUTHORIZING THE TIMNATH DEVELOPMENT AUTHORITY TO INCUR INDEBTEDNESS IN THE FORM OF A LOAN FOR THE PURPOSE OF REFINANCING ITS OUTSTANDING 2012 LOAN, FINANCING THE COSTS OF ACQUIRING REAL PROPERTY AND CERTAIN PUBLIC INFRASTRUCTURE RELATING TO THE NEW COSTCO SITE, AND PAYING THE COSTS OF ISSUANCE OF THE LOAN; APPROVING THE FORM OF AN AMENDED AND RESTATED LOAN AGREEMENT IN CONNECTION THEREWITH AND AUTHORIZING THE EXECUTION, DELIVERY AND PERFORMANCE THEREOF; AUTHORIZING OTHER DOCUMENTS AND INSTRUMENTS IN CONNECTION THEREWITH; DELEGATING AUTHORITY TO THE AUTHORIZED REPRESENTATIVE PURSUANT TO SECTION 11-57-205(1), C.R.S. TO EXECUTE AND DELIVER THE SALE CERTIFICATE AND MAKE CERTAIN DETERMINATIONS REGARDING THE LOAN AS SET FORTH THEREIN AND HEREIN; AND ESTABLISHING THE EFFECTIVE DATE THEREOF

RECITALS

WHEREAS, the Timnath Development Authority (the “Authority”) is a public body corporate and politic duly established by the Town of Timnath, Colorado (the “Town”) on December 15, 2004, under and pursuant to the laws of the State of Colorado (the “State”) and Resolution No. AJ-2004 adopted by the Town Council of the Town on December 15, 2004; and

WHEREAS, an urban renewal plan, known as the “Timnath Urban Renewal Plan,” originally approved in December 2004 and amended in March 2007 (together, the “Plan”) has been duly and regularly approved by the Board of Trustees of the Town for an urban renewal project (the “Urban Renewal Project”) under the Act;

WHEREAS, the Town is a municipal subdivision of the State, a body corporate and politic, and a home rule municipality pursuant to Article XX of the State Constitution and the Charter of the Town (the “Charter”); and

WHEREAS, all applicable requirements of the Act and other provisions of law for and precedent to the adoption and approval by the Town of the Plan have been duly complied with; and

WHEREAS, the Authority is authorized to transact business and exercise its powers as an urban renewal authority, including the power and authority to borrow money and to apply for and accept loans to accomplish the purposes, all under and pursuant to the Colorado Urban Renewal Law, Title 31, Article 25, Part 1, Colorado Revised Statutes (the “Act” or the “Colorado Urban Renewal Law”); and

WHEREAS, the Authority previously issued its Timnath Development Authority, Variable Rate Tax Increment Revenue Bonds, Series 2007 in the aggregate original principal amount of $25,000,000 (the “Series 2007 Bonds”); and

WHEREAS, for the purpose of refinancing the Series 2007 Bonds, the Authority incurred indebtedness in the form of a loan in the original principal amount of $24,500,000 (the “Prior
Loan”) pursuant to a Loan Agreement dated as of April 1, 2011 (the “Prior Loan Agreement”); and

WHEREAS, pursuant to an amendment to the Prior Loan Agreement, the amount of the Prior Loan was increased by $2,400,000 on February 10, 2012; and

WHEREAS, as a result of payment by the Authority of its regularly scheduled principal payment on the Prior Loan of $865,000 on December 1, 2011 and the increase in the principal amount of the Prior Loan of $2,400,000, as of February 10, 2012 the new maximum loan balance of the Prior Loan was $26,035,000; and

WHEREAS, as of the date hereof, the Prior Loan is outstanding in the principal amount of $23,725,000; and

WHEREAS, the Board of Commissioners of the Authority (the “Board”) has determined and hereby determines that it is in the best interests of the Authority to refinance the Prior Loan and finance public infrastructure improvements relating to the new Costco site and, for such purposes, the Board has requested a loan from Compass Mortgage Corporation (the “Lender”) in an amount of up to $36,725,000 (the “Loan”); and

WHEREAS, the Lender submitted to the Authority a preliminary Summary Terms and Conditions dated as of January 15, 2014 (the “Preliminary Term Sheet”) setting forth the proposed terms and conditions upon which the Lender would make the Loan to the Authority; and

WHEREAS, the Chair of the Board, the Town Manager, the Authority’s accountant and General Counsel have participated in multiple discussions with respect to the Loan, the Preliminary Term Sheet, and the issues and matters relating thereto; and

WHEREAS, following such discussions, such representatives and consultants engaged in negotiations with the Lender proposing certain revisions to the terms set forth in the Preliminary Term Sheet; and

WHEREAS, accordingly, the Lender issued a revised Summary Terms and Conditions dated on or about January 28, 2014 (the “Revised Term Sheet”) which has been presented to the Board at or prior to the meeting at which this Resolution is being considered; and

WHEREAS, the terms and conditions of the Revised Term Sheet will be codified in an Amended and Restated Loan Agreement to be dated as of the Closing Date (the “Loan Agreement”) and entered into by the Authority and the Lender, which Loan Agreement will amend and restate in its entirety the Prior Loan Agreement including all amendments thereto; and

WHEREAS, the Loan shall be evidenced by a Promissory Note (the “Note”) from the Authority, as maker, to the Lender, as payee, and the promissory note evidencing the Prior Loan shall be canceled; and
WHEREAS, the Authority’s authority to incur the indebtedness of the Loan and to execute and deliver the Note and the Loan Agreement and perform its obligations thereunder is authorized pursuant to this Resolution, the Act, the provisions of Title 11, Article 57, Part 2, C.R.S. (the “Supplemental Public Securities Act”) and all other laws thereunto enabling; and

WHEREAS, the Loan shall constitute a special revenue obligation of the Authority payable from and secured by the Pledged Revenue, subject to the limitations set forth in the Loan Agreement; and

WHEREAS, the Board specifically elects to apply the provisions of the Supplemental Act to the Loan, the Loan Agreement and the Note; and

WHEREAS, there is no known conflict of interest of any member of the Board of Commissioners of the Authority in connection with the Loan; and

WHEREAS, the Board has the authority, as provided in Section 11-57-205(1), C.R.S., to delegate to any member of the Board the authority to determine certain provisions of the Loan to be set forth in the Sale Certificate (defined below) in accordance with the provisions of this Resolution; and

WHEREAS, the Board desires to authorize the execution and delivery of the Financing Documents; to delegate the authority to the Delegated Authorized Representative pursuant to Section 11-57-205(1), C.R.S. to execute and deliver the Sale Certificate and to make certain determinations regarding the Loan as more specifically set forth therein and herein; and to authorize the execution, completion, and delivery of such certificates and other documents as may be necessary to effect the intent of this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF TIMNATH DEVELOPMENT AUTHORITY, IN THE TOWN OF TIMNATH, LARIMER COUNTY, COLORADO:

Section 1. Definitions. Unless the context indicates otherwise, as used herein, capitalized terms shall have the meanings ascribed by the preambles hereto and the Loan Agreement, and the following capitalized terms shall have the respective meanings set forth below:

“Act” has the meaning set forth in the recitals hereof.

“Authority” has the meaning set forth in the recitals hereof.

“Board” has the meaning set forth in the recitals hereof.

“Bond Counsel” means Kutak Rock LLP.

“C.R.S.” means the Colorado Revised Statutes, as amended as of the date hereof.

“Closing Date” means on or about February 28, 2014, or such other date as may be mutually agreed upon by the Authority and the Lender.
"Closing Memorandum" means the closing memorandum, dated as of the Closing Date and approved by the Delegated Authorized Representative, delineating all sources of funds, including moneys presently held by the Lender in connection with the Prior Loan and proceeds of the Loan, and setting forth the uses of such funds, including the transfer and credit to the funds and accounts established and/or affirmed under the Loan Agreement and the application of such funds to payment of the costs, expenses and fees incurred in connection with the issuance of the Loan and the refunding of the Prior Loan.

"Cooperation Agreement" means the Second Amendment to Cooperation Agreement Between the Town of Timnath, Colorado and the Timnath Development Authority Regarding Bonds and Other Obligations, dated as of February 28, 2014, between the Authority and the Town.

"Delegated Authorized Representative" means Jill Grossman-Belisle, Chair of the Board or, alternatively, in her absence means Bryan Voronin, Vice Chair of the Board, having the authority delegated pursuant to Sections 4 and 5 of this Resolution.

"Financing Documents" means, collectively, this Resolution, the Note, the Loan Agreement, the Sale Certificate, the Cooperation Agreement, the Tax Certificate and the Plan.

"Fixed Rate" has the meaning set forth in the Loan Agreement.

"General Counsel" means White, Bear & Ankele Professional Corporation.

"Lender" has the meaning set forth in the recitals hereof.

"Loan Agreement" has the meaning set forth in the recitals hereof.

"Note" has the meaning set forth in the recitals hereof.


"Preliminary Term Sheet" has the meaning set forth in the recitals hereof.

"Prior Loan" has the meaning set forth in the recitals hereof.

" Reserve Fund" has the meaning set forth in the Loan Agreement.

" Reserve Requirement" has the meaning set forth in the Loan Agreement.

"Resolution" means this Resolution which authorizes the Authority to incur the indebtedness of the Loan; to issue the Note; and to execute, deliver and perform its obligations under the Financing Documents and authorizes the delegation of authority to the Delegated Authorized Representative to execute the Sale Certificate and make the determinations set forth therein.

"Revised Term Sheet" has the meaning set forth in the recitals hereof.
"Sale Certificate" means the Loan Sale Certificate executed by the Delegated Authorized Representative under the authority delegated pursuant to Section 11-57-205(1), C.R.S., and this Resolution, which certificate shall set forth, among other things, the original aggregate principal amount of the Loan; the Fixed Rate of interest to be borne by the Loan as provided in the Loan Agreement; the formula for determining the Variable Rate of interest to be borne by the Loan as provided in the Loan Agreement; the amounts and dates of the principal payments due on the Loan; and the amount of the Reserve Requirement (being the amount required to be maintained in the Reserve Fund).

"Supplemental Public Securities Act" has the meaning set forth in the recitals hereof.

"Tax Certificate" means that certain Tax Compliance Certificate executed by the Authority, and dated the Closing Date, setting forth certain representations and covenants of the Authority required to establish the tax status of interest on the Loan.

"Variable Rate" has the meaning set forth in the Loan Agreement.

Section 2. Approval, Ratification and Authorization of Financing Documents and Payment of Transaction Costs. The terms and conditions of the Loan as set forth in the Revised Term Sheet are hereby approved and the Authority is hereby authorized to incur the indebtedness of the Loan. The Authority is hereby authorized to enter into the Financing Documents in the forms of such documents as are approved by General Counsel and such approval by General Counsel shall be deemed approval by the Board; provided, however, that General Counsel shall consult with the Delegated Authorized Representative or other member of the Board in connection with such approval. The Authority shall enter into and perform its obligations under such Financing Documents, with such changes as are made pursuant to this Section 2 and are not inconsistent herewith. The Chairperson and/or the Vice-Chairperson of the Authority are hereby authorized and directed to executed and deliver the Financing Documents and the Clerk of the Town, acting as Clerk of the Authority, is hereby authorized and directed to attest the Financing Documents, and the Chairperson of the Authority, Vice-Chairperson of the Authority, Clerk of the Authority, and other appropriate officers of the Authority are further authorized to execute and authenticate such other documents, instruments, or certificates as are deemed necessary or desirable in order to issue, secure, sell, deliver and administer the Loan. Payment of the transaction costs set forth in the Closing Memorandum from Loan proceeds or other available funds of the Authority is hereby authorized. The net proceeds of the Loan shall be applied to accomplish the refinancing of the Prior Loan on the Closing Date and to finance the acquisition of real property and the public improvements relating to the new Costco site; provided, however, that all improvements financed from proceeds of the Loan shall be the type of improvements eligible to be paid with proceeds of tax-exempt obligations. The Financing Documents and the other closing documents, instruments and certificates may be completed, corrected, or revised as deemed necessary or convenient and approved by General Counsel in order to carry out the purposes of this Resolution and such approval by General Counsel shall be deemed approval by the Board; provided, however, that General Counsel shall consult with a member of the Board of the Authority in connection with such approval. To the extent any Financing Document has been executed prior to the date hereof, then said execution is hereby ratified and affirmed. Copies of all of the Financing Documents shall be delivered, filed, and recorded as provided therein.
Upon execution of the Financing Documents, the covenants, agreements, recitals, and representations of the Authority therein shall be effective with the same force and effect as if specifically set forth herein, and such covenants, agreements, recitals, and representations are hereby adopted.

The appropriate officers of the Authority are hereby authorized and directed to prepare and furnish to any interested person certified copies of all proceedings and records of the Authority relating to the Loan and the Financing Documents and such other affidavits and certificates as may be required to show the facts relating to the authorization and issuance thereof.

The execution of any instrument by the Chairperson of the Authority or other appropriate officer of the Authority in connection with the issuance, sale, execution, delivery or administration of the Loan not inconsistent herewith shall be conclusive evidence of the approval by the Authority of such instrument in accordance with the terms thereof and hereof.

Section 3. Purpose of and Security for Loan Agreement and Note. In accordance with the Constitution of the State of Colorado; the Act; the Supplemental Act; and all other laws of the State of Colorado thereunto enabling, the Authority shall incur the indebtedness of the Loan and, in connection therewith, the Note shall be issued and the Loan Agreement and other Financing Documents shall be executed and delivered for the purposes of (a) refunding the Prior Loan; (b) funding the acquisition of land and public improvements relating to the new Costco site; (c) funding a Reserve Fund; and (d) paying the costs of issuance of the Loan, all as further provided in the Financing Documents and the Closing Memorandum. The Loan, as evidenced by the Note, shall constitute a special revenue obligation of the Authority, payable as provided in the Loan Agreement and secured by the Pledged Revenue.

Section 4. Delegation of Authority. Pursuant to Section 11-57-205(1), C.R.S., the Board hereby delegates to the Delegated Authorized Representative, for a period of ninety (90) days following adoption of this Resolution, the authority to (a) approve the form of the Financing Documents in consultation with General Counsel; (b) approve the Closing Memorandum; (c) execute and deliver the Sale Certificate; and (d) make the determinations with respect to the Loan set forth in Section 5(a) below, subject to the parameters and restrictions set forth below in Section 5(b) below (collectively, the “Delegated Authority”).

Section 5. Terms and Parameters of Delegated Authority.

(a) Pursuant to the Delegated Authority, the Delegated Authorized Representative is hereby authorized to make the following determinations with respect to the Loan, subject to the parameters set forth in Section 5(b) below:

(i) the original aggregate principal amount of the Loan;
(ii) the Fixed Rate of interest to be borne by the Loan;
(iii) the formula for determining the Variable Rate of interest to be borne by the Loan;
(iv) the amounts and dates of the principal payments due on the Loan; and

(v) and the amount of the Reserve Requirement (being the amount required to be maintained in the Reserve Fund).

(b) The Delegated Authorized Representative’s Delegated Authority to make the determinations with respect to the Loan set forth in Section 5(a) above is subject to the following limitations:

(i) the original aggregate principal amount of the Loan shall not exceed $36,725,000;

(ii) the Fixed Rate shall not exceed 4.11% per annum;

(iii) the formula for determining the per annum Variable Rate shall be computed as the sum of (A) 65% of 30-day LIBOR plus (B) a margin not to exceed 2.25%;

(iv) no required principal payment due on the Loan in any year shall exceed $2,105,000 (except for the balloon payment due at maturity); and

(v) and the amount of the Reserve Requirement shall not exceed $3,400,000.

Section 6. Permitted Amendments to Resolution. Except as otherwise provided herein, the Authority may amend this Resolution in the same manner, and subject to the same terms and conditions, as apply to an amendment or supplement to the Loan Agreement.

Section 7. Appointment of Authorized Person. The Chairperson of the Board or Executive Director of the Authority is hereby appointed as the Authorized Person for the Authority, as defined in the Loan Agreement, for the purposes specified in the Loan Agreement. A different Authorized Person may be appointed by resolution adopted by the Board with a copy thereof provided to the Lender.

Section 8. Disposition and Investment of Proceeds; Tax Covenants.

(a) The proceeds of the Loan shall be used for the purposes aforesaid. All or any portion of the Loan proceeds may be temporarily invested or reinvested, pending such use, in securities or obligations which are both lawful investments and which are Permitted Investments (as defined in the Loan Agreement) but only in compliance with the terms of the Tax Certificate. It is hereby covenanted and agreed by the Authority that it will not make, or permit to be made, any use of the proceeds of the Loan, or of any moneys treated as proceeds of the Loan within the meaning of the Code and applicable regulations, rulings, and decisions, or take, permit to be taken, or fail to take any action, which would cause the Loan to be an “arbitrage bond” within the meaning of Section 148 of the Code, or would adversely affect the exclusion from gross income of the interest on the Loan under Section 103 of the Code and applicable regulations, rulings, and decisions.
(b) In addition to the other funds and accounts created pursuant hereto, the Authority shall establish and maintain hereafter a fund separate from any other fund or account established and maintained under the Loan Agreement designated the “Timnath Development Authority, 2014 Loan, Rebate Fund” (the “Rebate Fund”). There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Tax Certificate. All money at any time deposited in the Rebate Fund shall be held by the Authority in trust, to the extent required to satisfy the rebate requirements of the Code, for payment to the United States of America. All amounts required to be deposited into or on deposit in the Rebate Fund shall be governed exclusively by this Resolution and by the Tax Certificate (which is incorporated herein by reference).

(c) The Authority will at all times do and perform all acts permitted by law that are necessary in order to assure that interest paid on the Loan shall not be includible in gross income for federal income tax purposes under the Code or any other valid provision of law. In particular, but without limitation, the Authority represents, warrants and covenants to comply with the following rules unless it receives an opinion of bond counsel stating that such compliance is not necessary: (i) gross proceeds of the Loan will not be used in a manner that will cause the Loan to be considered a “private activity bond” within the meaning of the Code; (ii) the Loan is not and will not become directly or indirectly “federally guaranteed”; and (iii) the Authority will timely file Internal Revenue Form 8038-G which shall contain the information required to be filed pursuant to Section 149(e) of the Code.

(d) The Authority will comply with the Tax Certificate, including but not limited by the provisions thereof regarding the application and investment of Loan proceeds, the calculations, the deposits, the disbursements, the investments and the retention of records described therein.

Any funds remaining in the Rebate Fund after payment in full of all of the Loan shall be withdrawn and retained by the Authority to the extent that it does not conflict with the terms of the Tax Certificate.

Section 9. Costs and Expenses; Appropriation of Funds. All costs and expenses incurred in connection with incurring the indebtedness of the Loan, issuing the Note, and preparing, executing and delivering the Financing Documents shall be paid either from the proceeds of the Loan or from legally available moneys of the Authority, or from a combination thereof, and such moneys are hereby appropriated for that purpose.

Section 10. Pledge of Revenues. The creation, perfection, enforcement, and priority of the revenues pledged to secure or pay the Loan as provided herein and in the Loan Agreement and the Note shall be governed by Section 11-57-208 of the Supplemental Act, this Resolution, the Loan Agreement, and the Note. The revenues pledged for the payment of the Authority’s obligations under the Loan Agreement, as received by or otherwise credited to the Authority or the Lender, shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the revenues of the Authority and the obligation to perform the contractual provisions made herein and in the Loan Agreement shall have priority over any or all other obligations and liabilities of the Authority. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such persons have notice of such liens.
Section 11. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Board of Commissioners, or any officer or agent of the Authority acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prepayment penalties on the Loan. Such recourse shall not be available either directly or indirectly through the Board of Commissioners or the Authority, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Loan Agreement and the Note, the Lender specifically waives any such recourse.

Section 12. Conclusive Recital. Pursuant to Section 11-57-210 of the Supplemental Act, the Note shall contain a recital that it is issued pursuant to certain provisions of the Supplemental Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Note evidencing the indebtedness of the Loan after its delivery for value.

Section 13. Limitation of Actions. Pursuant to Section 11-57-212, C.R.S., no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the execution and delivery of the Loan Agreement and the authorization or issuance of the Loan or the Note evidencing the indebtedness thereof shall be commenced more than thirty days after the authorization of such securities.

Section 14. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the Authority and the members of the Board of Commissioners, not inconsistent with the provisions of this Resolution, relating to the authorization, sale, issuance, execution and delivery of the Financing Documents, or the execution of any documents in connection with the Financing Documents, are hereby ratified, approved, and confirmed.

Section 15. Resolution Irrepealable. After the execution and delivery of the Loan Agreement, this Resolution shall constitute a contract between the Lender and the Authority and shall be and remain irrepealable until the Loan Agreement and the interest accruing thereon shall have been fully paid, satisfied, and discharged, as herein provided and as provided in the Loan Agreement.

Section 16. Repealer. All orders, bylaws, and resolutions of the Authority, or parts thereof, inconsistent or in conflict with this Resolution, are hereby repealed to the extent only of such inconsistency or conflict.

Section 17. Severability. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution, the intent being that the same are severable.

Section 18. Effective Date. This Resolution shall take effect immediately upon its adoption and approval.
ADOPTED AND APPROVED this 28th day of January, 2014.

TIMNATH DEVELOPMENT AUTHORITY

By __________________________
Jill Grossman-Belisle, Chair

ATTEST:

By __________________________
Clerk

[Signature page to Resolution]
January 27, 2014

Timnath Town Council
Timnath Development Authority
4800 Goodman Street
Timnath, Colorado 80547

Dear Town Council Members:

BBVA Compass, on behalf of Compass Mortgage Corporation (the “Lender”), is very pleased to provide the following proposal to the Timnath Development Authority (the “Authority”), for a direct loan to the Authority in the amount of up to $36,725,000 (the “Loan”). Proceeds from the Loan, together with other existing funds of the Authority, shall be used to:

(i) pay in full the outstanding principal balance of the existing loan between the Lender and the Authority in the amount of $23,725,000, plus accrued interest thereon;

(ii) fund a debt service reserve fund for the Loan, as provided herein;

(iii) pay the costs related to the issuance of the Loan; and

(iv) proceeds remaining after funding the amounts required in (i) through (iii) above shall be deposited into a Project Fund, as provided herein, for the purpose of funding eligible costs related to the Costco property.

The summary terms and conditions pertaining to the Loan are attached hereto as Exhibit A (the “Terms and Conditions”). Please be advised that Terms and Conditions for discussion purposes only and they have not yet been formally approved by the Lender or reviewed by Lender’s counsel and therefore do not bind the Lender or the Authority to enter into the proposed Loan financing. The issuance of a commitment is subject to the Authority directing the Lender to seek a formal commitment and to the Lender formally approving such request. Therefore, the Lender shall not be liable to the Authority or any third party for damages or specific performance as a result of this letter or its attachments.

This term sheet is issued in reliance on the accuracy of all information, representations, schedules, and other data and materials submitted by the Authority or its consultants to the Lender, all of which are deemed material. This term sheet does not contain all of the terms and conditions or other provisions that may be included in the final documents evidencing the Loan. Those matters which are not covered by or made clear in the Terms and Conditions are subject to mutual agreement between the Lender and the Authority.

Further, the Authority agrees that this letter and the attached Terms and Conditions remain strictly confidential and may not be disclosed or shared by the Authority with any person other than their respective officers, accountants, attorneys or other contracted advisors and then only in
connection with the transaction contemplated hereby and on a confidential basis, except as required by law.

If after further review of the Terms and Conditions the Authority would like the Lender to seek formal approval of the Loan, please deliver a signed copy of this letter and the Terms and Conditions to the Lender on or before 5:00 P.M. on January 31, 2014. The receipt thereof by the Lender shall acknowledge the Authority’s general agreement with the Terms and Conditions attached hereto and the Authority’s affirmative direction to the Lender to seek formal credit approval and delivery of a commitment for the proposed Loan. The Authority further acknowledges and agrees that it shall remain obligated to pay all legal fees incurred by the Lender in connection with the proposed financing regardless of whether or not the Loan closes.

BBVA Compass sincerely appreciates the opportunity to continue to support the financing needs of the Authority. Please feel free to call me if you have any additional questions or comments regarding this letter or its attachments.

Best Regards,

Matthew J. Chorske
Senior Vice President & Manager
BBVA Compass
Phone: (303) 217-2235
matt.chorske@bbvacompas.com

Accepted this ___ day of ______________, 2014

Timnath Development Authority

By: ____________________________
Name: __________________________
Title: __________________________
In connection with the financing contemplated herein, the existing Loan Agreement, dated April 1, 2011, by and between the Authority and Compass Mortgage Corporation, as amended by that First Amendment to Loan Agreement, dated February 10, 2012 (the "Existing Loan Agreement"), shall be amended and restated to reflect a new loan which shall incorporate certain existing provisions of the Existing Loan Agreement, the primary changes described herein, as well as any other modifications or changes to the Existing Loan Agreement as determined by Lender and Lender's counsel necessary to accommodate the additional terms and conditions outlined herein. Unless otherwise defined herein or the context otherwise requires, capitalized terms used herein shall have the meanings set forth in the Existing Loan Agreement.

**Borrower**
Timnath Development Authority (the “Authority”).

**Additional Party**
Town of Timnath (the “Town”).

**Lender**
Compass Mortgage Corporation (the “Lender”).

**Credit Facility**
Tax-exempt loan (the “2014 Loan”) in an amount not to exceed $36,725,000 (the “Loan Amount”).

**Use of Proceeds**
Proceeds from the 2014 Loan, together with existing Authority funds held under the Existing Loan Agreement shall be used to:

(i) pay in full the outstanding principal balance of the existing loan between the Lender and the Authority in the amount of $23,725,000, plus accrued interest thereon to the Closing Date;

(ii) fund a Reserve Fund to the 2014 Reserve Requirement, as provided herein;

(iii) pay the costs related to the issuance of the 2014 Loan; and
(iv) proceeds remaining after funding the amounts required in (i) through (iii) above shall be deposited into a Project Fund to be established and administered by the Lender in connection with the 2014 Loan for the purpose of funding eligible costs related to the Costco Property (as defined in the Public/Private Partnership Agreement). The Project Account shall include therein a Restricted Account and an Unrestricted Account to be funded as provided herein.

**Closing Date**

Expected to be on or before February 28, 2014 (the “Closing Date”).

**Term**

The Maturity Date shall be changed from December 1, 2017 to December 1, 2020.

**Commitment Fee**

0.25% of the Loan Amount, payable on the Closing Date.

**Costco Agreements**

Includes the Public/Private Partnership Agreement, the Amended and Restated Annexation and Development Agreement, the Property Purchase Agreement, the Site Development Agreement, the Repurchase Rights Agreement, the Restrictive Covenant Agreement and any other agreements relating to the Costco Property to which the Authority is a direct party or third party beneficiary (collectively, the “Costco Agreements”).

**Restricted Account**

On the Closing Date, an amount equal to $2,000,000 shall be deposited to the Restricted Account. Subject to the Restricted Account Release Conditions described herein, amounts on deposit in the Restricted Account shall be transferred to the Unrestricted Account and made available for requisition by the Authority to fund eligible costs related to the Costco Property.

**Unrestricted Account**

On the Closing Date, an amount equal to (a) the Loan Amount, less (b) the amount deposited to the Restricted Account and amounts required to be funded pursuant to (i) through (iii) in the Use of Proceeds section above, shall be deposited to the Unrestricted Account (anticipated to be approximately $12,100,000). Upon receipt by the Lender of a certified requisition in form and substance acceptable to the Lender, proceeds deposited into the Unrestricted Account on the Closing Date and amounts transferred therein from the Restricted Account, as provided herein, shall be available for multiple disbursements by wire transfer to the
Authority or a designated invoice to fund eligible costs related to the Costco Property.

**Restricted Account Release Conditions**

Amounts on deposit in the Restricted Account of the Project Fund shall be transferred to the Unrestricted Account upon satisfaction of the following conditions (the "Restricted Account Release Conditions"):  

(i) the Costco Opening Date (as defined in the Public/Private Partnership Agreement) has occurred;  

(ii) no default or event of default shall have occurred or is continuing under the 2014 Loan Agreement;  

(iii) the Reserve Fund is funded at the Reserve Requirement;  

(iv) the Authority is in compliance with all covenants and agreements contained in the Costco Agreements, to which the Authority is a party; and  

(v) other conditions deemed appropriate by the Lender and its counsel, which other conditions, if any, shall be determined by the Lender prior to the Closing Date.

To the extent theRestricted Account Release Conditions have not been satisfied on or prior to June 1, 2015, unspent 2014 Loan proceeds on deposit in the Restricted Account shall be applied to the repayment of the 2014 Loan, or with the written consent of the Lender, such amount shall be transferred to the Unrestricted Account for alternative eligible cost approved by the Lender.

**Fixed Rate Period**

The Fixed Rate Period shall be extended from its existing expiration of April 1, 2015 to a new expiration date of December 1, 2018, (ii) December 1, 2019 or (iii) December 1, 2020, as determined by the Authority (as applicable the "Fixed Rate Period").

**Variable Rate Period**

Means the period of time commencing on the first day immediately following the Fixed Rate Period and continuing through and including the date upon which the Loan is paid in full (as previously defined in the Existing Loan Agreement, the "Variable Rate Period").
Interest Rates

The outstanding principal balance of the Loan shall bear interest as follows:

(i) **Fixed Rate Period.** During the Fixed Rate Period, the 2014 Loan shall bear interest at a fixed rate per annum, which rate shall be based on the term of the Fixed Rate Period as selected by the Authority (as applicable, the “Fixed Rate”). The indicative Fixed Rates for the three Fixed Rate Period options are currently estimated to be as follows, which rates shall remain subject to change daily based on market conditions.

<table>
<thead>
<tr>
<th>Fixed Rate Period Expiration</th>
<th>Fixed Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 1, 2020</td>
<td>4.37%</td>
</tr>
<tr>
<td>December 1, 2019</td>
<td>4.08%</td>
</tr>
<tr>
<td>December 1, 2018</td>
<td>3.91%</td>
</tr>
</tbody>
</table>

(ii) **Variable Rate Period.** During the Variable Rate Period, the 2014 Loan shall bear interest at a rate per annum equal to the sum of 2.25% plus 65% of 30-day LIBOR (as previously defined in the Existing Loan Agreement, the “Variable Rate”).

Amortization Schedule

Amortization of the 2014 Loan shall be based on the following estimated principal repayment schedule, which is intended to keep the scheduled 2014 principal payment unchanged and result in approximately level debt service payments on the 2014 Loan between 2015 and 2019.

<table>
<thead>
<tr>
<th>Principal Payment Date</th>
<th>Principal Amount Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/1/2014</td>
<td>$1,120,000</td>
</tr>
<tr>
<td>12/1/2015</td>
<td>$1,800,000</td>
</tr>
<tr>
<td>12/1/2016</td>
<td>$1,875,000</td>
</tr>
<tr>
<td>12/1/2017</td>
<td>$1,950,000</td>
</tr>
<tr>
<td>12/1/2018</td>
<td>$2,025,000</td>
</tr>
<tr>
<td>12/1/2019</td>
<td>$2,105,000</td>
</tr>
<tr>
<td>12/1/2020</td>
<td>$25,850,000</td>
</tr>
</tbody>
</table>

| Total                  | $36,725,000          |

Prepayment Penalty

The prepayment penalty described in Section 2.07 of the Existing Loan Agreement shall apply to the 2014 Loan, as adjusted for the amended Loan Amount and the applicable adjusted Fixed Rate Period. Additionally, under part (b) of Section 2.07 of the Existing Loan Agreement...
Loan Agreement, the months described therein shall be calculated from the Closing Date. Notwithstanding the foregoing, the prepayment penalty set forth in Section 2.07(b) shall not apply to (i) any prepayment made on the Loan from unspent 2014 Loan proceeds on deposit in the Restricted Account on or after June 1, 2015, or (ii) any prepayment made on the Loan from Recovered Expenses, as provided in part (2) of the Pledged Revenue section below.

### Pledged Revenue

The 2014 Loan shall be secured by and payable from the Pledged Revenue, as defined in Article I of the Existing Loan Agreement, subject to the following primary changes:

1) The definition of "Pledged Sales Tax Revenue" shall be amended as follows:

   (a) with respect to Costco retail activity, for the period commencing on the Costco Opening Date to and including the five year anniversary of the Costco Opening Date, plus such additional time as is necessary for the Owner to recover 50% of the Anticipated Cost Overrun (each as defined in the Public/Private Partnership Agreement), Net Sales Tax Revenue in paragraph (a) thereof shall mean 32% of the Gross Sales Tax Revenue derived from Costco. Thereafter, Net Sales Tax Revenue shall mean 82% of the Gross Sales Tax Revenue derived from Costco; and

   (b) paragraph (e) part (ii) thereof shall be amended as follows: "Pledged Sales Tax Revenue" means an amount equal to the lesser of (A) the Net Sales Tax Revenue, or (B) the greater of (1) $4,200,000, less the Pledged Property Tax Revenue, and (2) 50% of the Gross Sales Tax Revenue; and

2) Any proceeds or damages received by the Authority, either directly or through assignment by the Developer, pursuant to any of the Costco Agreements, including but not limited to, any Land Payment Recapture (as defined in the Restrictive Covenant Agreement) or any damages, cost overrun reimbursements or any other amount received by the Authority directly or indirectly pursuant to the Section 2.3 of the Public/Private Partnership Agreement, shall constitute Pledged Revenue and shall secure the payment of the 2014 Loan (collectively, "Recovered Expenses").
To the extent the Authority receives any Recovered Expenses, such amount(s) shall be deposited into the Restricted Account and shall be applied to the repayment of the 2014 Loan, or with the written consent of the Lender, such amount(s) shall be transferred to the Unrestricted Account for alternative eligible cost approved by the Lender.

**Debt Service Reserve Fund**

The Reserve Requirement for the Reserve Fund shall be amended to be an amount equal to $2,500,000, which amount shall be funded with the existing Reserve Fund established in connection with the Existing Loan Agreement and a portion of the proceeds of the 2014 Loan.

**Additional Debt**

Section 5.14(b) of the Existing Loan Agreement shall be deleted in its entirety. In replacement thereof, the Authority shall not be permitted to issue Parity Debt without the prior written consent of the Lender.

**Reporting Requirements**

The Authority will be required to continue to provide at all times the reporting requirements listed in Section 5.11(a) of the Existing Loan Agreement. In addition, to the extent permitted by law, the existing quarterly reporting of Pledged Sales Taxes that is included as part of Exhibit E shall be bifurcated to show the Pledged Sales Tax Revenue attributable to Costco and Pledged Sales Tax Revenue attributable to non-Costco retailer within the Plan Area.

**Other Conditions**

The terms and conditions contained herein are further subject to, but not limited to, the following other conditions:

(i) receipt of final credit approval by the Lender for the terms and conditions described herein;

(ii) the sale of the property to Costco, as provided in the Property Purchase Agreement;

(iii) absence of any adverse financial or other information pertaining to any portion of the Pledged Revenue or the Authority received by the Lender prior to the Closing Date;

(iv) satisfactory review by Lender and Lender's counsel of any outstanding agreement(s) entered into by the Authority which may impact the Collateral or the obligations under
the 2014 Loan Agreement, including but not limited to the Costco Agreements;

(v) review and approval of all terms of debt authorization, including any limitations which would affect maximum repayment costs, maximum interest rates which may be imposed or the Authority's ability to refund the proposed 2014 Loan with a future debt issuance;

(vi) satisfactory review and approval by the Lender and Lender's counsel of all Financing Agreements required to perfect the Lender's security interest in the Pledged Revenue;

(vii) satisfactory review and approval by Lender's counsel of all other related transaction documents;

(viii) opinions of counsel as required by the Lender and Lender's counsel, including but not limited to an opinion from counsel that interest payable on the 2014 Loan is tax-exempt;

(ix) any authorizing resolution(s) of the Authority required for the issuance and repayment of the 2014 Loan and the obligations under the Loan Agreement;

(x) opinions of counsel as required by the Lender, including but not limited to, opinions from counsel to the Authority (as applicable, general counsel or special counsel engaged for specific purposes) as to the enforceability of the 2014 Loan Agreement, any resolutions authorizing the 2014 Loan, and the Lender's security in the Pledged Revenue; and

(xi) any other reasonable conditions following review of the Financing Agreements by Lender and Lender's counsel.

Legal Fees

The Lender shall be represented by Sherman & Howard. Lender's counsel fees are estimated to be $40,000 and shall be paid by the Authority on the Closing Date.

Indemnification

To the extent permitted by law, the Authority shall indemnify and hold the Lender harmless from and against any and all claims by reason of the execution and delivery of this transaction, except as may result from the Lender's gross negligence or willful misconduct.
**EXECUTIVE SUMMARY:** The off-site improvements associated with the Costco project are basically the improvements to Weitzel Street, including pavement, utilities, curb and gutter, lights and appurtenances.

**STAFF RECOMMENDATION:** Staff recommends approval of this resolution.

**KEY POINTS/SUPPORTING INFORMATION:**
- The Improvements are required to complete the TDA’s responsibility under the Public Private Partnership Agreement and other Agreements associated with the Costco development
- These improvements are the continuation of required infrastructure south of Harmony on Weitzel Street.

**ADVANTAGES:** These improvements allow for the development of Costco Retail Store.

**ISADVANTAGES:** None.

**FINANCIAL IMPACT:** The contract amount $1,314,961.22 is within the approved budget for the overall Costco project.

**RECOMMENDED MOTION:** I move to approve resolution No. TDA-4 series 2014. Approving the contract with Connell Resources for the Weitzel Street Improvement.

**ATTACHMENTS:**
1. Resolution
TIMNATH DEVELOPMENT AUTHORITY

RESOLUTION NO. TDA-4, SERIES 2014

A RESOLUTION APPROVING AN AGREEMENT FOR CONSTRUCTION SERVICES

WHEREAS, the Board of Commissioners of the Timnath Development Authority (the “TDA”), pursuant to the provisions of the Colorado Revised Statutes, has the power to pass resolutions and enter into contracts and agreements; and

WHEREAS, attached hereto as Exhibit A is an Agreement for construction services with Connell Resources; and

WHEREAS, the Board of Commissioners is familiar with the Agreement and finds its terms to be in the best interest of the TDA, the residents within its boundaries, and the general public.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TIMNATH DEVELOPMENT AUTHORITY, 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 Chairperson in consultation with applicable staff and consultants.

INTRODUCED, MOVED, AND ADOPTED ON JANUARY 28, 2014.

TIMNATH DEVELOPMENT AUTHORITY

______________________________
Jill Grossman-Belisle, Chairperson

ATTEST:

______________________________
Milissa Peters, Secretary
EXHIBIT A
AGREEMENT
AGREEMENT

This agreement is dated as of the _____ day of ____________________, 2014 by and between:

The Timnath Development Authority of the Town of Timnath (hereinafter called Owner) and

Connell Resources ______(hereinafter called Contractor).

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1.  WORK

Contractor shall complete all work as specified or indicated in the Contract Documents. The work is generally described as follows: infrastructure improvements to Weitzel Street as shown on the plans noted under Contract Documents below.

ARTICLE 2.  ENGINEER

The project has been designed by TST, Inc. Consulting Engineers who is hereinafter called Engineer and who will assume all duties and responsibilities and will have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the work in accordance with the Contract Documents.

ARTICLE 3.  CONTRACT TIME

3.1 The work will be substantially completed within 165 calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within 180 calendar days after the date when the Contract Time commences to run.

3.2 Liquidated Damages: Owner and Contractor recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the work is not substantially complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the work is not substantially complete on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner one thousand dollars ($1000.00) for each calendar day that expires after the time specified in paragraph 3.1 for substantial completion until the work is substantially complete.

3.3 After Substantial Completion if Contractor shall neglect, refuse or fail to complete the remaining work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner one thousand dollars ($1000.00) for each calendar day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.
ARTICLE 4.  CONTRACT PRICE

4.1 Owner shall pay Contractor for performance of the work in accordance with the Contract Documents in current funds as follows:
   One Million, three hundred fourteen thousand, nine hundred sixty one and 22 cents
   ($1,314,961.22).

ARTICLE 5.  PAYMENT PROCEDURES

Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

5.1 Progress Payments. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, on or about the 2nd Tuesday of the month following that in which the Engineer received and processed the application during construction as provided below. All progress payments will be on the basis of the progress of the work measured by the schedule of values established in paragraph 2.07 of the General Conditions (and in the case of Unit Price work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1 Prior to Substantial Completion progress payments will be in the amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or Owner may withhold, in accordance with paragraph 14.02 of the General Conditions.

   Ninety-five percent (95%) of work completed.

   Ninety-five percent (95%) of materials and equipment not incorporated in the work (but delivered, suitably stored and accompanied by documentation satisfactory to Owner as provided in paragraph 14.02 of the General Conditions).

5.1.2 Upon Substantial Completion in an amount sufficient to increase total payments to Contractor to ninety-five percent (95%) of the Contract Price, less such amounts as Engineer shall determine or Owner may withhold in accordance with paragraph 14.02 of the General Conditions.

5.2 Final Payment. Upon final completion and acceptance of the work in accordance with paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said paragraph 14.07.

ARTICLE 6.  INTEREST

All moneys not paid when due hereunder as provided in Article 14 of the General Conditions shall bear interest at a rate not exceeding 12.0 percent per annum.

ARTICLE 7.  CONTRACTOR'S REPRESENTATIONS

In order to induce Owner to enter into this Agreement Contractor makes the following representations:
7.1 Contractor has familiarized himself with the nature and extent of the Contract Documents, work, site, locality, and with all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance, or furnishing of the work.

7.2 Contractor has studied carefully all reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the technical data contained in such reports and drawings upon which Contractor is entitled to reply.

7.3 Contractor has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports, and studies (in addition to or to supplement those referred to in paragraph 7.2 above) which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as Contractor considers necessary for the performance or furnishing of the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.02 of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by Contractor for such purposes.

7.4 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by Contractor in order to perform and furnish the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.04 of the General Conditions.

7.5 Contractor has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.

7.6 Contractor has given Engineer written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Contractor.

ARTICLE 8. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between Owner and Contractor concerning the work consist of the following:

8.1 This Agreement (pages 1 to 6, inclusive).

8.2 Performance and Labor and Material Payment Bond.

8.3 General Conditions (pages 1 to 62, inclusive).

8.5 Supplementary Conditions (pages 1 to 9, inclusive).

8.6 Drawings, consisting of a cover sheet and sheets numbered 1 through 22 inclusive with each sheet bearing the following general title: Weitzel Street Improvements
8.7 Contractor's Budget (pages 1 to 3, inclusive).

8.8 The following which may be delivered or issued after the Effective date of the Agreement and are attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

ARTICLE 9. MISCELLANEOUS

9.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.

9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge that assignor from any duty or responsibility under the Contract Documents.

9.3 Owner and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

ARTICLE 10. PROHIBITION AGAINST EMPLOYMENT OF ILLEGAL ALIENS

1. The Contractor shall not:

   (A) Knowingly employ or contract with an illegal alien who will perform work under the public contract for services; or

   (B) Enter into a contract with a Subcontractor that fails to certify to the Contactor that the Subcontractor shall not knowingly employ or contract with an illegal alien who is newly hired to perform work under the public contract for services.

2. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the employment verification program established pursuant to C.R.S. 8-17.5-102(5) ("the Department Program") or the electronic employment verification program created in Public Law 104-208, as amended, and expanded in Public Law 108-156, as amended and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program ("the E-verify Program").

3. The Contractor shall use either the E-verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed.
4. The Contractor shall, within twenty days after hiring an employee who is newly hired for employment to perform work under the public contract, affirm that the contractor has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. 1324a, and not altered or falsified the identification documents for such employees. The contractor shall provide a written, notarized copy of the affirmation to the Owner.

5. If the Contractor obtains actual knowledge that a Subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall:

(A) Notify the Subcontractor and the Owner within three days that the Contractor has actual knowledge that the Subcontractor is employing or contracting with an illegal alien; and

(B) Terminate the subcontract with the Subcontractor if within three days of receiving the notice required pursuant to paragraph 4(A) the Subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor 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.

6. The Contract shall comply with any reasonable request by the Colorado Department of Labor and Employment ("the Department") made in the course of an investigation that the Department is undertaking pursuant to C.R.S. 8-17.5-102(5)(a).

7. If a Contractor violates a provision of the public contract for services required pursuant to paragraphs 1-5, the Owner may terminate the contract for breach of the contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to the Owner.
ARTICLE 11. OTHER PROVISIONS

In witness whereof, the parties hereto have signed this Agreement in triplicate. One counter part each has been delivered to Owner, Contractor and Engineer. All portions of the Contract Documents have been signed or identified by Owner and Contractor or by Engineer on their behalf.

This Agreement will be effective on __________________________, 2014.

Owner: TDA of the Town of Timnath

By: __________________________

Contractor: __________________________

By: __________________________

(CORPORATE SEAL) (CORPORATE SEAL)

Attest: __________________________

Address for giving notices
Timmeth Development Authority
Town of Timnath
4800 Goodman St.
Timnath, CO 80547

Attest: __________________________

Address for giving notices

License No. __________________________
A RESOLUTION APPROVING A BOND COUNSEL ENGAGEMENT LETTER WITH KUTAK ROCK LLP

WHEREAS, the Board of Commissioners of the Timnath Development Authority (the “TDA”), pursuant to the provisions of the Colorado Revised Statutes, has the power to pass resolutions and enter into contracts and agreements; and

WHEREAS, attached hereto as Exhibit A is the Bond Counsel Engagement Letter between the Timnath Development Authority and Kutak Rock LLP (the “Agreement”); and

WHEREAS, the Board of Commissioners is familiar with the Agreement and finds its terms to be in the best interest of the TDA, the residents within its boundaries, and the general public.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TIMNATH DEVELOPMENT AUTHORITY, 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 Chairperson in consultation with applicable staff and consultants.

INTRODUCED, MOVED, AND ADOPTED ON JANUARY 28, 2014,

TIMNATH DEVELOPMENT AUTHORITY

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Jill Grossman-Belisle, Chairperson

ATTEST:

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Milissa Peters, Secretary
EXHIBIT A
AGREEMENT