

**Timnath Development Authority Agenda**  
**Meeting Agenda**  
**June 23, 2015, 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**

Chairperson	Jill Grossman-Belisle
Commissioner	Bill Neal
Commissioner	Aaron Pearson
Commissioner	Paul Steinway
Commissioner	Bryan Voronin

**2. CONSENT**

a. Approval of the April 28, 2015, Timnath Development Authority Meeting Minutes

**3. BUSINESS**

a. **RESOLUTION NO. TDA-3, SERIES 2015**, A RESOLUTION APPROVING THE AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF TIMNATH, COLORADO, THE TIMNATH DEVELOPMENT AUTHORITY, THE POUFRE VALLEY FIRE PROTECTION DISTRICT AND THE POUFRE FIRE AUTHORITY

**4. ADJOURNMENT**

**Timnath Development Authority Agenda**  
**Regular Meeting Minutes**  
**April 28, 2015, 6:00 p.m.**  
*Meeting was held at **Timnath Administration Building***  
***4800 Goodman Street, Timnath, Colorado***

**1. CALL TO ORDER AND ROLL CALL**

Chairperson Grossman-Belisle called to order the regular meeting of the Timnath Development Authority on April 28, 2015, at 6:00 p.m.

**Present:**

- a. Chairperson Jill Grossman-Belisle
- b. Commissioner Aaron Pearson
- c. Commissioner Paul Steinway
- d. Commissioner Bryan Voronin

**Absent**

- a. Commissioner Bill Neal

**Also Present:**

- a. April Getchius, Town Manager
- b. Robert Rogers, Contracted Town Attorney
- c. Don Taranto, Contracted Town Engineer
- d. Matt Blakely, Contracted Town Planner
- e. Brian Williamson, Contracted Town Planner
- f. Kevin Koelbel, Contracted Town Planner
- g. Gary Hoover, Hartford Homes
- h. Kathy Mathis, Hartford Homes

**2. CONSENT**

- a. Approval of the February 24, 2015, Timnath Development Authority Meeting Minutes
- b. Approval of the March 10, 2015, Timnath Development Authority Meeting Minutes
- c. Connell Resources Payments

**Commissioner Steinway moved to approve THE CONSENT AGENDA. Commissioner Pearson seconded the motion. The motion passed unanimously by voice vote.**

**3. ADJOURNMENT**

Chairperson Grossman-Belisle adjourned the meeting at 6:02 p.m.

**The Timnath Development Authority approved the April 28, 2015 TDA Meeting Minutes on June 23, 2015.**

**TIMNATH DEVELOPMENT AUTHORITY**

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Jill Grossman-Belisle, Chairperson

**ATTEST:**

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Milissa Peters, Secretary

# TIMNATH DEVELOPMENT AUTHORITY COMMUNICATION

<b>Meeting Date:</b> <b>June 23, 2015</b>	<b>Item: A Resolution Approving An Amended and Restated Intergovernmental Agreement among the Town of Timnath, the Timnath Development Authority, the Poudre Valley Fire Protection District and the Poudre Fire Authority</b>	<b>Ordinance</b> <input type="checkbox"/> <b>Resolution</b> <input checked="" type="checkbox"/> <b>Discussion</b> <input type="checkbox"/> <b>For Information</b> <input type="checkbox"/>
<b>Presented by:</b> <b>April D. Getchius, AICP</b> <b>Town Manager</b>		
<b>EXECUTIVE SUMMARY:</b> This agreement is an amendment to a previously approved IGA among the entities listed. It provides for the payment of TDA collected tax increment to the Fire Authority/District, provides for the construction of a new fire station, the establishment of a temporary station until the new station is completed, and the transfer of property.		
<b>STAFF RECOMMENDATION:</b> Staff recommends approval of this resolution.		
<b>KEY POINTS/SUPPORTING INFORMATION:</b> This agreement: <ul style="list-style-type: none"> <li>• Provides for the construction of a new fire station in Timnath.</li> <li>• Provides for a temporary station, that is warranted because of the Town's growth, until the new station is completed.</li> <li>• Provides for the payment of TDA increment as follows:               <ul style="list-style-type: none"> <li>○ Upon the opening of the temporary station, the Town and TDA shall pay \$330,000 of the Accumulated District Increment to the Fire District to support the operations of said temporary station.</li> <li>○ Upon the Commencement Date, the Town and TDA shall pay to the Fire District all of the Accumulated District Increment remaining after payment of the \$330,000 pursuant to Paragraph 3.2(A), to be used toward construction of Lot 8 Fire Station.</li> <li>○ After the Commencement Date, the Town and TDA shall pay to the Fire District all Ongoing District Increment they receive after the Commencement Date and shall continue such payment of the Ongoing District Increment so received provided the Lot 8 Fire Station is built and staffed initially. The Town and TDA shall pay the Ongoing District Increment to the Fire District after its receipt on a monthly basis on the first day of each month.</li> </ul> </li> <li>• Provides for remedies if the Fire Authority/District does not perform.</li> <li>• Provides for the transfer of property that is needed as a result of replatting of the Riverbend property.</li> </ul>		
<b>ADVANTAGES:</b> Provides for the cooperative agreement to establish a temporary and new fire station and its ongoing operation.		
<b>DISADVANTAGES:</b> None.		
<b>FINANCIAL IMPACT:</b> Funds associated with this agreement will be paid from the TDA tax increment attributable to the Poudre Fire District that has been accumulated to date (approximately \$1.8 million). Additionally, approximately \$147,000 will be paid from the Town general fund to cover increased infrastructure costs.		
<b>RECOMMENDED MOTION:</b> I move approval of Resolution No. 3, Series 2015 approving an amended and restated intergovernmental agreement among the Town of Timnath, the Timnath Development Authority, the Poudre Valley Fire Protection District and the Poudre Fire Authority.		
<b>ATTACHMENTS:</b> 1. Resolution 2. Agreement		

**TIMNATH DEVELOPMENT AUTHORITY  
RESOLUTION NO. 3, SERIES 2015**

**A RESOLUTION APPROVING AN AMENDED AND RESTATED  
INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF TIMNATH,  
COLORADO, THE TIMNATH DEVELOPMENT AUTHORITY, THE POUFRE  
VALLEY FIRE PROTECTION DISTRICT AND THE POUFRE FIRE AUTHORITY**

**WHEREAS**, the Board of Commissioners of the Timnath Development Authority (the “TDA”), pursuant to the provisions of the Colorado Revised Statutes, has the power to pass resolutions and enter into contracts and agreements; and

**WHEREAS**, attached hereto as Exhibit A is the Amended and Restated Intergovernmental Agreement Between the Town of Timnath, the Timnath Development Authority, the Poudre Valley Fire Protection District and the Poudre Fire Authority; and

**WHEREAS**, the Board of Commissioners is familiar with the Agreement and finds its terms to be in the best interest of the TDA, the residents within its boundaries, and the general public.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TIMNATH DEVELOPMENT AUTHORITY, 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 Chairperson in consultation with applicable staff and consultants.

**INTRODUCED, MOVED, AND ADOPTED ON JUNE 23, 2015.**

**TIMNATH DEVELOPMENT AUTHORITY**

\_\_\_\_\_  
Jill Grossman-Belisle, Chairperson

**ATTEST:**

\_\_\_\_\_  
Milissa Peters, Secretary

**EXHIBIT A**  
**AGREEMENT**

**AMENDED AND RESTATED  
INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE TOWN OF TIMNATH, COLORADO,  
THE TIMNATH DEVELOPMENT AUTHORITY,  
THE POUFRE VALLEY FIRE PROTECTION DISTRICT AND  
THE POUFRE FIRE AUTHORITY**

This Amended and Restated Intergovernmental Agreement (the “**Agreement**”) is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2015 (the “**Effective Date**”) between the Town of Timnath, Colorado (the “**Town**”), a Colorado home-rule municipality; the Timnath Development Authority (the “**TDA**”), an urban renewal authority established pursuant to the Colorado Urban Renewal Law; the Poudre Valley Fire Protection District (the “**Fire District**”), a Colorado fire protection district authorized pursuant to Section 32-1-101, et. seq, C.R.S.; and the Poudre Fire Authority, a separate legal authority organized pursuant to Section 29-1-203(4), C.R.S. (the “**Fire Authority**”).

**RECITALS**

1. The Fire District is a quasi-governmental corporation and political subdivision of the State of Colorado existing pursuant to § 32-1-101, et seq., C.R.S., and was organized to provide fire protection, emergency medical and rescue services (“**Fire Protection Services**”) to the residents and property owners within its jurisdictional boundaries.

2. The Fire Authority was formed in 1981 by intergovernmental agreement between the Fire District and the City of Fort Collins, to provide Fire Protection Services to all areas within the Fire District and the City of Fort Collins, the intergovernmental agreement having been most recently amended and restated by intergovernmental agreement dated July 15, 2014 (“**Fire Authority IGA**”). The Fire District and the Fire Authority may hereinafter be referred to jointly as the “**Fire Department**”.

3. As a Colorado home-rule municipality, the Town has the power to provide fire protection, emergency medical and rescue services pursuant to §§31-15-601(1)(1), 31-15-201, 31-23-207, 31-23-214, 31-23-303 and 31-30-101, C.R.S.

4. On November 10, 2004, the Board of Trustees of the Town authorized the formation of the TDA with the Board serving as the Directors of the TDA. Pursuant to the Timnath Urban Renewal Plan approved by the Town Board on December 15, 2004 (the “**Plan**”), the TDA has received since adoption of the Plan, and will continue to receive property tax increment collected within the Plan area, now based on 10.595 mills, as assessed above the base amount, levied by the Fire District (the “**District Increment**”).

5. The Town believes it to be in the best interests of the Town’s residents and visitors to provide within its municipal boundaries standardized Fire Protection Services by a single provider.

6. The Fire District has provided Fire Protection Services to the Town since 1950 and currently provides Fire Protection Services to most lands within the Town through the Fire Authority.

7. By Resolution No. 2000-F, and pursuant to § 29-22-102, C.R.S., the Town designated the Fire Department as the emergency response authority for hazardous substance incidents occurring within the corporate limits of Timnath.

8. The Town, the Fire District and the Fire Authority entered into an agreement on February 6, 2001 (the “**2001 Service Agreement**”), whereby the parties agreed to take the necessary steps to make the Fire District the exclusive Fire Protection Services provider for the Town; agreed that the Fire District could charge fees for its services; agreed that the Fire District would provide fire prevention services and hazardous substances response; agreed that the Fire Authority would assume the Fire District’s obligations to provide Fire Protection Services; agreed that the Town would require landowners seeking annexation into the town to seek inclusion in the Fire District and the Fire District would consider inclusion of all lands legally eligible for inclusion in the Fire District; and agreed that the Town, during an annexation process, would take all actions necessary and appropriate to exclude the lands in another fire protection district and include them into the Fire District.

9. The Town and the Fire District also entered into an intergovernmental agreement dated July 20, 2005 (the “2005 IGA”), whereby the Town designated the Fire District as the fire service provider for the Town with all areas of the Town to be included in the boundaries of the Fire District. The Town agreed to require landowners who seek annexation of their lands into the Town, which lands are located within a fire protection district other than the Fire District, to concurrently petition for exclusion of the lands from the other fire protection district and inclusion of such lands into the Fire District. As to lands already within the Town which are located within a fire protection district other than the Fire District, the Town agreed to file petitions to exclude such lands from the boundaries of the other fire protection district and request, or where possible require, the owners of such excluded lands to petition for inclusion into the Fire District.

10. In 2008, the Town did not seek inclusion of a portion of the Graves Annexation into the Fire District as required by the 2001 Service Agreement and the 2005 IGA. Said portion therefore remains outside the Fire District despite its annexation to the Town, and still within the service area of the Windsor/Severance Fire Protection District. The parties acknowledge that the Town has been in ongoing negotiations with the owners of the property in the Graves Annexation in an effort to facilitate exclusion of said property from the Windsor/Severance Fire Protection District and include said property in the Fire District.

11. The Town, TDA, Fire District, and the Fire Authority, (collectively, the “**Parties**”, or individually a “**Party**”) entered into an Intergovernmental Agreement dated March 1, 2007 (the “**2007 IGA**”) regarding, among other things, the construction of a new fire station within the corporate boundaries of the Town and the payment of the District Increment to the Fire District. From the inception of the TDA to the Effective Date, the TDA has accumulated and currently holds in escrow District Increment in the amount of \$\_\_\_\_\_ for the



purpose of facilitating construction of a new fire station under the 2007 IGA (the “**Accumulated District Increment**”).

12. The Town and the Fire Authority have shared facilities for many years with the Town formerly occupying facilities owned by the Fire Authority (the “**Town Hall**”) and the Fire Department occupying an existing fire station facility owned by the Town. Pursuant to an Exchange Agreement dated February 10, 2012 (the “**Exchange Agreement**”), the Fire Authority transferred the Town Hall to Riverbend Ventures LLC (“**Riverbend Ventures**”) in exchange for the conveyance of property designated as Lot 15 under the applicable preliminary plat, owned by Riverbend Ventures to the Fire Authority by Special Warranty Deed dated February 10, 2012 and recorded on February 15, 2012 at Reception Number 20120010397 in the records of the Clerk and Recorder for Larimer County (the “**Old Lot 15 Fire Authority Property**”).

13. Riverbend Ventures, the Town and the TDA entered into a “Public Improvements Agreement” dated February 10, 2012, and recorded on April 25, 2012 at Reception #20120027087 of the Larimer County, Colorado records (the “**Original Public Improvements Agreement**”) which was subsequently amended and restated in its entirety in the “Amended and Restated Public Improvements Agreement dated October 14, 2014, and recorded on [DATE] at Reception [#???] of the Larimer County, Colorado records (the “**Restated Public Improvements Agreement**”). The Restated Public Improvements Agreement provides that the TDA will design, construct, install, and pay the cost of certain public improvements as described in Exhibit C to the Restated Public Improvements Agreement (the “**Public Improvements**”), which costs are to be repaid in part by the applicable property owners through lot assessments that are due on a per-lot basis upon application for the building permit for the applicable lot. Pursuant to the Restated Public Improvements Agreement, Riverbend Ventures and the Town have agreed to submit and process a Preliminary Plat and Final Plat for the area and development conceptually shown as Exhibit B to the Restated Public Improvements Agreement (the “**Plat**”). The Plat includes and reconfigures the Old Lot 15 Fire Authority Property which is shown thereon as Lot 8 (“**Lot 8**”). The Fire Authority has not previously agreed to the Plat or the reconfiguration of the Old Lot 15 Fire Authority Property.

14. The Restated Public Improvements Agreement contemplates the construction on Lot 8 of the new fire station contemplated in the 2007 IGA (the “**Lot 8 Fire Station**”), rather than the previously identified “Lot 15”. The Fire Authority and the Fire District believe that Lot 8 is a suitable location to construct the Lot 8 Fire Station.

15. The Old Lot 15 Fire Authority Property, which is described in metes and bounds, is not configured using the same legal description as Lot 8, which is described using a lot and block description. Therefore upon approval of the Plat the Fire Authority will convey the Old Lot 15 Fire Authority Property to the Town or such person or entity designated by the Town in exchange for Lot 8 being conveyed to the Fire Authority.

16. The Fire Authority has completed design of the Lot 8 Fire Station, which was submitted to the Town through an application for Fire Station Conditional Use Permit, and approved by the Town Planning Commission on May 5, 2015, and approved by the Town

Council on May 12, 2015, by Resolution 31 (the “**Station Design**”). This design submittal shall be considered the “Approved Station Design” for purposes of this document.

17. Based upon events and circumstances occurring since the execution of the 2007 IGA, the Parties desire to restate and replace the 2007 IGA pursuant to the terms and conditions of this Agreement.

18. Pursuant to § 31-25-112(1)(d), C.R.S., a public body has the ability to enter into agreements with an urban renewal authority respecting action to be taken by the authority and public body including agreements respecting the planning or undertaking of plans, projects, programs, works, operations, or activities which such public body is otherwise empowered to undertake.

19. Pursuant to Article XIV, Section 18 of the Colorado Constitution and §29-1-203, C.R.S., the parties are authorized to enter into intergovernmental agreements for the provision of services of mutual benefit.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, receipt of which is acknowledged, the Parties agree as follows:

Section 1.0 Conveyance of Lot 8. Upon recording of the Plat, the TDA and the Town shall work cooperatively to require the owner to transfer the newly platted Lot 8 to the Fire Authority by general warranty deed, free and clear of all liens and encumbrances, including free and clear of any and all declarations, covenants or conditions, except only those permitted exceptions list on Exhibit A, attached hereto and incorporated herein. The Town shall be responsible for all costs associated with conveyance of Lot 8 or portions thereof, including the cost of a standard policy of title insurance to be issued to the Fire Authority in the insured amount of \$400,000.00, with standard exceptions deleted. Prior to and as a condition of receiving Lot 8, but in a simultaneous closing, the Fire Authority shall convey by general warranty deed its interest in the Old Lot 15 Fire Authority Property to such person or entity as designated by the Town and TDA. The Town shall be responsible for all costs associated with conveyance of the Old Lot 15 Fire Authority Property or portions thereof, including the cost of a standard policy of title insurance to be issued to the grantee in an insured amount of \$400,000.

### Section 2.0. Construction and Operation of the Lot 8 Fire Station.

Section 2.1. Obligation to Commence Construction. The Fire Authority agrees to commence construction of the Lot 8 Fire Station within 12 months of the satisfaction of all of the following conditions: (a) the completion of all public improvements as described in Section 2.4 of this Agreement, with the exception of the Fire Signal, which shall be completed and operational prior to occupancy of the Lot 8 Fire Station, (b) the filing of a final plat by Riverbend Ventures acceptable to the Fire Authority and the plat’s acceptance by the Town for property that includes the Old Lot 15 Fire Authority Property and which plats Lot 8, (c) recording of the plat,

(d) conveyance of the Old Lot 15 Fire Authority Property to the Town or its designee and conveyance of Lot 8 to the Fire Authority, (e) the provision of adequate access to Lot 8 for its intended use, including provision of an access and emergency easement across Lot 7 to provide shared access with the Town Hall and allow Fire Authority vehicles and apparatus to cross Lot 7 to reach Lot 8 as shown on the site plan for Lot 8 previously submitted to the Town, (f) the payment to the Fire District of the District Increment as required by Section 3.2 of this Agreement, and (g) the release of Lot 8 from the Original and Restated Public Improvements Agreements as contemplated by the second paragraph of Section 2.3. For purposes of this Agreement, construction commences on the date that the Fire Authority obtains a building permit for the Lot 8 Fire Station (the “**Commencement Date**”).

Section 2.2 Station Design/Construction Costs. The Lot 8 Fire Station shall be designed so as to comply with the requirements of the Town’s Code, building regulations, and design requirements existing as of the Effective Date and applicable to similar structures throughout the Town. The Fire Authority shall utilize the Station Design for the construction of the Lot 8 Fire Station, through the standard Fire Authority construction procurement process. The Town will waive applicable permit fees and administrative or overhead charges except those resulting in a direct cost to the Town, such as building permit fees that are payable to the Town’s contract building plan reviewer and inspector. The Parties agree that changes in the Station Design may be required as a result of Town Code regulations which are required of any applicant. These changes will be made at the cost of the Fire Authority. Any changes to the Station Design or site plan that are not required by the Town Code or Town standards shall be made at the expense of the entity requesting the changes.

Section 2.3. Public Improvements and Fire Authority Cost Share for Lot 8. The TDA and the Town will be responsible for paying, from non-District Increment, for the installation of any and all costs associated with the Public Improvements necessary for the construction and operation of the Lot 8 Fire Station as described in the Restated Public Improvements Agreement (other than the public improvements assessment as described herein). The emergency signal and mast arms (the “**Fire Signal**”) listed in Exhibit C of the Restated Public Improvements Agreement shall be considered as a component of the required Public Improvements to be constructed by the TDA or Town and must include red/yellow/green lights for traffic on both directions of Harmony Road and for traffic entering Harmony Road from the Road Right of Way (Signal Tree Drive), and must be capable of Opticom activation from responding fire apparatus. The Fire Signal must be installed prior to the Completion of Construction of the Lot 8 Fire Station. Additionally, the Town shall pay all costs associated with installing additional Opticom, as determined reasonably necessary by the Fire Authority, on newly installed traffic signals within the Town’s control and maintenance of all Opticom systems located within the Town’s control.

The Parties acknowledge that the Lot 8 Infrastructure Assessment described and set forth in Exhibit D of the Restated Public Improvements Agreement includes an increased Lot 8 Assessment amount over and above the amount associated with the Original Lot 15 Fire Authority Property under the Original Public Improvements Agreement. The Parties further agree that the Lot 8 Infrastructure Assessment is \$240,671. The Town agrees that it will pay

\$140,671 of that amount from non-District Increment with the balance of \$100,000 to be paid by the Fire Authority to the TDA upon the transfer of Lot 8 to the Fire Authority. Upon the Fire Authority's payment of \$100,000, the TDA and the Town shall deliver to the Fire Authority for recording the fully executed original of the "Release of Public Improvement Agreements" attached hereto and incorporated herein as Exhibit B, releasing Lot 8 from any and all current and future obligations under the Original and Restated Public Improvements Agreements, as these agreements now exist or are hereafter amended, but such release shall not be deemed to waive or terminate any rights or benefits the Fire Authority may have as a third party beneficiary under such agreements. In addition, the Fire Authority shall have no obligation to transfer the Old Lot 15 Fire Authority Property as contemplated in Section 1.0 until it has received such fully executed release. The Fire Authority and the Fire District shall not be subject to any other fees associated with development of Lot 8 or construction of the Lot 8 Fire Station (other than building and development fees as stated in Section 2.2), including any and all fees and charges contemplated by the Restated Public Improvements Agreement.

Section 2.4. Staffing and Temporary Fire Station. The Parties agree that a staffed temporary fire station in Timnath is desirable prior to the opening and staffing of the Lot 8 Fire Station. The temporary station will be opened within 30 days of the Effective Date, subject to the availability of a suitable site, its acquisition by the Fire Authority, and the granting of any necessary approvals by the Town. The Fire Authority hereby agrees also to staff the temporary fire station upon its opening, and subsequently staff the Lot 8 Fire Station beginning immediately upon the Lot 8 Fire Station's opening. The level of ongoing staff at the temporary fire station and the Lot 8 Fire Station shall be a management decision of the Fire Authority and subject to the Fire Authority's discretion. The temporary fire station is anticipated to be closed within three months of the Completion of Construction of the Lot 8 Fire Station, and may be closed immediately upon the initial staffing of the Lot 8 Fire Station.

Section 3.0. Payment of Tax Increment Amounts from Accumulated District Increment and Ongoing District Increment.

Section 3.1. Revenues of the TDA. Pursuant to the Plan, all of the Accumulated District Increment received by the TDA has been maintained in an escrow account from inception of the TDA to the Effective Date, and additionally the TDA will continue to receive District Increment from the Effective Date until its dissolution ("**Ongoing District Increment**").

Section 3.2. Payment of Accumulated Increment for Funding Temporary Fire Station and Lot 8 Fire Station Construction.

- A. Upon the opening of the temporary station, the Town and TDA shall pay \$330,000 of the Accumulated District Increment to the Fire District to support the operations of said temporary station.
- B. Upon the Commencement Date, the Town and TDA shall pay to the Fire District all of the Accumulated District Increment remaining after payment of

the \$330,000 pursuant to Paragraph 3.2(A), to be used toward construction of Lot 8 Fire Station.

- C. After the Commencement Date, the Town and TDA shall pay to the Fire District all Ongoing District Increment they receive after the Commencement Date and shall continue such payment of the Ongoing District Increment so received provided the Lot 8 Fire Station is built and staffed initially. The Town and TDA shall pay the Ongoing District Increment to the Fire District after its receipt on a monthly basis on the first day of each month.

Section 3.3. Use of Accumulated and Ongoing District Increment. The Fire District will convey to the Fire Authority the Accumulated and Ongoing District Increment received from the TDA, and the Fire Authority will use the Accumulated and Ongoing District Increment payments to meet its obligations under this Agreement, including but not limited to the following:

Section 3.3.1. The planning, design, and construction of the Lot 8 Fire Station, or, as provided for in Section 2.5, the establishment of a temporary station.

Section 3.3.2. The Fire Authority's costs of the escalating service demands in the Plan area resulting from increased development prior to and after construction of the Lot 8 Fire Station.

Section 3.3.3. The operation, maintenance, and equipping of the temporary fire station, and Lot 8 Fire Station once construction is complete.

Section 3.3.4. The cost of staffing the temporary fire station and Lot 8 Fire Station as described in this Agreement.

Section 3.3.5. The purchase of a new fire engine to operate from the temporary fire station or the Lot 8 Fire Station. The actual purchase date of a new fire engine will be determined by the Fire Authority based on need and the availability of funds.

Section 3.3.6. To provide service to the Lot 8 Fire Station response area.

Section 3.4. Fire District's Base Property Tax. Nothing in this Agreement will alter or diminish the Fire District's right to receive and spend as it determines appropriate its property tax assessment base amount.

Section 3.5. Sole Remedy. If the Fire Department fails to meet its obligations under this Agreement, the TDA's and the Town's exclusive remedies shall be to cease making Ongoing District Increment payments. Additionally, if the Fire Authority fails to construct the Lot 8 Fire Station in accordance with this Agreement, the Town's and the TDA's obligation to make payments of Accumulated District Increment payments shall cease and the Town or the TDA shall be entitled to reimbursement of previous District Increment payments to the Fire District, except those in excess of \$330,000 to be paid pursuant to Section 3.2, A., and those

expended in good faith for construction of the Lot 8 Fire Station prior to suspension or termination of construction. The TDA and Town must provide prior written notice to the Fire Department to avoid making Ongoing District Increment payments.

Section 3.6. District Increment Payments Constitute an Obligation. The District Increment payments are intended to be used to offset a portion of the costs the Fire Authority will incur to plan, construct, equip, and operate the Lot 8 Fire Station. The TDA's pledge to remit the District Increment payments constitute an obligation pursuant to the Colorado Urban Renewal Law.

Section 4.0. Entire Agreement; Terminating the 2007 IGA.

This Agreement represents the full understanding of the Parties, and supersedes any prior understanding, agreement or discussion of the Parties regarding the subject matter. This Agreement is not intended to supersede or modify the 2001 Service Agreement or the 2005 IGA. Upon its execution by all parties, this Agreement shall replace and supersede the 2007 IGA, which shall be of no further force or effect.

Section 5.0. Force Majeure.

All deadlines set forth in Section 2.0 of this Agreement may be extended by the Fire District or the Fire Authority if reasonably necessary for delays caused by war, civil unrest, acts of God, natural disaster or other similar event, or unreasonable delays caused by the Town, the TDA, or Riverbend Ventures LLC, and its successors, assigns or grantees.

Section 6.0 Term.

This Agreement shall become effective upon execution by all Parties. Except for the TDA's pledge to remit District Increment payments as set forth in Section 3, any obligation of any Party under this Agreement dependent upon expenditure of funds by such Party shall be conditioned upon and to the extent of the annual appropriation of sufficient funds therefore by the Party's governing or funding body. If this Agreement is terminated by any Party for non-appropriation, no Party shall have any further obligation hereunder.

Section 7.0. Termination.

This Agreement shall terminate on December 15, 2029, unless sooner terminated as provided herein. This Agreement can also be terminated by any Party hereto giving written notice to the others prior to the Commencement Date that the Lot 8 Fire Station will not be built. Such termination shall be effective on the date of such notice. In the event of termination for this reason, all District Increment payments not already expended on or irrevocably contractually obligated for the design, construction, or equipping of the Lot 8 Fire Station shall be reimbursed to the TDA. Termination of this Agreement shall not impact any other agreements existing and still in force at the time of termination of this Agreement.

Section 8.0. Severability.

If any provision of this Agreement is held invalid or unenforceable for any reason, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

Section 9.0. Breach and Waiver.

If any Party is in breach of its obligations hereunder, the Party claiming a breach shall provide the breaching Party with notice of the breach in writing and a reasonable opportunity to cure. In the event of failure to cure, the non-breaching Party may terminate the Agreement and seek any legal or equitable remedy against the breaching Party unless otherwise provided in this Agreement. A waiver of any Party to this Agreement of the breach of any term or provision shall not operate or be construed as a waiver of any subsequent breach by any Party.

Section 10.0. No Third Party Beneficiaries.

Any 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 person or entity.

Section 11.0. Notice.

Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if hand delivered or sent by certified mail, return receipt requested, postage and fees prepaid, or by commercial overnight courier, addressed to the party to whom such notice is to be given at the address set forth below, or at such other address as has been previously furnished in writing, to the other Party or Parties. Such notice shall be given when deposited in the United States mail or with a commercial courier.

FOR THE TOWN OF TIMNATH, COLORADO  
Town Manager  
4800 Goodman Street  
Timnath, CO 80547

FOR THE TIMNATH DEVELOPMENT AUTHORITY  
4800 Goodman Street  
Timnath, CO 80547

FOR THE POUUDRE FIRE AUTHORITY  
102 Remington Street  
Fort Collins, CO 80524

FOR THE POUUDRE VALLEY FIRE PROTECTION DISTRICT  
President  
102 Remington Street

Fort Collins, CO 80524

Section 12.0. Exhibits and Recitals.

The Recitals and any exhibits referred to in this Agreement are incorporated herein for all purposes.

Section 13.0. Additional Documents or Action.

The Parties may execute any additional documents or take any additional action reasonably necessary to carry out this Agreement.

Section 14.0. Termination of Fire Authority.

If the Amended and Restated Intergovernmental Agreement which created the Fire Authority is terminated or the Fire Authority otherwise ceases to exist, any rights or obligations of the Fire Authority or the Fire Department hereunder shall be assumed by the Fire District.

Section 15.0. Assignment.

This Agreement shall not be assigned or amended by any Party, unless in writing executed by all Parties. Any assignment of this Agreement without the other Parties' written consent shall be null and void.

Section 16.0. Paragraph Headings.

The paragraph headings in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the meaning, scope or intent of this Agreement or of any provisions herein.

Section 17.0 Binding Effect.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.



**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement this day and first above written.

**TOWN OF TIMNATH, COLORADO**

By: \_\_\_\_\_  
Jill Grossman-Belisle, Mayor

ATTEST: \_\_\_\_\_

**TIMNATH DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Jill Grossman-Belisle, Chair

ATTEST: \_\_\_\_\_

**POUDRE VALLEY FIRE PROTECTION DISTRICT**

By: \_\_\_\_\_  
David Pusey, Vice Chair

ATTEST: \_\_\_\_\_

**POUDRE FIRE AUTHORITY**

By: \_\_\_\_\_  
David Pusey, Chair

ATTEST: \_\_\_\_\_

**DRAFT June 12, 2015**

**Exhibit A  
Permitted Exceptions**

**DRAFT June 12, 2015**

**Exhibit B  
Lot 8 Release**

## EXHIBIT B

### RELEASE OF PUBLIC IMPROVEMENT AGREEMENTS

**THIS RELEASE OF PUBLIC IMPROVEMENT AGREEMENTS** (“**Release**”) is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by the **TIMNATH DEVELOPMENT AUTHORITY**, an urban renewal authority established pursuant Title 31, Article 25, Part 1 of the Colorado Revised Statutes (the “**TDA**”) with its address at 4800 Goodman Street, Timnath, CO 80547; the **TOWN OF TIMNATH, COLORADO**, a municipal corporation (the “**Town**”) with its address at 4800 Goodman Street, Timnath, CO 80547; and **RIVERBEND VENTURES, LLC, TIMNATH LANDS, LLC** and **ARBOR HOLDINGS, LLC**, each of which is a Colorado limited liability company (collectively, “**Riverbend Ventures**”) and each with the address of 5329 S. County Road 3F, Fort Collins, CO 80538. The TDA, the Town and Riverbend Ventures shall be collectively referred to as the “**Parties.**”.

**WHEREAS**, the Parties have previously entered into that certain “Public Improvements Agreement” dated February 10, 2012, and recorded on April 25, 2012, at Reception #20120027087 of the Larimer County, Colorado records, and that certain “Amended and Restated Public Improvements Agreement” dated October 14, 2014, and recorded on [DATE] at Reception [#??] of the Larimer County, Colorado records (jointly, the “**Public Improvement Agreements**”); and

**WHEREAS**, the Public Improvement Agreements currently encumber that certain real property legally described as Lot 8 of the Riverbend 1<sup>st</sup> Filing, Town of Timnath, Larimer County, State of Colorado, records on [??] at Reception #[??] (“**Lot 8**”); and

**WHEREAS**, under the Public Improvement Agreements Lot 8 currently has assessed against it “Lot Infrastructure Assessments” in the total amount of \$240,671 (the “**Lot 8 Assessment**”); and

**WHEREAS**, Riverbend Ventures is the current fee title owner of Lot 8; and

**WHEREAS**, the Poudre Fire Authority, a separate legal authority organized pursuant to C.R.S. Section 29-1-203(4), (the “**Fire Authority**”) has agreed under an intergovernmental agreement with the TDA and the Town to accept conveyance of fee title to Lot 8 from Riverbend Ventures and to build and operate a new fire station on Lot 8 to serve the Town, but subject to several conditions, including, without limitation, the following conditions: (1) that the Fire Authority shall only be obligated under the Public Improvement Agreements to pay to the Town the total amount of \$100,000 for the Lot 8 Assessment, (2) that the Fire Authority shall be released from any and all other current and future obligations under the Public Improvement Agreements, as these Agreements now exist or are hereafter amended, and (3) that the Parties acknowledge and agree that this Release shall not be deemed to waive or terminate any the Fire Authority’s rights or benefits it has or may have as a third-party beneficiary under the Public Improvement Agreements; and

**WHEREAS**, the Parties have agreed to provide this Release to the Fire Authority subject to these aforesaid conditions.





