TOWN OF TIMNATH, COLORADO

RESOLUTION NO. 38, SERIES 2009

A RESOLUTION AUTHORIZING THE ACQUISITION OF PROPERTY INTERESTS FOR THE CONSTRUCTION OF HARMONY ROAD AND THE HARMONY BRIDGE OVER THE CACHE LAPOUDRE RIVER

WHEREAS, the Town and the Landowners, William Dexter Swets and Sandra K. Swets, entered into that certain Agreement for Possession and Use dated January 30, 2009 and recorded on February 2, 2009 at Reception No. 20090005726 of the records of the Clerk and Recorder of Larimer County ("APU"), and

WHEREAS, the purpose of the APU was for the Landowner to grant possession of the Property to the Town so that the Town could proceed with construction of the Project without the need of the Town having to obtain possession through eminent domain proceedings; and

WHEREAS, the APU recites that the Town shall acquire the Property subject to the Exceptions set forth in Litigation Guarantee Policy No. LTGR25085671 attached to the APU as Exhibit D ("Litigation Guarantee"); and

WHEREAS, in consideration of the Landowner’s grant of possession, pursuant to paragraph 1 of the APU, the Town tendered to the Landowner the total sum of One Hundred Three Thousand and 00/100 Dollars ($153,000.00) (the "APU Payment"); and

WHEREAS, the Landowner agrees that there is a public need and necessity and it is in the public interest for the Town to acquire the Property to fulfill the Town’s obligation to provide traffic and transportation improvements. The purpose for which the Property is needed constitutes and is in furtherance of a public use; and

WHEREAS, subsequent to the APU the parties have negotiated in good faith for purchase of the Property as more fully set forth herein.

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

SECTION 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.

SECTION 2. The Town Manager, on behalf of the Town Council, is authorized to sign the Contract To Buy and Sell Real Estate as described in Exhibit A.

SECTION 3. The Town finds and determines that there is a public need and necessity and in furtherance of a public use for obtaining possession of and acquiring the Property in order to allow the Town to proceed with the Harmony Road Project.
PASSED, APPROVED AND ADOPTED THIS 22ND DAY OF JULY, 2009.

TOWN OF TIMNATH, COLORADO

[Signature]
Donna Benson, Mayor

ATTEST:

[Signature]
Milissa McGuire, Town Clerk

[Seal]