

TOWN OF TIMNATH, COLORADO

ORDINANCE NO. 10, SERIES 2012

**AN EMERGENCY ORDINANCE DETERMINING THE NECESSITY OF, AND
AUTHORIZING THE ACQUISITION OF, CERTAIN PROPERTY INTERESTS BY EITHER
NEGOTIATION OR CONDEMNATION, TO WIDEN A SECTION OF HARMONY ROAD**

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 an local and municipal need and necessity and it is in the public interest for the Town to acquire certain interests in property for the public purposes of widening a section of Harmony Road (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 **Exhibit A** (0.757 acres of land), **Exhibit B** (0.274 acres for permanent easement), and **Exhibit C** (0.010 acres for temporary easement) owned by the **J.L. & G.D. Fewell Living Trust**, dated May 12, 1993 (the "Property"); and

WHEREAS, the Town has determined there is an immediate need to acquire the Property for these public local and municipal purposes, and that further delay in acquisition of the Property could jeopardize grant funding for a large road widening project that the Town is planning in conjunction with the Colorado Department of Transportation; and

WHEREAS, the Town has conducted good faith negotiations and has made 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 TOWN 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 and for a local and municipal purpose.
2. The Town's designee is authorized to continue to negotiate in good faith for the acquisition of the Property following a determination of just compensation by a licensed appraiser.

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 an immediate public, local, and municipal need and necessity and a public, local, and municipal 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, local, and municipal use.

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

INTRODUCED, READ, AND ADOPTED ON FIRST READING ON NOVEMBER 13, 2012.

TOWN OF TIMNATH

By: 
Jill Grossman-Belisle, Mayor

ATTEST:

By: 
Milissa Peters, Town Clerk

Exhibit A
Fee Simple Property Description

PROJECT CODE: 17566
PROJECT NUMBER: STU M288-001
PARCEL NUMBER: 1
DATE: APRIL 11, 2012

PROPERTY DESCRIPTION

A tract or parcel of land No. 1 of the Town of Timnath Project Code 17566, Project Number STU M288-001, containing 32,966 square feet (0.757 acre), more or less, being part of that parcel of land described in that Warranty Deed recorded May 24, 1993 as Reception No. 93033424 of the records of the Larimer County Clerk and Recorder and being part of the North Half (N1/2) of Section Two (2), Township Six North (T.6N.), Range Sixty-eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), County of Larimer, State of Colorado, and being more particularly described as follows:

The South Forty (40) feet of the North Seventy (70) feet of that parcel of land described in said Warranty Deed recorded May 24, 1993 as Reception No. 93033424 of the records of the Larimer County Clerk and Recorder.

The above-described parcel contains 32,966 square feet (0.757 acre), more or less.

Basis of Bearings: The basis of bearings for project reference is the North line of the Northwest Quarter of Section 2, T.6N., R.68W., being monumentalized by a 2 3/8" diameter pipe with a 3 1/4" diameter aluminum cap stamped "PLS 10734, 2006" in a monument box at the West end and by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "PLS 16404, 1997" in a monument box at the East end, bearing South 89°56'20" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2007, a distance of 2642.44 feet, with all other bearings contained herein relative thereto.

Lineal Unit Definition: The lineal dimensions as contained herein are based upon the "U.S. Survey Foot."

For and on the behalf of the
Colorado Department of Transportation
Michael Chad Dilka, PLS 38106
King Surveyors, Inc. (Job # 2007413-D)
650 East Garden Drive
Windsor, CO 80550
(970) 686-5011

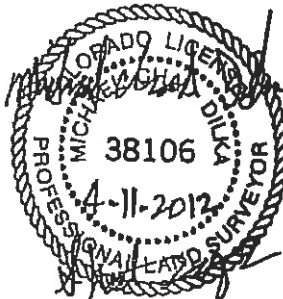


Exhibit B
Easement Property Description

PROJECT CODE: 17566
PROJECT NUMBER: STU M288-001
PERMANENT EASEMENT NUMBER: PE1
DATE: APRIL 11, 2012

PROPERTY DESCRIPTION

A tract or parcel of land No. PE1 of the Town of Timnath Project Code 17566, Project Number STU M288-001, containing 11,934 square feet (0.274 acre), more or less, being part of that parcel of land described in that Warranty Deed recorded May 24, 1993 as Reception No. 93033424 of the records of the Larimer County Clerk and Recorder and being part of the North Half (N1/2) of Section Two (2), Township Six North (T.6N.), Range Sixty-eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), County of Larimer, State of Colorado, and being more particularly described as follows:

The South Fourteen (14) feet of the North Eighty-four (84) feet of that parcel of land described in said Warranty Deed recorded May 24, 1993 as Reception No. 93033424 of the records of the Larimer County Clerk and Recorder.

The above-described parcel contains 11,934 square feet (0.274 acre), more or less.

Basis of Bearings: The basis of bearings for project reference is the North line of the Northwest Quarter of Section 2, T.6N., R.68W., being monumentalized by a 2 3/8" diameter pipe with a 3 1/4" diameter aluminum cap stamped "PLS 10734, 2006" in a monument box at the West end and by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "PLS 16404, 1997" in a monument box at the East end, bearing South 89°56'20" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2007, a distance of 2642.44 feet, with all other bearings contained herein relative thereto.

Lineal Unit Definition: The lineal dimensions as contained herein are based upon the "U.S. Survey Foot."

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Exhibit C
Temporary Construction Easement Property Description

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PROJECT CODE: 17566
PROJECT NUMBER: STU M288-001
TEMPORARY EASEMENT NUMBER: TE1
DATE: APRIL 11, 2012

PROPERTY DESCRIPTION

A tract or parcel of land No. TE1 of the Town of Timnath Project Code 17566, Project Number STU M288-001, containing 457 square feet (0.010 acre), more or less, being part of that parcel of land described in that Warranty Deed recorded May 24, 1993 as Reception No. 93033424 of the records of the Larimer County Clerk and Recorder and being part of the Northwest Quarter (NW1/4) of Section Two (2), Township Six North (T.6N.), Range Sixty-eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), County of Larimer, State of Colorado, and being more particularly described as follows:

COMMENCING at the North Quarter (N1/4) Corner of said Section 2, being monumentalized by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "PLS 16404, 1997" in a monument box; THENCE North 89°56'20" West along the North line of the Northwest Quarter of said Section 2 a distance of 807.70 feet to the Northwest Corner of that parcel of land described in said Warranty Deed; THENCE South 09°54'20" East along the Westerly line of that parcel of land described in said Warranty Deed a distance of 85.29 feet to the POINT OF BEGINNING;

1. THENCE South 89°56'20" East along a line being Eighty-four (84) feet South of and parallel with the North line of the Northwest Quarter of said Section 2 a distance of 15.23 feet;
2. THENCE South 09°54'20" East along a line being Fifteen (15) feet Easterly of and parallel with the Westerly line of that parcel of land described in said Warranty Deed a distance of 30.46 feet;
3. THENCE North 89°56'20" West along a line being One Hundred Fourteen (114) feet South of and parallel with the North line of the Northwest Quarter of said Section 2 a distance of 15.23 feet to the Westerly line of that parcel of land described in said Warranty Deed;
4. THENCE North 09°54'20" West along the Westerly line of that parcel of land described in said Warranty Deed a distance of 30.46 feet to the POINT OF BEGINNING.

The above-described parcel contains 457 square feet (0.010 acre), more or less.

Basis of Bearings: The basis of bearings for project reference is the North line of the Northwest Quarter of Section 2, T.6N., R.68W., being monumentalized by a 2 3/8" diameter pipe with a 3 1/4" diameter aluminum cap stamped "PLS 10734, 2006" in a monument box at the West end and by a #6 rebar with a 2 1/2" diameter aluminum cap stamped "PLS 16404, 1997" in a monument box at the East end, bearing South 89°56'20" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2007, a distance of 2642.44 feet, with all other bearings contained herein relative thereto.

Lineal Unit Definition: The lineal dimensions as contained herein are based upon the "U.S. Survey Foot."

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