NOTE: This Ordinance was reconsidered and amended February 15, 2006

TOWN OF TIMNATH

ORDINANCE NO. 4-2006

AN EMERGENCY ORDINANCE TO BE REFERRED TO
THE VOTERS OF TIMNATH, AUTHORIZING THE
TOWN TO PROVIDE CABLE TELEVISION SERVICE,
TELECOMMUNICATIONS SERVICE OR ADVANCED
SERVICE

WHEREAS, §31-11-111(2), C.R.S. provides that the legislative body of any
municipality may, without receipt of any petition, submit any proposed or adopted ordinance
or resolution or any question to a vote of the registered electors of the municipality. The
legislative body of the municipality or its designee shall fix a ballot title for the referred
measure; and

WHEREAS, §29-27-201, C.R.S. provides at Section (1) that before a local
government may engage or offer to engage in providing cable television service,
telemunications service, or advanced service, an election shall be called on whether or
not the local government shall provide the proposed cable television service,
telemunications service, or advanced service; and

WHEREAS, §29-27-102(2), C.R.S. defines advanced service as meaning high-speed
internet access capability in excess of two hundred fifty-six kilobits per second both
upstream and downstream, defines Cable television service as meaning the one-way
transmission to subscribers of video programming or other programming service, as well as
subscriber interaction, if any, that is required for the selection or use of the video
programming or other programming service and defines Telecommunications service as
meaning the electronic or optical transmission of information between separate points by
prearranged means; and

WHEREAS, §29-27-201, C.R.S. provides at Section (2) that the ballot at an election
authorizing a local government to provide cable television service, telecommunications
service, or advanced service, shall pose the question as a single subject and shall include a
description of the nature of the proposed service, the role that the local government will have
in provision of the service, and the intended subscribers of such service; and the ballot
proposition shall not take effect until submitted to the electors and approved by the majority
of those voting on the ballot; and

WHEREAS, the Board of Trustees of the Town of Timnath (the “Board”) is
exploring the potential of the provision of wireless internet services throughout the Town of
Timnath (the “Town”).

NOW, THEREFORE, BE IT ORDAINED by the Trustees of the Town of
Timnath, Colorado, that:
Section 1. Ballot Question. The following question shall be placed on the April 4, 2006, General Election ballot, for voter consideration:

SHALL THE TOWN OF TIMNATH, COLORADO BE AUTHORIZED TO PROVIDE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE AS DEFINED IN ARTICLE 29, TITLE 27 OF THE COLORADO REVISED STATUTES, INCLUDING THE PROVISION OF HIGH SPEED WIRELESS INTERNET SERVICES, TO THE RESIDENTS OF THE TOWN OF TIMNATH, COLORADO, AS INTENDED SUBSCRIBERS, WITH THE TOWN BEING AUTHORIZED INDEPENDENTLY OR IN CONCERT WITH OTHERS TO PROVIDE ALL OR ANY OF THE PROPOSED SCOPE OF SERVICES.

FOR THE MEASURE

AGAINST THE MEASURE

Section 2. Submission to Election. The Town Clerk shall place the referred question on the ballot and take all other steps as may be necessary and required by applicable law to present the matter to the voters of the Town.

Section 3. Repeal. All other ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portions thereof are hereby repealed to the extent of such inconsistency or conflict.

Section 4. 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 Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or parts be declared unconstitutional or invalid.

Section 5. Safety. This Ordinance is deemed necessary for the immediate preservation of the public peace, health or safety of the community.

INTRODUCED, READ, PASSED AND ADOPTED BY A VOTE OF THREE FOURTHS OF ALL THE MEMBERS OF THE BOARD OF TRUSTEES OF THE TOWN OF TIMNATH AS AN EMERGENCY ORDINANCE PURSUANT TO CRS §31-11-105(1) AND ORDERED PUBLISHED THIS 1ST DAY OF FEBRUARY, 2006.

ATTEST:

Linda Thompson, Town Clerk

Benson, Mayor
STATE OF COLORADO  
) ss:   AFFIDAVIT OF PUBLICATION  
COUNTY OF LARIMER  

Robin Hause, being duly sworn, deposes and says that said is the legal clerk of the Fort Collins Coloradoan; that the same is a daily newspaper of general circulation and printed and published in the City of Fort Collins, in said county and state; that the notice or advertisement, of which the annexed is a true copy, has been published in said daily newspaper for

1 consecutive days;

that the notice was published in the regular and entire issue of every number of said newspaper during the period and time of publication of said notice, and in the newspaper proper and not in a supplement thereof; that the first publication of said notice was contained in the issue of said newspaper on

February 23, 2006, A.D.;

that the last publication thereof was contained in the issue of said newspaper on

February 23, 2006, A.D.;

that said Fort Collins Coloradoan has been published continuously and uninterruptedly during the period of at least six months next prior to the first publication of said notice or advertisement above referred to; that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879, or any amendments thereof; and that said newspaper is a daily newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

[Signature]
Legal Clerk

Subscribed and sworn to before me, within the County of Larimer, State of Colorado this

February 23, 2006, A.D.

My Commission expires 04/09/2009

[Signature]
Notary Public

Legal No. 32823017

Delivered to:

Town of Timnath
PO Box 37
Timnath, CO 80547