

TOWN OF TIMNATH

RESOLUTION NO. 16, SERIES 2008

A RESOLUTION OF THE TOWN COUNCIL OF THE
TOWN OF TIMNATH APPROVING THE FIRST
AMENDMENT TO THE ANNEXATION AND
DEVELOPMENT AGREEMENT FOR TIMNATH
FARMS SOUTH PARCEL

WHEREAS, ON December 13, 2004, the Parties entered into that agreement known as the Annexation and Development Agreement for the Timnath Farms South Parcel (the "Agreement"), such Agreement being recorded at Larimer County Reception Number 2004-0122897;

WHEREAS, subsequently the Property Owners have purchased approximately 118 acres of land (the "Property") immediately to the south of the property subject to the Agreement, which property is shown on the Site Plan Map attached hereto as Exhibit A of the 1st Amendment to the Agreement; and


WHEREAS, the Property Owner's wish to annex the Property into the Town on the same terms and conditions as set forth in the agreement, except as provided in Sections 1 and 2 of the First Amendment to Annexation and Development Agreement (Exhibit A).

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

Section 1. The First Amendment to Annexation and Development Agreement for the Timnath Farms South Parcel is approved in substantially the same form as the attached hereto and incorporated herein.


ADOPTED this 27th day of August, 2008.

TOWN OF TIMNATH, COLORADO



Donna Benson, Mayor

ATTEST:



Linda Salas, Town Clerk

**FIRST AMENDMENT TO ANNEXATION AND DEVELOPMENT AGREEMENT –
TIMNATH SOUTH**

This First Amendment to Annexation and Development Agreement is entered into this 27th day of August, 2008 between the Town of Timnath, a Colorado municipal Corporation (the “Town”) and Timnath Farm Investments, LLC, a Colorado limited liability company (the “Property Owner”), sometimes herein after referred to as the “Parties.”

RECITALS

WHEREAS, on December 13, 2004, the Town, Timnath Land and Cattle Company II, LLC and Kerns Properties, LLC entered into that agreement known as the Annexation and Development Agreement for the Timnath Farms South Parcel” (the “Agreement”), such Agreement being recorded at Larimer County Reception Number 2004-0122897; and

WHEREAS, subsequent to December 13, 2004, Timnath Land and Cattle Company II, LLC and Kerns Properties, LLC conveyed all their right, title and interest in the property subject to the Agreement and in the Agreement itself, to Timnath Farm Investments, LLC, a Colorado limited liability company, which is the proper party to enter into this First Amendment; and

WHEREAS the Property Owner has purchased approximately 118 acres of land (the “Property”) immediately to the south of the property subject to the Agreement, which Property is shown on the Site Plan Map attached hereto as **Exhibit A**; and

WHEREAS, the Property Owner wishes to annex the Property into the Town on the same terms and conditions as set forth in the Agreement, except as provided herein.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

Section 1. The above Recitals are incorporated herein by reference.


Section 2. The Parties agree to amend the Agreement to provide for annexation of the Property shown on **Exhibit A** on the same terms and conditions set forth in the Agreement, with the following additional conditions applicable to the entire property to be annexed:

1. The Town acknowledges that the Property Owners shall have the right to continue to conduct agricultural operations on all of the property to be annexed under the Agreement, in accordance with the Town’s adopted “right to farm” ordinance.
2. The Property Owners shall have the right to mine gravel on “Area A” as shown on **Exhibit A** until such time as a building permit or other construction approval for other uses of such Area has been granted by the Town. The Town shall allow for this mining with the following requirements:
 - Hours and days of operation shall be no more than Monday - Friday 7am to 6 pm and Saturday 7am-noon.

- The area will be mined and reclaimed within 10 years from date of this agreement.
 - Weeds shall be controlled during the period of mining and reclamation.
 - Batching for either asphalt or concrete shall be allowed during the hours of operation referenced above.
3. Upon annexation, "Area B" as shown on **Exhibit A** shall be zoned as R-E, with a permitted residential density under that zone district of twenty (20) units. In the event the Property Owner subsequently wishes to construct more than twenty (20) units on this Area, the Property Owner shall request that Area B be rezoned to a Residential-2 zone at such time as development approval for the same is granted by the Town, on the conditions that: (1) all applicable Town requirements, including required improvements and right-of-way dedications are met, and (2) if more than 20 homes are planned for the area south of the Greeley Number 2 ditch, then the roadway access shall be dedicated to the Town and constructed by the Property Owner.
 4. In lieu of a cash contribution, Property Owner agrees to dedicate right of way for the extension of LCR 3. The property to be dedicated is approximately 1,100 feet in length and 100 feet in width, totaling approximately 2.6 acres.

Signed this _____ day of _____, 2008.

TOWN OF TIMNATH,
a municipal corporation



Donna Benson, Mayor

ATTEST:



Linda Salas, Town Clerk

**Timnath Farms Investments, LLC, a Colorado
Limited Liability Company:**

By: _____
Dino DiTullio, Manager

Individually:

John Graves

Brenda Graves

William Graves

April Graves

Kathryn Green

STATE OF _____)
) ss.
COUNTY OF _____)

The above and foregoing instrument was acknowledged before me this ____ day of _____, 2008, by Dino DiTullio, Manager of Timnath Farms Investments, LLC.

My Commission expires: _____.

Notary Public

STATE OF _____)
) ss.
COUNTY OF _____)

Exhibit A
[Site Plan Map]

[Attached]