TOWN OF TIMNATH
TOWN COUNCIL
MONDAY, January 12, 2015
IMMEDIATELY FOLLOWING THE TIMNATH DEVELOPMENT AUTHORITY MEETINGS AT 6:00 p.m.
Meeting will be held at Timnath Administration Building,
4800 Goodman Street, Timnath, Colorado

1. CALL TO ORDER AND ROLL CALL
   Mayor          Jill Grossman-Belisle
   Councilmember  Bill Neal
   Councilmember  Aaron Pearson
   Councilmember  Paul Steinway
   Councilmember  Bryan Voronin

2. AMENDMENTS TO THE AGENDA Note: The Council may add to this agenda, any item for discussion or action.

3. PUBLIC COMMENT: Note: It is requested that public comments be limited to three minutes. When several people wish to speak with the same position on a given item, they are requested to select a spokesperson to state that position.

4. CONSENT AGENDA
   a. Approval of the December 9, 2014, Town Council Meeting Minutes
   b. Approval of the Check Register

5. REPORTS
   a. Mayor and Council

6. ORDER OF BUSINESS:
   a. ORDINANCE NO. 16, SERIES 2014, SECOND READING, PUBLIC HEARING, An Ordinance Ratifying the Vacation of the Harmony Road East Running Sewer Easement
      Presented by Don Taranto, Contracted Town Engineer
   b. ORDINANCE NO. 17, SERIES 2014, SECOND READING, PUBLIC HEARING, An Ordinance Amending Chapter 6, Article III of the Timnath Municipal Code
      Presented by April Getchius, Town Manager
   c. ORDINANCE NO. 1, SERIES 2015, FIRST READING, Ordinance No. 1, Series 2015 entitled “An Ordinance Amending Chapter 10 of the Town Code of The Town Of Timnath, Colorado” and establishing a public hearing for same for January 27, 2015
      Presented by April Getchius, Town Manager
   d. RESOLUTION NO. 1, SERIES 2015, A Resolution Approving the Law Enforcement Agreement Between the Town of Timnath and Larimer County
      Presented by Sherri Wagner, Timnath Police Chief
   e. RESOLUTION NO. 2, SERIES 2015, A Resolution Approving the Agreement Between the Town of Timnath and Bruen Media Group
Presented by April Getchius, Town Manager

f. **RESOLUTION NO. 3, SERIES 2015**, A Resolution Approving the Professional Services Agreement with BBC Research and Consulting
   Presented by Don Taranto, Contracted Town Engineer

g. **RESOLUTION NO. 4, SERIES 2015**, A Resolution Approving the Professional Services Agreement with King Surveyors LLC
   Presented by Don Taranto, Contracted Town Engineer

h. **RESOLUTION NO. 5, SERIES 2015**, A Resolution Approving Change Order #2 to the “Riverbend Infrastructure” Contract with Gerrard Excavating
   Presented by Don Taranto, Contracted Town Engineer

i. **EXECUTIVE SESSION**: “For the purposes of discussion concerning the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interests under Section §24-6-402(a), C.R.S.; discussion concerning personnel matters under §24-6-402(4)(f), C.R.S.; discussion regarding positions relative to matters that may be subject to negotiations and development of a strategy for negotiations under §24-6-402(4)(e), C.R.S.; and conferences with the Town’s attorney for purposes of receiving legal advice on specific legal questions under §24-6-402(4)(b), C.R.S.”
   Presented by the Contracted Town Attorney

7. **ADJOURNMENT**
Town of Timnath
Regular Meeting Minutes
Tuesday, December 9, 2014

IMMEDIATELY FOLLOWED THE TDA MEETING AT 6:00 P.M.

Meeting was held at Timnath Administration Building,
4800 Goodman Street, Timnath, Colorado

1. CALL TO ORDER AND ROLL CALL:
Mayor Grossman-Belisle called to order the meeting of the Town Council on Tuesday, December 9, 2014 at 6:03 p.m.

Present:
   a. Mayor Jill Grossman-Belisle
   b. Councilmember Bill Neal
   c. Councilmember Aaron Pearson

Absent
   a. Councilmember Paul Steinway
   b. Councilmember Bryan Voronin

Also Present:
   a. April Getchius, Town Manager
   b. Robert Rogers, Contracted Town Attorney
   c. Milissa Peters, Town Clerk
   d. Don Taranto, Contracted Town Engineer
   e. Matt Blakely, Contracted Town Planner
   f. Brian Williamson, Contracted Town Planner
   g. Sherri Wagner, Police Chief
   h. Christine Harwell, Contracted Finance Director
   i. Tim Karnes, D.R.Horton
   j. Jim Birdsell, The Birdsell Group
   k. Jessie McDowell, RLH
   l. Matt Delich, Delich & Associates
   m. Andy Reese, Northern Engineering
   n. Mark Goldstein, Serratoga LLC
   o. Brian Connolly, Attorney
   p. Gary Hoover, Hartford Homes
   q. Patricia Watkins, Town Resident
   r. Jill Baker, Town Resident
   s. Colleen Mortensen, Town Resident
t. Lance Barker, Town Resident
u. Sarah Valdivia, Town Resident
v. Erin Neville, Town Resident
w. Bary Novacek, Town Resident
x. Tamie Baggett, Town Resident
y. Brenda Landrum, Town Resident
z. William Grush, Town Resident
aa. Dwayna and Samuel Rogers, Town Resident
bb. Daniel Ridgeway, Town Resident
c. Don and Kathy Simpson, Town Resident
dd. Michael Harrington, Town Resident
e. Christina McClave, Town Resident
ff. Dylan Clear, Town Resident
gg. Jake and Patti Guzman, Town Resident
hh. Pat Webb, Town Resident
ii. Scott Corber, Town Resident
jj. Jesslyn Dennis, Town Resident
kk. Greg Biehl, Town Resident
ll. Jon Royce, Town Resident
mm. Bruce Amen, Town Resident

2. AMENDMENTS TO THE AGENDA:
   Reports moved up to Item 3.

3. ITEM 4 - PUBLIC COMMENT ON NON-AGENDA ITEMS:
   a. Patricia Watkins, Timnath Resident, spoke to Council about the Town mission
      statement and asked for a fracking moratorium. She also spoke about the State
      regulations being insufficient and toxic emissions.
   b. Jill Barker, Timnath Resident, spoke to Council about her concerns regarding
      fracking chemicals and health risks. She asked for a fracking moratorium.
   c. Colleen Mortensen, Timnath Resident, spoke to Council about moving to Timnath
      for a high quality of life and concerns about health risks. She asked for a fracking
      moratorium.
   d. Lance Barker, Timnath Resident, spoke to Council about fracking health risks and
      current technology failures. He asked for a fracking moratorium.
   e. Sara Valdivia, Timnath Resident, spoke to Council about her fracking health risks
      and asked for a fracking moratorium.
   f. Erin Neville, Timnath Resident, spoke to Council about pollution and health risks
      related to the fracking process. She asked for a fracking moratorium.
   g. Bary Novacek, Timnath Resident, spoke to Council about leading to put safety first
      and asked for a fracking moratorium.
   h. Michael Harrington, Timnath Resident, spoke to Council about real estate values,
      health issues and asked for a fracking moratorium.
i. Dylan Clear, Timnath Resident, spoke to Council about health risks, setback rules and well locations in relation to Bethke Elementary. He asked for a fracking moratorium.

j. Bruce Amen, CR 40, spoke to Council about his work in the oil industries and greenhouse emission reduction since the increase in fracking. He spoke about the industry taking precautions to protect the groundwater and air pollution. He also spoke about being able to provide a good life for his family with the job he has.

k. Scott Corber, Timnath Resident, spoke to Council about trying to gather as much possible information on both sides. He spoke about the health and welfare concerns outweighing the good. He asked for a fracking moratorium.

4. **ITEM 5 - CONSENT AGENDA:**
   a. Approval of the November 11, 2014, Town Council Meeting Minutes
   b. Approval of the Check Registers

   Councilmember Pearson moved to approve the consent agenda. Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.

5. **MOVED TO ITEM 3 - REPORTS:**
   a. Mayor/Council-
      i. No meeting on December 23rd
      ii. Tree Lighting success
      iii. Oil and Gas Forum on January 8, 2015
   b. Staff-Included in the packet

6. **ORDER OF BUSINESS:**
   a. **RESOLUTION NO. 62, SERIES 2014,** A Resolution Approving the Serratoga Falls Sketch Plan

   Staff Comments:
   - Mr. Blakely spoke to Council about the proposed resolution.
   - Mr. McDowell presented the revised sketch plan to Council.
   - Mr. Birdsall spoke to Council about the changes.
   - Mr. Birdsall addressed the question regarding the ditch and parks and stated that the intent was to leave the ditch undisturbed and that the plan was to follow the Town’s plan regarding the park requirements.

   Public Comments:
   - Tamie Baggett, Timnath Resident, stated that she is happy with the open space but spoke about her concern with lot sizes throughout the Town.
   - Bill Gruss, Timnath Resident, spoke about keeping the smaller pond. He expressed his dislike for sidewalks.
• Pat Webb, Timnath Resident, spoke about the revised plan being more acceptable. He also stated his concern for the lot sizes. He spoke about the ditch alignment and utility lines.

• Jesslynn Dennis, Timnath Resident, spoke to Council about land management through the land use code and park to homes ratio. She also stated her approval of the added open space.

• Greg Biehl, Timnath Resident, spoke about his concerns as the development moves forward and being about to see what builder plans to bring in but that he approves of the revised plan.

Town Council Questions and Comments:
• Mayor Grossman-Belisle asked about the pedestrian connectivity and Mr. Birdsall spoke about the continuation of the first filing trail system as well as using the sidewalks.

• Councilmember Pearson asked if the amenities had been compromised and Mr. Birdsall stated that the amenities are expected to stay the same with a small possibility of some of the hard trails becoming soft trails.

• Council stated their appreciation for the compromise and hard work.

Councilmember Pearson moved to approve the Serrataoga Falls Sketch Plan. Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.

b. RESOLUTION NO. 65, SERIES 2014, A Resolution Approving the Brunner Farms Block Diversity Plan
Staff Comments:
• Mr. Blakely spoke to Council about the proposed resolution.

Public Comments:
• Mr. Carnes, spoke to Council spoke about the new product models, model square footage, basement finishes and color renderings. Councilmember Neal moved to approve RESOLUTION NO. 65, SERIES 2014, A Resolution Approving the Brunner Farms Block Diversity Plan. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

c. ORDINANCE NO. 13, SERIES 2014, FIRST READING, An Ordinance Approving the 2015 Town of Timnath Budget
Mayor Grossman Belisle opened the public hearing at 7:28 p.m.

Staff Comments:
• Ms. Getchius spoke to Council about the proposed ordinance.

Public Comments: NONE

Mayor Grossman Belisle closed the public hearing at 7:28 p.m.
Councilmember Neal moved to approve ORDINANCE NO. 13, SERIES 2014, FIRST READING, An Ordinance Approving the 2015 Town of Timnath Budget. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

d. ORDINANCE NO. 14, SERIES 2014, FIRST READING, An Ordinance Appropriating Funds for the 2015 Budget Year
Mayor Grossman Belisle opened the public hearing at 7:30 p.m.

Staff Comments:
• Ms. Getchius spoke to Council about the proposed ordinance.

Public Comments: NONE

Mayor Grossman Belisle closed the public hearing at 7:30 p.m. Councilmember Neal moved to approve ORDINANCE NO. 14, SERIES 2014, FIRST READING, An Ordinance Appropriating Funds for the 2015 Budget Year. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

e. RESOLUTION NO. 66, SERIES 2014, Resolution Levying General Property Taxes for the Year 2014 to Help Defray the Costs of Government for the Town of Timnath, Colorado, for the 2015 Budget
Councilmember Neal moved to approve RESOLUTION NO. 66, SERIES 2014, Resolution Levying General Property Taxes for the Year 2014 to Help Defray the Costs of Government for the Town of Timnath, Colorado, for the 2015 Budget. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

f. ORDINANCE NO. 15, SERIES 2014, SECOND READING, PUBLIC HEARING, An Ordinance Ratifying the Easement Transfers
Mayor Grossman Belisle opened the public hearing at 7:32 p.m.

Staff Comments:
• Mr. Taranto spoke to Council about the proposed ordinance.

Public Comments: NONE

Mayor Grossman Belisle closed the public hearing at 7:32 p.m. Councilmember Neal moved to approve ORDINANCE NO. 15, SERIES 2014, FIRST READING, An Ordinance Ratifying the Easement Transfers. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

g. ORDINANCE NO. 16, SERIES 2014, FIRST READING, An Ordinance Ratifying the Vacation of the Harmony Road East Running Sewer Easement and set for Public Hearing on January 12, 2015, at 6:00 p.m.
Councilmember Pearson moved to approve ORDINANCE NO. 16, SERIES 2014, FIRST READING, An Ordinance Ratifying the Vacation of the Harmony Road East Running Sewer Easement and set for Public Hearing on January 12, 2015, at 6:00 p.m. Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.

h. ORDINANCE NO. 17, SERIES 2014, FIRST READING, An Ordinance Amending Chapter 6, Article III of the Timnath Municipal Code and set for Public Hearing on January 12, 2015, at 6:00 p.m.

Staff Comments:
- Ms. Getchius spoke to Council about the proposed ordinance.

Town Council Questions and Comments:
- Councilmember Neal asked if it was in accordance with State law and Ms. Getchius stated that Home Rule Towns have the ability to change the code on a local level.

Councilmember Neal moved to approve ORDINANCE NO. 17, SERIES 2014, FIRST READING, An Ordinance Amending Chapter 6, Article III of the Timnath Municipal Code and set for Public Hearing on January 12, 2015, at 6:00 p.m. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

i. RESOLUTION NO. 67, SERIES 2014, A Resolution Amending the Orion Planning Group Contract for the Completion of the Land Use Code Revisions and Creation of an Interactive Code

Staff Comments:
- Mr. Blakely spoke to Council about the proposed resolution.


j. RESOLUTION NO. 68, SERIES 2014, A Resolution Approving the Amended and Restated Service Plan for Wildwing Metropolitan District Nos. 1-5

Staff Comments:
- Mr. Rogers spoke to Council about the proposed resolution.

Town Council Questions and Comments:
- Mayor Grossman-Belisle asked if the debt ceiling was included and Mr. Rogers spoke about inflation being included in the plan.

Councilmember Neal moved to approve RESOLUTION NO. 68, SERIES 2014, A Resolution Approving the Amended and Restated Service Plan for Wildwing Metropolitan District Nos. 1-5. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.
k. EXECUTIVE SESSION: “For the purposes discussion regarding positions relative to matters that may be subject to negotiations and development of a strategy for negotiations under §24-6-402(4)(e).”

Councilmember Neal moved to enter into EXECUTIVE SESSION: “For the purposes of discussion regarding positions relative to matters that may be subject to negotiations and development of a strategy for negotiations under §24-6-402(4)(e), C.R.S.”. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

Council went into executive session at 7:45 p.m.
The regular meeting reconvened at 8:21 p.m.

7. ADJOURNMENT:

Mayor Grossman-Belisle adjourned the meeting 8:22 p.m.


TOWN OF TIMNATH

________________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

________________________________________
Milissa Peters, Town Clerk
Report Criteria:
Invoices with totals above $0.00 included.
Only unpaid invoices included.

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Walker Landscaping Inc

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WHITE, BEAR, ANKELE, PC, ATTORNEYS AT LA

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**Total Xcel Energy:** 1,664.43

**Grand Totals:** 202,744.29

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Dated: ____________________________

Mayor: ____________________________

City Council: ____________________________

______________________________________________________

City Recorder: ____________________________

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Report Criteria:

- Invoices with totals above $0.00 included.
- Only unpaid invoices included.
# EXECUTIVE SUMMARY:
In 2012, easements were obtained from Timnath Holdings, Inc. by the Town for the downtown sewer project. These easements were for the sewer to run along the north side of Harmony Road from Main Street to Three Bell. With the redesign of that section of the sewer to go south thru Riverbend, the easements obtained in 2012 are no longer required.

# STAFF RECOMMENDATION:
Staff recommends approval of this resolution.

# KEY POINTS/SUPPORTING INFORMATION:
- Easements were obtained from Timnath Holdings, Inc. in 2012.
- A new easement has been dedicated to the District for the section of sewer from Main Street to the bore under Harmony Road.
- Vacating the easement at this time will simplify the pending plat for the property.
- Easements were for the installation of a sanitary sewer. No other use allowed under the easement.

# ADVANTAGES:
Simplifies the future plat by vacating unused easements.

# DISADVANTAGES:
None.

# FINANCIAL IMPACT:
None.

# RECOMMENDED MOTION:
I move to approve Ordinance No. 16, Series 2014 ratifying vacation of the Harmony Road East Running Sewer Easement.

# ATTACHMENTS:
1. Ordinance
2. Vacation of Easement document
TOWN OF TIMNATH
ORDINANCE NO. 16, SERIES 2014

AN ORDINANCE RATIFYING VACATION OF THE
HARMONY ROAD EAST RUNNING SEWER EASEMENT

WHEREAS, The Town of Timnath (the "Town") is a home rule municipality operating under the Timnath Home Rule Charter (the “Charter”) adopted on November 7, 2006 and the Town’s Municipal Code (the “Code”). Pursuant to the Charter, the Code, and the authority given home rule municipalities under the Colorado Constitution, the Town may adopt and amend ordinances; and

WHEREAS, pursuant to Section 15.4 of the Charter, subject to certain limitations, the Town Council shall approve the purchase, sale, exchange or disposition of any interest in real property by ordinance; and

WHEREAS, the Town Council has been advised of a certain easement requiring vacation for the purpose of dedication to another entity; and

WHEREAS, the Town Council desires to vacate such easement through the instrument contained herein as Exhibit A.

NOW THEREFORE, THE COUNCIL OF THE TOWN OF TIMNATH, COLORADO, ORDAINS:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Council.

Section 2. Vacation. The Vacation of the Harmony Road East Running Sewer Easement is hereby ratified as attached herein as Exhibit A.

Section 3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or parts be declared unconstitutional or invalid.

Section 4. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

Section 5. Effective Date. This Ordinance shall take effect upon adoption at second reading, as provided by Section 3.5.5 of the Charter.
INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH ON FIRST READING, SET FOR PUBLIC HEARING AND SECOND READING AT 6:00 p.m. ON JANUARY 12, 2015, AT THE TIMNATH TOWN HALL, 4800 GOODMAN STREET, TIMNATH, COLORADO, AND PUBLISHED BY TITLE THIS 9th DAY OF DECEMBER, 2014.

MOVED, SECONDED AND FINALLY ADOPTED IN SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON JANUARY 12, 2015.

TOWN OF TIMNATH, COLORADO

____________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

___________________________________
Milissa Peters, Town Clerk
EXHIBIT A

VACATION OF THE HARMONY ROAD EAST RUNNING SEWER EASEMENT
VACATION OF HARMONY ROAD EAST RUNNING SEWER EASEMENT

The Town of Timnath (the “Town”), a municipal corporation of the State of Colorado, does hereby vacate and release that certain Easement reserved to the District in certain document recorded in Reception # 20120033801 of the real estate records of the Clerk and Recorder of Larimer County, Colorado, said easement having encumbered the real property described and identified as: A RIGHT-OF-WAY AND EASEMENT LOCATED IN THE SOUTH HALF OF SECTION 35, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF TIMNATH, COUNTY OF LARIMER, STATE OF COLORADO, as more particularly described in Exhibit A which is attached hereto and incorporated herein. From and after the date hereof, said easement shall be vacated, released, remised, and of no force and effect whatsoever.

Dated this 13th day of January, 2015.

THE TOWN OF TIMNATH, a home rule municipal corporation of the State of Colorado

__________________________________________
Jill Grossman-Belisle
Mayor

STATE OF COLORADO)                  
) ss.
COUNTY OF __________)               

The foregoing instrument was acknowledged before me this ___ day of __________, 2014, by ____________________________, as the __________________________________ of ____________________________________.

WITNESS my hand and official seal.

My commission expires: ____________________________

(S E A L)

__________________________________________
Notary Public
EXHIBIT A

EASEMENT PROPERTY DESCRIPTION
LEGAL DESCRIPTION

30' UTILITY EASEMENT #5E

A 30' WIDE UTILITY EASEMENT LIES IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 7 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF LARIMER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER, FROM WHICH THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER BEARS S99°38'42"E; TUMBLE NO°7'17"E, 626.76 FEET TO A POINT OF CURVATURE AND THE POINT OF BEGINNING;

TUMBLE ALONG THE SOUTHEAST LINE OF EASEMENT #5 AS RECORDED AT REC. NO. 20080048610 OF THE LARIMER COUNTY RECORDS AND ITS SOUTHWESTERN EXTENSION, THE ARC OF SAID CURVE TO THE RIGHT HAVING A RADIUS OF 95.41 FEET AND A CENTRAL ANGLE OF 53°07'00" (THE CHORD OF WHICH BEARS N99°47'44"E, 35.69 FEET; TUMBLE NO°7'17"E, 192.21 FEET TO THE WESTERNLY LINE OF EASEMENT #5 AS RECORDED AT REC. NO. 20080048610 OF THE LARIMER COUNTY RECORDS;

TUMBLE ALONG SAID LINE S99°38'42"W, 35.69 FEET;

TUMBLE NO°7'17"W, 192.21 FEET TO THE POINT OF BEGINNING, CONTAINING 5,564 SQUARE FEET OR 0.127 ACRES, MORE OR LESS.

PREPARED BY:
STEPHEN H. HARDING, PLS
FOR AND ON BEHALF OF
EMK CONSULTANTS, INC.

DRAWN BY MMB
APPROVED BY EHD.
JOB NO. 1741669
DATE 04/01/2012
PAGE 2 OF 2

NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN 3 YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. NO RIGHT, NOR ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BECOMES CONSUMED MORE THAN TEN YEARS FROM THE DATE OF THE EXECUTION HEREOF. THIS DRAWING DOES NOT REPRESENT A MONUMENTED SURVEY AND IS ONLY INTENDED TO DEPICT THE ACCOMPANYING LEGAL DESCRIPTION.
LEGAL DESCRIPTION

30' UTILITY EASEMENT #12

A 30' WIDE UTILITY EASEMENT LYING IN THE SOUTH HALF OF SECTION 35, TOWNSHIP 7 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF LARIMER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 35, FROM WHICH THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER BEARS SSSW'40'48"E
THEREFROM N30'00'38"W, 420.86 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF THE COLORADO AND SOUTHERN RAILROAD AS DESCRIBED IN BOOK T AT PAGE 346 OF THE LARIMER COUNTY RECORDS AND THE POINT OF BEGINNING;

THEREFROM ALONG THE NORTHEASTERLY LINE OF EASEMENT AS RECORDED AT REG. NO. 208900459010 OF THE LARIMER COUNTY RECORDS AND SAID NORTHEASTERLY RIGHT-OF-WAY LINE N50'34'40"W, 30.00 FEET

THEREFROM N30'00'38"E, 373.15 FEET
THEREFROM N40'00'00"W, 208.90 FEET
THEREFROM EBD'27'38"E, 142.66 FEET
THEREFROM SBD'16'02"E, 112.02 FEET
THEREFROM SBD'07'03"E, 112.08 FEET
THEREFROM SBD'06'00"E, 134.48 FEET
THEREFROM SBD'11'07"E, 67.53 FEET
THEREFROM SBD'48'00"E, 64.76 FEET
THEREFROM SBD'19'10"W, 165.60 FEET
THEREFROM SBD'10'50"W, 809.66 FEET
THEREFROM N37'48'49"W, 51.49 FEET
THEREFROM SBD'53'43"E, 47.37 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER;

THEREFROM ALONG SAID EAST LINE S00'00'35"W, 30.00 FEET

THEREFROM N69'29'43"W, 52.42 FEET
THEREFROM EBD'48'45"W, 41.63 FEET
THEREFROM EBD'00'00"W, 1,025.47 FEET
THEREFROM N00'18'46"W, 1,025.40 FEET
THEREFROM N69'40'00"W, 619.91 FEET
THEREFROM N01'51'07"W, 71.44 FEET
THEREFROM N73'58'05"W, 198.81 FEET
THEREFROM N92'07'03"W, 119.21 FEET
THEREFROM N92'16'02"W, 113.10 FEET
THEREFROM N00'24'38"W, 145.14 FEET
THEREFROM N40'38'40"W, 292.18 FEET
THEREFROM S39'30'18"W, 372.37 FEET TO THE POINT OF BEGINNING; CONTAINING 99.012 SQUARE FEET OR 2.281 ACRES, MORE OR LESS.

PREPARED BY:
STEPHEN H. HARDING, PLS
FOR AND ON BEHALF OF
EMK CONSULTANTS, INC.
LEGAL DESCRIPTION

A UTILITY EASEMENT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF TAMARRI, COUNTY OF LARIMER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 36 WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SAID SECTION 36 BEARING N89°30'13"W FORMING THE BASIS OF BEARINGS FOR THE DESCRIPTION.

THENCE N90°29'52"W, 226.98 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF THE COLORADO AND SOUTHERN RAILROAD AS DESCRIBED IN BOOK T AT PAGES 343 AND 344 OF THE LARIMER COUNTY RECORD.

THENCE S90°24'42"W, 100.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SAID COLORADO AND SOUTHERN RAILROAD.

THENCE S90°24'42"E ALONG SAID SOUTH RIGHT-OF-WAY LINE OF THE COLORADO AND SOUTHERN RAILROAD, 30.00 FEET.

THENCE E90°24'42"E, 100.00 FEET TO SAID NORTH RIGHT-OF-WAY LINE OF THE COLORADO AND SOUTHERN RAILROAD.

THENCE E90°24'42"E ALONG SAID NORTH RIGHT-OF-WAY LINE OF THE COLORADO AND SOUTHERN RAILROAD, 30.00 FEET TO THE POINT OF BEGINNING, CONTAINING 3,000 SQUARE FEET OR 0.07 ACRES, MORE OR LESS.

PREPARED BY
JON M. MCDANIEL, PLS
FOR EMK CONSULTANTS, INC.
LEGAL DESCRIPTION

A utility easement located in the southwest quarter of Section 36, Township 7 North, Range 26 West of the 6th Principal Meridian, Town of Wellington, County of Larimer, State of Colorado, more particularly described as follows:

Commencing at the southeast corner of said southwest quarter of Section 36 with the south line of said southwest quarter of Section 35 bearing N89°39'15"W forming the basis of bearings for this description:

Thence N59°40'02"W, 265.30 feet to a point on the south right-of-way line of the Colorado and Southern Railroad as described in Book 2 at Page 346 of the Larimer County records and the point of beginning:

Thence 89°35'16"W, 10.07 feet;

Thence N90°39'13"W, 897.48 feet;

Thence N44°52'21"W, 236.61 feet;

Thence N54°21'10"E, 14.05 feet;

Thence N90°14'31"E, 11.82 feet;

Thence 88°31'13"E, 644.42 feet;

Thence 59°36'16"E, 3.04 feet to said south right-of-way line of the Colorado and Southern Railroad;

Thence 66°24'42"E along said south right-of-way line of the Colorado and Southern Railroad, 39.00 feet to the point of beginning, containing 27,679 square feet or 0.03 acres, more or less.
LEGAL DESCRIPTION

A UTILITY EASEMENT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 9TH PRINCIPAL MERIDIAN, TOWN OF TIMNATH, COUNTY OF LA SALLE, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 36 WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 36 BEARING N89°58′31″W FORMING THE BASIS OF BEARINGS FOR THIS DESCRIPTION;

THENCE N89°58′31″W, 1199.86 FEET TO THE POINT OF BEGINNING;
THENCE N84°31′13″W, 48.49 FEET;
THENCE N00°14′31″E, 79.92 FEET;
THENCE N25°09′31″W, 156.64 FEET;
THENCE N89°29′52″W, 155.27 FEET;
THENCE N05°39′32″W, 679.67 FEET;
THENCE N61°28′56″W, 208.31 FEET;
THENCE N89°47′14″W, 37.68 FEET;
THENCE N85°24′42″W, 417.80 FEET;
THENCE N69°47′44″E, 81.85 FEET;
THENCE S61°28′18″E, 205.06 FEET;
THENCE S89°39′13″E, 677.78 FEET;
THENCE E65°23′56″E, 173.18 FEET;
THENCE S23°09′11″E, 171.81 FEET;
THENCE E60°14′31″W, 78.40 FEET;
THENCE E69°39′13″E, 15.00 FEET;
THENCE E80°14′31″W, 1119.2 FEET TO THE POINT OF BEGINNING, CONTAINING 40,828 SQUARE FEET OR 0.94 ACRES, MORE OR LESS.

PREPARED BY:
JOY S. MCDANIEL, P.E.
FOR AND ON BEHALF OF:
EMK CONSULTANTS, INC.
LEGAL DESCRIPTION

A UTILITY EASEMENT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 7
NORTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF YAMNATH, COUNTY OF
LANIER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35 WITH
THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 35 BEARING N 39° 41' 10" W FORMING
THE BASIS OF Bearings FOR THIS DESCRIPTION;
THENCE N 28° 52' 12" E, 69.10 FEET TO THE POINT OF BEGINNING;
THENCE N 35° 19' 12" E, 35.61 FEET;
THENCE S 89° 47' 44" W, 85.52 FEET;
THENCE S 60° 24' 42" E, 47.28 FEET;
THENCE N 89° 47' 45" W, 148.00 FEET TO THE POINT OF BEGINNING, CONTAINING 3.622 SQUARE
FEET OR 0.08 ACRES, MORE OR LESS.

PREPARED BY:
JOHN J. MCDAVID, PLLC
FOR AND ON BEHALF OF
EMK CONSULTANTS, INC.
**EXECUTIVE SUMMARY:** The current Town Code does not address the location of liquor sales near schools. State law prohibits liquor sales within 500 feet of schools, but allows local governments to provide for exemptions to this restriction. If, for example, a restaurant wanted to locate on certain parcels in the Old Town, they could not sell alcohol if they were within 500 feet of Timnath Elementary School. The proposed ordinance removes certain uses from this 500 foot limitation.

**STAFF RECOMMENDATION:** Staff recommends approval of this ordinance.

**KEY POINTS/SUPPORTING INFORMATION:**
- The proposed ordinance would allow the following uses to be within 500 feet of a school:
  - Beer and wine
  - Bed and Breakfast
  - Hotel and restaurant
  - Optional premises (These are licenses that are part of a hotel license, for example but not being served in the primary building.)
  - Arts (Licenses for special arts events.)
  - Special event permit
  - Brew pub
  - Vintner’s restaurant
  - Temporary permit for continuance of the sale of alcoholic beverages by a transferee pending the transfer of the permanent license
  - Temporary license for the continuance of the sale of alcoholic beverages by a licensee whose license has expired where the licensee has applied for a permanent license
- The proposed ordinance would prohibit the following uses within 500 feet of a school:
  - Fermented malt beverage sales
  - Retail liquor stores
  - Liquor-licensed drugstore
  - Tavern
  - Club
  - Racetrack

**ADVANTAGES:** This ordinance provides greater flexibility in the location of new businesses in Timnath and restricts the location of businesses that might prove to be in conflict with surrounding uses.
<table>
<thead>
<tr>
<th><strong>DISADVANTAGES:</strong></th>
<th>None</th>
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<tbody>
<tr>
<td><strong>FINANCIAL IMPACT:</strong></td>
<td>None</td>
</tr>
<tr>
<td><strong>RECOMMENDED MOTION:</strong></td>
<td>I move approval of Ordinance No. 17, Series 2014 entitled “An Ordinance Amending Chapter 6, Article III of the Timnath Municipal Code.”</td>
</tr>
<tr>
<td><strong>ATTACHMENTS:</strong></td>
<td>Ordinance</td>
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</table>
TOWN OF TIMNATH, COLORADO
ORDINANCE NO. 17, SERIES 2014

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE III OF THE TIMNATH MUNICIPAL CODE

WHEREAS, the Town Council (“Council”) of the Town of Timnath (“Town”) is authorized to adopt and enforce ordinances for the protection of public health, safety and welfare; and

WHEREAS, pursuant to Section 12-47-313(1)(d) of the Colorado Liquor Code, the Town has authority to eliminate or reduce the distance restrictions of Section 12-47-313 by ordinance; and

WHEREAS, in order to modify the distance restrictions of the Colorado Liquor Code, the Council desires to amend Chapter 6, Article III of the Timnath Municipal Code (“Code”).

NOW THEREFORE, THE COUNCIL OF THE TOWN OF TIMNATH, COLORADO, ORDAINS:

Section 1. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Council.

Section 2. Chapter 6, Article III is hereby amended by the addition of the provisions attached herein as Exhibit A, 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 3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or parts be declared unconstitutional or invalid.

Section 4. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

Section 5. Effective Date. This Ordinance shall take effect upon adoption at second reading, as provided by Section 3.5.5 of the Charter.
INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH ON FIRST READING, SET FOR PUBLIC HEARING AND SECOND READING AT 6:00 P.M. ON JANUARY 12, 2015, AT THE TIMNATH TOWN HALL, 4800 GOODMAN STREET, TIMNATH, COLORADO, AND PUBLISHED BY TITLE THIS 9th DAY OF DECEMBER, 2015.

MOVED, SECONDED AND FINALLY ADOPTED IN SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON JANUARY 12, 2015.

TOWN OF TIMNATH, COLORADO

____________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

___________________________________
Milissa Peters, Town Clerk
EXHIBIT A
AMENDMENT TO CHAPTER 6, ARTICLE III OF THE TIMNATH MUNICIPAL CODE [TO FOLLOW SECTION 6.3.11]

6.3.12: Restrictions for applications for new license
A. The restrictions of section 12-47-313(1)(d) of the Colorado Liquor Code shall not apply to any submittal of an application for the issuance of a license pursuant to section 6.3.4 of this Code if the application is for a license in any of the following categories:
   a. Beer and wine
   b. Bed and Breakfast
   c. Hotel and restaurant
   d. Optional premises
   e. Arts
   f. Special event permit
   g. Brew pub
   h. Vintner’s restaurant
   i. Temporary permit for continuance of the sale of alcoholic beverages by a transferee pending the transfer of the permanent license
   j. Temporary license for the continuance of the sale of alcoholic beverages by a licensee whose license has expired where the licensee has applied for a permanent license

B. All restrictions of section 12-47-313 of the Colorado Liquor Code, except as modified in this Municipal Code, shall apply to all categories of license specified in section 6.3.5 of this Code, except those categories specified above in this section 6.3.12(A).
**EXECUTIVE SUMMARY:** As the Town develops more parks and opportunities for their use, there is an increased need for regulating the use for the appropriate enjoyment of all parties. The attached ordinance simply authorizes the Council to establish rules for public property and park use by resolution so each park site can be tailored for appropriate use. Staff will then return with recommended resolutions for park rules which can be easily amended through resolution and which can be customized for each park.

**STAFF RECOMMENDATION:** Staff recommends approval of this ordinance.

**KEY POINTS/SUPPORTING INFORMATION:**
- The development and use of parks is new to the Town and as the use increases, the Town needs flexibility in establishing rules.
- Establishing rules by resolution allows the Town Council to be responsive to needs or new issues as they develop.
- Each park may have different types of use and different associated rules. Adopting an overall ordinance to allow the establishment of rules by resolution will provide the needed flexibility.

**ADVANTAGES:** Allows the Council to tailor rules to specific park and public property sites.

**DISADVANTAGES:**
None.

**FINANCIAL IMPACT:**
None.

**RECOMMENDED MOTION:** I recommend approval of Ordinance No. 1, Series 2015 entitled “An Ordinance Amending Chapter 10 of the Town Code of The Town Of Timnath, Colorado” and establishing a public hearing for same for January 27, 2015.

**ATTACHMENTS:** Ordinance
An Ordinance Amending Chapter 10 of the Town Code
of the Town of Timnath, Colorado

WHEREAS, The Town of Timnath (the “Town”) is a home rule municipality operating under
the Timnath Home Rule Charter (the “Charter”) adopted on November 7, 2006 and the Town’s
Municipal Code (the “Code”). Pursuant to the Charter, the Code and the authority given home
rule municipalities, the Town may adopt and amend ordinances; and

WHEREAS, This Ordinance entitled “An Ordinance Amending Chapter 10 of the Town Code”
provides for the establishment of rules for the use of public property; and

WHEREAS, The Town Council hereby finds, determines, and declares that this Ordinance is
promulgated under the general police power of the Town, that it is promulgated for the
preservation of public health, welfare, peace, safety and property and that this Ordinance is
necessary for the protection of public convenience and welfare.

NOW, THEREFORE, THE COUNCIL OF THE TOWN OF TIMNATH, COLORADO,
ORDAINS:

ARTICLE 1 - AMENDMENT
Chapter 10, Article II entitled “Property” is hereby amended to create a new Section
entitled “10.29 Unlawful Conduct on Public Property” and shall read as follows:

1. The Town Council may, by duly adopted and approved resolution, impose rules and
   regulations regarding the use of public properties including, but not limited to, public
   parks or public buildings either in whole or for specific properties.
2. Any person who violates any order, rule or regulation adopted by the Town Council
   is guilty of a class 3 misdemeanor and subject to the penalties pursuant to Town
   Code.

ARTICLE 2 – SEVERABILITY
If any part or provision of this Ordinance, or its application to any person or circumstance, is
adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part,
provision, or application shall not affect any of the remaining parts, provisions or applications of
this Ordinance that can be given effect without the invalid provision, part or application, and to
this end the provisions and parts of this Ordinance are declared to be severable.

ARTICLE 4 – EFFECTIVE DATE
This Ordinance shall take effect upon adoption at second reading, as provided by Section 3.5.5 of
the Charter.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF
TIMNATH ON FIRST READING, ON JANUARY 12, 2015, AND SET FOR PUBLIC
HEARING AND SECOND READING AT 6:00 P.M. ON JANUARY 27, 2015 AT THE TIMNATH ADMINISTRATION BUILDING, 4800 GOODMAN STREET, TIMNATH COLORADO AND ORDERED PUBLISHED BY TITLE THIS 12TH DAY OF JANUARY, 2015.

MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON JANUARY 27, 2015.

TOWN OF TIMNATH, COLORADO

______________________________
Jill Grossman-Belisle, Mayor

ATTEST:

______________________________
Milissa Peters, Town Clerk
**TIMNATH COUNCIL COMMUNICATION**

<table>
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<th>Item: Larimer County Sheriff’s Office contract for 2015.</th>
<th>Ordinance☐ Resolution ✓ Discussion ☐ For Information ☐</th>
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<td>Presented by:</td>
<td>Sherri Wagner</td>
<td></td>
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**EXECUTIVE SUMMARY:** Contract to continue law enforcement coverage by Larimer County Sheriff’s Office. Services include dispatch, school resource officer, records and investigations if needed. Contract provides 24-7 coverage to Timnath residents as requested.

**STAFF RECOMMENDATION:** Approval of contract resolution.

**KEY POINTS/SUPPORTING INFORMATION:**

1) 15% increase in basic contract

2) School Resource Officer contract amount for year 2015 included ($11,421)

3) Contract services remain the same.

**ADVANTAGES:** Maintaining law enforcement coverage for Timnath citizens and businesses as Timnath police department increases staffing.

**DISADVANTAGES:** None

**FINANCIAL IMPACT:** Increase in budget of 15% and School Resource Officer contract amount. Total cost is $44,540

**RECOMMENDED MOTION:** Approval of Resolution

**ATTACHMENTS:** Exhibit “A”
TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 1, SERIES 2015

A RESOLUTION APPROVING THE LAW ENFORCEMENT AGREEMENT
BETWEEN THE TOWN OF TIMNATH AND LARIMER COUNTY

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 Law Enforcement Agreement Between the Town of Timnath and Larimer County ("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 Town Council hereby approves the Agreement.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH ON JANUARY 12, 2015,

TOWN OF TIMNATH, COLORADO

_________________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

_________________________________________
Milissa Peters, Town Clerk
EXHIBIT A
THE LAW ENFORCEMENT AGREEMENT BETWEEN THE
TOWN OF TIMNATH AND LARIMER COUNTY
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<td>ATTACHMENT A: Statement of Work and Budget Agreement</td>
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MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT
BY AND BETWEEN
LARIMER COUNTY, COLORADO AND THE TOWN OF TIMNATH, COLORADO

THIS AGREEMENT, is made and entered effective the 1st day of January, 2015,
between the Town of Timnath, Colorado, a municipal corporation (the "Town"); and the Board
of County Commissioners of the County of Larimer, Colorado through the Larimer County
Sheriff (the "County").

WITNESSETH:

WHEREAS, the Town is desirous of contracting with the County for the performance of
law enforcement services through the Larimer County Sheriff's Office (hereinafter referred to as
"Sheriff" or "Sheriff's Office"); and

WHEREAS, the County is agreeable to rendering such law enforcement services on the
terms and conditions set forth in this Agreement; and

WHEREAS, such law enforcement services agreements are authorized and provided for
by the provisions of Colorado Revised Statutes §29-1-203 and §30-11-410.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and
for good and valuable consideration, the parties mutually agree as follows:

1.0 SCOPE OF SERVICES

1.1 The County agrees, through the Sheriff, to provide general law enforcement
services within the corporate limits of the Town to the extent and in the manner
hereinafter set forth in this Agreement. Annually, the Sheriff and Town will
negotiate the budget, which sets forth the level of services provided and the
associated costs (See section 2 for details).

1.2 Except as otherwise specifically set forth in this Agreement, such services shall be
the basic level of services which are provided for unincorporated areas of Larimer
County.

1.3 Contracted Law Enforcement Services - General law enforcement services
performed hereunder may include, if requested by the Town and included on the
annual Statement of Work and Budget Agreement (See Section 2): supplemental
sworn officer support, supplemental security support, and supplemental
professional civilian support staff.
1.4 Training & Equipment - The Sheriff will provide equipment, training, uniforms, vehicles, and supplies for deputies provided hereunder, on the same basis as the Sheriff provides to deputies assigned outside of the Town, adequate to provide the services agreed to hereunder.

1.5 Police Records Management - See Addendum

1.6 Dispatch Services - See Addendum.

1.7 Evidence Storage and Processing See Addendum

2.0 STAFFING AND SERVICE LEVELS

2.1 Overtime/Extraordinary Investigations - In the event that the deputies assigned to the Town under this Agreement incur overtime expenses above the amount budgeted, the Sheriff shall pay such excess, except in situations where the overtime expense is incurred because of an extraordinary criminal investigation that occurs within the Town limits. In cases of an extraordinary criminal investigation, the Town and Sheriff will meet to discuss cost sharing of overtime expenses, forensic examination expenses, expert analysis expenses and other expenses incurred that are specific to that investigation. The Sheriff determines when an investigation becomes an extraordinary criminal investigation and notifies the Town Administrator of said determination.

2.2 Special Event Staffing – When the Town requires additional staffing for special events, beyond what the contract officers can supply, the Sheriff will work with the Town to provide extra staffing. Volunteers, such as Reserve Deputies, Posse, and Explorers may be used, when available and appropriate, to supplement staffing. If extra-duty deputies are required/requested, the Town will be financially responsible for compensating the County for the hours worked by these officers at the contractual extra-duty rate charged by the Sheriff’s Office.

3.0 ADMINISTRATION OF PERSONNEL

3.1 The rendition of the services performed by the Sheriff's Office, the standards of performance, the discipline of deputies, and other matters incident to the performance of such services and the control of personnel so employed shall remain with the County.
3.2 Any complaints of violation of law or policy by Sheriff's deputies assigned to the Town shall be made by the Town or other complaining person in writing, directed to the Sheriff and in compliance with the Sheriff's policy and procedure for Internal Affairs investigations. Pursuant to that policy, the Sheriff or his designee, shall inform the Town in writing when any such complaint is received, including the name of the deputy complained against and the nature of the complaint. The Sheriff, or his designee, shall also notify the Town that the issue has been addressed after the Sheriff's internal investigation has been completed.

3.3 With regard to Section 3.2, the Sheriff, in an unresolved dispute, shall have final and conclusive determination as between the parties hereto.

3.4 All Town employees who work in conjunction with the Sheriff's Office pursuant to this Agreement shall remain employees of the Town and shall not have any claim or right to employment, civil service protection, salary, or benefits or claims of any kind from the County based on this Agreement. No Town employee as such shall become employees of the County unless by specific additional agreement in the form of a merger agreement which must be concurrently adopted by the Town and the County.

3.5 The Parties agree that the relationship of the Sheriff to the Town under this Agreement is that of an independent contractor. In this capacity, and for the sole purpose of providing the services contracted for hereunder, the Sheriff may be considered to be an agent of the Town; for all other purposes, however, the Sheriff and his deputies provided under this Agreement shall be considered to be officials or employees of Larimer County and not employees of the Town. All other persons who are employed by or acting as agents of the Town shall be considered to be employees or agents of the Town and not of the Sheriff. No person who is not a deputy of, employed by, or expressly commanded by, the Sheriff in the course of providing law enforcement services hereunder shall be considered to be an agent or employee of the Sheriff for any purpose.

3.6 The Town shall not be called upon to assume any liability for the direct payment of any Sheriff's Office salaries, wages, or other compensation to any County personnel performing services hereunder for said Town.

3.7 The Town shall not be liable for workers' compensation or unemployment
insurance for any of the Sheriff’s employees for injuries or sickness arising out of their employment by the Sheriff. The County shall to the extent allowed by law and to the limit of County insurance cover such liability, defend and hold harmless the Town against any such claims and provide any required workers’ compensation insurance program and unemployment insurance coverage for Sheriff’s employee. Any release, hold harmless and indemnity given hereunder shall not constitute a waiver of any rights or immunities afforded to the County under Sec. 24-10-107, et. Seq. C.R.S. 1973.

3.8 Municipal and County Court - See Addendum

3.9 The Sheriff acknowledges that personnel assigned to the Town have been notified of their duty to cooperate with state and federal officials with regards to enforcement of state and federal laws

4.0 RESOURCES TO BE PROVIDED BY THE TOWN

4.1 For the purpose of performing said general law enforcement services, County shall furnish and supply all necessary labor, supervision, equipment, communication facilities, and supplies necessary to maintain the agreed level of service to be rendered hereunder.

4.2 Notwithstanding the foregoing, the Town may provide additional resources for the County to utilize in performance of the services.

4.3 It is expressly further understood that in the event a local office or building is maintained in said Town, such local office or building may be used by the Sheriff in connection with the performance of his duties in territory outside of the Town, provided, however, that the performance of such outside duties shall not be at any additional cost to the Town.

5.0 INDEMNIFICATION

5.1 To the extent allowed by Colorado law, the Town, shall indemnify the County for claims against the County arising from the enforcement of any Town ordinance in accordance with Larimer County Sheriff Policies and Procedures. This indemnity shall not constitute a waiver of any rights or immunities afforded to the Town pursuant to Colorado law and is not an indemnity for the County from the Town for any other purpose. The Town shall ensure the County is listed as an additionally insured on all liability policies and that such insurance coverage extends to
the County regardless of whether the Town is legally authorized to indemnify

5.2 It is agreed that the Town shall not be liable for the direct payment of any salaries, wages, or other compensation to any county personnel performing services under this Agreement.

5.3 It is agreed that the Town shall not be liable for workers compensation or unemployment insurance for any of the Sheriff’s employees for injuries or sickness arising out of their employment by the Sheriff. The County shall to the extent of County insurance cover such liability, defend and hold harmless the Town against any such claims and provide any required workers’ compensation insurance program and unemployment insurance coverage for Sheriff’s employee. Any release, hold harmless and indemnity given hereunder shall not constitute a waiver of any rights or immunities afforded to the County under Colorado Revised Statutes § 24-10-101 et seq.

6.0 **TERM OF AGREEMENT**

6.1 The term of this Agreement shall be from January 1, 2015 through December 31, 2015, unless sooner terminated or extended as provided for herein.

6.2 At the option of the Board of County Commissioners and with the consent of the Town Council, this Agreement may be renewed or extended for successive periods not to exceed five (5) years each.

6.3 Nine (9) months prior to the expiration of this Agreement, the parties shall meet and confer in good faith to discuss the possible renewal or extension of this Agreement pursuant to Section 6.2 above. The parties shall reach an agreement as to the terms of any renewal or extension period no later than six (6) months prior to the expiration of this Agreement. Absent mutual agreement by the parties within that time frame, this Agreement shall expire at the conclusion of the then-existing term.

6.4 The Level of Service and Budget Agreement (Attachment A) will be updated annually as set forth in Section 2.0 of this agreement.

7.0 **RIGHT OF TERMINATION**

7.1 This Agreement may be terminated at anytime, with or without cause, by either party upon written notice given to the other party at least one hundred eighty
(180) days before the date specified for such termination.

7.2 Notwithstanding any provision herein to the contrary, the Town may terminate this Agreement upon notice in writing to the County given within sixty (60) days of receipt of written notice from the County of any increase in the rate for any service to be performed hereunder, and in such an event this Agreement shall terminate sixty (60) calendar days from the date of the Town’s notice to the County.

7.3 In the event of a termination, each party shall fully discharge all obligations owed to the other party accruing prior to the date of such termination, and, except as otherwise provided herein, each party shall be released from all obligations which would otherwise accrue subsequent to the date of termination.

8.0 BILLING RATES

8.1 The Town shall pay the County for the services provided under the terms of this Agreement at the rates set forth in the Statement of Work and Budget Agreement (Attachment A).

8.2 The rates set forth in the Statement of Work and Budget Agreement (Attachment A) shall be readjusted agreed upon by the County and Town annually effective January 1 of each year, and attached hereto as an Amendment to this Agreement.

8.3 The Town shall be billed based on the service level provided within the parameters of the Statement of Work and Budget Agreement (Attachment A).

8.4 The cost of other services requested pursuant to Section 2.1 or 2.2 of this Agreement and not set forth in Attachment A shall be billed at the contractual extra-duty rate charged by the Sheriff’s Office or at a rate agreed upon by the Town and Sheriff.

9.0 PAYMENT PROCEDURES

9.1 The Town will pay the County one fourth (1/4) of the contract amount quarterly, as indicated on ATTACHMENT A. The County, through the Sheriff, shall render to said Town within ten (10) days after the close of each quarter a summarized invoice which covers all services performed during said quarter, and said Town shall pay the County for all undisputed amounts within sixty (60) days after date of said invoice.

9.2 If such payment is not delivered to the County office which is described on said
invoice within sixty (60) days after the date of the invoice, the County is entitled to recover interest thereon. For all disputed amounts, the Town shall provide County with written notice of the dispute including the invoice date, amount, and reasons for dispute within ten (10) days after receipt of the invoice. The parties shall memorialize the resolution of the dispute in writing. For any disputed amounts, interest shall accrue if payment is not received within sixty (60) days after the dispute resolution is memorialized.

9.3 Interest shall be at the rate of ten percent (10%) per annum or any portion thereof, calculated from the last day of the month in which the services were performed, or in the case of disputed amounts, calculated from the date the resolution is memorialized.

10.0 NOTICES

Unless otherwise specified herein, all notices or demands required or permitted to be given or made under this Agreement shall be in writing and shall be hand delivered with signed receipt or mailed by first class registered or certified mail, postage prepaid, addressed to the parties at the following addresses and to the attention of the person named. Addresses and persons to be notified may be changed by either party by giving ten (10) calendar days prior written notice thereof to the other party.

Notices for the Sheriff/County:
Larimer County Sheriff
2501 Midpoint Dr.
Fort Collins, Co 80525

and

Larimer County Attorney's Office
224 Canyon Avenue - Suite 200
Fort Collins, Co 80521

Notices for the Town:
Town Of Timnath
Attn: Town Manager
4800 Goodman Street
Timnath CO. 80547

11.0 AMENDMENTS

All changes, modifications, or amendments to this Agreement must be in the form of a written Amendment duly executed by the Board of County Commissioners and an authorized representative of the Town. Notwithstanding, the Sheriff or his designee is hereby authorized to execute on behalf of the County any Amendments and/or supplemental agreements referenced in Sections 1.3, 1.6, 2.0, 8.2, 8.4 and 9.2 of this
AGreement.

12.0 AUTHORIZATION WARRANTY
12.1 The Town represents and warrants that the person executing this Agreement for the Town is an authorized agent who has actual authority to bind the Town to each and every term, condition, and obligation of this Agreement and that all requirements of the Town have been fulfilled to provide such actual authority.

12.2 The County represents and warrants that the person executing this Agreement for the County is an authorized agent who has actual authority to bind the County to each and every term, condition, and obligation of this Agreement and that all requirements of the County have been fulfilled to provide such actual authority.

13.0 ENTIRE AGREEMENT
This Agreement, Attachment A, and any executed Amendments thereto constitute the complete and exclusive statement of understanding of the parties which supersedes all previous agreements, written or oral, and all communications between the parties relating to the subject matter of this Agreement. No change to this Agreement shall be valid unless prepared pursuant to Section 11.0, Amendments, of this Agreement.
MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT

BY AND BETWEEN
COUNTY OF LARIMER AND TOWN OF TIMNATH

IN WITNESS WHEREOF, the Town of Timnath, by resolution duly adopted by its governing body, caused this Agreement to be signed by its Mayor and attested by its Town Clerk, and the County of Larimer, by the Board of County Commissioners, has caused these presents to be subscribed by the Larimer County Sheriff and the Chairperson of said Board and the seal of said Board to be affixed thereto and attested by the Deputy Clerk of said Board, all on the day and year first above written.

TOWN OF TIMNATH

ATTEST:

Mayor

Date

Town Clerk

Date

(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF LARIMER COUNTY

ATTEST:

Deputy Clerk

Date

By:

Chair

Date

SHERIFF:

APPROVED AS TO FORM:

Larimer County Sheriff

Date

Senior County Attorney

Date

Page 10 of 16
ATTACHMENT A

2015 STATEMENT OF WORK AND BUDGET AGREEMENT
BY AND BETWEEN
COUNTY OF LARIMER AND TOWN OF TIMNATH

This Statement of Work and Budget Agreement is for the calendar year 2015. It will be in effect from January 1, 2015 through December 31, 2015, unless superseded by a new agreement.

1.0 SCOPE OF WORK

The County, through the Sheriff’s Office, will provide the services of full-time sworn deputies, supervisors, investigators, and one part-time sworn School Resource Officer to assist the Town with law enforcement activities as more specifically described below. The County agrees to provide the following law enforcement protection services within the corporate boundaries of the Town of Timnath:

a) Except as otherwise specifically set forth, the services shall be those duties and functions coming within the jurisdiction of the Larimer County Sheriff pursuant to Colorado law that are not provided by town police.

b) The standards of officer performance, the discipline of officers and other matters incident to the performance of law enforcement services and control of personnel so employed, shall remain solely under the control of the Sheriff.

c) Except as otherwise specifically set forth, the services provided shall be the basic level of services provided for unincorporated areas of similar population density in Larimer County as determined by the Larimer County Sheriff.

d) In addition to the basic level of services, the County shall provide the following supplemental services:

i) The Larimer County Sheriff’s Office, when called to Timnath to address traffic issues or traffic violations will cite the violations into Timnath municipal court. If deputies are on routine patrol, they will have discretion in enforcing traffic laws and citing into the court of their discretion.

ii) Support services for the Town police department consisting of dispatch services, records management and case entry training, time sensitive evidence storage, and crime scene assistance.

iii) Access for town police to enter tickets and cases into the Tiburon records management system. The Larimer County Sheriff’s records division is designated as custodian of Town’s police records.

iv) The Larimer County Sheriff’s warrant division shall process all town municipal warrants. At the discretion of the Larimer County Sheriff an
additional warrant processing fee may be charged. Such fee is in addition to any fees or payments made pursuant to this agreement.

v) The Larimer County Sheriff shall provide mutual assistance and assignments to back up town officers as requested. The Larimer County Sheriff anticipates providing mutual assistance and assignment to back-up town officers when they are responding to driving under the influence traffic stops, domestic violence, possible assaults and business/house alarms, however the parties acknowledge resource limitations and responses to other law enforcement needs may prohibit assistance or assignment to every town request. Recognizing the heightened public and officer safety concerns implicated by the above enumerated calls, however, the Sheriff shall use its best efforts to assist Town officers as requested on such calls.

vi) The Larimer County Sheriff may assist town police with calls in proximity of Town limits and current growth management area.

Municipal Court

e) It is agreed that when arrests are made and citations and summonses issued solely under ordinances of the Town, the prosecution of such cases shall be in the Municipal Court. Any and all fines collected shall be paid to the Town of Timnath.

f) It is agreed that Sheriff’s deputies making arrests or issuing summonses to violators for appearance in court shall be required to appear at said court at the appointed time and date to give all evidence and testimony required. Sheriff’s deputies failing to comply with this requirement shall be subject to disciplinary action at the discretion of the Sheriff.

Personnel and Equipment

g) It is agreed that the County shall furnish and supply all labor, supervision, equipment, training, communication facilities for dispatching, cost of jail detention (for misdemeanor and felony charges only) and supplies necessary to maintain the services to be rendered herein.

h) Notwithstanding any other provision of this Agreement, all personnel assigned by the County to perform work under the terms of this Agreement, including the Sheriff, shall be, and remain at all times, employees or agents of the County for all purposes. Neither the Sheriff nor any County employee shall make any representation that he or she is a Town employee for any purpose.

i) The Town will provide to the County access to the Town Administrative Building facilities and equipment for administrative use.
2.0 SUPERVISOR

The Supervisor will be responsible for the supervision of law enforcement and public safety operations for the Town, as needed during periods that Police Officers of the Town are off or unavailable. The Supervisor will work closely with the Police Chief and the Town Manager to exchange information, ensure the Sheriff is meeting expectations and is in compliance with this agreement, and to determine the needs of the Town and define priorities and goals for the Town’s law enforcement activities.

3.0 PATROL DEPUTIES

When called upon, deputies will assist the Town in providing law enforcement services as necessary during periods when Police Officers of the Town of Timnath are unavailable. Calls for service will be handled by regular on-duty Sheriff’s deputies in the same manner and level as they cover unincorporated areas of the County.

Contracted patrol services shall include, but not be limited to, the following: enforcement of Colorado state statutes and county and municipal ordinances, general traffic enforcement; business checks by foot patrol or by vehicle; vacation checks of private residences (as requested); investigation of traffic accidents; and, investigation of criminal offenses.

4.0 INVESTIGATOR

The Sheriff will assign an Investigator as needed to assist with Town cases. The Investigator will be expected to provide case investigative assistance to the town as needed.

5.0 SCHOOL RESOURCE OFFICER

The School Resource Officer’s primary function, during the school year, will be working in the Poudre District Schools to provide law enforcement services and security within the schools. The Officer will split their SRO time according to the contract with the Town(s) and will supplement Town patrol coverage by performing general law enforcement duties when practical and appropriate.

6.0 CONTRACT WORK HOURS

In general, service hours will include assistance to Town Officers as requested and response to incidents requiring law enforcement assistance after hours and when Town Police services are not staffed.
School Resource services as outlined in the Agreement between the Poudre School District R-1, The Town of Wellington and Larimer County for the School Resource Officer Program.

The actual time periods spent in providing patrol services shall be dependent upon several factors including, but not limited to, the day of the week, the time of the month, school day versus non-school day, holiday, etc.

7.0 CHANGES TO LEVEL OF SERVICE

Changes to the level of services requested, including scheduled temporary or emergency staffing needs will be provided as set force in Section 2 of the Municipal Law Enforcement Services Agreement.

Liaison Between the Parties

It is agreed that the Sheriff shall have the full cooperation of the Town, its officers, agents, and employees, so as to facilitate the performance of this Agreement.

It is agreed that for the purpose of maintaining cooperation, local control, and general information on existing complaints and problems in the Town, the Town’s Police Chief shall be the channel through which written and oral communication shall be directed between the County (Sheriff’s Office) and the Town.
The cost in the Town's share of the position. The School District will cover the other half of the School Resource Officer's salary.

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<th>Total Cost</th>
<th>Additional Cost</th>
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For the 2014 Calendar Year (January 1, 2015 through December 31, 2015)
TOWN OF TIMNATH

ATTEST:

Mayor ___________________ Date ___________________

Town Clerk ___________________ Date ___________________
(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF LARIMER COUNTY

ATTEST:

Deputy Clerk ___________________ Date ___________________

By: ___________________________ Chair ___________________

SHERIFF:

APPROVED AS TO FORM:

Larimer County Sheriff ___________________ Date ___________________

Senior County Attorney ___________________ Date ___________________
**TIMNATH COUNCIL COMMUNICATION**

| Meeting Date: January 12, 2015 | Item: A Resolution Approving An Independent Contractor Agreement Between the Town of Timnath, Colorado and Bruen Media Group |  
|                              |                                           | Ordinance □ Resolution ✓ Discussion □ For Information □  

Presented by:
April D. Getchius, AICP Town Manager

**EXECUTIVE SUMMARY:** The attached agreement will employ the Buren Media Group (which assisted with our website and videos) to assist with promotion, video development and online digital media management (including the website, Twitter and Facebook). The contract will have a monthly cost of $3,300 per month.

**STAFF RECOMMENDATION:** Staff recommends approval of the resolution.

**KEY POINTS/SUPPORTING INFORMATION:** The proposed contract will provide additional staff support for a variety of efforts including creating ongoing videos for the website, Town promotion and assistance with community events and managing internet based assets such as the web site, Facebook or Twitter.

**ADVANTAGES:** Provides continuous and consistent management of the website and its updating.

**DISADVANTAGES:** None.

**FINANCIAL IMPACT:** Cost of $3,300 per month.

**RECOMMENDED MOTION:** I move approval of Resolution No. 2, Series 2015 entitled “A Resolution Approving An Independent Contractor Agreement Between the Town of Timnath, Colorado and Bruen Media Group.”

**ATTACHMENTS:**
1. Resolution
2. Agreement
A RESOLUTION APPROVING AN INDEPENDENT CONTRACTOR AGREEMENT BETWEEN THE TOWN OF TIMNATH, COLORADO AND BRUEN MEDIA GROUP

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 an Independent Contractor Agreement Between the Town of Timnath, Colorado and Bruen Media Group (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 JANUARY 12, 2015,

TOWN OF TIMNATH, COLORADO

______________________________
Jill Grossman-Belisle, Mayor

ATTEST:

______________________________
Milissa Peters, Town Clerk
EXHIBIT A

AGREEMENT
INDEPENDENT CONTRACTOR AGREEMENT
Bruen Media Group

This INDEPENDENT CONTRACTOR AGREEMENT, including any and all exhibits attached hereto (the “Agreement”), is entered into as of the 1st day of January, 2015, by and between THE TOWN OF TIMNATH, a home rule municipal corporation and political subdivision of the State of Colorado (the “Town”), and BRUEN MEDIA GROUP, a Colorado limited liability company (the “Contractor”). The Town and the Contractor are referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the Town was organized pursuant to Title 31 of the Colorado Revised Statutes to provide certain services within its corporate boundaries; and

WHEREAS, the Town is authorized to contract for the provision of such services pursuant to § 31-15-101, C.R.S., as amended; and

WHEREAS, funds have been budgeted and are available for the work to be performed by the Contractor under this Agreement, and other necessary approvals have been obtained; and

WHEREAS, the Town desires to engage the Contractor to render the services described in this Agreement; and

WHEREAS, the Contractor has represented that it has the professional experience, skill and resources to perform the services, as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF SERVICES. The Contractor shall perform the services described in Exhibit A, attached hereto and incorporated herein by this reference (the “Services”): (a) in a first-class manner, to the satisfaction of the Town, using the degree of skill and knowledge customarily employed by other professionals performing similar services in the area of the Town; (b) within the time period and pursuant to the Scope of Services specified in said Exhibit A; and (c) in compliance with all applicable federal, state, county and local or municipal body or agency statutes, ordinances and regulations, including, without limitation, any licensing, bonding, and permit requirements, and including without limitation, any such laws relating to storage, use or disposal of hazardous wastes, substances or materials. Exhibit A may take any form, including forms which may include price and payment terms. In the event of any conflict between terms set forth in the body of this Agreement and terms set forth in Exhibit A, the terms in the body of this Agreement shall govern. Contractor shall have no right or authority, express or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the Town in any manner whatsoever, except to the extent specifically provided in this Agreement.
2. **TERM/RENEWAL.**

   a. This Agreement shall be effective as of January 1, 2015 and shall terminate upon the earlier to occur of (i) midnight, December 31, 2015, or (ii) completion of the Services, unless otherwise earlier terminated in accordance with Section 19. Notwithstanding the foregoing, this Agreement shall automatically renew on January 1st of each succeeding year for an additional one (1) year term unless: 1) terminated pursuant to this Agreement; 2) failure by the Town to budget and appropriate funds for the succeeding year; or 3) completion of the Services contemplated herein.

   b. This Agreement is contingent upon and subject to approval by the Town Council. If such approval is granted after the effective date, the effective date shall be extended until such approval is received.

3. **ADDITIONAL SERVICES.** The Town may, in writing, request the Contractor to provide additional services not set forth in Exhibit A. The terms and conditions of the provision of such services shall be subject to the mutual agreement of the Contractor and the Town pursuant to a written service/work order executed by an authorized representative of the Town and the Contractor. Authorization to proceed with additional services shall not be given unless the Town has appropriated funds sufficient to cover the additional compensable amount. To the extent additional services are provided pursuant to this Section 3, the terms and conditions of this Agreement relating to Services shall also apply to any additional services rendered.

4. **REPAIRS/CLAIMS.** The Contractor shall notify the Town immediately of any and all damage caused by the Contractor to Town property and that of third parties. The Contractor will promptly repair or, at the Town’s option, reimburse the Town for the repair of any damage to property caused by the Contractor or its employees, agents or equipment. In addition, the Contractor shall promptly notify the Town of all potential claims it becomes aware of. The Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the Town the opportunity to review and inspect such evidence, including the scene of any damage or accidents. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Services and shall provide all reasonable protection to prevent damage or injury to persons and property, including any material and equipment related to the Services, whether in storage on or off site, under the care, custody, or control of the Contractor or any of its subcontractors.

5. **GENERAL PERFORMANCE STANDARDS.**

   a. The Contractor has by careful examination ascertained (i) the nature and location of the Services; (ii) the configuration of the ground on which the Services are to be performed; (iii) the character, quality, and quantity of the labor, materials, equipment and facilities necessary to complete the Services; (iv) the general and local conditions pertaining to the Services; and (v) all other matters which in any way may affect the performance of the Services by the
Contractor. Contractor enters into this Agreement solely because of the results of such examination and not because of any representations pertaining to the Services or the provision thereof made to it by the Town or any agent of the Town and not contained in this Agreement. The Contractor represents that it has or shall acquire the capacity and the professional experience and skill to perform the Services and that the Services shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform services of a similar nature to those specified in this Agreement. If competent professionals find that the Contractor’s performance of the Services does not meet this standard, the Contractor shall, at the Town’s request, re-perform the Services not meeting this standard without additional compensation.

b. The Services of the Contractor shall be undertaken and completed to assure their expeditious completion in light of the purposes of this Agreement. If performance of the Services by the Contractor is delayed due to factors beyond the Contractor’s reasonable control, or if conditions of the scope or type of services are expected to change, Contractor shall give timely notice to the Town of such a delay or change and receive an equitable adjustment of time and/or compensation, as negotiated between the Parties.

c. The Services provided under this Agreement shall be adequate and sufficient for the intended purposes and shall be completed in a good and workmanlike manner.

d. The Contractor declares that it has complied with all Federal, State and local laws, rules, regulations, ordinances and/or similar directives regarding business permits, certificates and licenses that are required to provide the Services under this Agreement.

e. The responsibilities and obligations of the Contractor under this Agreement shall not be relieved or affected in any respect by the presence of any agent, consultant, sub-consultant or employee of the Town. Acceptance of the Services or any documents performed or prepared by the Contractor by the Town shall not relieve the Contractor of any responsibility for deficiencies, omissions or errors in said Services or documents.

6. MONTHLY STATUS REPORT. The Contractor shall provide to the Town, at the Town’s request, on or before the 25th of each month, a narrative progress and status report describing work in progress and results achieved during the reporting period, including a description of the Services performed during the invoice period and the Services anticipated to be performed during the ensuing invoice period (“Monthly Report”).

7. COMPENSATION AND INVOICES.

a. Compensation. Compensation for the Services provided under this Agreement shall be in accordance with the fee schedule contained in the attached Exhibit A. The Contractor shall be responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as provided in Exhibit A of this Agreement, unless said reimbursement or compensation is approved in writing by the Town in advance of incurring such expenses. Any direct reimbursable costs for materials will be reimbursable at the Contractor’s actual cost, provided that the Contractor shall notify the Town of the estimated amount of such reimbursable costs (or any material adjustments thereto subsequently identified) prior to commencing the requested services.
b. **Invoices.** Invoices for the Services shall be submitted monthly, by the 10th of each month, during the term of the Agreement and shall contain the following information:

i. An itemized statement of the Services performed.

ii. Any other reasonable information required by the Town to process payment of the invoice, including project and/or cost codes as provided in any applicable written service/work order.

The Town shall be charged only for the actual time and direct costs incurred for the performance of the Services. Invoices received by the Town after the 10th of each month may be processed the following month.

8. **TIME FOR PAYMENT.** Payment for the Services shall be made by the Town within thirty (30) days of receipt of (i) a timely, satisfactory and detailed invoice and (ii) if applicable, a satisfactory and detailed Monthly Report, for that portion of the Services performed and not previously billed. The Town may determine to waive or extend the deadline for filing the Monthly Report, or may make payment for Services to the Contractor notwithstanding a delay in filing the Monthly Report, upon reasonable request of the Contractor, if it is in the best interest of the Town to do so. In the event a Town Council meeting is not scheduled in time to review payment of an invoice, the Town hereby authorizes payment for Services, subject to the appropriation and budget requirements under Section 27, without the need for additional Council approval, so long as any payment required to be made does not exceed the amounts appropriated for such Services as set forth in the Town’s approved budget. Such payment shall require review and approval of each Monthly Report and invoice by the Town Manager or applicable Department Head, as appropriate, subject to ratification at the next succeeding special or regular Board meeting.

9. **INDEPENDENT CONTRACTOR.** The Contractor is an independent contractor and nothing herein shall constitute or designate the Contractor or any of its employees or agents as employees or agents of the Town. The Contractor shall have full power and authority to select the means, manner and method of performing its duties under this Agreement, without detailed control or direction from the Town, and shall be responsible for supervising its own employees or subcontractors. The Town is concerned only with the results to be obtained. The Town shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Contractor or its employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state or federal income or other tax contributions, insurance contributions (e.g. FICA taxes), workers’ compensation, disability, injury, health or life insurance, professional liability insurance, errors and omissions insurance, vacation or sick-time benefits, retirement account contributions, or any other form of taxes, benefits or insurance. The Contractor shall be responsible for its safety, the safety of its employees, the public and the work site in general and shall comply with all applicable provisions of local, state and federal laws, regulations and orders affecting safety and health, including but not limited to the Occupational Safety and Health Act of 1970 (OSH Act). All personnel furnished by the Contractor will be deemed employees of the Contractor and will not for any purpose be considered employees or agents of the Town, and the Contractor will
comply with all employment laws relative to such employees, including but not limited to Wage and Hour laws, Worker Compensation Laws, Immigration Laws and OSHA-type laws. **The Contractor is not entitled to worker’s compensation benefits or unemployment insurance benefits, unless unemployment compensation coverage is provided by the Contractor or some other entity other than the Town, and the Contractor is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

10. **PUBLIC EMPLOYEES’ RETIREMENT ASSOCIATION: EMPLOYEE MEMBERSHIP.** Contractor agrees that, concurrent with execution of this Agreement, Contractor will disclose to the Town the membership status of any of Contractor’s employees that are members of the Colorado Public Employees’ Retirement Association pursuant to § 24-51-301, et seq., C.R.S. Failure to meet this requirement shall be a material breach of this Agreement, and Town’s obligations to perform under this Agreement are specifically conditioned on Contractor's performance as required under this Paragraph 10.

11. **EQUAL OPPORTUNITY; EMPLOYMENT ELIGIBILITY.** This Agreement is subject to all applicable laws and executive orders relating to equal opportunity and non-discrimination in employment and the Contractor represents and warrants that it will not discriminate in its employment practices in violation of any such applicable law or executive order.

The Contractor hereby states that it does not knowingly employ or contract with illegal aliens and that the Contractor has participated in or has attempted to participate in the E-Verify Program or Department Program (formerly known as the Basic Pilot Program) (as defined in § 8-17.5-101, C.R.S.) in order to verify that it does not employ any illegal aliens. The Contractor affirmatively makes the following declarations:

a. The Contractor shall not knowingly employ or contract with an illegal alien who will perform work under the public contract for services contemplated herein and will participate in the E-Verify Program or Department Program (as defined in § 8-17.5-101, C.R.S.) in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services contemplated herein.

b. The Contractor shall not knowingly enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform the services contemplated herein.

c. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the E-Verify Program or the Department Program.

d. The Contractor is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
e. If the Contractor obtains actual knowledge that a subcontractor performing the services under this Agreement knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

   i. Notify the subcontractor and the Town within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien.

   ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required above the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

f. The Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that such Department is undertaking pursuant to the authority established in § 8-17.5-102, C.R.S.

g. If the Contractor violates a provision of the Agreement pursuant to § 8-17.5-102, C.R.S., the Town may terminate the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the Town.

12. CONTRACTOR’S INSURANCE.

a. The Contractor shall acquire and maintain, at its sole cost and expense, during the entire term of this Agreement, insurance coverage in the minimum amounts set forth in Exhibit B, attached hereto and incorporated herein by this reference. A waiver of subrogation and rights of recovery against the Town, its directors, officers, employees and agents is required for each coverage provided. The insurance policies will be endorsed to name the Town and its respective managers, council members, officers, directors, partners and employees, as additional insured. All coverage provided pursuant to this Agreement shall be written as primary policies, not contributing with and not supplemental to any coverage that the Town may carry, and any insurance maintained by the Town shall be considered excess. The Town shall have the right to verify or confirm, at any time, all coverage, information or representations contained herein.

b. Prior to commencing any work under this Agreement, the Contractor shall provide the Town with a certificate or certificates evidencing the policies required by this Agreement, as well as the amounts of coverage for the respective types of coverage. If the Contractor subcontracts any portion(s) of the Services, said subcontractor(s) shall be required to furnish certificates evidencing statutory workers’ compensation insurance, comprehensive general liability insurance and automobile liability insurance in amounts satisfactory to the Town and the Contractor. If the coverage required expires during the term of this Agreement, the Contractor or subcontractor shall provide replacement certificate(s) evidencing the continuation of the required policies.
c. The Contractor’s failure to purchase the required insurance shall not serve to release it from any obligations contained herein; nor shall the purchase of the required insurance serve to limit the Contractor’s liability under any provision herein. The Contractor shall be responsible for the payment of any deductibles on issued policies.

13.  CONFIDENTIALITY AND CONFLICTS.

a. The Parties agree that Contractor will, in the course of its duties hereunder, receive information concerning the Town, its employees, elected and appointed officials, property, equipment and functions. Contractor agrees to hold all such information confidential and to not disclose the same other than to the extent required to perform its duties, or upon a proper request from an authorized Town official, or pursuant to a proper request under the Colorado Open Records Act §§ 24-72-202, et seq., C.R.S., to which the authorized Town official has confirmed it is appropriate for Contractor to respond or pursuant to a lawful court order. The requirements of this Section shall survive the termination of this Agreement.

b. Conflicts. Prior to the execution of, and during the performance of this Agreement and prior to the execution of future agreements with the Town, the Contractor agrees to notify the owner of conflicts that impact the Services to the Town.

14.  OWNERSHIP OF DOCUMENTS. All documents produced by or on behalf of the Contractor prepared pursuant to this Agreement, including, but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall remain the property of the Town under all circumstances, upon payment to the Contractor of the invoices representing the work by which such materials were produced. The Contractor shall maintain electronic and reproducible copies on file of any such instruments of service involved in the Services, shall make them available for the Town’s use, and shall provide such copies to the Town upon request at no cost.

15.  LIENS AND ENCUMBRANCES. The Contractor shall not have any right or interest in any Town assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the services contemplated herein. The Contractor, for itself, hereby waives and releases any and all statutory or common law mechanic’s, materialmen’s or other such lien claims, or rights to place a lien upon the Town’s property or any improvements thereon in connection with any Services performed under or in connection with this Agreement, and the Contractor shall cause all permitted subcontractors, suppliers, materialmen, and others claiming by, through or under the Contractor to execute similar waivers prior to commencing any work or providing any materials in connection with the Services. The Contractor further agrees to execute a sworn affidavit respecting the payment and lien releases of all subcontractors, suppliers and materialmen, and release of lien respecting the Services at such time or times and in such form as may be reasonably requested by the Town. The Contractor will provide indemnification against all such liens for labor performed, materials supplied or used by the Contractor and/or any other person in connection with the Services undertaken by the Contractor, in accordance with Section 15(b) below.
16. **INDEMNIFICATION.**

a. The Contractor shall defend, indemnify and hold harmless the Town and each of its directors, council members, officers, contractors, employees, agents and consultants, from and against any and all claims, demands, losses, liabilities, actions, lawsuits, damages, and expenses, including reasonable legal expenses and attorneys’ fees, arising directly or indirectly, in whole or in part, out of the errors or omissions, negligence, willful misconduct, or any criminal or tortious act or omission of the Contractor or any of its subcontractors, officers, agents or employees, in connection with this Agreement and/or the Contractor’s performance of the Services or work pursuant to this Agreement. The Contractor is not obligated to indemnify the Town for the Town’s own negligence. This indemnification obligation will not be limited in any way by any limitation on the amount or types of damages, compensation or benefits payable by or for the Contractor under worker’s compensation acts, disability acts or other employee benefit acts.

b. The Contractor will at all times indemnify, defend and hold the Town and its directors, council members, officers, managers, agents and employees harmless against any liability for claims and liens for labor performed or materials used or furnished in the performance of Contractor’s Services, including any costs and expenses incurred in the defense of such claims and liens, reasonable attorneys’ fees and any damages to the Town resulting from such claims or liens. After written demand by the Town, the Contractor will immediately cause the effect of any suit or lien to be removed from the Town’s property. In the event the Contractor fails to do so, the Town is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or suit to be removed or dismissed, and the costs thereof, together with reasonable attorneys’ fees, will be immediately due and payable by the Contractor or may, at the Town’s option, be offset against any sums due and payable to Contractor pursuant to this Agreement. In the event a suit on such claim or lien is brought, the Contractor will, at the option of the Town, defend said suit at its own cost and expense, with counsel satisfactory to the Town and will pay and satisfy any such claim, lien, or judgment as may be established by the decision of the Court in such suit. The Contractor may litigate any such lien or suit, provided the Contractor causes the effect thereof to be removed promptly in advance from the Town’s property.

c. This indemnity coverage shall also cover the Town’s defense costs in the event that the Town, in its sole discretion, elects to provide its own defense. The Town retains the right to disapprove counsel, if any, selected by the Contractor to fulfill the foregoing defense indemnity obligation, which right of disapproval shall not be unreasonably exercised. Insurance coverage requirements specified herein shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the Town’s protection in the performance of this Agreement. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

17. **ASSIGNMENT.** The Contractor shall not assign this Agreement or parts thereof, or its respective duties, without the express written consent of the Town. Any attempted assignment, delegation or subcontracting of this Agreement in whole or in part with respect to which the Town has not consented, in writing, shall be null and void and of no effect whatsoever.
18. SUB-CONTRACTORS. The Contractor is solely and fully responsible to the Town for the performance of all Services under this Agreement, whether performed by the Contractor or a subcontractor engaged by the Contractor. The Contractor shall not subcontract any Services without prior written approval by the Town. The Contractor agrees that each and every agreement of the Contractor with any subcontractor to perform Services under this Agreement shall contain an indemnification provision identical to the one contained herein holding the Town harmless for the acts of the subcontractor. The Contractor further agrees that any such subcontract shall be terminable for cause or convenience and that, unless directed otherwise by the Town, the Contractor shall immediately terminate all such subcontracts immediately upon termination of this Agreement. Prior to commencing any Services, a subcontractor shall provide evidence of insurance coverage to the Town. The Contractor further agrees that all such subcontracts shall provide that they may be terminated immediately without further cost upon termination of this Agreement. Neither the Town’s approval of any subcontractors, suppliers or materialmen, nor the failure of performance thereof by such parties, will relieve, release or affect in any manner any of the Contractor’s duties, liabilities or obligations under this Agreement, and the Contractor will at all times be and remain fully liable. The Contractor agrees that each of its employees, and any subcontractors, suppliers and materialmen will be properly qualified and will use reasonable care in the performance of their duties.

19. TERMINATION. This Agreement may be terminated for cause or for convenience by the Contractor upon delivery of sixty (60) days prior written notice to the Town and by the Town by giving the Contractor sixty (60) days prior written notice. Such notice shall not be required for automatic expiration under Section 2 hereof. If this Agreement is terminated, the Contractor shall be paid for all the Services satisfactorily performed prior to the designated termination date, including reimbursable expenses due. Said payment shall be made in the normal course of business. Should either Party to this Agreement be declared bankrupt, make a general assignment for the benefit of creditors or commit a substantial and material breach of this Agreement in the view of the other Party, said other Party shall be excused from rendering or accepting any further performance under this Agreement. In the event of termination by either Party hereto, the Contractor shall cooperate with the Town to ensure a timely and efficient transition of all work and work product to the Town or its designees. Such transition shall be complete and all time, fees and costs associated with such transition shall not be billed by the Contractor to the Town.

20. DEFAULT. If either Party fails to perform in accordance with the terms, covenants and conditions of this Agreement, or is otherwise in default of any of the terms of this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of the default, at the address specified in Section 20 below, and the defaulting party will have fifteen (15) days from and after receipt of the notice to cure the default. If the default is not of a type which can be cured within such fifteen (15)-day period and the defaulting party gives written notice to the non-defaulting party within such fifteen (15)-day period that it is actively and diligently pursuing a cure, the defaulting party will have a reasonable period of time given the nature of the default following the end of the 15-day period to cure the default, provided that the defaulting party is at all times within the additional time period actively and diligently pursuing the cure. If any default under this Agreement is not cured as described above, the non-defaulting party will, in
additional to any other legal or equitable remedy, have the right to terminate this Agreement and enforce the defaulting party’s obligations pursuant to this Agreement by an action for injunction or specific performance.

21. **NOTICES.** Any notice or communication required under this Agreement must be in writing, and may be given personally, sent via nationally recognized overnight carrier service, or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same will be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) three days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered or sent via nationally recognized overnight carrier service, a notice will be deemed to have been given and received on the first to occur of (i) one business day after being deposited with a nationally recognized overnight air courier service or (ii) delivery to the party to whom it is addressed. Any party hereto may at any time, by giving written notice to the other party hereto as provided herein designate additional persons to whom notices or communications will be given, and designate any other address in substitution of the address to which such notice or communication will be given. Such notices or communications will be given to the parties at their addresses set forth below:

To the Town: Town of Timnath
Attn: April D. Getchius, Town Manager
4800 Goodman Street
Timnath CO, 80547
970-224-3211 (phone)
970-224-3217 (fax)

With a copy to: WHITE BEAR ANKELE TANAKA & WALDRON
ATTORNEYS AT LAW
Attn: Robert G. Rogers
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122
(303) 858-1800 (phone)
(303) 858-1801 (fax)

Contractor: Bruen Media Group
Attn: David Bruen
5235 Gulf Stream Ct., 2nd Floor
Loveland, CO 80538

22. **AUDITS.** The Town shall have the right to audit, with reasonable notice, any of the Contractor’s books and records which may be necessary to substantiate any invoices and payments under this Agreement (including, but not limited to, receipts, time sheets, payroll and personnel records) and the Contractor agrees to maintain adequate books and records for such purposes during the term of this Agreement and for a period of two (2) years thereafter and to make
the same available to the Town at all reasonable times and for so long thereafter as there may remain any unresolved question or dispute regarding any item pertaining thereto.

23. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the Parties relating to the Services, and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both the Contractor and the Town.

24. BINDING AGREEMENT. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties hereto.

25. NO WAIVER. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default be deemed a waiver of any subsequent default.

26. GOVERNING LAW / DISPUTES. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for Larimer County. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, forum non-conveniens or otherwise. At the Town’s request, the Contractor shall carry on its duties and obligations under this Agreement during any legal proceedings and the Town shall continue to pay for the Services performed under this Agreement until and unless this Agreement is otherwise terminated. In the event of any litigation between the Town and the Contractor to enforce any provision of this Agreement or any right of either Party hereto, the Parties agree that the court shall award costs and expenses to the prevailing Party, such costs and expenses to include reasonable attorneys’ fees. Otherwise, each Party shall pay its own costs and fees for litigation. At the Town’s request, the Contractor will consent to being joined in litigation between the Town and third parties, but such consent shall not be construed as an admission of fault or liability. The Contractor shall not be responsible for delays in the performance of the Services caused by factors beyond its reasonable control including delays caused by Act of God, accidents, failure of any governmental or other regulatory authority to act in a timely manner or failure of the Town to furnish timely information or to approve or disapprove of Contractor’s Services in a timely manner.

27. GOOD FAITH OF PARTIES. In the performance of this Agreement, or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.
28. SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. The Town does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the Town pursuant to this Agreement requiring budgeting and appropriation of funds are subject to annual budgeting and appropriations. The Contractor expressly understands and agrees that the Town’s obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the Town Council for the Town and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the Town, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the Town or statutory debt limitation, including, without limitation, Article X, Section 20 or Article XI, Section 6 of the Constitution of the State of Colorado. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of Town funds. The Town’s obligations under this Agreement exist subject to annual budgeting and appropriations, and shall remain subject to the same for the entire term of this Agreement.

29. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Town, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded or available to the Town pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, et seq., C.R.S.

30. NEGOTIATED PROVISIONS. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

31. SEVERABILITY. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

32. NO THIRD PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

33. OPEN RECORDS. The Parties understand that all material provided or produced under this Agreement may be subject to the Colorado Open Records Act, §§ 24-72-202, et seq., C.R.S. In the event of the filing of a lawsuit to compel such disclosure, the Town will tender all such material for judicial determination on the issue of disclosure.
34. **TAX EXEMPT STATUS.** The Town is exempt from Colorado State sales and use taxes. Accordingly, taxes from which the Town is exempt shall not be included in any invoices submitted to the Town. The Town shall, upon request, furnish Contractor with a copy of its certificate of tax exemption. Contractor and subcontractors shall apply to the Colorado Department of Revenue, Sales Tax Division, for an Exemption Certificate and purchase the materials tax free. Pursuant to § 39-26-1 14(1)(a)(XIX)(A), C.R.S., Contractor and subcontractors shall be liable for exempt taxes paid due to failure to apply for Exemption Certificates or for failure to use said certificate.

35. **COUNTERPART EXECUTION.** This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

[Remainder of page intentionally left blank. Signature pages follow].
IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

TOWN:

THE TOWN OF TIMNATH, a home rule municipal corporation of the State of Colorado

________________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

________________________________________
Town Clerk

Town’s Signature Page to Independent Contractor Agreement for Marketing Services with the Town of Timnath
CONTRACTOR:

Printed Name: David Bruen
Title: ______________________________

STATE OF COLORADO )
COUNTY OF ___________ ) ss.

The foregoing instrument was acknowledged before me this ___ day of ________,
20__, by ________________________________, as the ______________________________
of ________________________________.

WITNESS my hand and official seal.

My commission expires: ______________________________

(S E A L)

Notary Public

Contractor’s Signature Page to Independent Contractor Agreement for Marketing Services with the Town of Timnath
David Bruen (dba Bruen Media Group) proposes to be engaged by the Town of Timnath, on a contract basis, to create and execute marketing duties for a period of two (2) years. The extent of the duties is described, but not limited to, the proposal detailed below.

- **General Public Relations & Promotion of Community Events**
  - In an effort to keep local and regional media aware of on-going activities within the town of Timnath, Bruen will target efforts on partnering with and/or encouraging local media of all types to include/feature the town as part of its content.
    - Press releases to local media
    - Communications with local media about:
      - Growth, new initiatives, new developments, commercial/businesses locating in Timnath
        - Radio interviews
        - Feature stories
          - Newspaper
          - Magazine
      - Remote broadcasts from events
    - Work with staff on events & events calendar
      - Assist with planning
        - Existing events
        - Help create new events
          - Increase interest in community
- **Video Assets (On-Going)**
  - Defining, and creating new video assets each month is an integral component to the marketing efforts. As has already been determined, the approach is unique for a municipality. The goal of creating a video-rich website and continuing to populate the site with video content and information will be an approach that should resonate with prospective businesses and residents as they seek information to form decisions about the town. The spectrum of ideas for video content is broad. In addition to those already produced for the launch of the new website in October of 2014, some of the other concepts that have been discussed and explored to date are:
    - Detailed look within the mapped boundaries of Timnath
      - What’s zoned/planned – where & time-frame
        - 1-3, 3-5, 5-10 year look at development
          - Commercial/business
          - Residential
          - Schools
          - Recreation & amenities
    - Monthly Messages (website & emailed)
      - Mayor
      - Town Manager
    - Showcase individual developments & developers
      - Interview developers about their development(s)
      - Location/scope/overview of development
      - Housing types (current & future)
      - Amenities (facilities, parks, pools, trails, etc.)
    - Commercial/business development
    - Council member interviews/profiles
    - Individual builder profiles page on website
      - *Videos completely funded by builders*
        - Participation optional
      - Participation offsets cost of production for town
    - Interviews with residents about living in Timnath
    - Interviews with businesses about locating in Timnath

- **Assist Urban Development Efforts**
Bruen will work closely with the Urban/Economic Development lead and assist in their efforts to attract new businesses to Timnath. Scope to include:

- Idea Development
- Video Presentations
- Web-Based Video Support

**Online/Digital Media Oversight**

- Bruen will create a plan to insure optimal utilization of the town’s website. Working with the Timnath staff on web related tasks that are self-directed and maintained in-house, as well as engaging assorted specialized vendors, Bruen will oversee the expansion of town’s website to include additional features, assets, tools, back-links, etc. This segment will also include a comprehensive plan to engage or, at least, establish online communication with all residents of the community, familiarizing residents with the website and the resources available to them there, and making it a resource they want to utilize for information about their community. Duties, methods, and means to be further defined and may include:
  - Search Engine Optimization (SEO)
  - Search Engine Marketing (SEM)
  - Online directory of Timnath businesses
    - Retail, service, builders, etc.
  - Email data base of all residents (for town use only)
  - Mobile app for residents
  - Assorted troubleshooting & resolution of web-related issues (ie. transfer, redirecting, and cleanup of URLs)

**Time Commitment & Compensation**

- Based on the scope detailed in this proposal, Bruen is estimating a typical workload of 25 to 35 hours per month or, 5 to 7 hours per week. Monthly average, for purposes of this contract, will be based on 30 hours per month and can be revisited and adjusted periodically.
  - Monthly contract = $3300
    - Based on $110 per hour
EXHIBIT B
INSURANCE REQUIREMENTS

Contractor shall maintain general liability insurance, at its expense, in an amount of at least One Million Dollars ($1,000,000.00) and insurance for protection from claims under workers’ compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom.
## EXECUTIVE SUMMARY:
To review current (2002) Town Impact Fees and research and recommend an update to the fee schedule.

## STAFF RECOMMENDATION:
Approval

## KEY POINTS/SUPPORTING INFORMATION:
- Town Impact fees have not been updated since 2002
- BBC can provide comparison to fees in other communities

## ADVANTAGES:
- Enables Town to stay current with and likely increase existing impact fees and/or include additional impact fees to support the costs of growth related infrastructure and services

## DISADVANTAGES:
- None

## FINANCIAL IMPACT:
- Budgeted expense of $19,000.00

## RECOMMENDED MOTION:
I move to approve Resolution No. 3, Series 2015 approving the Professional Services Agreement with BBC Research and Consulting

## ATTACHMENTS:
1. Resolution
2. Town Council Purchase Authorization
3. Professional Services Agreement
TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 3, SERIES 2015

A RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT WITH BBC RESEARCH AND CONSULTING

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 Professional Services Agreement Between the Town of Timnath and BBC Research and Consulting (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 JANUARY 12, 2015.

TOWN OF TIMNATH, COLORADO

___________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

___________________________________
Milissa Peters, Town Clerk
EXHIBIT A

AGREEMENT
Town Council Purchase Authorization

Date: 11-25-2014
Vendor: BBC Research and Consulting
Department: Community Development
Project: 2014 Impact Fee Update (2015 Budget Item)

Description: Review current (2002) Town Impact Fees and research and recommend an update to the fee schedule

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is this purchase more than $25,000?</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Is this the purchase of Real Estate or Land?</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Is this the purchase of Public Art?</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Is this a budget request for a purchase that will exceed the approved budget?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

Advantages: Enables Town to stay current with and likely increase existing impact fees and/or include additional impact fees to support the costs of growth related infrastructure and services

Disadvantages: None

<table>
<thead>
<tr>
<th>Description</th>
<th>Approved Budget</th>
<th>Current Balance</th>
<th>Additional Budget Requested</th>
<th>Requested</th>
<th>Budget Remaining</th>
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</thead>
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<td>Impact Fee Update</td>
<td>$125,000.00</td>
<td>$125,000.00</td>
<td>$0.00</td>
<td>$19,000.00</td>
<td>$106,000.00</td>
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</tbody>
</table>

Financial Impact: Expense is a part of the 2015 "Community Development Master Planning Studies" budget item

Recommendation/Justification: Recommend approval as item is budgeted for and needed

Requesting Department Signature: [Signature]
Date: 11/25/14

Town Manager Signature: [Signature]
PROFESSIONAL SERVICES AGREEMENT  
between  
THE TOWN OF TIMNATH  
and  
BBC RESEARCH & CONSULTING  

This Professional Services Agreement, hereinafter "Agreement", is made by and between the Town of Timnath, hereinafter the "Town", and the undersigned contractor, hereinafter the "Contractor", and both collectively referred to from time to time herein as the "Parties".

WHEREAS, the Town desires to retain Contractor for the services as described herein; and

WHEREAS, the Contractor desires to be retained by the Town for the services as described herein.

NOW, THEREFORE, in consideration of the agreements and covenants contained herein, the Parties hereto agree as follows:

1. BASIC TERMS:

A. Name, Address, and Phone Number of the Parties.

   a. Town:

      Town of Timnath  
      4800 Goodman Street  
      Timnath, Colorado  80547  
      Phone: 970-224-3211

   b. Contractor:

      BBC Research & Consulting  
      1999 Broadway, Suite 2200  
      Denver, Colorado 80202  
      Phone: 303-321-2547

B. Scope of Services. The scope of services shall be as set forth in ATTACHMENT A to this Agreement.

C. Compensation. The services set forth in this Agreement shall be completed for an amount of $19,000. Not later than the tenth (10th) of each month, Contractor shall submit an invoice to the Town for the prior month's services.

D. Term. The term commences on the Commencement Date and terminates on the Termination Date as hereinafter defined.
Notwithstanding anything contained herein to the contrary, and consistent with Article X, Section 20 of the Colorado Constitution, the Town's payment obligations for any renewal term do not constitute a multi-year fiscal obligation of the Town. All financial obligations of the Town under this Agreement are subject to the annual appropriation of sufficient funds for the same by the Timnath Town Council, acting in its sole and exclusive discretion. In the event of non-appropriation, this Agreement shall automatically terminate upon the first day of the fiscal year for which funds are not appropriated and neither Party shall have any continuing obligation to the other under this Agreement except as explicitly provided herein.

E. Commencement Date. The "Commencement Date" is January 1, 2015 and is when the services described in this Agreement are to commence.

F. Termination Date. The "Termination Date" of this Agreement is May 1, 2015.

G. Approval by the Town Council. This Agreement ___ is ___ X ___ is not (check one) contingent upon and subject to approval by the Town Council. If this Agreement is contingent upon and is subject to approval by the Town Council and such approval is granted after the Commencement Date, the Commencement Date shall be extended until such approval is received and the Termination Date shall be extended to reflect the Term of this Agreement.

H. Termination. Either Party may terminate this Agreement upon thirty (30) days written notice to the other.

2. CONTRACTOR NOT EMPLOYEE. Contractor is an independent contractor and not an employee, partner or agent of the Town.

As an Independent Contractor you are not entitled to workers' compensation benefits and that as an Independent Contractor you are obligated to pay federal and state income tax on any moneys earned pursuant to our contract relationship.

The Contractor shall, at all times, be an independent contractor. The Contractor shall have exclusive domain and control over the activities of its employees, if any, and under no circumstances shall Independent Contractor or Independent Contractor's employees be considered employees or agents of the Town.

3. INDEMNIFICATION. Contractor shall defend, release, indemnify and save and hold harmless the Town, its officers, agents and employees from and against: (1) any and all damages, including but not limited to, loss of use of property or injuries to or death of any person or persons (including but not limited to property and officers, agents and employees of the Town) and (2) any and all claims, demands, suits, actions, liabilities, costs, expenses (including but not limited to reasonable attorney fees, expert witness fees and all associated defense fees), causes of action, or other legal, equitable or administrative proceedings of any kind or nature whatsoever, of or by anyone whomever, regardless of the legal theory(ies) upon which premised, including but not limited to contract, tort, express and/or implied warranty, strict liability, and workers' compensation, in any way resulting from, connected with, or arising out of, directly or indirectly, the tortious or negligent actions or omissions of Contractor in connection with Contractor's operations or performance herewith or Contractor's use or occupancy of real or personal property hereunder, including tortious or negligent acts or omissions of employees, agents, or
representatives of Contractor; provided however, that Contractor need not indemnify the Town or its officers, agents and employees from damages proximately caused by and apportioned to the negligence of the Town's officers, agents and employees.

This indemnity shall also extend to the Town's defense costs, in the event that the Town, in its sole discretion elects to provide its own defense. The Town retains the right to disapprove counsel, if any, selected by Contractor to fulfill the foregoing defense indemnity obligation, which right of disapproval shall not be unreasonably exercised.

Insurance coverage requirements specified herein shall in no way lessen or limit the liability of Contractor under the terms of this indemnification obligation. Contractor shall obtain, at its own expense, any additional insurance that Contractor deems necessary for the Town's protection in the performance of this Agreement.

This defense and indemnification obligation shall survive the expiration or termination of this Agreement. The Parties acknowledge that provisions of this Section are not intended to waive any of the rights and defenses afforded the Town under the Colorado Governmental Immunity Act (C.R.S. § 24-10-101, et. seq.).

4. CONTRACTOR LICENSE, EXPERTISE AND INSURANCE. Town has selected Contractor because of Contractor's special training, education and expertise to provide the services identified herein. Contractor shall maintain general liability insurance, at its expense, in an amount of at least $1,000,000.00 and insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting there from.

Any such insurance shall name the Town of Timnath as an additional insured. The Contractor shall deliver to the Town at the time of entering into this contract copies of policies of liability insurance required herein or certificates evidencing the existence and amounts of such insurance with loss payable clauses satisfactory to the Town. No policy shall be cancelable or subject to reduction of coverage except after twenty (20) days prior written notice to the Town. All such policies shall be written as primary policies not contributing with and not in excess of coverage which the Town may carry.

The work performed by Contractor under this Agreement shall be consistent with the highest professional standards of the Denver Metropolitan and Colorado Front Range areas. Contractor shall maintain such licenses as may be necessary to provide the services set forth in this Agreement.

5. DOCUMENTS. All documents prepared or furnished by Contractor (and independent professional associates and sub consultants) pursuant to this Agreement shall be the property of the Town. In addition, the Town shall have access to Contractor's financial records for the purposes of audit. Such records shall be complete and available for audit for ninety (90) days after final payment under this Agreement and shall be retained and available for audit purposes for at least five (5) years after final payment hereunder.
6. **TABOR.** Colorado Constitution, Article X, Section 20. Notwithstanding other provisions in this Agreement to the contrary, the Parties understand and acknowledge that the Town is subject to Article X, § 20 of the Colorado Constitution ("TABOR").

   a. The Parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement.

   b. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations of the Town are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the Town's current fiscal period ending upon the next succeeding December 31.

   c. Financial obligations of the Town payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with ordinances and resolutions of the Town and other applicable law.

   d. Notwithstanding any other provision of this Agreement concerning termination, upon the Town's failure to appropriate such funds, the Agreement shall automatically terminate.

7. **CONFIDENTIALITY.** The Parties agree that Contractor will, in the course of its duties hereunder, receive information concerning the Town, its employees, elected and appointed officials, property, equipment and functions. Contractor agrees to hold all such information confidential and to not disclose the same other than to the extent required to perform its duties, or upon a proper request from an authorized Town official, or pursuant to a proper request under the Colorado Open Records Act, C. R. S. § 24-72-101, et. seq., to which the authorized Town official has confirmed it is appropriate for Contractor to respond or pursuant to a lawful court order. The requirements of this Section shall survive the termination of this Agreement.

8. **ILLEGAL ALIENS - PUBLIC CONTRACTS FOR SERVICES.** "E-verify program" as used herein means the electronic employment verification program created in Public Law 104-208, as amended, and expanded in Public Law 108-156, as amended, and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program. "Department" as used herein means the department of labor and employment. "Department program" as used herein means the employment verification program established pursuant to C.R.S. § 8-17.5-102(5)(c).

   (1) The undersigned on behalf of the Contractor certifies that, at the time of this certification and the execution of this Agreement, the Contractor does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that the Contractor will participate in the e-verify program, pursuant C.R.S. § 8-17.5.101 or department program in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.
(2)(a) The Contractor shall not:

(I) Knowingly employ or contract with an illegal alien to perform work under this Agreement for services; or

(II) Enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

(b) In addition:

(I) The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the e-verify program or the department program;

(II) The Contractor is prohibited from using either the e-verify program or the department program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed;

(III) If the Contractor obtains actual knowledge that a subcontractor performing work under this Agreement for services knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

(A) Notify the subcontractor and the Town within **three (3) days** that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(B) Terminate the subcontract with the subcontractor if within **three (3) days** of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the contractor shall not terminate the contract with the subcontractor if during such **three (3) days** the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien;

(IV) The Contractor shall comply with any reasonable request by the Department of Labor and Employment (Department) made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5.102(5).

(3) If the Contractor breaches this **Section 8**, the Town may terminate this Agreement for breach of the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the Town.

(4) The Contractor shall, within **twenty (20) days** after hiring an employee who is newly hired for employment to perform work under this Agreement, affirm that the Contractor has examined the legal work status of such employee, retained file copies of
the documents required by 8 U.S.C. sec. 1324a, and not altered or falsified the identification documents for such employees. The Contractor shall provide a written, notarized copy of the affirmation to the Town.

(5) If the Contractor has not accepted into the department program prior to entering into this Agreement, the Contractor shall apply to participate in the Program every three (3) months until the Contractor is accepted or the contract has been completed, whichever is earlier. This provision shall not be required or effective if the department program is discontinued.

9. MISCELLANEOUS.

A. Severability/Governing Law. This Agreement is to be governed and construed according to the laws of the State of Colorado with venue of any litigation to be in Larimer County. If any provisions of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement, and all such 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 valid, then the provision shall have the meaning which renders it valid.

B. Entire Agreement. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the Parties hereto or displayed by Town to Contractor with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Agreement. This Agreement is and shall be considered to be the only agreement between the Parties hereto and their representatives and agents. All negotiations and oral agreements acceptable to both Parties have been merged into and are included herein. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the Parties hereto or their respective successors in interest.

C. Waiver and Modification. The waiver by Town of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition on any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of services hereunder by Town shall not be deemed to be a waiver of any preceding breach by Contractor of any term, covenant or condition of this Agreement. No modification of the terms of this Agreement shall be valid unless in writing and executed with the same formality as this Agreement, and no waiver of the breach of any provision of this Agreement shall be construed as a waiver of any subsequent breach of the same or any other provision hereof. If this Agreement is contingent upon approval by the Town Council, it is expressly agreed that, expect as may otherwise be provided by applicable statute or ordinance, no official of the Town has the authority to waive or modify any provision of this Agreement without formal approval of the Town Council.

D. Headings. The headings and titles in this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part hereof.
E. Time. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor.

F. Corporate Authority. If Contractor is a corporation, an LLC, an LLP, a limited partnership, a general partnership, an LLLP, or other non-natural entity, each individual executing this Agreement on behalf of said entity represents and warrants that they are duly authorized to execute and deliver this Agreement on behalf of said entity, in accordance with a duly adopted resolution of the board of directors, partners, or members of said entity or in accordance with the governing documents of said entity, and that this Agreement is binding upon said entity in accordance with its terms.

G. Notices. Any notice or other communication given by any of the Parties hereto to another relating to this Agreement shall be in writing and shall be deemed to have been duly given:

   a. On the date and at the time of delivery if delivered personally to the party to whom notice is given at the address specified in Section 1, above;

   b. On the date of delivery or attempted delivery shown on the return receipt if mailed to the party to whom notice is to be given by first class mail, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed as specified in Section 1, above; or

   c. Within twenty-four (24) hours after deposit with a nationally recognized overnight courier or messenger service, properly addressed as specified in Section 1, above.

Either party may change such address by fifteen (15) days written notice to the other provided; however, the Parties may not designate more than one place and address to receive notices as provided in this Agreement.

H. NON-ASSIGNMENT. This Agreement is an agreement for services by which Contractor was selected for Contractor's special expertise. This Agreement may not be assigned by either Party.

I. LAWFUL PRESENCE AFFIDAVIT. If a natural person, the undersigned shall complete the attached Lawful Presence Affidavit, ATTACHMENT B.
IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement as of the ______________ day of ______________________, 20____.

TOWN OF TIMNATH

By:________________________________

        April D. Getchius

Title: Town Manager

ATTEST:

______________________________

Milissa Peters, Town Clerk

CONTRACTOR:

BBC Research & Consulting

By:________________________________

Title:________________________________
STATE OF COLORADO )
              ) ss.
COUNTY OF LARIMER )

The foregoing Professional Services Agreement was acknowledged before me this _____ day of ________________, 20____ by April D. Getchius as the Town Manager of the Town of Timnath.

Witness my hand and official seal.

My commission expires: ______________________

__________________________________________________________________________
Notary Public
__________________________________________________________________________
Address

STATE OF COLORADO )
              ) ss.
COUNTY OF __________)

The foregoing Professional Services Agreement was acknowledged before me this _____ day of ________________, 20____ by ___________________________ as the ___________________________ of Contractor.

Witness my hand and official seal.

My commission expires: ______________________

__________________________________________________________________________
Notary Public
__________________________________________________________________________
Address
ATTACHMENT A
(Scope of Services)
September 16, 2014

Mr. Don Taranto  
President  
TST, Inc. Consulting Engineers  
Via Email

Re: 2014 Impact Fee Update—Town of Timnath

Dear Mr. Taranto:

This letter follows our phone conversation and associated email correspondence and presents BBC Research & Consulting’s (BBC) proposal to update the town of Timnath’s impact fees.

Background

In 2002, BBC completed police; public buildings; storm drainage; parks, open space, and trails; and streets impact fees for the town of Timnath. Since that time, the town has grown from approximately 300 residents to nearly 1,200 and has opened retail locations for major national brands. Timnath is a unique town that offers a small town community with access to urban centers and amenities in nearby Fort Collins and Loveland. Because of its location and desirability, Timnath expects growth patterns to continue. As a result of the increase in local development activity, town staff desires an update of the now twelve-year-old fee study.

Project Approach

BBC has successfully developed impact fees for municipalities in five Rocky Mountain States (Arizona, Colorado, Idaho, Nevada and Utah). Our methodology includes:

- Analysis of current infrastructure service standards and identification of the growth-related portion of town infrastructure plans;
- Incorporation of updated Capital Improvements Plans (CIP); and
- An updated impact fee model with a future forecast of residential and commercial growth.

For a complete list of BBC’s impact fees projects since 2000, see Appendix A.
Scope of Work
We will update current town impact fees to support the cost of growth-related police; public buildings; storm drainage; parks, open space, and trails; and streets infrastructure in the town of Timnath.

We propose the following five tasks that we have used successfully to calculate impact fees for other jurisdictions in the Rocky Mountain West.

Task I. Project initiation

- **Task I-1.** Contract execution.

- **Task I-2.** Formalize schedule and public input process (if necessary), via conference call.

- **Task I-3.** "Kick-off" meeting with TST, Inc. Consulting Engineers and the town of Timnath.

Task II. Analysis of current conditions, current financing systems, infrastructure requirements and new system options

- **Task II-1.** Collect and review available data on current service levels for use in providing an introduction to service delivery issues and for developing infrastructure expansion cost estimates and service delivery standards.

- **Task II-2.** Review and evaluate current long-term capital financing systems.

- **Task II-3.** Review and evaluate Timnath’s long-term infrastructure requirements, as defined in the most recent CIP, recognizing the four sources of infrastructure demand: repair/replacement of existing facilities; betterment of town service standards; institution of new services; and expansion of facilities for new development. This task will include interviews with town staff to derive the growth-related portions of future capital projects. We envision a data transfer from the town in advance of the kick-off meeting and these interviews will be held in Timnath.

Task III. Update analysis of current and future land use

- **Task III-1.** Collect data on current land use patterns in Timnath, including the acreage and square footage of different types of commercial land uses and the numbers and types of housing units.

- **Task III-2.** Evaluate any existing projections or development trends, including population projections that indicate current direction of development in terms of physical locale and types of land use development.

- **Task III-3.** Based on the above information, generate calculations documenting current development in Timnath and forecast of future development over the next 10 to 20 years, depending on availability of data.
Task IV. Calculation of preliminary development fees

- **Task IV-1.** Calculate preliminary fees. This will include the following steps:
  - Quantify capital costs (data from Task III).
  - Quantify unit costs (data from Task III to derive $/unit or $/sq.ft.).
  - Determine land to development conversion ratios.
  - Prepare fee schedules and spreadsheets.
  - Define benefit areas if appropriate.
  - Develop a preliminary fee schedule.
  - Submit a draft report.

- **Task IV-2.** Meet with town staff and to present the preliminary fee schedule and gather feedback.

Task V. Impact fee system final design and documentation

- **Task V-1.** Final impact fee development.
  - Review and finalize fees.
  - Final report.

During the course of this scope of work, we will make two trips to Timnath to conduct: (1) the project initiation, data collection, department staff interviews and (2) present updated impact fees to town council and staff.

Proposed Budget

We can complete this study for a fixed fee of $19,000 including all professional time and expenses. It is important to remember that our contract cost can be included in the fee calculations so that the participating jurisdictions recover the expense quickly. Figure 1 on the following page summarizes our proposed budget according to the town’s task descriptions.

![Figure 1: Proposed Budget](image)

<table>
<thead>
<tr>
<th>Task Descriptions</th>
<th>Price per Task</th>
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<tbody>
<tr>
<td>Project Management &amp; Meetings</td>
<td>$1,500</td>
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<tr>
<td>Review &amp; Update Existing Fee Categories</td>
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<td>Police Impact Fee</td>
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<td>Public Buildings Impact Fee</td>
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<tr>
<td>Parks, Open Space, and Trails Impact Fee</td>
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<td>Streets Impact Fee</td>
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<tr>
<td><strong>Total Budget</strong></td>
<td><strong>$19,000</strong></td>
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Schedule

Our extensive impact fee experience in the Rocky Mountain West will allow us to complete this study for the town rather quickly.

As a national firm, BBC has the capacity to devote significant research, analysis and production resources to the proposed project. We can begin immediately upon your notice to proceed. We can produce a draft report in eight weeks. The schedule thereafter depends on town council agendas. We will finalize the project schedule following our initial meeting during Task I of the scope.

The budget and schedule presented above anticipate town of Timnath staff involvement throughout the project, specifically in the following three areas:

- Attendance at meetings with the study team to facilitate project management;
- Participation in data collection, particularly in tasks II and III; and
- Review of draft and final fees to ensure accurate interpretations of local government data.

While large amounts of staff time will not be needed, timely staff involvement will be necessary to adhere to the schedule provided above.

Mr. Taranto, thank you for contacting us to update the town’s impact fees. Please feel free to call me at 303.321.2547, extension 249 with any questions or comments regarding this engagement letter.

Sincerely,

[Signature]

Adam D. Orens
Director
Appendix A

The following table lists BBC's impact fee clients and studies since 2000.

**Figure A-1.**
**BBC Impact Fee Projects**

<table>
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<tr>
<th>Client/Location of Study</th>
<th>State</th>
<th># of Studies</th>
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Notes:

1. Includes police, fire and EMS fees.
2. Includes streets, bridges, transit and streetlight fees.
3. Includes utility, general government, storm water, school, library, and oil & gas transportation fees plus fee critiques and expert witness work.
Adam D. Orens
Director

Adam Orens is a Director at BBC Research & Consulting. His areas of expertise include public finance, real estate development feasibility analysis and regional economics. He also has experience in residential and commercial market analysis and impact fee design. Mr. Orens has completed numerous studies that analyze the relationships between demographics, land use, economic development and public and private revenue and expenditure. Mr. Orens received his undergraduate degree in economics from Rutgers University and has a master’s degree in agricultural and resource economics from Colorado State University. Mr. Orens’ research has been recognized by the White House Council on Environmental Quality and the Washington Post. He is published in the book Mountain Resort Planning and Development in an Era of Globalization and the peer-reviewed journal Tourism Economics.

Relevant Project Experience

- **Impact Fees.** Conducted impact fee studies and cost of growth analyses in numerous communities across the western U.S. Calculated impact fees using both the forward-looking capital improvement plan approach, and backward-looking current service standard approach. Mr. Orens has contributed to impact fee and system development fee studies for transportation, police, fire, parks, recreation, water, wastewater and general government facilities for municipalities, counties and special districts.

- **County Oil and Gas Transportation Impacts.** Along with a transportation engineering firm, Mr. Orens conducted a study that projects future oil and gas drilling scenarios, associated truck traffic and resulting transportation capital and maintenance costs for calculation of cost recovery fees. The study also provides projections of oil and gas related property tax and severance tax revenue for each scenario. Mr. Orens completed this study for Douglas, Boulder and Arapahoe Counties between 2012 and 2014.

- **Comprehensive Plans.** Recent comprehensive plan clients include the communities of Montrose, Commerce City, Grand Junction, Fruita, Rifle and Garfield County, Colorado; as well as Williams County, North Dakota. As part of the planning team, Mr. Orens provided economic trend analysis and forecasts and information regarding the fiscal and economic consequences of land use alternatives.

- **Grand Junction/Mesa County Fiscal Impacts of Urbanization.** Developed a spreadsheet-based fiscal impact model for Grand Junction and Mesa County that offers insight into how differing land uses and alternative city annexation and development strategies will influence the city’s and county’s long term financial position.
Adam D. Orens (continued)

- **Colorado Department of Transportation Energy Impacts.** Mr. Orens conducted a statewide analysis of how energy development will impact the state's highway systems. This analysis includes forecasts of natural gas, coal bed methane, oil and uranium development as well as large solar, wind and biofuel power projects and correlates energy development activity to transportation demand and employment.

- **Englewood, Colorado Retail Assessment.** Currently engaged with the city of Englewood providing retail market assessments for 10 potential retail redevelopment sites. The study includes a demographic and market analysis along with detailed site evaluations. The city will prioritize its retail redevelopment efforts based on the findings of the study.

- **Fort Collins, Colorado Housing Affordability Index.** Researched the components that drive housing prices and assessed the adequacy of the affordable housing stock for the City of Fort Collins, Colorado. Created a model that compiled housing costs and isolated several municipal factors that influence affordability. The model is used to set municipal building and impact fees at appropriate levels as to mitigate adverse effects on housing affordability.

- **US Department of Defense Retail and Recreation Business Planning.** Currently providing business planning and market assessment services for recreation, retail and community service facilities for the DoD. Mr. Orens provides project validation assessments of proposed new facilities on military installations for all branches of armed forces. Mr. Orens provides market and financial expertise and teams with an architecture firm that evaluates physical constraints for each development project.

- **Seedco Economic Development Plan.** BBC developed neighborhood-level market studies to create an organizational and city-wide economic development strategy for Seedco Financial, a national non-profit economic development organization in Denver, Colorado. Mr. Orens' primary role on the project was to provide demographic and market studies for each neighborhood targeted in the study.

- **North Colorado Springs Retail Feasibility and Impact Analysis.** Evaluated the retail market potential of the growing northern Colorado Springs area for a large retail project. Research included a geographic market area analysis and a fiscal impact study.

- **Greenwood Village Center, Development Feasibility and Fiscal Impact Study.** Evaluated the feasibility of creating a city center around a newly developed transit stop. Developed a financial model that projects city revenues and costs generated by the proposed development based projections of development absorption and phasing. The model also calculates the incremental tax revenue that could be used to fund public improvements.

**Education**

ATTACHMENT B
LAWFUL PRESENCE AFFIDAVIT

If you are the sole proprietor (not Inc. or LLC) of your business, you must now comply with the requirements of House Bill 06S-1023. If you have not done so in a previous year, you must:

Complete the Lawful Presence Affidavit below.
Sign the Affidavit before a Notary Public (A notary is available at Town Hall)
Return the Affidavit with your signed contract, application or renewal.
Enclose a copy of the identification presented to the Notary (e.g. driver’s license)

(This form should only be filled out by applicants who are applying as a sole proprietor)
I, swear or affirm under penalty of perjury under the laws of the State of Colorado that (check one):

___ I am a United States citizen; or
___ I am a legal Permanent Resident of the United States; or
___ I am otherwise lawfully present in the United States pursuant to Federal law.

I understand that this sworn statement is required by law because I have applied for a license or permit or am contracting with the Town, which falls under the definition of a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statute 18-8503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

________________________________________________________________________
Signature

Date

STATE OF COLORADO )

)ss

COUNTY OF __________)

SUBSCRIBED and sworn to before me, the undersigned Notary Public, this ___ day of

______________, 20___, by ________________________________, who

presented _____________________________________________ as identification.

(Document Provided and Document Number)

My Commission Expires:____________________

Notary Public

Per HB 06S-1023, you must provide a copy of one of the following IDs with this Affidavit.

Colorado Driver’s License     Colorado ID card
Military IDs                  Coast Guard mariner document
Native American tribal document
## EXECUTIVE SUMMARY:
To provide surveying services for Phase 2 of the Old Town Improvement Project.

### STAFF RECOMMENDATION:
Approval

### KEY POINTS/SUPPORTING INFORMATION:
- Required surveying services to obtain existing topo, improvements, and utilities for the Phase 2 area. This includes Dixon, Kern, 2nd, 3rd, 4th, 5th, and Sugar Trail.
- These areas were not surveyed as part of Phase 1
- King Surveyors provided the surveying for Phase 1. By continuing with them, they can add to the information that they have already obtained.

### ADVANTAGES:
- Continuity for the surveying in the Old Town area
- Required for the design of the Phase 2 Improvements

### DISADVANTAGES:
- None

### FINANCIAL IMPACT:
- Budgeted Expense of $27,400.00

### RECOMMENDED MOTION:
I move to approve Resolution No.4, Series 2015 approving the Professional Services Agreement with King Surveyors LLC

### ATTACHMENTS:
1. Resolution,
2. Town Council Purchase Authorization,
3. Professional Services Agreement
Town of Timnath
4800 Goodman Street
Timnath, CO 80547
(970) 224-3211

Town Council Purchase Authorization

Date: December 16, 2014
Vendor: King Surveyors LLC
Department: Engineering
Project: Old Town Improvements Phase 2
Description: Surveying of existing improvements, topo, and utilities for use in the design of the Phase 2 improvements of Dixon, Kern, 2nd, 3rd, 4th, 5th, and Sugar Trail.

| Is this purchase more than $25,000 | X Yes | No |
| Is this the purchase of Real Estate or Land | Yes | X No |
| Is this the purchase of Public Art | Yes | X No |
| Is this a budget request for a purchase that will exceed the approved budget | Yes | X No |

Advantages: Enables the design of the next Phase of improvements to begin. King did the surveying for Phase 1 and will be able to add the new information to that previously obtained.

Disadvantages: None.

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Financial Impact: Budgeted Expense

Recommendation/Justification: Recommend approval to support final design.

[Signature]
Requesting Department Signature
11/5/15
Date

[Signature]
Town Manager Signature
Date
A RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT WITH KING SURVEYORS LLC

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 Professional Services Agreement Between the Town of Timnath and King Surveyors 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 JANUARY 12, 2015.

TOWN OF TIMNATH, COLORADO

______________________________
Jill Grossman-Belisle, Mayor

ATTEST:

______________________________
Milissa Peters, Town Clerk
EXHIBIT A

AGREEMENT
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF TIMNATH
AND KING SURVEYORS, LLC.

This Professional Services Agreement, hereinafter "Agreement", is made by and between the Town of Timnath, hereinafter the "Town", and the undersigned contractor, hereinafter the "Contractor", and both collectively referred to from time to time herein as the "Parties".

WHEREAS, the Town desires to retain Contractor for the services as described herein; and

WHEREAS, the Contractor desires to be retained by the Town for the services as described herein.

NOW, THEREFORE, in consideration of the agreements and covenants contained herein, the Parties hereto agree as follows:

1. BASIC TERMS:
   A. Name, Address, and Phone Number of the Parties.
      
      a. Town:
         Town of Timnath
         4800 Goodman Street
         Timnath, Colorado 80547
         Phone: 970-224-3211

      b. Contractor:
         King Surveyors LLC
         650 East Garden Drive
         Windsor, CO 80550
         Phone: 970-686-5011

   B. Scope of Services. The scope of services shall be as set forth in ATTACHMENT A to this Agreement.

   C. Compensation. The services set forth in this Agreement shall be completed for an amount not to exceed $27,400. Not later than the tenth (10th) of each month, Contractor shall submit an invoice to the Town for the prior month's services.

   D. Term. The term commences on the Commencement Date and terminates on the Termination Date as hereinafter defined.

   Notwithstanding anything contained herein to the contrary, and consistent with Article X, Section 20 of the Colorado Constitution, the Town's payment obligations for any renewal term do not constitute a multi-year fiscal obligation of the Town. All financial obligations of the Town under this Agreement are subject to the annual appropriation of sufficient funds for the same by the Timnath Town Council, acting in its sole and exclusive discretion. In the event of
non-appropriation, this Agreement shall automatically terminate upon the first day of the fiscal year for which funds are not appropriated and neither Party shall have any continuing obligation to the other under this Agreement except as explicitly provided herein.

E. Commencement Date. The "Commencement Date" is January 15, 2015 and is when the services described in this Agreement are to commence.

F. Termination Date. The "Termination Date" of this Agreement is September 30, 2015.

G. Approval by the Town Council. This Agreement ___X___ is _____ is not contingent upon and subject to approval by the Town Council. If this Agreement is contingent upon and is subject to approval by the Town Council and such approval is granted after the Commencement Date, the Commencement Date shall be extended until such approval is received and the Termination Date shall be extended to reflect the Term of this Agreement.

H. Termination. Either Party may terminate this Agreement upon thirty (30) days written notice to the other.

2. CONTRACTOR NOT EMPLOYEE. Contractor is an independent contractor and not an employee, partner or agent of the Town.

As an Independent Contractor you are not entitled to workers' compensation benefits and that as an Independent Contractor you are obligated to pay federal and state income tax on any moneys earned pursuant to our contract relationship.

The Contractor shall, at all times, be an independent contractor. The Contractor shall have exclusive domain and control over the activities of its employees, if any, and under no circumstances shall Independent Contractor or Independent Contractor's employees be considered employees or agents of the Town.

3. INDEMNIFICATION. Contractor shall defend, release, indemnify and save and hold harmless the Town, its officers, agents and employees from and against: (1) any and all damages, including but not limited to, loss of use of property or injuries to or death of any person or persons (including but not limited to property and officers, agents and employees of the Town) and (2) any and all claims, demands, suits, actions, liabilities, costs, expenses (including but not limited to reasonable attorney fees, expert witness fees and all associated defense fees), causes of action, or other legal, equitable or administrative proceedings of any kind or nature whatsoever, of or by anyone whomsoever, regardless of the legal theory(ies) upon which premised, including but not limited to contract, tort, express and/or implied warranty, strict liability, and workers' compensation, in any way resulting from, connected with, or arising out of, directly or indirectly, the tortious or negligent actions or omissions of Contractor in connection with Contractor's operations or performance herewith or Contractor's use or occupancy of real or personal property hereunder, including tortious or negligent acts or omissions of employees, agents, or representatives of Contractor; provided however, that Contractor need not indemnify the Town or its officers, agents and employees from damages proximately caused by and apportioned to the negligence of the Town's officers, agents and employees.
This indemnity shall also extend to the Town's defense costs, in the event that the Town, in its sole discretion elects to provide its own defense. The Town retains the right to disapprove counsel, if any, selected by Contractor to fulfill the foregoing defense indemnity obligation, which right of disapproval shall not be unreasonably exercised.

Insurance coverage requirements specified herein shall in no way lessen or limit the liability of Contractor under the terms of this indemnification obligation. Contractor shall obtain, at its own expense, any additional insurance that Contractor deems necessary for the Town's protection in the performance of this Agreement.

This defense and indemnification obligation shall survive the expiration or termination of this Agreement. The Parties acknowledge that provisions of this Section are not intended to waive any of the rights and defenses afforded the Town under the Colorado Governmental Immunity Act (C.R.S. § 24-10-101, et. seq.).

4. CONTRACTOR LICENSE, EXPERTISE AND INSURANCE. Town has selected Contractor because of Contractor's special training, education and expertise to provide the services identified herein. Contractor shall maintain general liability insurance, at its expense, in an amount of at least $1,000,000.00 and insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting there from.

Any such insurance shall name the Town of Timnath as an additional insured. The Contractor shall deliver to the Town at the time of entering into this contract copies of policies of liability insurance required herein or certificates evidencing the existence and amounts of such insurance with loss payable clauses satisfactory to the Town. No policy shall be cancelable or subject to reduction of coverage except after twenty (20) days prior written notice to the Town. All such policies shall be written as primary policies not contributing with and not in excess of coverage which the Town may carry.

The work performed by Contractor under this Agreement shall be consistent with the highest professional standards of the Denver Metropolitan and Colorado Front Range areas. Contractor shall maintain such licenses as may be necessary to provide the services set forth in this Agreement.

5. DOCUMENTS. All documents prepared or furnished by Contractor (and independent professional associates and sub consultants) pursuant to this Agreement shall be the property of the Town. In addition, the Town shall have access to Contractor's financial records for the purposes of audit. Such records shall be complete and available for audit for ninety (90) days after final payment under this Agreement and shall be retained and available for audit purposes for at least five (5) years after final payment hereunder.

6. TABOR. Colorado Constitution, Article X, Section 20. Notwithstanding other provisions in this Agreement to the contrary, the Parties understand and acknowledge that the Town is subject to Article X, § 20 of the Colorado Constitution ("TABOR").
a. The Parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement.

b. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations of the Town are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the Town's current fiscal period ending upon the next succeeding December 31.

c. Financial obligations of the Town payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with ordinances and resolutions of the Town and other applicable law.

d. Notwithstanding any other provision of this Agreement concerning termination, upon the Town's failure to appropriate such funds, the Agreement shall automatically terminate.

7. CONFIDENTIALITY. The Parties agree that Contractor will, in the course of its duties hereunder, receive information concerning the Town, its employees, elected and appointed officials, property, equipment and functions. Contractor agrees to hold all such information confidential and to not disclose the same other than to the extent required to perform its duties, or upon a proper request from an authorized Town official, or pursuant to a proper request from an authorized Town official, or pursuant to a proper request under the Colorado Open Records Act, C. R. S. § 24-72-101, et. seq., to which the authorized Town official has confirmed it is appropriate for Contractor to respond or pursuant to a lawful court order. The requirements of this Section shall survive the termination of this Agreement.

8. ILLEGAL ALIENS - PUBLIC CONTRACTS FOR SERVICES. "E-verify program" as used herein means the electronic employment verification program created in Public Law 104-208, as amended, and expanded in Public Law 108-156, as amended, and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program. "Department" as used herein means the department of labor and employment. "Department program" as used herein means the employment verification program established pursuant to C.R.S. § 8-17.5-102(5)(c).

(1) The undersigned on behalf of the Contractor certifies that, at the time of this certification and the execution of this Agreement, the Contractor does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that the Contractor will participate in the e-verify program, pursuant C.R.S. § 8-17.5.101 or department program in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(2)(a) The Contractor shall not:

(I) Knowingly employ or contract with an illegal alien to perform work under this Agreement for services; or
(II) Enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

(b) In addition:

(I) The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the e-verify program or the department program;

(II) The Contractor is prohibited from using either the e-verify program or the department program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed;

(III) If the Contractor obtains actual knowledge that a subcontractor performing work under this Agreement for services knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

   (A) Notify the subcontractor and the Town within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

   (B) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien;

(IV) The Contractor shall comply with any reasonable request by the Department of Labor and Employment (Department) made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5.102(5).

(3) If the Contractor breaches this Section 8, the Town may terminate this Agreement for breach of the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the Town.

(4) The Contractor shall, within twenty (20) days after hiring an employee who is newly hired for employment to perform work under this Agreement, affirm that the Contractor has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. sec. 1324a, and not altered or falsified the identification documents for such employees. The Contractor shall provide a written, notarized copy of the affirmation to the Town.

(5) If the Contractor has not accepted into the department program prior to
entering into this Agreement, the Contractor shall apply to participate in the Program every **three (3) months** until the Contractor is accepted or the contract has been completed, whichever is earlier. This provision shall not be required or effective if the department program is discontinued.

9. MISCELLANEOUS.
   A. **Severability/Governing Law.** This Agreement is to be governed and construed according to the laws of the State of Colorado with venue of any litigation to be in Larimer County. If any provisions of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement, and all such 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 valid, then the provision shall have the meaning which renders it valid.

   B. **Entire Agreement.** It is understood that there are no oral agreements between the Parties hereto affecting this Agreement, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the Parties hereto or displayed by Town to Contractor with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Agreement. This Agreement is and shall be considered to be the only agreement between the Parties hereto and their representatives and agents. All negotiations and oral agreements acceptable to both Parties have been merged into and are included herein. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the Parties hereto or their respective successors in interest.

   C. **Waiver and Modification.** The waiver by Town of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition on any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of services hereunder by Town shall not be deemed to be a waiver of any preceding breach by Contractor of any term, covenant or condition of this Agreement. No modification of the terms of this Agreement shall be valid unless in writing and executed with the same formality as this Agreement, and no waiver of the breach of any provision of this Agreement shall be construed as a waiver of any subsequent breach of the same or any other provision hereof. If this Agreement is contingent upon approval by the Town Council, it is expressly agreed that, expect as may otherwise be provided by applicable statute or ordinance, no official of the Town has the authority to waive or modify any provision of this Agreement without formal approval of the Town Council.

   D. **Headings.** The headings and titles in this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part hereof.

   E. **Time.** Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor.

   F. **Corporate Authority.** If Contractor is a corporation, an LLC, an LLP, a limited partnership, a general partnership, an LLLP, or other non-natural entity, each individual executing this Agreement on behalf of said entity represents and warrants that they are duly
authorized to execute and deliver this Agreement on behalf of said entity, in accordance with a duly adopted resolution of the board of directors, partners, or members of said entity or in accordance with the governing documents of said entity, and that this Agreement is binding upon said entity in accordance with its terms.

**G. Notices.** Any notice or other communication given by any of the Parties hereto to another relating to this Agreement shall be in writing and shall be deemed to have been duly given:

a. On the date and at the time of delivery if delivered personally to the party to whom notice is given at the address specified in Section 1, above;

b. On the date of delivery or attempted delivery shown on the return receipt if mailed to the party to whom notice is to be given by first class mail, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed as specified in Section 1, above; or

c. Within twenty-four (24) hours after deposit with a nationally recognized overnight courier or messenger service, properly addressed as specified in Section 1, above.

Either party may change such address by fifteen (15) days written notice to the other provided; however, the Parties may not designate more than one place and address to receive notices as provided in this Agreement.

**H. NON-ASSIGNMENT.** This Agreement is an agreement for services by which Contractor was selected for Contractor's special expertise. This Agreement may not be assigned by either Party.

**I. LAWFUL PRESENCE AFFIDAVIT.** If a natural person, the undersigned shall complete the attached Lawful Presence Affidavit, ATTACHMENT B.
IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement as of the ______________________ day of ___________________________, 20____.

TOWN OF TIMNATH

By:__________________________________
    Jill Grossman-Belisle, Mayor

ATTEST:

__________________________________
    Milissa Peters, Town Clerk

CONTRACTOR:

King Surveying LLC

By:__________________________________

Title:__________________________________
STATE OF COLORADO )
) ss.
COUNTY OF __________)

The foregoing Professional Services Agreement was acknowledged before me this _____ day of ___________, 20______ by _________________________________ as the ____________________________ of Contractor.

Witness my hand and official seal.

My commission expires: ________________

________________________________________
Notary Public

________________________________________

________________________________________
Address
ATTACHMENT A
(Scope of Services)
## EXECUTIVE SUMMARY:
Gerrard is currently under contract with the Town to build the Riverbend Infrastructure improvements. The contract signed in September was based on quantities and unit costs from February in order to get construction started while design changes were reviewed and repriced. This change order adjusts the contract to be in agreement with the issued construction plans.

## STAFF RECOMMENDATION:
Staff recommends approval of this resolution.

## KEY POINTS/SUPPORTING INFORMATION:
- Contract based on plans and pricing as of February 14, 2014.
- Due to an updated traffic study, modifications to the street layout were required after this date.
- Issuing of contract was delayed until September 12, 2014 to allow for changes to be completed. Also delayed due to the status of the South Town Lateral construction.
- Finalized pricing was not ready when contract was issued.
- In addition, the water district required changes in the field during construction that impacted the cost of the water installation. This change order was delayed to be able to incorporate those modifications.

## ADVANTAGES:
This change order brings the contract into agreement with the final plans. Work is required to complete the project. The costs in this change order (with the exception of the district modifications) were incorporated into the subsequent agreements with Riverbend.

## DISADVANTAGES:
None.

## FINANCIAL IMPACT:
Additional costs were incorporated into the agreements with Riverbend and are within the overall project budget. Total Change Order is $78,811.90.

## RECOMMENDED MOTION:
I move to approve Resolution No. 5, Series 2015 approving the Change Order #2 to the “Riverbend Infrastructure” Contract with Gerrard Excavating, Inc.

## ATTACHMENTS:
1. Resolution
2. Change Order #2
TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 5, SERIES 2015

A RESOLUTION APPROVING A CHANGE ORDER #2 TO THE “RIVERBEND INFRASTRUCTURE” CONTRACT WITH GERRARD EXCAVATING, INC.

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

WHEREAS, Town policy is that material agreements and other documents requiring formal Town approval should be approved by resolution; and

WHEREAS, a change order with Gerrard Excavating, Inc. for construction services is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF TIMNATH, COLORADO AS FOLLOWS:

Section 1. Approval
The Town hereby approves the Agreement or Document and authorizes its execution by the Mayor, or other person authorized by the Town adopted resolution or Documents.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN OF TIMNATH, ON JANUARY 12, 2015.

TOWN OF TIMNATH, COLORADO

____________________________
Jill Grossman-Belisle, Mayor

ATTEST:

____________________________
Milissa Peters, Town Clerk
CHANGE ORDER NO. 2

Dated: January 13, 2015

CONTRACT FOR: Riverbend Infrastructure

OWNER: Town of Timnath  Agreement Date: September 12, 2014

CONTRACTOR: Gerrard Excavating Inc.  Engineers Proj. No: 0879.0004.01

The following changes are hereby made to the Contract Documents:

Description: See attached

Attachments: Exhibit A

ADJUSTMENT TO CONTRACT PRICE

<table>
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<th>Description: See attached</th>
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<td>Attachments: Exhibit A</td>
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ADJUSTMENT TO CONTRACT TIME

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<tr>
<td>TST, Inc.</td>
<td>Town of Timnath</td>
<td>Gerrard Excavating Inc.</td>
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<tr>
<td>Engineer</td>
<td>Owner</td>
<td>Contractor</td>
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DESCRIPTION: ITEM NO. 1 – Change of Contract Phases & Time

Due to design changes required by a revised traffic study, there was a significant amount of time that elapsed between when the revised contract was initially awarded (February 14, 2014) and the contract was actually signed (September 12, 2014). Due to this delay, there were some unit prices that could not be held. This information was not finalized in time to be incorporated into the signed contract in September and is now being incorporated, along with quantity changes due to the revisions.

Sixty (60) Line Items are being adjusted and one (1) Line Item is being added, with the accepted adjustment is as follows:

Revise Line Items:

Revise Item A.I.3 – 2” Irrigation Conduit
   Description revised to “Irrigation Conduit”
   Quantity Adjustment from 103 L.F. to 355 L.F.
   Unit price Adjustment from $24.55/LF to $25.85/LF
   (increase of $6,648.10)

Revise Item A.I.5 – Remove – Quantity Adjustment from 1 EA to 0 EA based on a price of $700.00/EA (decrease of $700.00)

Revise Item A.I.6 – Remove Trees – Unit Price Adjustment from $9,097.00/LS to $11,059.00/EA based on a quantity of 1 LS (increase of $1,962.00)

Revise Item A.I.7 – Remove Trees – Unit Price Adjustment from $9,097.00/LS to $11,059.00/EA based on a quantity of 1 LS (increase of $1,962.00)

Revise Item A.II.1 – Clear and Grub – Quantity Adjustment from 5,054 CY to 4,560 CY based on a price of $4.48/CY (decrease of $2,213.12)

Revise Item A.II.2 – Earthwork Cut to Fill - Quantity Adjustment from 20,145 CY to 18,080 CY based on a price of $3.03/CY (decrease of $6,256.95)

Revise Item A.II.4 – Silt Fence – Quantity Adjustment from 3,900 LF to 2,305 LF based on a price of $1.95/LF (decrease of $3,110.25)

Revise Item A.II.5 – Fabric Inlet Protection – Quantity Adjustment from 4 EA to 2 EA based on a price of $814.00/EA (decrease of $1,628.00)

Revise Item A.II.6 – Vehicle Tracking Pad – Unit Price Adjustment from $1,015.00/EA to $1,320.00/EA based on a quantity of 2 EA (increase of $610.00)

Revise Item A.II.7 – Rock Socks – Quantity Adjustment from 36 EA to 0 EA based on a price of $152.00/EA (decrease of $5,472.00)

Revise Item A.II.8 – Turf Stabilization Mat
   Quantity Adjustment from 750 SY to 500 SY
   Unit price Adjustment from $2.31/SY to $2.35/SY
   (decrease of $557.50)

Revise Item A.II.10 – Type L Riprap Pad
   Quantity Adjustment from 42 SY to 52 SY
   Unit price Adjustment from $39.75/SY to $69.40/SY
   (increase of $1,939.30)

Revise Item A.II.12 – Seed and Mulch
   Quantity Adjustment from 6.5 AC to 5.0 AC
   Unit price Adjustment from $782.00/AC to $833.00/AC
   (decrease of $918.00)
Revise Item A.II.13 – Median Seeding – Unit Price Adjustment from $2.30/SY to $2.60/SY based on a quantity of 357 SY (increase of $107.10)

Revise Item A.III.1 – Curb & 2’ Gutter – Quantity Adjustment from 2,118 LF to 2,408 LF based on a price of $16.79/LF (increase of $4,869.10)

Revise Item A.III.2 – Curb & 1’ Gutter – Quantity Adjustment from 1,005 LF to 1,371 LF based on a price of $16.57/LF (increase of $6,064.62)

Revise Item A.III.6 – 4” Color Median Paving – Quantity Adjustment from 99 SY to 140 SY based on a price of $90.10/SY (increase of $3,694.10)

Revise Item A.III.7 – 18.5’ Median/Truck Apron Base – Quantity Adjustment from 628 SY to 669 SY based on a price of $21.81/SY (increase of $894.21)

Revise Item A.III.10 – 5’ Walk – Quantity Adjustment from 1,415 LF to 1,605 LF based on a price of $21.85/LF (increase of $4,151.50)

Revise Item A.III.11 – 8’ Walk – Quantity Adjustment from 773 LF to 785 LF based on a price of $35.58/LF (increase of $426.96)

Revise Item A.III.14 – Sidewalk Chase – Quantity Adjustment from 4 EA to 2 EA based on a price of $4,345.00/EA (decrease of $8,690.00)

Revise Item A.III.17 – Asphalt Paving (6.5” HBP) – Quantity Adjustment from 5,779 SY to 6,874 SY based on a price of $33.07/SY (increase of $36,211.65)

Revise Item A.III.18 – Base Course (9” CL 6) – Quantity Adjustment from 5,779 SY to 6,874 SY based on a price of $8.38/SY (increase of $9,176.10)

Revise Item A.III.19 – 2” Asphalt (Stone Fly) – Quantity Adjustment from 2,922 SY to 2,809 SY based on a price of $12.31/SY (decrease of $1,389.66)

Revise Item A.III.20 – 6” Base Course w/ Shoulders – Quantity Adjustment from 4,106 SY to 3,932 SY based on a price of $5.78/SY (decrease of $1,003.79)

Revise Item A.III.22 – Traffic Signs – Unit Price Adjustment from $270.00/EA to $276.00/EA based on a quantity of 78 EA (increase of $468.00)

Revise Item A.III.23 – Latex Striping – Quantity Adjustment from 2,308 LF to 2,500 LF based on a price of $2.19/LF (increase of $420.48)

Revise Item A.III.28 – Saw Cut for Pavement Ties – Quantity Adjustment from 226 LF to 160 LF based on a price of $3.05/LF (decrease of $201.30)

Revise Item A.IV.3 – 8” Sanitary Sewer – Quantity Adjustment from 309 LF to 312 LF based on a price of $60.50/LF (decrease of $181.50)

Revise Item A.IV.4 – 4” Sanitary Sewer – Quantity Adjustment from 124 LF to 212 LF based on a price of $37.30/LF (increase of $3,282.40)

Revise Item A.IV.5 – Dewatering – Quantity Adjustment from 483 LF to 524 LF based on a price of $39.35/LF (increase of $1,613.35)

Revise Item A.IV.8 – Rock Excavation – Quantity Adjustment from 537 CY to 582 CY based on a price of $124.00/CY (increase of $5,580.00)

Revise Item A.V.1 – ¾” Water w/ Meter Pit – Quantity Adjustment from 4 EA to 0 EA based on a price of $1,533.00/EA (decrease of $6,132.00)

Revise Item A.V.2 – 1” Water w/ Meter Pit – Unit Price Adjustment from $1,590.00/EA to $1,619.00/EA based on a quantity of 2 EA (increase of $58.00)

Revise Item A.V.4 – 4” Fire Service Line – Quantity Adjustment from 117 LF to 80 LF based on a price of $23.40/LF (decrease of $865.80)

Revise Item A.V.5 – 6” Fire Service Line – Quantity Adjustment from 125 LF to 39 LF based on a price of $25.45/LF (decrease of $2,188.70)

Revise Item A.V.6 – 6” Waterline – Quantity Adjustment from 113 LF to 118 LF based on a price of $25.45/LF (increase of $127.25)

Revise Item A.V.7 – 8” Waterline – Quantity Adjustment from 1,225 LF to 1,150 LF based on a price of $28.65/LF (decrease of $2,148.75)

Revise Item A.V.9 – 12: Waterline Quantity Adjustment from 1,202 LF to 1,273 LF
Unit Price Adjustment from $36.90/LF to $37.00/LF (increase of $2,747.20)

Revise Item A.V.10 – 4” GTV – Unit Price Adjustment from $916.00/EA to $962.00/EA based on a
quantity of 2 EA (increase of $92.00)
Revise Item A.V.11 – 6” GTV
  Quantity Adjustment from 10 EA to 7 EA
  Unit Price Adjustment from $1,133.00/EA to $1,203.00/EA
  (decrease of $2,909.00)
Revise Item A.V.12 – 8” GTV
  Quantity Adjustment from 11 EA to 9 EA
  Unit price Adjustment from $1,540.00 to $1,641.00
  (decrease of $2,171.00)
Revise Item A.V.13 – 12” GTV
  Quantity Adjustment from 7 EA to 5 EA
  Unit price Adjustment from $2,758.00 to $2,918.00
  (decrease of $4,716.00)
Revise Item A.V.15 – 8”x8” Tee – Quantity Adjustment from 2 EA to 0 EA based on a price of $466.00/EA (decrease of $932.00)
Revise Item A.V.16 – 12”x4” Tee – Quantity Adjustment from 3 EA to 2 EA based on a price of $721.00/EA (decrease of $721.00)
Revise Item A.V.17 – 12”x6” Tee – Quantity Adjustment from 6 EA to 4 EA based on a price of $518.00/EA (decrease of $1,036.00)
Revise Item A.V.19 – 12”x8” Cross – Quantity Adjustment from 1 EA to 2 EA based on a price of $673.00/EA (increase of $673.00)
Revise Item A.V.20 – 8”x6” Reducer – Quantity Adjustment from 1 EA to 2 EA based on a price of $216.00/EA (increase of $216.00)
Revise Item A.V.21 – 8”-11.25 Bend – Quantity Adjustment from 3 EA to 1 EA based on a price of $408.00/EA (decrease of $816.00)
Revise Item A.V.22 – 8”-22.5 Bend - Quantity Adjustment from 2 EA to 1 EA based on a price of $290.00/EA (decrease of $290.00)
Revise Item A.V.25 – 12”-22.5 Bend – Quantity Adjustment from 1 EA to 0 EA based on a price of $789.00/EA (decrease of $789.00)
Revise Item A.V.26 – 12” Coupling – Quantity Adjustment from 1 EA to 0 EA based on a price of $488.00/EA (decrease of $488.00)
Revise Item A.V.29 – FH Assembly – Unit Price Adjustment from $4,649.00/EA to $4,688.00/EA based on a quantity of 8 EA (increase of $312.00)
Revise Item A.V.32 – Tie to Ex. 3” – Unit Price Adjustment from $19,070.00/LS to $17,971/LS based on a quantity of 1 LS (decrease of $1,099.00)
Revise Item A.V.33 – PRV Vault – Unit Price Adjustment from $40,797.00/LS to $41,380.00/LS based on a quantity of 1 LS (increase of $583.00)
Revise Item A.VI.1 – 14”x23” HERCP – Quantity Adjustment from 38 LF to 0 LF based on a price of $63.75/LF (decrease of $2,422.50)
Revise Item A.VI.2 – 24”x38” HERCP
  Quantity Adjustment from 268 LF to 558 LF
  Unit price Adjustment from $93.85 to $101.45
  (increase of $31,457.30)
Revise Item A.VI.3 – 14”x23” FES – Quantity Adjustment from 2 EA to 0 EA based on a price of $1,025.00/EA (decrease of $2,050.00)
Revise Item A.VI.4 – 24”x38” HERCP FES
  Quantity Adjustment from 4 EA to 6 EA
  Unit price Adjustment from $1,498.00 to $1,633.00
  (increase of $3,808.00)
Revise Item A.VI.3 – Traffic Signs – Unit Price Adjustment from $270.00/EA to $276.00/EA based on a quantity of 1 LS (increase of $6.00)
Additional Line Item:

Add Line Item A.I.10 – Clean Out Culverts; 2 EA based on a price of $996.00/EA (increase of $1,992.00)

Change in Contract Price = $65,654.90 (increase)

DESCRIPTION: ITEM NO. 2 – Water District Revisions

One (1) Line Item is being added to address modifications in the field required by the Fort Collins Loveland Water District during construction, after plan approval. The District decided to require mechanical joint restraints on the waterline instead of the current criteria that specified thrust blocks. The accepted adjustment is as follows:

Additional Line Item:

Add Item A.V.35 – District Restraint Modifications; 1 LS based on a price of $13,157.00/LS (increase of $13,157.00)

Change in Contract Price = $13,157.00 (increase)
**EXECUTIVE SESSION:** “For the purposes of discussion concerning the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interests under Section §24-6-402(a), C.R.S.; discussion concerning personnel matters under §24-6-402(4)(f), C.R.S.; discussion regarding positions relative to matters that may be subject to negotiations and development of a strategy for negotiations under §24-6-402(4)(e), C.R.S.; and conferences with the Town’s attorney for purposes of receiving legal advice on specific legal questions under §24-6-402(4)(b), C.R.S.”

**ADVANTAGES:**
N/A

**DISADVANTAGES:**
N/A

**FINANCIAL IMPACT:**
N/A

**RECOMMENDATIONS:**
I move to enter into Executive Session “For __________________________.”

**ATTACHMENTS:**
N/A