TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 82, SERIES 2015

A RESOLUTION APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT
FOR TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH, AND FUTURE FILINGS

WHEREAS, the Town Council of the Town of Timnath ("Town") pursuant to C.R.S. § 31-15-103, has the power to pass resolutions; and

WHEREAS, attached hereto as Exhibit A is the SUBDIVISION IMPROVEMENT AGREEMENT FOR TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH, AND FUTURE FILINGS between the TOWN OF TIMNATH and TIMNATH RANCH, LLC (the "Agreement"); and

WHEREAS, the Town Council is familiar with the Agreement and finds it to be in the best interest of the Town, its residents, and the general public.

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

Section 1. Approval
The Agreement is hereby approved in substantially the form as attached hereto, subject to technical or otherwise non-substantive modifications, as deemed necessary by the Town Manager in consultation with the Town Planner, Engineer, Legal Counsel, and other applicable staff or consultants.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON NOVEMBER 10, 2015.

TOWN OF TIMNATH, COLORADO

Jill Grossman-Belisle, Mayor

ATTEST:

Milissa Peters
CMC
Town Clerk
EXHIBIT A

AGREEMENT
AMENDED AND RESTATED
SUBDIVISION IMPROVEMENT AGREEMENT FOR
TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH AND FUTURE FILINGS

THIS AGREEMENT made as of this 10th day of November, 2015 by and between TOWN OF TIMNATH, COLORADO, a Colorado municipal corporation (the “Town”); and Timnath Ranch, LLC (the “Developer”). Collectively, the Town and the Developer are referred to herein as the “Parties”.

RECITALS

A. Developer is the owner of those certain parcels of that certain real property located in Town of Timnath, as further described in Exhibit A, a copy of which is attached hereto and incorporated herein by reference (the “Property”).

B. The Property was annexed to Town by Ordinance No. 6-2004, adopted on May 5, 2004, and is subject to the terms and conditions of that certain Annexation and Development Agreement for the Timnath Ranch Property between the Town and Developer, dated as of May 5, 2004 and recorded against the Property in the Larimer County Real Property Records on June 7, 2004, at Reception No. 20045054883, and the Weld County Real Property Records on June 7, 2004, at reception No. 3187679, and as amended by that certain First Amendment to Annexation and Development Agreement for the Timnath Ranch Property, dated May 25, 2005 (collectively, the “Annexation Agreement”).

C. On February 7th, 2007, the Town Council of Town of Timnath, after holding all necessary public hearings and having received a recommendation of approval from the Timnath Planning Commission, approved by Resolution No. E-2007, a final plat for Filing Three of the development of the Property.

D. On June 10, 2014, the Town Council of the Town of Timnath introduced, moved and adopted Resolution No. 35, Series 2014, a Resolution approving the Timnath Ranch Settlement Agreement (the “Settlement Agreement”).

E. The approval of any final plat for the Property is conditioned upon the execution of this Subdivision Improvement Agreement (the “Agreement”), which establishes the obligation of Developer to provide certain public improvements and landscaping necessitated by the proposed development of the Property.

F. Developer acknowledges that the obligations of Developer set forth herein are reasonably attributable to the special impacts which will be generated by the proposed uses of the Property, and that the terms and conditions set forth in this Agreement are necessary, reasonable and appropriate.
AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which are mutually acknowledged, the parties hereto agree as follows:

1. **Purpose.** The purpose of this Agreement is to set forth the terms and conditions of the Developers covenant to provide Public Improvements, as defined below, for the Property, and the fees to be paid by the Developer associated with additional public infrastructure necessary to support the development of the Property. All conditions contained herein are in addition to the provisions of the Annexation Agreement, all land use approvals previously granted by Town for the Property, any and all requirements of the Town of Timnath Municipal Code, any and all applicable local, state, and federal law, and any other ordinances of Town of Timnath. The obligations of this Agreement are not intended to supersede any statutory or regulatory requirements referenced in this paragraph.

2. **Definitions.** Unless this Agreement otherwise clearly indicates, the following words and phrases shall be defined as follows:

   A. **"Town"** shall refer to the Town of Timnath, Colorado, a Municipal Corporation organized pursuant to the laws of the State of Colorado, and shall include Town Manager, or other designee or official, body or agency designated by resolution, ordinance, or statute to act on behalf of Town.

   B. **"Developer"** shall mean Timnath Ranch, LLC, and shall include any agent as authorized by a formal operating agreement, corporate resolution, or similar document, and person acting in accordance with a duly executed and effective power of attorney granting the attorney-in-fact full authority to act in the stead of Developer.

   C. **"Code"** shall refer to the Timnath Municipal Code, including the Land Use Code therein, as it exists on the date of approval of any Final Plat and as it may be amended in the future.

   D. **"Landscaping"** shall refer to the landscaping for the Property described in this agreement and shown on the Landscaping Plan attached hereto as **Exhibit D**, including the cost thereof.

   E. **"Final Plat"** shall refer to any **"Timnath Ranch Subdivision"** plat filing for Filing Nos. 2, 3, 5, 6 and any future filings, or amendments approved in the future by the Town Council that have been or will be submitted in connection with any given Phase of development of the Property.

   F. **"Final Acceptance"** shall have the meaning set forth in Paragraph 13.

   G. **"Initial Acceptance"** shall have the meaning set forth in Paragraph 12.
H. "Phases" shall refer to development of the Property in separate phases, in accordance with the Phase Plan attached hereto as Exhibits E and F. Exhibits B-F, inclusive, attached hereto and incorporated herein by reference, identifying Public Improvements and Landscaping, are each separated into the appropriate Phase. It is assumed that all Phases shall be constructed in sequential numerical order. If Phases are not constructed in sequential order, any Public Improvements and Landscaping tied to a Phase that is being passed over nonetheless may, upon the Town’s determination in its reasonable discretion that such Public Improvements and Landscaping are necessary for the Phase being constructed, be required as if the Phases are being constructed in sequential order. Phases in Filing Nos. 3, 5, and any future filings are incorporated herein or may be incorporated in the future by amendment to the exhibits attached hereto.

II. "Property" shall mean the real property described in the recitals hereto.

J. "Public Improvements" shall refer to those facilities described in this Agreement and the Exhibits hereto, and shall include but not be limited to all potable and non-potable waterlines, sewer lines, fire hydrants, potable and non-potable water (if required) or sewer distribution facilities, irrigation facilities, drainage structures, paved streets, including curbs, sidewalks, gutters and necessary appurtenances, as shown on the Final Plat for each Phase and the associated construction documents.

K. "Warranty Period" shall have the meaning set forth in Paragraph 12.

3. Agreement and Other Requirements. Developer hereby understands and agrees that the Property is subject to the conditions and requirements of this Agreement, the Annexation Agreement, all Final Plats, the zoning for the Property, and the Settlement Agreement Dated June 10, 2014 at Resolution No. 35, Series 2014. The Parties agree and acknowledge that the official zoning map as described in Resolution No. F-2007, adopted by the Town on February 7, 2007, reflects the current zoning for the Property. Nothing herein shall relieve Developer of any financial obligation to Town contained in this Agreement or any other agreements to which Developer is a party or pursuant to Town Code.

4. Fees. In addition to all fees due pursuant to the Annexation Agreement, and as a condition to any person seeking a building permit for any improvement on the Property, the person seeking such building permit shall be required to pay all fees, charges and costs required by the Code at the time of application for the building permit.

A. Park Land Dedication: Heritage Park shall be dedicated by December 31, 2016, as prescribed in the Settlement Agreement attached hereto as Exhibit G. Developer acknowledges that there are remaining park public improvement requirements that shall be satisfied pursuant to the Town Code.

B. Boxelder Floodplain Mitigation Fee: A Conditional Letter of Map Revision ("CLOMR") is the Federal Emergency Management Agency’s ("FEMA") comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of
the existing regulatory floodway. The Boxelder Floodplain Mitigation Fee, including FEMA’s CLOMR fee, attributable to this Property is $6,726 per acre. The Property’s acreage to be removed from the Boxelder floodplain is 18.668 acres, as shown in the CLOMR map in Exhibit H-1, attached hereto and incorporated herein by reference. The total Boxelder Floodplain Mitigation Fee for the Property is $125,560.97, and shall be paid by the Developer to the Town, which fee shall be due on a pro rata basis upon recordation of the plat for the applicable filing.

C. School District Fees: The Parties acknowledge that Developer’s previous dedication of the Bethke Elementary School Site shall serve as satisfaction of Developer’s school district impact fee requirement, and that no school district fee in lieu shall be required in connection with the development of the Property.

5. **Completion of Public Improvements and Landscaping.** Developer shall install all Public Improvements and landscaping in compliance with the requirements of this Agreement at Developer’s expense. Toward this end, Developer is authorized to coordinate with a metropolitan district or districts to provide Public Improvements, but Developer shall retain primary responsibility for all Public Improvements. Any metropolitan districts are separate entities and are not parties to this Agreement. The Public Improvements and Landscaping required by this Agreement and shown on the Final Plat for each Phase and associated construction documents, are set forth on the Exhibits hereto, which Exhibits shall be supplemented as future plats are processed. The anticipated costs of the Public Improvements and the Landscaping are included in line-item format on the Exhibits attached hereto, as applicable. Developer acknowledges these costs are estimates and the actual costs of such Public Improvements and Landscaping may vary between approval of this Agreement and construction of the applicable Public Improvements and Landscaping. All Public Improvements and Landscaping covered by this Agreement shall be constructed in accordance with the Final Plat for each Phase and associated plans and construction documents, which shall be approved by the Town and shall be drawn according to the Town’s then-existing regulations and construction standards for such Public Improvements and Landscaping (collectively, the “**Approved Plans**”).

6. **Public Improvements to be Managed by Districts.** Developer has included the Property within the Town’s boundaries for the purpose of securing potable water services to the Property to be provided by Fort Collins Loveland Water District (the “**Water District**”), and for the purpose of securing sanitary sewer services to the Property to be provided by South Fort Collins Sanitation District (the “**Sewer District**”) (the Water District and Sewer District are collectively referred to as the “**Districts**”). Developer acknowledges that it is in the Town’s best interest that ongoing potable water and sanitary sewer services and infrastructure are properly coordinated with services and infrastructure to be provided by the Town. Therefore, the Public Improvements, except where specifically provided otherwise, include the facilities to be constructed by the Developer that are required by each of the Districts.

7. **Building Permits.** There shall be no issuance of any building permits by the Town for lots within any defined Phase until all Public Improvements within that Phase, excluding Landscaping and irrigation, have been granted Initial Acceptance, as defined below, by the Town as provided for in the Code. There shall be no issuance of any occupancy certificates within any Phase
until all Public Improvements within that Phase, including Landscaping, irrigation, and signage, have been granted Initial Acceptance by the Town as provided for in the Code. As a limited exception to the requirements contained in this Paragraph, the Town hereby agrees that up to six (6) building permits for model homes may be issued and outstanding at any given time for the entirety of the Property upon the completion of water and sanitary sewer improvements, which have been approved by all applicable regulatory entities, and completion of an all-weather surface on streets within the applicable Phase of the Property.


A. Completion Security for Public Improvements. To assure the construction, installation, and completion of the Public Improvements in all Phases of the Property, Developer shall, prior to commencing any work within a particular Phase of the Property, furnish Town an irrevocable sight draft letter of credit or other security reasonably acceptable to Town ("Completion Security") to secure the completion of Public Improvements required by this Agreement for the applicable Phase of the development. Town shall be designated as a beneficiary of the Completion Security. The Completion Security shall be provided Phase by Phase and shall be in an amount equal to one hundred twenty-five percent (125%) of the estimated costs of the Public Improvements to be completed within a Phase. The amount of the Completion Security shall not include the portion of the Public Improvements which are to be constructed for the water improvements managed by the Water District or the sanitary sewer improvements managed by the Sewer District. Upon provision of such Completion Security to Town in a manner acceptable to Town for the applicable Phase, building permits may be issued by Town within such Phase. Upon issuance of a letter of Initial Acceptance by the Town engineer in accordance with the provisions herein, the Completion Security will be reduced to twenty percent (20%) of the actual costs related to the specific Public Improvements which received Initial Acceptance. Upon Initial Acceptance of all of the Public Improvements within a Phase, the Town may, at its discretion, reduce the Completion Security to ten percent (10%) of the actual costs of the Public Improvements for that Phase. The Completion Security shall remain in place until Final Acceptance, as defined below, is issued by the Town for the improvements within the applicable Phase.

B. Warranty Security. Developer shall warrant any and all Public Improvements for a period of two (2) years from the date Town issues a letter of Initial Acceptance for the applicable Phase that has been constructed. As a condition to issuance of any letter of Initial Acceptance of any Public Improvements, Developer shall provide to Town a warranty bond or other security in a form satisfactory to Town ("Warranty Security"), and in the amount of the remaining Completion Security set forth in paragraph above, to ensure that Public Improvements for which Initial Acceptance has occurred will attain Final Acceptance by Town during the Warranty Period, which Warranty Security will be satisfied by either retention or replacement of the remaining Completion Security. If prior to the issuance of a letter of Final Acceptance, any significant warranty work is required in connection with Public Improvements for which a letter of Initial Acceptance has been issued by Town, Town may require Warranty Security for up to two (2) years from the date of completion of such significant warranty work, provided that the two (2) year period for the remainder of the Public Improvements in such Phase shall not be so extended. In such event, Town shall issue
a supplemental letter of Initial Acceptance specifying the Warranty Security required by Town and the work to be completed by Developer prior to issuance of a letter of Final Acceptance for such Public Improvements.

9. **Public Improvement Construction Plan Review.** The plans and construction documents for all Public Improvements shall be drawn according to regulations and construction standards of Town for such improvements. All applicable plans for Public Improvements shall be subject to review and approval by Town to determine if such plans are in general conformance with applicable Town standards. No commencement of construction of Public Improvements shall occur without plan approval by Town. Prior to commencement of construction of any Public Improvement, Developer shall attend a pre-construction meeting with Town engineer to assure compliance of all proposed activities with this Agreement and the Code.

10. **Construction Testing.** Developer, at its sole expense, shall employ a professionally qualified, independent testing company to perform all testing of materials or construction as may be reasonably required by Town to ensure compliance with applicable standards and specifications. All testing companies so employed by Developer shall maintain and have in effect a professional liability insurance policy with policy limits of at least one million dollars ($1,000,000), which will provide coverage for damage sustained by Town which is caused by the professional negligence of such company, its employees or agents in completing such testing and shall provide proof of insurance to Town upon request. Developer shall furnish Town with certified copies of test results and agrees to release and authorize full access to Town and its designated representatives for all work-up materials, procedures and documents used in preparing the test results.

11. **Construction Inspection.** At all times during construction of the Public Improvements and until Final Acceptance thereof by Town, Town shall have the right, but not the duty, to inspect materials and workmanship to ascertain conformance with the Approved Plans and applicable standards and specifications. Developer shall reasonably cooperate and assist Town in gaining appropriate access to the areas designated for the inspection. It shall be the duty of Developer for a period of two (2) years after Final Acceptance of any Public Improvement to notify Town upon discovery of any nonconformance of such Public Improvement with said plans, standards and specifications. Inspection and acceptance of work by the Town shall not relieve Developer of any responsibility under third party claims under common law, regardless of initial or Final Acceptance thereof.

12. **Initial Acceptance of Public Improvements.** Upon substantial completion of construction by Developer of the applicable Phase of such Public Improvements, and upon notification thereof to Town by Developer, the Town engineer shall inspect such Public Improvements and certify with specificity their conformity or lack thereof with the Approved Plans. At such time, Developer shall make all corrections necessary to bring the Public Improvements into conformity with such Approved Plans. Upon satisfactory completion of the initial inspection and completion of corrections by Developer, and after submission of required documents to Town, including written and electronic record plans and the applicable Warranty Security, Town shall certify Initial Acceptance of the Public Improvements and evidence the same by issuance of letter of initial acceptance from Town engineer to Developer specifying in detail the Public Improvements
being initially accepted ("Initial Acceptance Letter"). Initial Acceptance for any Phase shall be
deemed to have occurred upon the issuance of the applicable Initial Acceptance Letter. The two (2)
year Warranty Period (the "Warranty Period") for the applicable Phase shall commence on the date
set forth in the Initial Acceptance Letter. Except as otherwise set forth herein, Initial Acceptance of
all Public Improvements by Town for any Phase shall be an express condition to the issuance of any
certificates of occupancy for such Phase of the Property for which such Public Improvements are
required.

13. Final Acceptance of Public Improvements. Upon expiration of the Warranty Period
set forth in the Initial Acceptance Letter for Public Improvements for the applicable Phase,
Developer shall provide notice to Town engineer that the Public Improvements are ready for final
inspection. Upon satisfactory completion of the final inspection, and after conveyance of the Public
Improvements as provided herein, and after payment of all fees due Town related to the Property,
Town shall certify Final Acceptance of the Public Improvements and evidence the same by issuance
of letter of Final Acceptance from Town engineer to Developer specifying in detail the Public
Improvements being finally accepted and the Warranty Security for such Phase shall be released
("Final Acceptance"). No letter of Final Acceptance shall be issued without advance approval of
Town Council. The letter of Final Acceptance shall set forth the date of Town Council approval.
Absent such consent, Developer shall not be entitled to rely on such letter for any reason. If upon
final inspection by Town, significant defects are discovered, Town may elect to issue a supplemental
letter of Initial Acceptance (instead of Final Acceptance) specifying corrective work to be completed
and additional Warranty Period in accordance with paragraph 8 above. All such corrective work
shall be the sole expense of Developer.

14. Documents Provided to Town Upon Initial Acceptance. Developer shall provide all
necessary engineering designs, surveys, field surveys, and incidental services related to the
construction of the Public Improvements, at its sole cost and expense, including reproducible record
plans drawings certified accurate by a professional engineer registered in the State of Colorado.
Developer shall provide Town and the Districts copies of such record plans drawings in written and
electronic format as specified by Town upon Initial Acceptance. As-built drawings shall be required
for all Public Improvements constructed by the Developer that will be dedicated to the Town.

15. Conveyance or Dedication of Improvements. Except for Public Improvements
dedicated to the Water District, Sewer District, or metropolitan districts organized to serve the
Property, as applicable, as a condition of Final Acceptance, Developer shall convey to Town all
Public Improvements required by the Final Plat for each Phase and, upon request by Town, shall
execute such bills of sale as Town may request to assure title thereto is vested in Town
notwithstanding the date of construction or Initial Acceptance of such Public Improvements.
Acceptance of Public Improvements by dedication on the Final Plat shall not constitute Initial or
Final Acceptance of such improvements.

16. Proof of Ownership. Prior to the recordation of any plat, a title commitment for the
Property shall be provided to Town at the expense of Developer. The title commitment shall show
that any portion of the Property to be dedicated to Town, and all property reserved or dedicated for
public purposes, is or shall be, free and clear of all liens and encumbrances (other than real estate
taxes which are not yet due and payable) which would make the dedications unacceptable as Town
determines in its reasonable discretion. A title policy evidenced by the title commitment shall be
provided by Developer within thirty (30) days of execution hereof as to any property to be dedicated
to Town pursuant to such Plat in an amount equal to the fair market value of such property. An
update to such title commitment shall be provided upon request of Town as a condition of Final
Acceptance, with the policy evidenced by such commitment update to be provided thirty (30) days
after Final Acceptance. Developer further agrees to provide quitclaim deeds as deemed necessary by
the Town in order to facilitate proper categorization of the property for tax assessment purposes by
the Larimer County Tax Assessor.

17. Trails. The plans for the Property include trails to be open to the public. Such trails shall
be constructed with the Public Improvements of the Property as identified on the applicable Exhibits.
In addition, Developer shall construct any trails designated on the Property by the Town Parks,
Recreation, Open Space, and Trails Master Plan, dated May 2011, as amended and updated from
time to time (the “PROST Plan”) in compliance with all then-required width, materials, and
thickness requirements.

18. Improvements to Abutting Streets and Other Offsite Improvements. Exhibit C sets forth
the obligations of Developer for Phase by Phase improvements to abutting streets and other offsite
improvements necessitated by the development of the Project.

19. Breach by Developer; Town’s Remedies. Should Developer become aware of any
actual or anticipated breach of any of the terms and conditions of this Agreement by such Developer,
it shall notify Town of such actual or anticipated breach immediately. Should Town become aware
of any breach by notice from Developer or otherwise, Town may take such action as permitted or
authorized by this Agreement, the Code, or any applicable law, rule or regulation, as Town deems
necessary to protect the public health, safety, and welfare; to protect lot buyers and builders; and to
protect the citizens of Town from hardship and undue risk. These remedies include, but are not
limited to:

A. The refusal to issue any building permit or certificate of occupancy to
Developer for any lot(s) platted on the Property;

B. The revocation of any such building permit previously issued to Developer
under which construction directly related to such building permit has not commenced;

C. The issuance of a stop work order for any construction related to or impacted
by the breach;

D. Any other remedy available at law or in equity.

Unless necessary to protect the immediate health, safety, and welfare, or to protect the
interest of Town with regard to security given for the completion of the public improvements, Town
shall provide Developer thirty (30) days written notice of its intent to take any action under this
paragraph, during which thirty-day period Developer may cure the breach described in the notice and
prevent further action by Town; provided, however, if such breach cannot be reasonably cured within such thirty-day period, then Town agrees to reasonably extend such thirty-day period so long as Developer has commenced such cure within such thirty-day period and is diligently pursuing the same to completion. In no event shall the extension of time to cure the breach exceed ninety days.

20. **Indemnification.** Developer shall indemnify and hold harmless Town, its officers, employees, agents or servants from any and all suits, actions, and claims of every nature and description caused by, arising from or on account of any act or omission of Developer, or of any other person or entity for whose act or omission Developer is liable with respect to construction of the Public Improvements through the date of Final Acceptance; and Developer shall pay any and all judgments rendered against Town as the result of any suit, action or claim, together with all reasonable expenses and attorneys fees incurred by Town in defending any such suit, action or claim, excluding only suits, actions and claims arising from Town’s independent gross negligence or intentional malfeasance. Developer’s indemnity obligations under this Section 20 shall run through the expiration of all applicable statutes of limitations commencing upon the issuance of Final Acceptance. Developer shall pay all property taxes on the Property dedicated to Town to the date of conveyance after Final Acceptance, and shall indemnify and hold harmless Town for any property tax liability until such time as the Larimer County Tax Assessor updates its records to reflect said dedication.

21. **Insurance.** Developer shall, during the construction of Public Improvements and through the date of Final Acceptance, have and maintain in full force and effect comprehensive liability insurance providing coverage to such Developer and its employees, providing general liability, and comprehensive automobile liability insurance. Developer shall also require that all its contractors, subcontractors, representatives and agents have and maintain similar coverage, including professional liability, if applicable. Coverage on all policies shall not be less than the per occurrence cap as set forth in the Colorado Governmental Immunity Act as that Act may from time to time be amended. Additionally, the policies of Developer and each of Developer’s contractors, subcontractors, representatives and agents shall name Town and its agents, officials and employees, provided such individuals are acting within the ordinary scope of their duties to the Town, as additional insureds. Developer shall at all times fully comply with the Colorado Worker’s Compensation Act, and shall use its best reasonable efforts to ensure that each of its contractors and subcontractors are in full compliance with the Act. Prior to, and as a condition of the issuance of any building permits by Town, Developer shall submit certificates of insurance in compliance with the standards set forth above. Nothing herein shall be construed to relieve or discharge Developer of its liability to Town or the Districts under the terms of this Agreement should Developer for any reason fail to procure and maintain any required insurance in sufficient amounts.

22. **Waiver of Defects.** In executing this Agreement, Developer waives all objections it may have concerning defects, if any, in the formalities whereby it is executed, or concerning the power of Town to impose conditions on Developer as set forth herein, and concerning the procedure, substance and form of the ordinances or resolutions adopting this Agreement, the Annexation Agreement, or any Final Plat.
23. **Modifications.** This Agreement shall not be amended except by subsequent written agreement of the parties. This Agreement contemplates that all future filings for Timnath Ranch by Timnath Ranch, LLC shall be incorporated herein by amendment to the exhibits as provided in Paragraph 2.H herein.

24. **Captions.** The captions to this Agreement are inserted only for the purpose of convenient reference, and in no way define, limit or prescribe the scope or intent of this Agreement or any part thereof.

25. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns as the case may be.

26. **Invalid Provision.** If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, and all of the other provisions shall remain in full force and effect. It is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void, and the other of which render the provision valid, then the provision shall have the meaning which renders it valid.

27. **Governing Law.** The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that exclusive venue for such suit or action shall be in Larimer County, Colorado.

28. **Attorney Fees.** Should this Agreement become the subject of litigation to resolve a claim of default of performance, the prevailing party shall be entitled to recover its reasonable attorney fees, expenses, and court costs.

29. **Notice.** All notice required under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address set forth below. Notice may also be given by telefax transmission, and shall be deemed received on the date of such transmission. Either party by notice so given may change the address to which future notices shall be sent.

Notice to Town: Town of Timnath
4800 Goodman Street
Timnath, Colorado 80547
Fax No. (970) 224-3217
With copy to: Town General Counsel
Robert G. Rogers, Esq.
White, Bear, Ankele, Tanaka & Waldron Professional Corporation
2154 E. Commons Ave, Suite 2000
Centennial, CO 80122
Telephone 303-858-1800
Fax No. 303-858-1802

Notice to Developer: Timnath Ranch, LLC
Jon A. Turner
8020 S. CR 5, Suite 200
Windsor, CO 80528

30. **Force Majeure.** Whenever a Developer is required to complete construction, repair or replacement of Public Improvements by an agreed deadline, such Developer shall be entitled to an extension of time equal to a delay in completing the foregoing due to unforeseeable causes beyond the control and without the fault or negligence of such Developer, including but not restricted to, acts of God, weather, fires and strikes.

31. **Approvals.** Whenever approval or acceptance of Town is necessary pursuant to any provisions of this Agreement, Town shall act reasonably and in a timely manner in responding to such request for approval or acceptance.

32. **Entire Agreement.** It is expressly understood that Town cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with documents approved by the Town Council at a public meeting. This Agreement, all Final Plats, and the Annexation Agreement embody the whole agreement of the Parties with respect to the Property. There are no promises, terms, conditions or obligations other than those contained herein, which together supersede all previous communications, representations or agreements, either verbal or written between the Parties hereto. In the event that the Property is subdivided and lots are sold to different individuals in the future, this Agreement may be amended by agreement between the Developer and Town, without consent of such future lot owners to the extent such amendment does not adversely affect such other future lot owners in a material manner as determined in the sole and absolute discretion of Town.

33. **Assignment or Assignments.** There shall be no transfer or assignment of any of the rights or obligations of a Developer under this Agreement without the prior written approval of Town, which approval shall not be unreasonably withheld if the transferee has qualifications and net worth acceptable to Town in its reasonable discretion and which transferee has assumed the obligations of Developer under this Agreement in writing to the satisfaction of Town. Any attempted assignment or delegation in violation hereof shall be null and void.

34. **Recording of Agreement.** The covenants of this Agreement touch and concern the Property. Therefore, this Agreement shall be promptly recorded in the real estate records of Larimer
County and shall be a covenant running with the Property in order to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof.

35. **Further Assurances.** The parties shall execute such additional documents and take such additional action as may be necessary to effectuate the intent of this Agreement.

36. **No Duress.** The Parties agree that this Agreement is freely and voluntarily executed by them after extensive negotiations between them and an opportunity for each party to obtain legal advice.

37. **Time is of the Essence.** Time is of the essence for both parties with respect to the obligations herein. The parties agree that they will each act in as expeditious a manner as reasonably possible in performing the obligations herein.

38. **Title and Authority.** Developer expressly warrants and represents to Town that as of the date hereof it is the record owner of all of the property constituting the Property. All the parties represent and warrant, together with the undersigned individual(s), that the undersigned individual(s) have full power and authority to enter into this Subdivision Improvement Agreement. Each party understands that the other parties are relying on such representations and warranties in entering into this Agreement.

39. **Recordation.** This Agreement shall be signed concurrently with recordation of a Final Plat. The exhibits to this Agreement shall be supplemented to include future filings concurrently with recordation of the Final Plat for each future filing.

40. **Marketing of Commercial Properties and Right of First Refusal.** Town and the Developer further agree and acknowledge a mutual interest in ensuring attractive development of the community commercial and mixed use section of the Property abutting Harmony Road on both the East and West Side of Club Drive, more particularly described as Tract A, Timnath Ranch Subdivision 3rd Filing, and Lots 1-4, Block 1, Timnath Ranch Subdivision 5th Filing (the **Commercial Properties**). Toward this end, the Parties agree that Developer shall provide a right of first refusal to the Town in connection with the proposed sale of the Commercial Properties (**Right of First Refusal**) in exchange for the Town’s commitment to assist in marketing of the Commercial Properties, using reasonable efforts including but not limited to discussing the Commercial Properties with potential purchasers, responding to inquiries, etc. The Right of First Refusal shall be effective for a period of three (3) years from the date hereof, with an option to renew. Developer and Town specifically acknowledge that Town’s marketing efforts shall be supplemental to Developer’s efforts. Developer further agrees that, if required for the proposed sale of the Commercial Properties, it shall make good faith efforts to coordinate with any overlying metropolitan districts in an effort to reduce the district mill levy assessed against the Commercial Properties.

*(Signature page to follow)*
WHEREFORE, the parties hereto have executed this Agreement on the day and year first above written.

Attest:

By: ____________
Milissa Peters, Town Clerk

TOWN OF TIMNATH, COLORADO

By: ____________
Jill Grossman Belisle, Mayor

TIMNATH RANCH, LLC

By: ____________
Jon. A. Turner, Manager/Member
EXHIBIT LIST

The following Exhibits are a part of and incorporated within the Subdivision Improvement Agreement for Timnah Ranch

EXHIBIT A  Property Description
EXHIBIT B  Public Improvement Schedule By Phase including Costs in Line-Item Format
EXHIBIT C  Abutting And Offsite Public Improvements By Phase Including Costs In Line-Item Format
EXHIBIT D  Landscape Plan By Phase Including Costs In Line-Item Format
EXHIBIT E  Phasing Plan
EXHIBIT F  Trail Plan by Phase
EXHIBIT G  Resolution No. 35, Series 2014: Settlement Agreement
EXHIBITS H1, H2, & H3  Flood Plain Removal Maps
EXHIBIT A

AMENDED AND RESTATED SUBDIVISION IMPROVEMENT AGREEMENT FOR
TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH, AND FUTURE FILINGS

PROPERTY DESCRIPTION

For Purposes of initial approval, the phasing plan map attached as Exhibit E shall serve as the
property description. Upon, approval and recordation of the Final Plats for Filing 3, Filing 5, Filing
6, and future filings, such documents shall be substituted and supplemented as the Exhibit A
Property Description.
EXHIBIT B

AMENDED AND RESTATED SUBDIVISION IMPROVEMENT AGREEMENT FOR TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH, AND FUTURE FILINGS

PUBLIC IMPROVEMENT SCHEDULE BY PHASE, INCLUDING COSTS IN LINE-ITEM FORMAT FOR FILING 3, FILING 5, FILING 6, AND FUTURE FILINGS

Wheatfield Drive will be required to be constructed concurrently when development crosses Sugar Creek Drive. Developer is responsible for any auxiliary/turn lanes required for County Road 1 at the intersection with Wheatfield Drive.

The Developer reserves the right to access and take the dirt within Tract K for grading and balancing and filling of the site for the on-site development work per previously approved plans and future plans to be approved by the Town. The Developer may be able to close portions of School House Road to remove dirt from Tract K as approved by the Town of Timnath. However, Developer will be required to submit a final grading plan for approval by the Town for removal of any dirt and before closing any portion of School House Road. The purpose of the final grading plan is to confirm that the resulting ground is appropriate for the intended use a town park.

School House Drive will be constructed in concurrence with Phases 4, 5 and 6. School House Drive shall be completed as a condition to Initial Acceptance and the issuance of any building permits in Phase 6 or any numerically subsequent Phase should commencement of construction of such subsequent Phase commence prior to construction of Phase 6. School House Drive need not be completed as a condition of Initial Acceptance of Phases 4 and 5. The Developer shall be responsible for basic improvements incident to School House Drive, including the following: street, street lights, and curb and gutter.

The inside section (west side of the street) of School House Drive from Wheatfield to Club Drive shall be completed with sidewalks, trees, and tree lawn by the start of Phase 15 construction or of any subsequent Phase should commencement of construction of such subsequent Phase commence prior to construction of Phase 15.

The outside portion (east side of the street) of School House Drive is to be completed with sidewalks, trees, and tree lawn when the adjoining property is developed. Adjoining property includes parcels that are behind the property that is directly fronting on School House Drive.

The cross section of intersections along School House Drive will remain the same as the existing areas that are already built, and designed waterline may be relocated out of School House Drive with approval from Fort Collins/Loveland Water District.
Conceptual Estimate of Construction Costs

Project Name: Timnath Ranch 3rd Filing Phase 4  Date: July 1, 2015

<table>
<thead>
<tr>
<th></th>
<th>Quantity</th>
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<td>EARTHWORK</td>
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CONSTRUCTION HARD COSTS:

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<td>EARTHWORK</td>
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<td>$5,340.00</td>
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CONCRETE

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ASPHALT PAVING

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EROSION CONTROL
Conceptual Estimate of Construction Costs

Timnath Ranch 3rd Filing Ph-4a

Date: September 16, 2015

EARTHWORK $ 9,975.00
MISCELLANEOUS $ 92,710.00

Total Estimate $ 102,685.00

CONSTRUCTION HARD COSTS:

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<tr>
<td>8' Concrete Trail (6&quot;)</td>
<td>3,175 LF</td>
<td>29.20</td>
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Conceptual Estimate of Construction Costs

Project Name: Timnath Ranch 3rd Filing Phase 5  
Date: July 1, 2015

<table>
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<td>STORM DRAINAGE</td>
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<td>$ 169,907.00</td>
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<td>CONCRETE</td>
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<td>$ 224,584.00</td>
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<td>ASPHALT PAVING</td>
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<td>$ 271,669.00</td>
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<tr>
<td>EROSION CONTROL</td>
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<td></td>
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**CONSTRUCTION HARD COSTS:**

**EARTHWORK**

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<tr>
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**STORM DRAINAGE**

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<th>Item</th>
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<tr>
<td>Remove Existing 42&quot; RCP Plug &amp; Tie-In</td>
<td>1</td>
<td>EA</td>
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<td>$ 350.00</td>
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<tr>
<td>15&quot; Class 3 R.C.P.</td>
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<td>LF</td>
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<td>18&quot; Class 3 R.C.P.</td>
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<td>42&quot; Class 3 R.C.P.</td>
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<td>18&quot; RCP Flared End Section</td>
<td>1</td>
<td>EA</td>
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<tr>
<td>42&quot; RCP Flared End Section</td>
<td>1</td>
<td>EA</td>
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<td>$ 1,650.00</td>
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<tr>
<td>6&quot; x 3&quot; RBC W/headwalls, wingwalls, trashrack</td>
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<td>60&quot; Dia. Storm Manhole</td>
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<td>Type (L) Rip-Rap (dS0=5&quot;)</td>
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<td>Type (H) Rip-Rap (dS0=18&quot;)</td>
<td>48</td>
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**STORM DRAINAGE** $ 169,907.00
Conceptual Estimate of Construction Costs

Project Name: Timnath Ranch 3rd Filing Phase 5  

Date: July 1, 2015

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<tr>
<td>30&quot; Vertical Curb &amp; Gutter w/prep.</td>
<td>275 LF</td>
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<td>Driveover Curb &amp; Gutter w/prep.</td>
<td>4,019 LF</td>
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<tr>
<td>20' Square Radii w/HC Ramp, Det-Walk w/prep.</td>
<td>8 EA</td>
<td>$</td>
<td>2,670.00</td>
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<td>Concrete Cross Pan (8&quot;) w/prep.</td>
<td>1,024 SF</td>
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<td>2' Curb Cut w/ Metal Chase w/prep.</td>
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**CONCRETE** $224,584.00

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<th>Unit Cost</th>
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**ASPHALT PAVING** $271,669.00

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<th>Quantity</th>
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<td>600 LF</td>
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<tr>
<td>5' Gravel Inlet Sock Filter</td>
<td>4 EA</td>
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<td>Vehicle Tracking Control</td>
<td>2 EA</td>
<td>$</td>
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<td>Straw Mulch</td>
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<td>550.00</td>
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**EROSION CONTROL** $17,968.00

Conceptual Cost Estimate Total $817,166.00
Conceptual Estimate of Construction Costs

Project Name: Timnath Ranch 3rd Filing Ph-6 Date: September 1, 2015

<table>
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<th>Quantity</th>
<th>Unit</th>
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<tr>
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**CONSTRUCTION HARD COSTS:**

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<th>Work</th>
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<td>48&quot; RCP Flared End Section</td>
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<td>5' Type R Inlet</td>
<td>3 EA</td>
<td>EA</td>
<td>4,494.00</td>
<td>13,482.00</td>
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<td>10' Type R Inlet</td>
<td>1 EA</td>
<td>EA</td>
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<td>Area Inlet 3'x3'</td>
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**STORM DRAINAGE** $185,683.00
# Conceptual Estimate of Construction Costs

**Project Name:** Timnath Ranch 3rd Filing Ph-6  
**Date:** September 1, 2015

## CONCRETE

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<th>Quantity</th>
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<th>Unit Cost</th>
<th>Total Unit</th>
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</thead>
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<td>5' Detached Walk w/prep.</td>
<td>2,545 LF</td>
<td>$</td>
<td>19.50</td>
<td>$49,628.00</td>
</tr>
<tr>
<td>10' Detached Walk w/prep.</td>
<td>2,183 LF</td>
<td>$</td>
<td>35.50</td>
<td>$77,497.00</td>
</tr>
<tr>
<td>20' Square Radii w/HC Ramp, Det-Walk w/prep.</td>
<td>4 EA</td>
<td>$</td>
<td>2,670.00</td>
<td>$10,680.00</td>
</tr>
<tr>
<td>Concrete Cross Pan (8&quot;) w/prep.</td>
<td>864 SF</td>
<td>$</td>
<td>6.50</td>
<td>$5,616.00</td>
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</tbody>
</table>

**CONCRETE** $258,814.00

## ASPHALT PAVING

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>4&quot; HBP/6&quot; ABC Paving w/prep.</td>
<td>5,719 SY</td>
<td>$</td>
<td>21.60</td>
<td>$123,530.00</td>
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<tr>
<td>6 1/2&quot; HBP/9&quot; ABC Paving w/prep.</td>
<td>10,762 SY</td>
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<td>35.20</td>
<td>$378,822.00</td>
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<tr>
<td>Mobilization</td>
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<tr>
<td>Street Signs</td>
<td>4 EA</td>
<td>$</td>
<td>700.00</td>
<td>$2,800.00</td>
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</tbody>
</table>

**ASPHALT PAVING** $506,652.00

## EROSION CONTROL

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Straw Bale Area Inlet Filter</td>
<td>3 EA</td>
<td>$</td>
<td>170.00</td>
<td>$510.00</td>
</tr>
<tr>
<td>Straw Bale Inlet Filter</td>
<td>1 EA</td>
<td>$</td>
<td>170.00</td>
<td>$170.00</td>
</tr>
<tr>
<td>Straw Waddle Barrier</td>
<td>450 LF</td>
<td>$</td>
<td>7.50</td>
<td>$3,375.00</td>
</tr>
<tr>
<td>Straw Bale Check Dam</td>
<td>40 EA</td>
<td>$</td>
<td>150.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>5' Gravel inlet Sock Filter</td>
<td>3 EA</td>
<td>$</td>
<td>120.00</td>
<td>$360.00</td>
</tr>
<tr>
<td>10' Gravel inlet Sock Filter</td>
<td>1 EA</td>
<td>$</td>
<td>105.00</td>
<td>$105.00</td>
</tr>
<tr>
<td>Sediment Trap</td>
<td>1 EA</td>
<td>$</td>
<td>250.00</td>
<td>$250.00</td>
</tr>
<tr>
<td>Vehicle Tracking Control</td>
<td>2 EA</td>
<td>$</td>
<td>975.00</td>
<td>$1,950.00</td>
</tr>
<tr>
<td>Silt Fence</td>
<td>2,800 LF</td>
<td>$</td>
<td>1.75</td>
<td>$4,900.00</td>
</tr>
<tr>
<td>Erosion Seeding</td>
<td>12 AC</td>
<td>$</td>
<td>450.00</td>
<td>$5,400.00</td>
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<tr>
<td>Straw Mulch</td>
<td>5 AC</td>
<td>$</td>
<td>550.00</td>
<td>$2,750.00</td>
</tr>
</tbody>
</table>

**EROSION CONTROL** $25,770.00

Conceptual Cost Estimate Total $1,030,400.00
Conceptual Estimate of Construction Costs:
"Right of Way"

Project Name: Timnath Ranch Subdivision Sixth Filing  Date: September 1, 2015

<table>
<thead>
<tr>
<th>EARTHWORK</th>
<th>$ 47,165.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONCRETE</td>
<td>$ 284,423.00</td>
</tr>
<tr>
<td>ASPHALT PAVING</td>
<td>$ 365,100.00</td>
</tr>
<tr>
<td>EROSION CONTROL</td>
<td>$ 16,874.00</td>
</tr>
<tr>
<td><strong>Total Estimate</strong></td>
<td><strong>$ 713,562.00</strong></td>
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**CONSTRUCTION HARD COSTS:**

<table>
<thead>
<tr>
<th>EARTHWORK</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cut/Fill C.I.P.</td>
<td>19,882 CY</td>
<td>$2.25</td>
<td>$44,735.00</td>
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</tr>
<tr>
<td>Final Shape, Grade</td>
<td>1 LS</td>
<td>$2,430.00</td>
<td>$2,430.00</td>
<td></td>
</tr>
<tr>
<td><strong>EARTHWORK</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$ 47,165.00</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CONCRETE</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Driveover Curb &amp; Gutter w/prep.</td>
<td>3,813 LF</td>
<td>$16.90</td>
<td>$64,440.00</td>
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</tr>
<tr>
<td>30&quot; Vertical Curb &amp; Gutter w/prep.</td>
<td>2,332 LF</td>
<td>$16.90</td>
<td>$39,411.00</td>
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</tr>
<tr>
<td>5' Detached Walk w/prep.</td>
<td>6,298 LF</td>
<td>$19.50</td>
<td>$122,811.00</td>
<td></td>
</tr>
<tr>
<td>5' Concrete Walkway w/prep.</td>
<td>110 LF</td>
<td>$19.50</td>
<td>$2,145.00</td>
<td></td>
</tr>
<tr>
<td>10' Detached Walk w/prep.</td>
<td>932 LF</td>
<td>$35.50</td>
<td>$33,086.00</td>
<td></td>
</tr>
<tr>
<td>20' Round Radii w/HC Ramp, Det-Walk w/prep.</td>
<td>6 EA</td>
<td>$2,670.00</td>
<td>$16,020.00</td>
<td></td>
</tr>
<tr>
<td>20' Square Radii w/HC Ramp, Det-Walk w/prep.</td>
<td>1 EA</td>
<td>$2,350.00</td>
<td>$2,350.00</td>
<td></td>
</tr>
<tr>
<td>Concrete Cross Pan (8&quot;) w/prep.</td>
<td>640 SF</td>
<td>$6.50</td>
<td>$4,160.00</td>
<td></td>
</tr>
<tr>
<td><strong>CONCRETE</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$ 284,423.00</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ASPHALT PAVING</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>4&quot; HBP/6&quot; ABC Paving w/prep.</td>
<td>8,142 SY</td>
<td>$21.60</td>
<td>$175,867.00</td>
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<tr>
<td>6 1/2&quot; HBP/9&quot; ABC Paving w/prep.</td>
<td>5,214 SY</td>
<td>$35.20</td>
<td>$183,533.00</td>
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</tr>
<tr>
<td>Mobilization</td>
<td>1 EA</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
<td></td>
</tr>
<tr>
<td>Street Signs</td>
<td>6 EA</td>
<td>$700.00</td>
<td>$4,200.00</td>
<td></td>
</tr>
<tr>
<td><strong>ASPHALT PAVING</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$ 365,100.00</strong></td>
</tr>
</tbody>
</table>
EXHIBIT B

Conceptual Estimate of Construction Costs:
"Right of Way"

Project Name: Timnath Ranch Subdivision Sixth Filing  Date: September 1, 2015

<table>
<thead>
<tr>
<th>EROSION CONTROL</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Straw Bale Area Inlet Filter</td>
<td>3</td>
<td>EA</td>
<td>$170.00</td>
<td>$510.00</td>
</tr>
<tr>
<td>Straw Waddle Barrier</td>
<td>140</td>
<td>LF</td>
<td>$7.50</td>
<td>$1,050.00</td>
</tr>
<tr>
<td>5' Gravel inlet Sock Filter</td>
<td>4</td>
<td>EA</td>
<td>$120.00</td>
<td>$480.00</td>
</tr>
<tr>
<td>Berming</td>
<td>2,892</td>
<td>LF</td>
<td>$0.75</td>
<td>$2,169.00</td>
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<tr>
<td>Vehicle Tracking Control</td>
<td>2</td>
<td>EA</td>
<td>$975.00</td>
<td>$1,950.00</td>
</tr>
<tr>
<td>Silt Fence</td>
<td>1,400</td>
<td>LF</td>
<td>$1.75</td>
<td>$2,450.00</td>
</tr>
<tr>
<td>Erosion Seeding</td>
<td>9</td>
<td>AC</td>
<td>$450.00</td>
<td>$4,140.00</td>
</tr>
<tr>
<td>Straw Mulch</td>
<td>8</td>
<td>AC</td>
<td>$550.00</td>
<td>$4,400.00</td>
</tr>
</tbody>
</table>

| EROSION CONTROL               | $16,874.00 |

Page 2 of 2
EXHIBIT C

AMENDED AND RESTATED SUBDIVISION IMPROVEMENT AGREEMENT FOR TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH, AND FUTURE FILINGS

ABUTTING AND OFFSITE PUBLIC IMPROVEMENTS INCLUDING COSTS BY PHASE IN LINE-ITEM FORMAT

All abutting and offsite will be constructed in accordance with the terms of the Settlement Agreement attached hereto as Exhibit G.
EXHIBIT D

AMENDED AND RESTATED SUBDIVISION IMPROVEMENT AGREEMENT FOR TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH, AND FUTURE FILINGS

LANDSCAPE PLAN BY PHASE INCLUDING COSTS IN LINE-ITEM FORMAT FOR FILING 3, FILING 5, FILING 6, AND FUTURE FILINGS

Pond 3 as described in the Phasing Plan has been certified for storm detention flows and will be finally landscaped prior to the 90th building permit within Filing 3, phases 4, 5, and 6.
Conceptual Estimate of Construction Costs

Project Name: Timnath Ranch 3rd Filing Phase 4, 4a, 5 & 6
Date: July 1, 2015

LANDSCAPE

Total Estimate $435,684.00

CONSTRUCTION HARD COSTS:

<table>
<thead>
<tr>
<th>LANDSCAPE</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mills Brothers Landscape Bid - Phase 4</td>
<td>1 LS</td>
<td>$33,074.00</td>
<td>$33,074.00</td>
<td></td>
</tr>
<tr>
<td>Mills Brothers Landscape Bid - Phase 4a</td>
<td>1 LS</td>
<td>$105,630.00</td>
<td>$105,630.00</td>
<td></td>
</tr>
<tr>
<td>Mills Brothers Landscape Bid - Phase 5</td>
<td>1 LS</td>
<td>$159,830.00</td>
<td>$159,830.00</td>
<td></td>
</tr>
<tr>
<td>Mills Brothers Landscape Bid - Phase 6</td>
<td>1 LS</td>
<td>$137,150.00</td>
<td>$137,150.00</td>
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</tr>
</tbody>
</table>

LANDSCAPE $435,684.00
Conceptual Estimate of Construction Costs:
"LANDSCAPE"

Project Name: Timnath Ranch Subdivision Sixth Filing  Date: September 1, 2015

LANDSCAPE  $ 89,552.00

CONSTRUCTION HARD COSTS:

<table>
<thead>
<tr>
<th>LANDSCAPE</th>
<th>Quantity</th>
<th>Unit Cost</th>
<th>Total Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mills Brothers Landscape Bid - 6th Filing</td>
<td>1 LS</td>
<td>$89,552.00</td>
<td>$89,552.00</td>
</tr>
</tbody>
</table>
EXHIBIT E

AMENDED AND RESTATED SUBDIVISION IMPROVEMENT AGREEMENT FOR TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH, AND FUTURE FILINGS

TIMNATH RANCH PHASING PLAN
EXHIBIT F

AMENDED AND RESTATE SUBDIVISION IMPROVEMENT AGREEMENT FOR TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH, AND FUTURE FILINGS

TRAIL PLAN BY PHASE
EXHIBIT G

AMENDED AND RESTATED SUBDIVISION IMPROVEMENT AGREEMENT FOR TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH, AND FUTURE FILINGS

EXECUTED SETTLEMENT AGREEMENT BETWEEN TOWN AND TIMNATH RANCH
TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 35, SERIES 2014

A RESOLUTION APPROVING THE TIMNATH SOUTH, LLC
SETTLEMENT AGREEMENT

WHEREAS, the Town Council of the Town of Timnath ("Town") pursuant to C.R.S. § 31-15-103, has the power to pass resolutions; and

WHEREAS, attached hereto as Exhibit A is the Settlement Agreement between the Town of Timnath and Timnath South, LLC (the "Agreement"); and

WHEREAS, the Town Council is familiar with the Agreement and finds it to be in the best interest of the Town, its residents, and the general public.

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

Section 1. Approval
The Agreement is hereby approved in substantially the form as attached hereto, subject to technical or otherwise non-substantive modifications, as deemed necessary by the Town Manager in consultation with the Town Planner, Engineer, Legal Counsel, and other applicable staff or consultants.

Section 2. Ratification of Prior Action
The Council’s approval of the settlement term sheet relating to the Agreement and all other previous incidental actions taken on behalf of the Town Council in connection with the Agreement are hereby acknowledged and ratified.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON JUNE 10, 2014,

TOWN OF TIMNATH, COLORADO

Jill C. Sump-Belisle, Mayor

ATTEST
Milissa Peters, Town Clerk
EXHIBIT A

AGREEMENT
SETTLEMENT AGREEMENT

THIS AGREEMENT made as of this 10th day of June, 2014 by and between TOWN OF TIMNATH, COLORADO, a Colorado municipal corporation (the “Town”); and TIMNATH RANCH, LLC, a Colorado limited liability company (the “Developer”). Collectively, the Town and the Developer are referred to herein as the “Parties”.

RECITALS

A. WHEREAS, Developer is the owner of those certain parcels of real property located in Town, as further described in Exhibit A, a copy of which is attached hereto and incorporated herein by reference (the “Property”); and

B. WHEREAS, The Property has been previously annexed to Town and is subject to the terms and conditions of that certain Annexation and Development Agreement for the Timnath Ranch Property between the Town and Developer, dated as of the 5th day of May, 2004; and

D. WHEREAS, The Town Council of Town, after holding all necessary public hearings and having received recommendations of approval from the Timnath Planning Commission, has previously approved by various resolutions, the final plats for Filings 2, 3, 4, and 5 of the Property (collectively the approval resolutions and final plats for Filings 2, 3, 4, and 5 are referred to herein as the “Final Plat”); and

E. WHEREAS, The approval of the Final Plat for the Property was conditioned upon the execution of various subdivision improvement agreements (the “Prior SIAs”); and

F. WHEREAS, Disagreements have arisen between the Parties regarding the performance of various obligations under the Prior SIAs, and the Parties have agreed to enter into this Agreement (the “Agreement” or the “Settlement”) in order to release the Developer from various obligations under the Prior SIAs in exchange for a lump sum payment to the Town in the amount of $1,000,000.

G. WHEREAS, the Parties have also agreed to enter into an Amended and Restated Subdivision Improvement Agreement (the “Amended and Restated SIA”) in the imminent future, for the purpose of superseding and replacing the Prior SIAs in their entirety, and for the purpose of clarifying existing and new obligations of Developer to provide certain public improvements and landscaping necessitated by the proposed development of the Property.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which are mutually acknowledged, the Parties hereto agree as follows:

1. Obligations of the Parties. Developer will pay One Million Dollars ($1,000,000) to the Town by July 1, 2014, and the Parties are relieved of responsibilities as defined in the Prior SIAs as follows:

   a. With the exception of trail/sidewalk and detached landscaping on south side of Harmony Road, Developer has no obligation for any further improvements on Harmony Road and this Settlement includes Developer’s obligation for contribution to a traffic signal at the
intersection of County Road 1 and Harmony Road.

b. Developer has no further obligation for improvements to County Road 3 and the Settlement includes Developer's required contribution to a traffic signal at the intersection of County Road 3 and Harmony Road.

c. Developer has no further obligation on County Road 36.

d. The Developer has no further required contribution for County Road 1.

For a-d above, no drainage, paving, curb and gutter, street lighting, ditch crossings, maintenance or any other obligation associated with these public roads and signals shall be required. Paragraphs a-d do not include auxiliary (turn) lanes that the approved traffic study for the development may require for at the intersection of County Road 1 and Wheatfield Drive, at the time of construction of said intersection.

e. Developer has no further obligation for traffic signal costs at the intersection of Harmony Road and Club Drive. No further improvements are required for Club Drive with the exception of the items on the Punch List, attached hereto and incorporated herein as Exhibit B.

f. The Settlement includes Developer's required contribution for Summerfields Parkway improvements (between County Road 36 and the existing southern termination of Summerfields Parkway), including the Summerfields Parkway Railroad Crossing and the Summerfields Parkway Boxelder Ditch Crossing.

g. With exception to the Punch List, Developer has no further obligation for landscaping or sidewalk installation as it relates to already constructed improvements. Developer acknowledges that newly submitted plats will comply with then-current codes.

h. The Settlement is net of any of the Town's repayment obligations to Developer and no further payments of any kind from the Town are required.

i. The Settlement does not include the cost of design and construction by Developer of Wheatfield Drive pursuant to the then-current Town standards at the time of construction. The current cost of design and construction is estimated to be Two Hundred Thousand Dollars ($200,000). Nevertheless, Developer understands and acknowledges that it is responsible for the entire cost of construction and design, regardless of whether or not the actual budget exceeds its current estimate. Construction will be required upon notice from the Town at the time a threshold of development is reached. The development threshold shall be mutually agreed upon by the Parties and included in the Amended and Restated SIA. Any auxiliary (turn) lanes that the approved traffic study for the development would require for County Road 1 at the intersection with Wheatfield Drive will be the responsibility of Developer and the cost of such improvements are in addition to any estimates discussed herein.

2. Items to be addressed in the Amended and Restated SIA.

a. Preliminary plats approved in the future will be valid for the period provided for in the then-current Town Code (currently 1 year). The Town Code allows for extensions if approved by Town Council.
b. All recorded plats will be valid in perpetuity as provided for in the Town Code. The submittal, approval, and longevity of construction plans are addressed in the Town Code, and shall not be altered by this Agreement.

c. Platted “master plan” tracts such as the tract for the multifamily area and the commercial area within the Property shall not expire. Nonetheless, these tracts will have to be replatted (if being further subdivided) or site planned (if no further subdivision is required) at the time of development.

d. All Punch List items are to be completed by September 1, 2014, and are based on the current Punch List provided by TST, Inc./Town, dated August 31, 2011, which was subsequently updated by the Town and submitted to the Developer’s representatives as the “updated overall punch list” on May 9, 2014 and the “landscape specific punch list” on June 3, 2014 (as updated, the “Punch List”). On June 30, 2014, the Town Engineer and a representative of Developer will update the Town Manager regarding the remaining Punch List items and discuss in detail all remaining issues. The Town acknowledges that Developer has no further public improvement obligations with regard to Filing 1. The Town may restrict building permits on all other current and future phases of development and may restrict construction for new phases of development upon notice to Developer from the Town. The Punch List may be amended prior to final Amended and Restated SIA approval, depending upon walk through with Town Engineer and Developer representative. Upon execution of a contract and payment to XCEL energy for street lighting, and submittal of foreseen documentation to the Town of Timnath, the street light obligation for the 4th Filing shall be deemed complete.

e. The required landscaping for Timnath Ranch 2nd, 3rd, 4th, and 5th Filings must be installed and verified by Town Staff and the Timnath Ranch Metropolitan District (the “District”) per the approved landscape plans prior to acceptance. The District must provide a letter of acceptance of said landscape improvements and the maintenance thereof. The Town is not responsible for the maintenance or replacement of any landscaping within the Town’s right-of-ways.

f. Town will return sureties (all water shares held by the Town) upon successful completion of Punch List items as described above and their acceptance by Town and upon receipt of the Settlement by the Town.

g. Open Space and Drainage Certifications:

i. As submitted, open space requirements for 2nd, 3rd, 4th, and 5th Filing have been met as indicated on Exhibit C attached hereto and incorporated herein.

ii. The property that is to be deeded to the Town for purposes of a heritage center (currently estimated to be 5.07 acres and referred to herein as “Heritage Park”) has been be credited toward the open space requirement for the development. The boundaries and area of Heritage Park are attached hereto and incorporated herein as Exhibit D. Heritage Park will be dedicated at the time of Final Platting of the adjacent development to the west, but in no event later than December 31, 2016.
h. Trail Construction Responsibility — Exhibit E, attached here to and incorporated herein is an accurate representation of the respective responsibility of the Parties for construction of each of the project trails.

i. Developer will dedicate the above-referenced Heritage Park (approximately 5.07 acres) to the Town at the time of development of Tract B of the 5th Filing. The park site is depicted on Exhibit D. The site will not include the house, the barn or the water wells located in and around this site. At the time of platting, the Town will authorize appropriate construction, emergency, and utility easements over the portion of the site necessary to irrigate and otherwise serve the development, the well, barn and house. The construction access easement will terminate when adjacent development is completed. With permission from the appropriate jurisdictions, the Developer may relocate Lake Canal Ditch through this park area for a period of up to five (5) years from the effective date of this Agreement, the intent being to effectively use the land and water to the master plan’s best use, subject to the Town’s approval.

3. Notice. All notice required under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address set forth below. Notice may also be given by fax, and shall be deemed received on the date of such transmission. Either party by notice so given may change the address to which future notices shall be sent.

**Notice to Town:**
Town of Timnath  
4800 Goodman Street  
Timnath, Colorado 80547

**With copy to:**
Town General Counsel  
Gary R. White, Esq. and Robert G. Rogers, Esq.  
White Bear Ankele Tanaka & Waldron  
2154 E. Commons Ave, Suite 2000  
Centennial, CO 80122

**Notice to Developer:**
Jim Birdsall  
TB Group  
444 Mountain Avenue  
Berthoud, Colorado 80513

4. **No Reliance.** All Parties by their execution below represent and warrant to all other Parties hereto that they are executing this Agreement without reliance in any manner upon any statement or representation made by any other Party hereto regarding any matter whatsoever.

5. **Joint Authorship.** The Parties agree that this Agreement is the result of negotiations and joint authorship and agree that this Agreement shall not be construed or interpreted against any single Party on the grounds of sole or primary authorship.

6. **Governing Law.** This Agreement has been executed and delivered in the State of Colorado and its validity, interpretation, performance, and enforcement shall be governed by the laws of the State of Colorado.

7. **Counterparts.** This Agreement may be executed in one or more counterparts and all counterparts
so executed shall constitute one Agreement binding on the Parties, notwithstanding that not all Parties are signatories to the original or the same counterpart.

8. **Authority.** Each person signing this Agreement expressly represents and warrants that he or she is authorized to enter into this Agreement on behalf of the Party for whom he or she signs.

9. **Successors.** This Agreement shall be binding upon and shall inure to the benefit of all successors, permitted assigns, and heirs of each Party herein. No Party shall assign its rights or delegate its duties under this Agreement without the prior written consent of the other Party, which consent may be withheld by any Party in its sole discretion.

10. **Attorney Fees.** In the event litigation is commenced by any Party hereto against any other Party for the alleged failure or refusal of any Party to perform its obligations under this Agreement, then the court presiding over such litigation shall award costs and attorney fees to the prevailing party.

11. **Adequacy of Consideration.** Each of the Parties hereto acknowledges that the consideration it has given and received hereunder is fair and adequate consideration for the covenants, undertakings, forbearances, and promises contained herein.

12. **Amended and Restated SIA.** The Parties acknowledge that it is their intent to enter into the Amended and Restated SIA in the immediate future, and that such document will supersede and replace the Prior SIAs in their entirety and clarify various obligations of Developer to provide certain future public improvements and landscaping necessitated by the proposed development of the Property. The Parties agree that execution of the Amended and Restated SIA shall be a condition precedent to the issuance by the town of building permits associated with the Property.

13. **Entirety of Agreement and Modification.** This Agreement contains the complete and final agreement of the Parties with respect to the matters contemplated herein and supersedes any and all prior agreements regarding the matters contemplated herein, and no modification hereof shall be effective unless in writing and signed by the Party against whom it is sought to be enforced.

*(Remainder of page intentionally left blank)*
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

TOWN OF TIMNATH:

Jill Grossman-Belisle, Mayor

ATTEST:

Milissa Peters, Town Clerk

TIMNATH RANCH, LLC:

By: Jon Turner
Its: Manager
Exhibit A
Property
Exhibit A

Legal Description

Timnath Ranch Subdivision Second Filing as recorded under Reception Number 20070034468 in the office of the Larimer County Clerk and Recorder.

Timnath Ranch Subdivision Third Filing as recorded under Reception Number 20070023850 in the office of the Larimer County Clerk and Recorder.

Timnath Ranch Subdivision Fourth Filing as recorded under Reception Number 20070067927 in the office of the Larimer County Clerk and Recorder.

Timnath Ranch Subdivision Fifth Filing as recorded under Reception Number 20120009614 in the office of the Larimer County Clerk and Recorder.
Exhibit B
Punch List
Timnath Ranch 3'd Filling Phases 1 and 2, Town Final Acceptance Punch List
Summary Updated 5-8-14 by Town of Timnath - SFH

1. Ensure all Sewer Markers, Water Markers, Sewer Cub; Stamps and Water Stamps are properly installed, painted and/or straightened Complete with District Acceptance Complete

2. Fix Box Culvert Wing-walls, erosion, subsoil and riprap at pond 3 and the ditch. Final Stabilize
   complete improvements along with completion of pond 2 excavation and water storage for irrigation and farming use. Estimated completion July 2014.

3. Clean out backflow preventers and water quality outlet structure from pond 3. Test functionally, properly backfill, final stabilize and fix structural problems at grate. To be completed along with pond 3 completion) Complete

4. Clean out all curb and gutters. Erodable and clean out all weeds in swales have been sprayed twice, curb cleaned Complete

5. Clean up all inlet filters. Remove or replace depending upon final stabilization of basin. Upstream (no replacements at this time) Complete

6. Install/replace all required Collector Signing on School House, Summerfield's and Twin Bridge including crosswalk striping. Install crosswalk signs for each side of the road at crosswalks. Estimated completion June 2014.

7. Block outdriveway turn lane from Club to Harmony. (Town has already redressed and made improvements) Complete

8. Ensure all areas have final stabilization and clean up all erosion from streets stubs and in swales and around all storm structures. Estimated completion June 2014.

9. Remove erosion BMPs that are not in use or replace those that need maintenance and serve a purpose Complete Complete

10. Submit a copy of your erosion control permit and explanation of how builders are complying. Permit for TR 3'4' has been placed out. All builders are responsible for their own permitting and not responsibility of TR LLC Complete

11. Finish landscaping along collector roads and common areas and in median/adjacent where final acceptance is requested. Replace dead/dying trees and install permanent irrigation lines and ensure proper burial. Estimated completion June 2014. Complete

12. Straighten all leaning signs Complete 2013 for more work to be included and all corrections that may be needed will be completed by June 2014. Missing sign at Summerfield and Fireside; missing barricades at north end of Schoolhouse, leaning speed limit sign south side of Twin Bridge at Brookline

13. Fix all damaged/broken/cracked walls, ramps, driveway concrete in ROW, cross-pans, curb and gutters. Replace curb and gutter at School House Drive and Club Drive where concrete batch was bad (South Side of Intersection). As-built gutters especially Twin Bridge heading to Latham. Complete no standing water all corrections and as-built for construction acceptance submitted to town staff at time of construction acceptance. (One more walkthrough will be instituted and all corrections that may be needed will be completed by June 2014)

14. New test areas where sediment is collecting and replace cross pans and gutter sections that do not drain- Gihan and replace gutter outlet access to Timnath South Complete

15. Clean out all inlet, road sections, ans storm systems. Obtain engineer's certification that system will drain and function as designed. Obtain certification of pond volume sufficient 65% of drainage system deemed to date estimated completion June 2014. All installed storm drain systems were
16. Clean out all riprap and ensure installed per detail with geotechnical fabric below. All riprap was installed per plan and detail and was inspected by the previous town staff at the time of construction as well as town acceptance. Clean up estimated completion June 2014.

17. Install all pipe required by the plans in swale with less than 2% drop line grade. All pipe sizes were requested to be detailed by town administration per to town construction acceptance. Previous town staff worked westward outside any within town limits. Complete

18. Install/replace all missing or damaged roundabout and read closed signs (i.e. southbound one way and westbound yield). Add curve signs at Twin Bridge (Total 3 each direction)
   Estimated completion July 2014

19. Clean up all construction debris. Complete

20. Install erosion control BMPs for tracking into public streets (i.e. Summerville's) and erosion from disturbed areas. This is no longer available as a stock pile and will be reseeded.
   Estimated completion spring 2014. Replace Road Barricades


22. Fix asphalt seams and cracks throughout. Seal seams and ensure they properly meet with concrete. (One more well drain will be installed and all corrections that may be needed will be completed by June 2014)

23. Make sure the lighting is ready and it is sufficient for safety and to standards. (Recessed lighting was removed and installed by Xool Energy and per Xool Energy specifications and town standards. Complete

24. Fix any broken or broken lines (i.e. Parway at Trail H). All present inspection is managed by the TR
   metro district. See attached acceptance letter from District. Complete

Filling II Final Acceptance Inspection

• Detention pond outfall from Lot 7 has severe erosion and is close to falling, please fix.
   Scheduled completion to be completed by June 2014.

• Clean the outfall from Twin Bridge
   Scheduled completion to be completed by June 2014.

• Clean the outfall from School House Drive
   Scheduled completion to be completed by June 2014.

• Clean debris and built up soil from underneath the culvert located at the south end of the ditch
   Scheduled completion to be completed by July 2014.

• Remove the trees that are located throughout the bottom of the ditch
   Estimated completion August 2014 or after annual reservoir flushing.

• Please explain the interaction between the outfall pipe located on the north part of the ditch that is located adjacent to the Mill Brothers Landscaping Property. TR was not involved in the installation of any such piping. This is a landowner modification and installation. Complete
Filing IV Final Acceptance Inspection
Iron Forge Street

• Patch the core hole that exists near the west side of Iron Forge Rd
  TR will take care of this issue but was not responsible for the coring; this was done by the PUC
  companies and their contractors/crews. Estimated completion spring 2014

• Seal the joint crack that exists near Iron Forge Rd and CR 3
  Scheduled completion to be completed by June 2014.

Storm Sewer

• Inlet between Lot 2 and Lot 1
  • Remove debris
  Previously Completed, will re-inspect, estimated completion June 2014.
  • Remove dirt blocking opening
  Previously Completed, will re-inspect, estimated completion June 2014
  • Remove temporary erosion control devices
  Previously Completed, will re-inspect, estimated completion June 2014.

• Irrigation Siphon north of Iron Forge Rd
  • Remove debris
  Previously Completed, will re-inspect, estimated completion June 2014
  • Remove dirt blocking opening
  Previously Completed, will re-inspect, estimated completion June 2014.
  • Fix erosion
  Previously Completed, will re-inspect, estimated completion June 2014.

• Irrigation Siphon south of Iron Forge Rd
  • Remove debris
  Previously Completed, will re-inspect, estimated completion June 2014.
  • Remove dirt blocking opening
  Previously Completed, will re-inspect, estimated completion June 2014.

• Outfall structure on west side of lot 7 detention pond
  • Remove debris
  This is a current land owner issue.
  • Remove dirt blocking opening
  This is a current land owner issue.
  • Fix erosion around the pipe
  This is a current land owner issue Complete

• Inlet structure on east side of lot 7 detention pond
  • Remove debris
  This is a current land owner issue.
  • Remove dirt blocking opening
  This is a current land owner issue.
  • Remove temporary erosion control devices
  This is a current land owner issue Complete

3 | Page
Utility Post Marker
All utilities are the ownership of the FUTURA and or SECDP districts and have been accepted and beyond all warranty periods.

- Lot 3 - Remark fire service line stub
- Lot 5 - Remark fire service line stub

Miscellaneous
- Provide pond certifications for the drainage pond located in lot 7
  Completed Certification forwarded to Town Engineer, Complete

- Remove the trash pile that is located in the southwest corner of Lot 5
  At the time of construction acceptance, by the previous town staff, all lot grading was certified and accepted and all lots were clean and finished graded. Existing trash piles appeared during the construction of the existing building adjacent to this trash pile, Complete

- Install street lights within Filing IV and along CR 3
  Lighting plan has been sent to Town Engineer for approval, completion contingent upon approval and Xcel Energy work scheduled to be determined upon lighting approval, projected completion late 2014.

- Remove the two large soil mounds that are located in lot 7
  These piles became the ownership of the current owner of this lot, Complete

- Please explain why there is not any curb and sidewalk present on CR 3 and the cul-de-sac along the Mill Brothers property
  It was decided to leave the curb and sidewalk out by the previous town staff per the request of Mill Brothers Landscaping for access into their lot/business, Complete

April 22, 2014
Inspection Memo

Department: Community Development
Topic: Timnath Ranch Landscape Inspection and Punch List
Date: June 3, 2014
Reference: Timnath Ranch Subdivision, 3rd Filing
Final Landscape and Open Space Plan As-Buils, 11.05.2013

Inspection performed June 2, 2014. As-built Plans dated 11.05.13

1. Sheet 3 of 10, Club Drive and entry
   a. Several missing grasses and plants in entry beds and cobble areas that should be replaced per plan and to fill in bare areas. This occurs on both sides of the entry. Replant per plan.
   b. One (1) dead and one (1) missing deciduous tree on the eastern side of the entry. These must be replaced.
   c. The round-a-bout landscaping is not differentiated as shown. The plan indicates manicured and native grass—it appears to be all native. Plans should be updated. Also, exposed drip lines need to be covered.
   d. The one (1) tree shown in the median is dead and needs replaced. Verify drip to the tree.

2. Sheet 4 of 10, Club Drive and entry
   a. The (1) one tree shown in the median is dead and needs replaced. Verify drip to the tree.
   b. Median treatments are not differentiated as shown. Plan shows two (2) different treatments. Please verify and update plans accordingly.
   c. The existing evergreens are not acceptable as street trees and need to be removed and replaced with deciduous/canopy shade trees. Please provide an updated plan set showing these modifications.

3. Sheet 5 of 10, Schoolhouse Drive and Eagle Creek Road
   a. The entry beds have dead and missing plant materials. Please replace these materials, and replenish the mulch to cover the driplines that are exposed.
b. Several of the evergreens along Eagle Creek and School House Dr. are
diseased and declining, and some are topped. These should be replaced
with healthier trees or evaluated and treated by a licensed arborist.
c. One (1) street tree along School House Drive is dead and needs replaced.
d. One (1) street tree at the intersection of School House Drive and
Wheatfield Lane is dead and needs replaced.

4. Sheet 6 of 10, Rock Hill Road area
   a. The entry beds have dead and missing plant materials. Please replace
      these materials, and replenish the mulch to cover the driplines that are
      exposed.
   b. There is one (1) dead Honeylocust along Wheatfield Lane that needs
      replaced.
   c. Three (3) ornamental trees along Wheatfield Lane are topped and need
      replaced.
   d. There is one (1) dead and one (1) missing tree at the intersection of Eagle
      Creek Road and Rock Hill Road. These need to be replaced.

5. Sheet 7 of 10, Summerfield Parkway and Red Bridge Drive area
   a. The entry beds need to have the mulch replenished to cover the driplines
      that are exposed.
   b. All of the Honeylocusts located in the median are declining and appear to
      be diseased. These need to be inspected by a licensed arborist and treated
      or replaced as necessitated.
   c. There are numerous missing ornamental grasses within the median and
      along the drive in the beds. These need to be planted per plan.
   d. There are two (2) missing street trees along Summerfield Parkway that
      need to be replaced per plan.
   e. The evergreens in this area are diseased and declining and should be
      replaced with healthier trees or evaluated and treated by a licensed
      arborist.
   f. There is one (1) dead and one (1) severely diseased and stunted tree along
      Red Bridge Drive. These need to be replaced.
   g. Mulch in the parkway needs to be replenished.

6. Sheet 8 of 10, Summerfield Parkway and School House Drive area
   a. The entry beds have missing plant materials (groundcovers) and dead
      ornamental grasses. These need to be replaced per plan.
b. There are three (3) missing street trees in the parkway along Summerfields Parkway (eastern side, between Fireside Drive and School House Drive) that need to be replaced.

c. All the street trees (4) along the western frontage of Summerfields (between Fireside Drive and Schoolhouse Drive) are declining or dead and need to be replaced.

7. **Sheet 9 of 10, Summerfield Parkway and School House Drive area**
   a. Covered in other comments.

8. **Sheet 10 of 10, Red Bridge Drive area**
   a. There is one (1) missing and one (1) dead tree along Red Bridge Drive that need to be replaced. One is in the parkway and one is in the tract by the lots.
   b. The stretch between Brookline Drive and Wishing Well Lane has two (2) missing evergreen trees that need to be planted per plan.
   c. Replenish the mulch and cover driplines in the planting bed areas.
   d. All street trees in this stretch appear to be declining / diseased. These need to be evaluated and treated by a licensed arborist or replaced.
   e. There is one (1) dead tree and one (1) tree with severe dieback along Red Bridge Drive (between Wishing Well Lane and Brookline Drive) that need to be replaced.

Upon completion of the above punchlist items contact the Town of Timnath Community Development Department for re-inspection / verification. The Timnath Ranch Metropolitan District is to provide a letter to the Town acknowledging acceptance and maintenance of landscaping.
Exhibit C
Open Space Requirements
Exhibit D
Heritage Park
Exhibit E
Trail Construction Responsibility
Exhibit 4 - Regional Trails (Amended 4.8.14)

- Responsibility of TR 3rd - Complete
- Responsibility of TR 3rd - To be Phased with Development
- Responsibility of Town of Timnath
EXHIBIT H-1

AMENDED AND RESTATED SUBDIVISION IMPROVEMENT AGREEMENT FOR TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH, AND FUTURE FILINGS

CLOMR MAP
TIMNATH RANCH, LLC PROPERTY
REMOVED FROM FLOODPLAIN
EXHIBIT H-2

AMENDED AND RESTATED SUBDIVISION IMPROVEMENT AGREEMENT FOR TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH, AND FUTURE FILINGS

CLOMR MAP
TIMNATH RANCH METROPOLITAN DISTRICT PROPERTY REMOVED FROM FLOODPLAIN
EXHIBIT H-3

AMENDED AND RESTATED SUBDIVISION IMPROVEMENT AGREEMENT FOR TIMNATH RANCH SECOND, THIRD, FIFTH, SIXTH, AND FUTURE FILINGS

CLOMR MAP
TIMNATH RANCH, LLC PROPERTY REMAINING IN FLOODPLAIN