TOWN OF TIMNATH, COLORADO  
RESOLUTION NO. 32, SERIES 2013  

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIMNATH FINDING A PETITION FOR ANNEXATION OF THE PROPERTY KNOWN AS THE I-25 AND HARMONY ROAD SOUTHEAST ANNEXATION TO BE IN SUBSTANTIAL COMPLIANCE WITH LAW, INITIATING ANNEXATION PROCEEDINGS AND SETTING A PUBLIC HEARING THEREON  

WHEREAS, the Town Council for the Town of Timnath, Colorado has received a Petition for Annexation of certain property, signed by at least 50% of the land owners owning at least 50% of the land of said property, exclusive of public streets and alleys moreover to be in substantial compliance with the requirements of Section 31-12-107(1), Colorado Revised Statutes and Article 13 of the Timnath Land Use Code; and  

WHEREAS, the Town Council for the Town of Timnath, Colorado has agreed to postpone evaluation of the draft Annexation Agreement as there are no special Annexation Agreement conditions being requested at this time; and  

WHEREAS, the Town Council wishes to initiate annexation proceedings for the Property and set a public hearing to determine if the proposed annexation of the Property complies with the applicable requirements of the Municipal Annexation Act of 1965, CRS 31-12-101 et. seq. and Article 13 of the Timnath Land Use Code.  

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO:  

Section 1. Annexation Proceedings Initiated  

Annexation proceedings are hereby initiated upon the Petition for Annexation of the following described property to the Town, which Petition appears to be in substantial compliance with the applicable provisions of Chapter 31, Article 12, Colorado Revised Statutes:  

Description of property proposed for annexation: See, attached: EXHIBIT A  

Section 2. Public Hearing  

The Council hereby sets and gives notice of a public hearing for 6 P.M. on November 12, 2013 at the Timnath Administration Building, 4800 Goodman Street, in Timnath, Colorado, to determine if the proposed annexation complies with Sections 31-12-104 and 31-12-105, C.R.S. or such parts thereof as may be required to establish eligibility under Part 1 of Chapter 31, Article 12 of said statutes.  

PASSED, APPROVED AND ADOPTED THIS 24TH DAY OF SEPTEMBER, 2013, THE VOTE UPON ROLL CALL BEING AS FOLLOWS:
For: 3
Against: 0
Abstain: 0

FOR THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO

Milissa Peters, Town Clerk

By: Jill Grossman-Belisle, Mayor

NOTICE IS HEREBY GIVEN that a Petition for Annexation of property hereinafter described has been presented to the Town Council of the Town of Timnath, Colorado and found to be in apparent compliance with the applicable provisions of law. The Town Council has adopted a Resolution setting a public hearing to be held at 6 P.M. on November 12, 2013, at Timnath Administration Building, 4600 Goodman Street, Timnath, Colorado, to determine if the proposed annexation complies with the applicable requirements of law.

Any person may appear at the hearing and present evidence upon any matter to be considered by the Council.

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Fifth Publication: October 25, 2013
EXHIBIT A

Legal Description of Property Proposed for Annexation

[Attached]
PROPERTY DESCRIPTION

I-25 AND HARMONY SE ANNEXATION

A parcel of land being a portion of the Northeast Quarter of Section Three (3), Township Six North (T.6N.), Range Sixty-eight West (R.68W.), Sixth Principal Meridian (6th P.M.), County of Larimer, State of Colorado:

COMMENCING at the North Quarter Corner of said Section 3 and assuming the North line of the Northeast Quarter of said Section 3 as bearing South 89°47'25" East a distance of 2634.70 feet with all other bearings contained herein relative thereto:

THENCE South 89°47'25" East along the North line of the Northeast Quarter of said Section 3 a distance of 198.83 feet to the West line of the Harmony Road Second Annexation to the Town of Timnath;
THENCE South 00°12'35" West along the West line of the Harmony Road Second Annexation to the Town of Timnath a distance of 69.00 feet to the Southwest corner thereof;
THENCE South 89°47'25" East along the South line of the Harmony Road Second Annexation to the Town of Timnath a distance of 147.11 feet to the POINT OF BEGINNING;

THENCE South 89°47'25" East continuing along the South line of the Harmony Road Second Annexation to the Town of Timnath a distance of 51.17 feet to the Westerly line of the Harmony Road Enterprises, LLLP First Annexation to the Town of Timnath;
    The following Two (2) courses are along the Westerly lines of the Harmony Road Enterprises, LLLP First Annexation to the Town of Timnath:
THENCE South 14°18'05" West a distance of 367.05 feet;
THENCE South 22°35'27" East a distance of 91.93 feet to the most Northeasterly corner of the I-25 Annexation No. 2 to the Town of Timnath;
    The following Four (4) courses are along the Northerly, Westerly and Southerly lines of the I-25 Annexation No. 2 to the Town of Timnath:
THENCE South 44°24'41" West a distance of 108.12 feet;
THENCE North 22°35'34" West a distance of 84.24 feet;
THENCE South 11°06'35" East a distance of 213.47 feet;
THENCE North 44°24'41" East a distance of 98.23 feet to the Westerly line of the Harmony Road Enterprises, LLLP Second Annexation to the Town of Timnath;
THENCE South 20°05'29" East along the Westerly line of the Harmony Road Enterprises, LLLP Second Annexation a distance of 724.35 feet to the Northerly line of that parcel of land conveyed to the Town of Timnath for use as a Public Road in a Special Warranty Deed recorded November 13, 2008 as Reception No. 20080070753 of the Records of Larimer County;
    The following Six (6) courses are along the perimeter lines of said parcel of land conveyed for use as a Public Road in a Special Warranty Deed recorded as Reception No. 20080070753:
THENCE North 89°31'13" East a distance of 504.07 feet to the Northeast corner thereof;
THENCE South 00°28'47" East a distance of 60.00 feet to the Southeast corner thereof;
THENCE South 89°31'13" West a distance of 794.29 feet to a Point of Curvature;
THENCE along the arc of a curve concave to the Southeast a distance of 373.41 feet, said curve has a Radius of 246.00 feet, a Delta of 86°58'11" and is subtended by a Chord bearing South 46°02'08" West a distance of 338.58 feet to the West line of the Northeast Quarter of said Section 3;
THENCE North 02°04'05" West a distance of 163.25 feet to the beginning point of a curve non-tangent to this course;
THENCE along the arc of a curve concave to the Southeast a distance of 292.91 feet, said curve has a Radius of 306.00 feet, a Delta of 54°50'38" and is subtended by a Chord bearing North 62°05'54" East a distance of 281.85 feet to the South line of Lot 2 of the Northeast Quarter of said Section 3;
THENCE South 89°31'13" West along said South line a distance of 253.78 feet to the West line of the Northeast Quarter of said Section 3;
THENCE North 02°04'05" West along the West line of the Northeast Quarter of said Section 3 a distance of 85.27 feet to the Easterly line of Tract No. 19 of the Colorado Department of Highways Project No. 1 25-3 (31)258;
THENCE North 14°18'03" East along the Easterly line of said Tract No. 19 a distance of 1216.81 feet to the South line of the Harmony Road Second Annexation and the POINT OF BEGINNING;

TOTAL ANNEXED AREA for the I-25 and Harmony Road SE Annexation is 7.805 acres, more or less (±).

SURVEYOR'S STATEMENT

I, Steven A. Lund, a Colorado Registered Professional Land Surveyor do hereby state that this Property Description of land proposed to be annexed to the Town of Timnath, County of Larimer, State of Colorado, was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge, information, belief, and in my professional opinion.

I further state that not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous to the boundary line of the Town of Timnath, County of Larimer, State of Colorado.

Steven A. Lund - on behalf of King Surveyors
Colorado Registered Professional
Land Surveyor#54995

KING SURVEYORS
650 Garden Drive
Windsor, Colorado 80550
(970) 686-5011
PETITION FOR ANNEXATION

TO THE BOARD OF TRUSTEES OF THE TOWN OF TIMNATH, COLORADO:

The undersigned (collectively, the “Petitioners”), in accordance with the Municipal Annexation Act of 1965 as set forth in Article 12, Title 31, Colorado Revised Statutes, as amended and as in effect on the submission date set forth below (“Annexation Act”), hereby petition (“Petition”) the Board of Trustees of the Town of Timnath, Colorado (“Town Board”), to annex to the Town of Timnath (“Town”) the unincorporated territory located in the County of Larimer, State of Colorado, which property is more particularly described in Exhibit A attached hereto and incorporated herein by reference (“Property”). In support of this Petition, Petitioners allege that:

1. It is desirable and necessary that the Property be annexed to the Town.

2. The requirements of Sections -104 and -105 of the Annexation Act exist or have been met.

3. Not less than one-sixth (1/6) of the perimeter of the Property is contiguous with the Town’s current municipal boundaries.

4. A community of interest exists between the Property and the Town.

5. The Property is urban or will be urbanized in the near future.

6. The Property is integrated with or is capable of being integrated with the Town.

7. Petitioners comprise more than fifty percent (50%) of the landowners in the Property owning more than fifty percent (50%) of the Property, excluding public streets, and alleys and any land owned by the annexing municipality, and Petitioners hereby consent to the establishment of the boundaries of the Property as shown on the annexation plat submitted herewith.

8. The Property is not presently a part of any incorporated city, city and county, or town; nor have any proceedings been commenced for incorporation or annexation of any area that is part or all of the Property; nor has any election for annexation of the Property or substantially the same territory to the Town been held within the twelve (12) months immediately preceding the filing of this Petition.

9. The proposed annexation will not result in detachment of area from any school district or attachment of same to another school district.

10. Except to the extent necessary to avoid dividing parcels within the Property held in identical ownership, at least fifty percent (50%) of which are within the three (3) mile limit, the proposed annexation will not extend the municipal boundary of the Town more than three (3) miles in any direction from any point of the current municipal boundary.

11. The proposed annexation will not result in the denial of reasonable access to any landowner, owner of an easement, or owner of a franchise adjoining a platted street or alley which has been annexed by the Town but is not bounded on both sides by the Town.

12. In establishing the boundaries of the Property, no land which is held in identical ownership, whether consisting of a single tract or parcel of real estate or two or more contiguous tracts or parcels of real estate:

(a) is being divided into separate parts or parcels without the written consent of the landowner or landowners thereof unless such tracts or parcels are separated by a dedicated street, road or other public way; or

(b) comprising twenty (20) acres or more and together with buildings and improvements situate thereon having a valuation for assessment in excess of $200,000.00
for ad valorem tax purposes for the year next preceding the proposed annexation, is included in the Property without the written consent of the landowner or landowners.

13. If a portion of a platted street or alley is to be annexed, the entire width thereof is included within the Property.

14. The affidavit of the circulator of this Petition certifying that the signature on this Petition is the signature of the person whose name it purports to be and certifying the accuracy of the date of such signature is attached hereto as Exhibit B and is incorporated herein by this reference.

15. This Petition is accompanied by four prints of an annexation map containing, among other things, the following information:

(a) A written legal description of the boundaries of the Property;

(b) A map showing the boundary of the Property;

(c) Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks; and

(d) Next to the boundary of the Property, a drawing of the contiguous boundary of the annexing municipality abutting the Property.

16. In connection with the processing of this Petition, Petitioner requests that the Town:

(a) Institute zoning and subdivision approval processes for the Property in accordance with Section -115 of the Annexation Act and Chapter 16 of the Municipal Code of the Town; and

(b) Approve and execute an annexation and development agreement ("Annexation and Development Agreement") which establishes vested property rights for the Property for an agreed upon term greater than three years pursuant to Article 68, Title 24, Colorado Revised Statutes, and otherwise establishes the development plan for the Property.

17. Petitioner has filed this Petition subject to the following conditions:

(a) Concurrently with its approval of annexation of the Property, the Town Board: (i) approves for those portions of the Property which are not public right-of-way, zoning and subdivision which is substantially consistent with the applications for zoning and subdivision which Petitioners submit in connection with this Petition; and (ii) approves and authorizes execution of the Annexation and Development Agreement.

(b) Petitioners hereby reserve the sole, exclusive and unilateral right to withdraw this Petition by notifying the Town Clerk in writing at any point prior to the later to occur of: (i) forty (40) days after the latest effective date of the final ordinance(s) approving annexation of the Property, the Annexation and Development Agreement, or zoning of the Property as requested pursuant to this Petition; or (ii) any later date contemplated in such Annexation and Development Agreement.

(c) Prior to expiration of the period described in the foregoing subparagraph (b) without Petitioners having withdrawn the Petition, neither Petitioners nor the Town shall cause or permit the occurrence of the conditions to effectiveness of the annexation as set forth in Section -113(2)(b) of the Annexation Act.

18. Upon the annexation of the Property becoming effective, and subject to the conditions set forth in this Petition and to be set forth in the Annexation and Development Agreement, the Property shall become subject to all ordinances, resolutions, rules and regulations of the Town, except as otherwise set forth in the Annexation and Development Agreement, and except for general property taxes of the Town, which shall become effective on January 1 of the next succeeding year following adoption of the annexation ordinance.
19. This Petition is filed on the condition that, concurrently with its approval of annexation of the Property, (i) the Town Board approve zoning and subdivision of the Property that is substantially consistent with the applications for zoning and subdivision approvals which Petitioners will submit following the Town making the required finding of this Petition's substantial compliance with the requirements of the Annexation Act, and (ii) the Town Board approves and authorizes execution of the Annexation and Development Agreement.

20. Except for the terms and conditions of this Petition and of the Annexation and Development Agreement, which terms and conditions Petitioners expressly approve and therefore do not constitute an imposition of additional terms and conditions within the meaning of Section -107(1)(g) of the Annexation Act, Petitioners request that no additional terms and conditions be imposed upon annexation of the Property to the Town.

THEREFORE, Petitioners request that the Board of the Town of Timnath, Colorado, complete and approve the annexation of the Property pursuant to the provisions of the Municipal Annexation Act of 1965, as amended.

Respectfully submitted this 19th day of September, 2013.

Signature of Landowners/Petitioners:

WILLIAM DEXTER SWETS aka WILLIAM D. SWETS, an individual

By:

Date of Signature: 9/19/2013

Mailing Address: C/O Goldberg Properties
195 West 12th Ave.
Denver, CO 80204

Resident of the Property? NO

STATE OF COLORADO )
COUNTY OF )

The foregoing instrument was acknowledged before me this 19th day of September, 2013, by WILLIAM DEXTER SWETS aka WILLIAM D. SWETS, an individual.

Witness my hand and official seal.

Notary Public

My commission expires 1/1/17

My Commission expires 1/1/17
JOHN CHARLES SWETS, aka JOHN C. SWETS, deceased, and MARJORIE E. SWETS, an individual and as successor in interest to JOHN CHARLES SWETS aka JOHN C. SWETS

By: ______________________________
Mark Goldberg, Authorized Agent

Date of Signature: 9/18/19

Mailing Address: C/O Goldberg Properties
195 West 12th Ave.
Denver, CO 80204

Resident of the Property? NO

STATE OF COLORADO
COUNTY OF

The foregoing instrument was acknowledged before me this 9th day of September, 2013, by Mark Goldberg, as Authorized Agent to Marjorie Swets, an individual and as successor in interest to JOHN CHARLES SWETS, aka JOHN C. SWETS, deceased.

Witness my hand and official seal.

Notary Public

DAINA M.

My commission expires 8/19/17
EXHIBIT A

TO PETITION FOR ANNEXATION

Legal Description of Property

A parcel of land being a portion of the Northeast Quarter of Section Three, Township Twenty-six North, Range Six, west, Fourth Principal Meridian, in the County of Larimer, State of Colorado.

Commencing at the North Quarter Corner of said Section 3 and extending the North line of the Northeast Quarter of said Section 3 bearing South 89° 42' 25" East a distance of 2,045.70 feet with all other bearings therein relative thereto;

HENCE South 89° 42' 25" East along the North line of the Northeast Quarter of said Section 3 a distance of 1,991.50 feet to the West line of the Harmony Road Second Annexation to the Town of Larimer;

HENCE South 12° 35' 22" West along the West line of the Harmony Road Second Annexation to the Town of Larimer a distance of 2,080.98 feet to the Southwest corner thereof;

HENCE South 89° 42' 25" East along the South line of the Harmony Road Second Annexation to the Town of Larimer a distance of 717 feet to the Western line of the Harmony Road Enterprise, 111 P Second Annexation to the Town of Larimer;

The following two (2) courses are along the Western line of the Harmony Road Enterprise, 111 P Second Annexation to the Town of Larimer:

HENCE South 14° 10' 08" West a distance of 567.00 feet;

HENCE North 22° 57' 22" East a distance of 914.57 feet to the Westerly line of the Eastern Quarter of said Section 3; and

Annexation No. 2 to the Town of Larimer;

The following four (4) courses are along the Northerly, Western, and Southwesterly boundaries of the 111 P Second Annexation No. 2 to the Town of Larimer:

HENCE South 89° 42' 41" West a distance of 183.12 feet;

HENCE North 22° 57' 22" West a distance of 89.24 feet;

HENCE South 14° 10' 08" West a distance of 215.47 feet;

HENCE North 22° 57' 22" East a distance of 98.75 feet to the Western line of the Harmony Road Enterprise, 111 P Second Annexation to the Town of Larimer;

HENCE South 26° 07' 29" East along the Western line of the Harmony Road Enterprise, 111 P Second Annexation a distance of 724.35 feet to the Northerly line of that parcel of land extending to the Town of Larimer known as a Public Road in a Special Warranty Deed recorded as Reception No. 2008-0707555 at the Records of Larimer County;

The following six (6) courses are along the perimeter lines of said parcel of land, hereafter to be used as a Public Road in a Special Warranty Deed recorded as Reception No. 2008-0707555:

HENCE North 89° 42' 41" East a distance of 1,056.70 feet to the Northeast corner thereof;

HENCE South 89° 42' 41" East a distance of 644.38 feet to the Southeast corner thereof;

HENCE South 89° 42' 41" East a distance of 2,080.98 feet to the South line of the Northeast Quarter of said Section 3;

HENCE North 22° 57' 22" West a distance of 1,056.70 feet to the West line of the Northeast Quarter of said Section 3;

HENCE South 26° 07' 29" East along said South line a distance of 260.75 feet to the West line of the Northeast Quarter of said Section 3;

TOTAL ANNEXED AREA for the Harmony Road First Annexation of 111 P Second Annexation

[2011]33 DOC 11
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LEGAL DESCRIPTION OF PROPERTY OWNED

EXHIBIT B

1. The North Quarter of the Northeast Quarter of Section 1, Township 1 North, Range 1 West,

2. A tract of land in the South Half of the West Half of Section 4, Township 1 North, Range 1 West,

3. A tract of land in the Northeast Quarter of Section 2, Township 1 North, Range 1 West,

4. A tract of land in the South Half of the West Half of Section 3, Township 1 North, Range 1 West.
EXHIBIT C
TO PETITION FOR ANNEXATION

Affidavit of Circulator

The undersigned, being of lawful age, who being first duly sworn upon oath deposes and says:

That (s)he was the circulator of the foregoing Petition for Annexation of lands to the Town of Timnath, Colorado, consisting of 6 pages, excluding the page(s) of this Exhibit C, and that the signatures of the petitioners thereon were witnessed by the circulator and are the true and original signatures of the persons whose names they purport to be, and that the dates of such signatures are correct.

Circulator — William McDowell

STATE OF COLORADO )
COUNTY OF ) ss.

The foregoing AFFIDAVIT OF CIRCULATOR was subscribed and sworn to before me this 10th day of September 2013, by William McDowell.

Witness my hand and official seal.

My commission expires:

Notary Public