

**ORDINANCE NO. 51, SERIES 2008**

**THE TOWN COUNCIL OF THE TOWN OF TIMNATH  
OF THE STATE OF COLORADO**

**AN ORDINANCE DETERMINING THE NECESSITY OF, AND AUTHORIZING THE  
ACQUISITION OF, CERTAIN PROPERTY INTERESTS BY EITHER NEGOTIATION  
OR CONDEMNATION, FOR THE CONSTRUCTION AND MAINTENANCE OF A  
BRIDGE REPLACEMENT AND PUBLIC STREET WIDENING PROJECT**

**WHEREAS**, the Town of Timnath is a home rule municipality of the State of Colorado; and

**WHEREAS**, the Town Council of the Town of Timnath ("Town") has determined that there is a need and necessity and it is in the public interest for the Town to acquire certain interests in property for the public purposes of constructing and maintaining a bridge replacement and public street widening project (the "Project"); and

**WHEREAS**, the Town has determined that it should acquire by negotiation, if possible, or by the use of the power of eminent domain, if necessary, the property interests described in the attached Exhibits A and B owned by William D. Swets and Sandra K. Swets and Robert F. Flockhart and Sandra D. Flockhart, respectively (the "Property"); and

**WHEREAS**, the Town has determined there is an immediate need to acquire the Property for these public purposes; and

**WHEREAS**, the Town will conduct good faith negotiations and make an offer of just compensation to acquire the Property following a determination of just compensation by a licensed appraiser; and

**WHEREAS**, to ensure timely possession of the Property it may be necessary to initiate condemnation proceedings to acquire the Property and to obtain immediate possession of the Property; and

**WHEREAS**, the Town is empowered pursuant to Article XX, §§ 1 and 6, of the Colorado Constitution and its Home Rule Charter to exercise the power of eminent domain in the manner provided by Article 1 of Title 38, Colorado Revised Statutes.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF  
TIMNATH AS FOLLOWS:**

1. The Town finds and determines on the basis of the previous clauses that it is necessary for it to obtain possession of and to acquire the Property for the benefit of the public health, welfare and safety.

2. The Town's designee is authorized to negotiate in good faith for the acquisition of the Property following a determination of just compensation by a licensed appraiser.

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3. The Town finds and determines that it should obtain immediate possession of and acquire the Property as soon as is permitted by law.

4. The Town or its designees, consistent with the intent of the Project, shall have the authority to amend the legal descriptions of and interests sought and acquired in the Property as they deem necessary in the course of acquiring the Property for the Project.

5. The Town finds and determines that there is a public need and necessity and a public use for obtaining possession of and acquiring the Property in order to allow the Town to proceed with the Project and that its project constitutes and is in furtherance of a public use.

6. The Town has determined that, if necessary, it shall acquire the Property through the exercise of the power of eminent domain.

APPROVED, ADOPTED AND DATED THIS 22<sup>nd</sup> DAY OF DECEMBER, 2008.

**TOWN COUNCIL OF THE TOWN OF  
TIMNATH**

By: Donna Benson  
Donna Benson, Mayor

ATTEST:

By: Milissa McGuire  
Milissa McGuire, Town Clerk

