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

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 April 26, 2016, Town Council Meeting Minutes
   b. Approval of the Check Register
   c. McCauley Constructors Storage Building Project Final Payment

5. REPORTS
   a. Mayor and Council

6. ORDER OF BUSINESS:
   a. SWEAR IN OFFICER

b. RESOLUTION NO. 35, SERIES 2016, A Resolution Regarding Federal Railroad Administration Rules And Procedures
   Presented by April Getchius, Town Manager

c. RESOLUTION NO. 36, SERIES 2016, A Resolution approving the Standard Services Agreement with Connell Resources for the 2016 Road Overlay Program
   Presented by Don Taranto, Contracted Town Engineer

d. RESOLUTION NO. 37, SERIES 2016, A Resolution approving the Contract with WL Contractors
   Presented by Don Taranto, Contracted Town Engineer

e. RESOLUTION NO. 38, SERIES 2016, A Resolution Approving the Harmony Ditch Crossing Agreement
   Presented by Don Taranto, Contracted Town Engineer

f. RESOLUTION NO. 39, SERIES 2016, A Resolution Approving a Contract for the Old Town Improvements – Phase 2 North
   Presented by Don Taranto, Contracted Town Engineer
g. DISCUSSION/POSSIBLE ACTION: Harmony Phase 3 Bid

h. 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 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 Robert Rogers, Contracted Town Attorney

i. RESOLUTION NO. 40, SERIES 2016, A Resolution Approving the Holloway Annexation Application, Generally Located North of WCR 78 and East of Latham Parkway and Ratifying the Annexation Agreement

Presented by Matt Blakely, Contracted Town Planner

7. ADJOURNMENT
1. CALL TO ORDER AND ROLL CALL:
Mayor Grossman-Belisle called to order the meeting of the Town Council on Tuesday, April 26, 2016, at 6:01 p.m.

Present:
   a. Mayor Jill Grossman-Belisle
   b. Mayor Pro Tem Bryan Voronin
   c. Councilmember Aaron Pearson
   d. Councilmember Paul Steinway

Absent:
   a. Councilmember Bill Neal

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. Kevin Koelbel, Contracted Town Planner
   h. Jesse McDowell, Serratoga Falls
   i. Jeffrey Erb, Serratoga Falls
   j. Phil Goldstein, Timnath Resident

2. AMENDMENTS TO THE AGENDA:
   a. Item 6g added

3. PUBLIC COMMENT ON NON-AGENDA ITEMS:
   a. NONE

4. CONSENT AGENDA:
   a. Approval of the April 12, 2016, Town Council Meeting Minutes
   b. Approval of the Check Register
   c. RESOLUTION NO. 28, SERIES 2016, A Resolution Ratifying authorization of a $500,000 Town contribution toward matching funds for the TIGER Grant application
Councilmember Voronin moved to approve the consent agenda. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

5. REPORTS:
   a. Mayor/Council
      i. Successful Town Beatification Day
      ii. May 18th and June 6th Town of Severance meetings
      iii. Councilmember Steinway will be part of the NFRMPO Finance Committee
      iv. Railroad agreement update
      v. Need for road grading and potholes repairs
   b. Staff-Included in the packet.

6. ORDER OF BUSINESS:
   a. RESOLUTION NO. 29, SERIES 2016, A Resolution Adopting the National Incident Management System (NIMS)
      Staff Comments:
      • Ms. Getchius spoke to Council about the proposed resolution.
      Councilmember Voronin moved to approve RESOLUTION NO. 29, SERIES 2016, A Resolution Adopting the National Incident Management System (NIMS). Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

   b. RESOLUTION NO. 30, SERIES 2016, A Resolution Approving the Standard Services Agreement with APEX Pavement Solutions
      Staff Comments:
      • Mr. Taranto spoke to Council about the proposed resolution.
      Councilmember Voronin moved to approve RESOLUTION NO. 30, SERIES 2016, A Resolution Approving the Standard Services Agreement with APEX Pavement Solutions. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

   c. RESOLUTION NO. 31, SERIES 2016, A Resolution Approving the Agreement with Naturescapes, Inc. dba Alpine Gardens for the Town of Timnath General Landscape Improvements
      Staff Comments:
      • Mr. Williamson spoke to Council about the proposed resolution.
      Councilmember Voronin moved to approve RESOLUTION NO. 31, SERIES 2016, A Resolution Approving the Agreement with Naturescapes, Inc. dba Alpine Gardens for the Town of Timnath General Landscape Improvements. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

   d. RESOLUTION NO. 32, SERIES 2016, A Resolution Approving the Xcel Energy Agreement
      Staff Comments:
      • Mr. Williamson spoke to Council about the proposed resolution.
Councilmember Steinway moved to approve RESOLUTION NO. 32, SERIES 2016, a Resolution Approving the Xcel Energy Agreement. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

e. RESOLUTION NO. 33, SERIES 2016, a Resolution Approving the Amended and Restated Service Plan for Serratoga Falls Metropolitan District Nos. 1 and 3 (the “Amended and Restated Service Plan”), and approving Intergovernmental Agreements between the Town and the Districts (the “IGA”)

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

Applicant Presentation:
- Mr. McDowell spoke to Council in detail about the Districts Maps.
- Mr. Erb spoke further to Council as a representative for the residents and stated the reduction in debt for the Districts.

Council Comments:
- Councilmember Voronin asked if there were any exclusions for amenities and Mr. McDowell explained that there were no exclusions, but more inclusive.
- Councilmember Steinway asked for resident agreement and Mr. Erb explained that there was agreement between the Districts and the residents.
- Mr. Rogers spoke to Council about legislative changes and explained why conditions of execution and recordation by May 10th should be required.
- Councilmember Pearson asked about imminent domain and Mr. Rogers spoke about the Town’s Model Service Plan as it pertains to ditch relocations regarding the development and limited imminent domain authority.

Councilmember Steinway moved to approve RESOLUTION NO. 33, SERIES 2016, a Resolution Approving the Amended and Restated Service Plan for Serratoga Falls Metropolitan District Nos. 1 and 3 (the “Amended and Restated Service Plan”), and approving Intergovernmental Agreements between the Town and the Districts (the “IGA”). The approval of the Amended and Restated Service Plan for Serratoga Falls Metropolitan District No. 1 and Serratoga Falls Metropolitan District No. 3, and the Amended and Restated Service Plan for Serratoga Falls Metropolitan District No. 2 (the “Service Plans”) is conditioned upon the execution and recordation on or before May 10, 2016 of Exhibits A-1, A-2, A-3, A-4, D and E of the Intergovernmental Agreement between Serratoga Falls Metropolitan District No. 1 and Serratoga Falls Metropolitan District No. 2, which is attached as Exhibit H to the Amended and Restated Service Plan for Serratoga Falls Metropolitan District No. 2. If these documents are not executed and recorded on or before May 10, 2016, the Service Plans are not approved. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

f. RESOLUTION NO. 34, SERIES 2016, A Resolution Approving the Amended and Restated Service Plan for Serratoga Falls Metropolitan District No. 2 and (the “Amended
Staff Comments:

- Mr. Rogers spoke to Council about the proposed resolution.

Councilmember Voronin moved to approve RESOLUTION NO. 34, SERIES 2016, A Resolution Approving the Amended and Restated Service Plan for Serratoga Falls Metropolitan District No. 2 and (the “Amended and Restated Service Plan”), and approving Intergovernmental Agreements between the Town and the District (the “IGA”).

1. The approval of the Amended and Restated Service Plan for Serratoga Falls Metropolitan District No. 1 and Serratoga Falls Metropolitan District No. 3, and the Amended and Restated Service Plan for Serratoga Falls Metropolitan District No. 2 (the “Service Plans”) is conditioned upon the execution and recordation on or before May 10, 2016 of Exhibits A-1, A-2, A-3, A-4, D and E of the Intergovernmental Agreement between Serratoga Falls Metropolitan District No. 1 and Serratoga Falls Metropolitan District No. 2, which is attached as Exhibit H to the Amended and Restated Service Plan for Serratoga Falls Metropolitan District No. 2. If these documents are not executed and recorded on or before May 10, 2016, the Service Plans are not approved. Councilmember Pearson seconded the motion. The motion passed unanimously by voice vote.

g. ADDED – DISCUSSION/POSSIBLE ACTION: Consider Waiver of Serratoga Falls Filing No. 2 Plat Recordation Condition

Councilmember Pearson moved to remove the condition of requiring restructuring of the note issued by Serratoga Falls Metropolitan District Nos. 1-3 in connection with recordation of the Serratoga Falls Filing No. 2 Plat. Councilmember Voronin seconded the motion. The motion passed unanimously by voice vote.

h. MOVED - EXECUTIVE SESSION: “For 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.”

Councilmember Pearson moved to approve enter into EXECUTIVE SESSION: “For 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.”. Councilmember Voronin seconded the motion. The motion passed unanimously by voice vote.

Council went into executive session at 6:45 pm. The regular meeting reconvened at 7:07 pm.

7. ADJOURNMENT:

Mayor Grossman-Belisle adjourned the meeting 7:07 p.m.
Town Council approved the April 26, 2016, Town Council Meeting Minutes on May 10, 2016.

TOWN OF TIMNATH

____________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

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Milissa Peters, CMC
Town Clerk
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**CLIFTONLARSONALLEN LLP**

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## Town of Timnath

### Payment Approval Report - check register

**Report dates:** 3/1/2016-5/31/2016

**May 04, 2016 07:22AM**

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**Total REM APR 2016:**

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**Total TST, INC CONSULTING ENGINEERS:**

134,448.99

### United Reprographic Supply Inc

#### IN84366

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**Total IN84366:**

46.74

**Total United Reprographic Supply Inc:**

46.74

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#### 9764319531

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170.62
## Town of Timnath
### Payment Approval Report - check register

**Report dates:** 3/1/2016-5/31/2016

**May 04, 2016 07:22AM**

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</table>
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**Date:** May 04, 2016 07:22AM

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Vendor Name</th>
<th>Invoice Number</th>
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**Total 499129617:** 604.94

**Total Xcel Energy:** 5,808.88

**Grand Totals:** 296,398.17

---

**Dated:** ________________________________

**Mayor:** ________________________________

**City Council:** ________________________________

__________________________

__________________________

__________________________

__________________________

__________________________

**City Recorder:** ________________________________
TOWN OF TIMNATH, CO
APPLICATION FOR STANDARD SERVICES PAYMENT

INVOICE NO. 1514796 DATE: 2/29/2016
CONTRACTOR: McCauley Constructors, Inc
ADDRESS: P.O. Box 200, Windsor, CO 80550
CONTRACT FOR: Public Works Storage Bldg.

As Town Engineer I have reviewed the attached invoice for Standard Services as it relates to the project referenced above. I find the invoice attached hereto to be consistent with the terms of the contract and reasonable as to the effort put forward by the contractor thus far. I hereby recommend payment of said invoice by the Town of Timnath.

By: ___________________________ Date: 4-18-16
TST, Inc. Consulting Engineers

Application is made for Payment, as shown below, in connection with the Agreement. Contractors Invoice is attached.

The Present status of the account for this Agreement is as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>ORIGINAL AGREEMENT AMOUNT</td>
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<tr>
<td>APPROVED CHANGE ORDERS TO DATE</td>
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<td>ADJUSTED AGREEMENT AMOUNT</td>
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<td>TOTAL WORK COMPLETED AND MATERIALS USED</td>
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<td>RETAINAGE WITHHELD (5%)</td>
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<td>TOTAL EARNED LESS RETAINAGE</td>
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<td>LIQUIDATED DAMAGES WITHHELD</td>
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<td>LESS PREVIOUS PAYMENTS</td>
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<td>CURRENT PAYMENT DUE</td>
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APPROVED BY: ___________________________ DATE: 4/19/16
(Public Works Director)

TST, Inc. Consulting Engineers
**Application and Certificate for Payment**

**Invoice No.** 1514706

**TO OWNER:** Town of Timnath
4800 Goodman Street
Timnath, CO 80547

**FROM CONTRACTOR:** McCauley Constructors, Inc.
650 Innovation Circle
P.O. Box 200
Windsor, CO 80550

**PROJECT:** Timnath Storage Building
4800 Goodman Street
Timnath, CO 80547

**APPLICATION NO.:** 1514700006

**PERIOD TO:** 2/29/2016

**APPLICATION FOR PAYMENT**

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet is attached.

| 1. ORIGINAL CONTRACT SUM | $174,080.00 |
| 2. Net change by Change Orders | $11,001.00 |
| 3. CONTRACT SUM TO DATE (Line 1 + 2) | $185,081.00 |
| 4. TOTAL COMPLETED AND STORED TO DATE (Column G on Attachment) | $185,081.00 |
| 5. RETAINAGE: |
| a. of Completed Work (Column D + E on Attachment) | |
| b. of Stored Material (Column F on Attachment) | |
| Total Retainage (Lines 5a + 5b or Total in Column 1 on Attachment) | $0.00 |
| 6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total) | $185,081.00 |
| 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) | $175,826.95 |
| 8. CURRENT PAYMENT DUE | $9,254.05 |
| 9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) | $0.00 |

**Certificate for Payment**

The undersigned Contractor certifies that to the best of the Contractor's knowledge and belief the work covered by this Application for Payment has been completed in accordance with the Contract Documents and that all amounts have been paid by the Owner for work for which previous Certificates for Payment were issued and payments received from the Owner and that current payment shown herein is now due.

**CONTRACTOR:** McCauley Constructors, Inc.

**State of:** Colorado

**County of:** Weld

**Notary Public:** Laura A. Odistek
State: CO
Notary ID: 20130004052
My Commission expires: January 07, 2015

**ARCHITECT’S CERTIFICATE FOR PAYMENT**

In accordance with the Contract Documents based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect’s knowledge, information and belief the Work has progressed as indicated on the plans, and in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

**AMOUNT CERTIFIED:** $9,254.05

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

**ARCHITECT:**

By: ________________________________ Date: ________________________________

**CHANGE ORDER SUMMARY**

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<td>Total approved this Month</td>
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<tr>
<td>NET CHANGES by Change Order</td>
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This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment, and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.
## Continuation Sheet - Application and Certificate for Payment

<table>
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<th>DESCRIPTION OF WORK</th>
<th>SCHEDULED VALUE</th>
<th>FROM PREVIOUS APPLICATION (D + E)</th>
<th>WORK COMPLETED THIS PERIOD</th>
<th>MATERIALS PRESENTLY STORED (NOT IN D OR E)</th>
<th>TOTAL COMPLETED AND STORED TO DATE (D+E+F)</th>
<th>% (G + C)</th>
<th>BALANCE TO FINISH (C - G)</th>
<th>RETAINAGE (IF VARIABLE RATE)</th>
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**Totals**: 185,081.00 185,081.00 0.00 185,081.00 100.00 0.00 0.00
CONDITONAL WAIVER OF LIEN

TO: Town of Timnath

FROM: McCauley Constructors Inc.

PROJECT: Timnath Storage Building, 4800 Goodman Street, Timnath, CO 80547

1. Upon receipt of payment for request number 15147-06 in the amount of $9,254.05 for all work, labor, skill and material furnished, delivered and performed by the Contractor for the Owner or for anyone in the construction, design, improvement, alteration, addition or repair of the above-described project through February, 29, 2016.

2. In Consideration of such payment and other good and valuable consideration, Contractor voluntarily waives all rights, claims and liens, including but not limited to, mechanic’s liens, Miller Act claims (40 C.S.C.A. 270), stop notices, equitable liens and labor and material bond rights which the Contractor may now or may afterward have, claim or assert for all and any work, labor, skill, or material furnished, delivered or performed for the construction, design, improvement, alteration, addition or repair of the above described project, against the Owner, against the project or against all land and the buildings on and appurtenances to the land improved by the project.

3. Contractor affirms that all work, labor and materials, furnished, delivered or performed to or for the construction, design, improvement, alteration, addition or repair of the project were furnished, delivered or performed by Contractor or its agents, employees, and servants, or by and through the Contractor by various sub-contractors or materialmen or their agents, employees and servants and further affirms the same have paid in full and have released in full any and all existing or possible future mechanic’s liens or rights or claims against the project or against the Contractor or its officers, agents, employees or assigns arising out of the project.

4. The Contractor agrees to defend and hold harmless the Owner, Lender, if any, and the Surety on the project against and from any claim hereinafter made by the Contractor’s sub-contractors, materialmen, employees, servants, agents or assigns against the project or against the Owner, Lender or Surety or their officers, employees, agents or assigns arising out of the project for all loss, damage and costs, including reasonable attorney’s fees, incurred as a result of such claims.

5. The parties acknowledge that the description of the project set forth above constitutes an adequate description of the property and improvements to which this Lien Waiver Release pertains. It is further acknowledged that this Lien Release is for the benefit of and may be relied upon by the Owner, Lender, if any, and the Surety.

SIGNED THIS 25th day of February, 2016.

MCCAuleY CONSTRUCTORS INC.

By: __________________________

STATE OF COLORADO
COUNTY OF WELD

Subscribed and sworn to before me this 25th day of February, 2014 by

Kent Campbell, CFO

Witness my hand and official seal.

Notary
My Commission Expires: 1.7.18
**EXECUTIVE SUMMARY:** The Federal Railroad Administration (FRA) has opened up its rules for the use of train horns and the creation of quiet zones. They have asked for public comment on areas that need improvement and/or change. Responses are expected from municipal governments throughout Colorado and, hopefully, the nation. In addition, they would like comments from the general public. We will be preparing a mailing to our residents with the appropriate information so they have an opportunity to comment as they are the most affected. Comments are not due until July 5, 2016, but municipalities are preparing to pass resolutions and there will be further discussion and coordination at the Colorado Municipal League meeting in June.

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

**KEY POINTS/SUPPORTING INFORMATION:** Train noise affects the residents of Timnath as the FRA rules require engineers blow the train horns as they are approaching an intersection and until the main locomotive occupies the intersection. Staff has received numerous complaints of train engineers blowing these horns in the middle of the night, waking children, etc. As the rules are currently written, the engineers have no discretion or flexibility in applying the horn. The following are some recommendations to the FRA included in the attached resolution:

- The FRA should allow train engineers greater discretion when blowing their horns at night. Allowing them to choose not to blow horns between the hours of 10 p.m. and 6 a.m. will minimize the disruption to neighboring homes.
- FRA rules should allow greater flexibility in the design of quiet zones to fit specific community and site circumstances. The crossing geometry, train speed, pedestrian and vehicular volumes as well as community values should be considered on a case by case basis versus a one-size fits all quiet zone design.
- Train speed should be considered when establishing quiet zones. When trains are at low speed, the duration of the mandatory train horn blast that must continue to sound until the lead locomotive occupies the grade crossing is extremely long.

**ADVANTAGES:** Allows the Town to participate in and perhaps influence the development of new train rules. Changes to these rules could significantly improve the quality of life of our residents near the railroad tracks.
**DISADVANTAGES:** None.

**FINANCIAL IMPACT:** None.

**RECOMMENDED MOTION:** I move approval of Resolution No. 35, Series 2016 entitled “A Resolution Regarding Federal Railroad Administration Rules And Procedures.”

**ATTACHMENTS:** Resolution.
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, the Federal Railroad Administration (FRA) is opening its rules regarding train horn noise; and

WHEREAS, the FRA is requesting public comment on the train horn rules and the establishment of quiet zones; and

WHEREAS, the use of train horns directly impacts the quality of life in a community and the Town Administration has received numerous complaints regarding train horn usage.

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

Section 1. Changes to FRA Rules. The Town of Timnath requests the following changes to FRA Rules and/or processes:
   a. The FRA should allow train engineers greater discretion when blowing their horns at night. Allowing them to choose not to blow horns between the hours of 10 p.m. and 6 a.m. will minimize the disruption to neighboring homes.
   b. FRA rules should allow greater flexibility in the design of quiet zones to fit specific community and site circumstances. The crossing geometry, train speed, pedestrian and vehicular volumes as well as community values should be considered on a case by case basis versus a one-size fits all quiet zone design.
   c. FRA rules should provide certainty that quiet zones will be recognized for their life when communities spend large amounts of money to create them. Instead, the current rules do not guarantee that after these investments the quiet zone status will be granted indefinitely.
   d. The Federal Government should, in concert with other departments such as Housing and Urban Development, establish a dedicated funding source to assist communities with the costs of quiet zone implementation.
   e. Train speed should be considered when establishing quiet zones. When trains are at low speed, the duration of the mandatory train horn blast that must continue to sound until the lead locomotive occupies the grade crossing is extremely long.
f. The FRA should review their quiet zone application procedures to capture common and new technology such as on-line applications. In addition the use of Skype or other methods of on-line communication would greatly improve timeliness rather than time consuming on-site visits.

g. The FRA should establish a grant program that provides local entities financial assistance with testing innovative safety measures rather than the entire research burden being placed on the local governments.


TOWN OF TIMNATH, COLORADO

______________________________
Jill Grossman-Belisle, Mayor

ATTEST:

______________________________
Milissa Peters, CMC
Town Clerk
**EXECUTIVE SUMMARY:** Provide a 2” asphalt overlay of Latham Parkway from Harmony Rd. to Twin Bridge Dr. as well as the eastern 200’ of Twin Bridge Dr. This project was put out to bid to contractors on the Town’s “Select Bidders List”. Four bids were received with Connell Resources being the low bidder. The bid price (contract value) is $164,500.00

**STAFF RECOMMENDATION:** Approval

**KEY POINTS/SUPPORTING INFORMATION:**
- Overlaying this chip sealed roadway with 2” of asphalt will save the Town from patching it each year ($50,000 in 2016 alone) and provide a safer and more reliable roadway surface.

**ADVANTAGES:** Annual maintenance costs for this 1 mile of roadway will drastically reduce and the drivability will drastically improve

**DISADVANTAGES:** None

**FINANCIAL IMPACT:** Expense is a budgeted item.

**RECOMMENDED MOTION:** I move to approve Resolution No. 36, Series 2016 approving the Standard Services Agreement with Connell Resources for the 2016 Road Overlay Program

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

Town Council Purchase Authorization

Date: May 10, 2016
Vendor: Connell Resources
Department: Public Works
Project: 2016 Road Overlay Program
Description: 2" asphalt overlay of Latham Parkway from Harmony Rd to Twin Bridge Dr, and the eastern 200' of Twin Bridge Dr

<table>
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<th>Is this purchase more than $25,000</th>
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<td>X No</td>
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<td>Is this the purchase of Public Art</td>
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<td>Is this a budget request for a purchase that will exceed the approved budget</td>
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Advantages: Annual maintenance costs will reduce while providing a safer and more drivable roadway

Disadvantages: None

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<th>Current Balance</th>
<th>Additional Budget Requested</th>
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<td>$91,847.50</td>
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Financial Impact: Expenditure is within the annual budget for Road Maintenance

Recommendation/Justification: Recommend approval

[Signature] 4/20/16
Requesting Department Signature Date

[Signature] 
Town Manager Signature Date
March 29, 2016

Town of Timnath Select Bidders for Roadway Projects,

The Town of Timnath is requesting bids for a 2” asphalt overlay of Latham Parkway (LCR 1) from Harmony Road to Twin Bridge Drive (approx. 5300’ x 30’ wide) as well as the eastern end of Twin Bridge Drive (approx. 230’ x 28’ wide). The town is under contract to have all the potholes repaired on both these sections of roadway and said repairs should be complete by June 1st. Bidders will be required to provide a Performance Bond as well as a Labor and Material Payment Bond. Work is to be completed between June 1st and August 15th. Please see the attached Bid Tabulation for you use.

All costs in connection with the proper and successful completion of the work, including furnishing all materials, equipment, supplies, and appurtenances; providing all construction plant, equipment, and tools; and performing all necessary labor and supervision to fully complete the work, shall be included in the unit and lump sum prices bid. All work not specifically set forth as a pay item in the Bid Form shall be considered a subsidiary obligation of Contractor and all costs in connection therewith shall be included in the prices bid.

All estimated quantities stipulated on the Bid Tab are approximate and are to be used for the purpose of comparing the bids submitted for the work. The actual amounts of work done and materials furnished under unit price items may differ from the estimated quantities. The basis of payment for work and materials will be the actual amount of work done and materials furnished.

Please submit your bid via email to Steve Humann at shumann@tstinc.com by 5:00 on Friday, April 15th. Please contact Steve via email with any questions or concerns. We appreciate your interest in providing services for the Town of Timnath.

Steve F. Humann, P.E.
TST Inc. Consulting Engineers / Town of Timnath Engineering Dept.
### BID Comparison

**Timnath 2016 Road Overlay Project**

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**TOTAL**

Connell Resources: $164,500.00

Coulson Excavating: $167,966.65

Martin Marietta: $172,872.55

Apex Pavement Solutions: $186,506.70
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 Connell Resources (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.


TOWN OF TIMNATH, COLORADO

__________________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

__________________________________________
Milissa Peters, CMC
Town Clerk
EXHIBIT A

AGREEMENT
STANDARD SERVICES AGREEMENT
BETWEEN
THE TOWN OF TIMNATH
AND CONNELL RESOURCES

For the 2016 Road Overlay Program

This Standard 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: Connell Resources
         7785 Highland Meadows Parkway #100
         Fort Collins, CO 80528
         Phone: 970-223-3151

   B. Scope of Services. The scope of services shall be: Providing a 2” asphalt overlay of Latham Parkway from Harmony Road to Twin Bridge Dr. as well as the eastern 200’ of Twin Bridge Dr. as is further detailed in ATTACHMENT A to this Agreement.

   C. Compensation. The services set forth in this Agreement shall be completed for an amount not to exceed $164,500.00. 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.

   E. Commencement Date. The "Commencement Date" is May 16, 2016 and is when the services described in this Agreement are to commence.

   F. Termination Date. The "Termination Date" of this Agreement is June 1, 2016. Contractor intends to provide these services for the Town in conjunction with similar services provided to the City
of Fort Collins and will schedule the work accordingly. This allowed for lower unit prices for the services.

G. Approval by the Town Council. This Agreement __X__ is ____ 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.

I. Warrantee. Contractor shall warrant all material and workmanship to be free from defect for a period of one (1) full year from the date of Final Payment.

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 therefrom.

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-contractors’) 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 ___________________, 2016.

**TOWN OF TIMNATH**

By: ________________________________
    Jill Grossman-Belisle

Title: **Town Mayor**

**CONTRACTOR:**

Connell Resources

By: ________________________________

Title: ________________________________

ATTEST:

___________________________________
Milissa Peters, Town Clerk
The foregoing **Standard Services Agreement** was acknowledged before me this ___ day of __________________, 2016 by __________________________ as the __________________________________ of Contractor.

Witness my hand and official seal.

My commission expires: __________________

________________________________
Notary Public

________________________________
Address
ATTACHMENT A
(Scope of Services)
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)

__________________________
Notary Public

My Commission Expires:_______________

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
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### QUOTATION

Submitted To: Town Of Timnath  
Address: 4800 Goodman Street  
Timnath, CO 80547  
Contact: Steve Humann  
Phone: 970-224-3211  
Fax: 970-224-3217

Bid Title: 140615 Town Of Timnath 2016 Road Overlay Project  
Bid Number: #1  
Project Location: LCR 1  
Project City, State: Timnath, CO  
Engineer/Architect: TST, Inc.

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<th>Unit</th>
<th>Unit Price</th>
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**Total Bid Price:** **$164,500.00**

**Notes:**
- Pricing is based upon The Town of Timnath Bidders For Roadway Projects RFP dated March 29th, 2016, the TST Bid Schedule Of Values - Timnath 2016 Road Overlay Project and emailed correspondence between Connell Resources, Inc. and TST on April 7th, 2016.
- The following are excluded from this proposal: Construction layout and engineering; Warrantee; Street cleaning for work performed by others; Permits & Fees; Erosion control devices; quality control or acceptance testing; landscaping, seeding, subgrade prep or stabilization, and asphalt patching.
- Environmental site assessment / mitigation of hazardous or contaminated materials is excluded. Treatment or testing for contaminated groundwater is specifically excluded.
- **Town of Timnath Overlay Project Bid Notes & Clarifications:**
  - Per The Town of Timnath, included in the proposal is minor taper milling of the north, south & west tie in locations. This only includes milling to a depth no greater than 2”, width of the existing roadway and for a distance of 10’ into the new overlay limits. Any patching or subgrade rework if required in these areas is excluded.
  - All gravel shouldering is excluded.
  - The proposal is based on a single lane closure with one way traffic. Two way traffic for a single lane closure is excluded.
  - Working hours is based on a 6:00 AM start time and 8:00 PM finishing start time for a period of 3 days.
  - Asphalt mix has been quoted with PG (64-22) AC Oil, 3/4” Grading S 75.
CONDITIONS AND AGREEMENTS

1. WITHDRAWAL OF QUOTATION: This quotation may be withdrawn or modified by Connell Resources, Inc. (“Connell”) if not accepted by the named sponsor (the “Sponsor”) within thirty (30) days from date of issue.

2. PERFORMANCE: Delivery of materials and performance of services herein quoted are subject to delays occasioned by circumstances beyond Connell’s control. Completion date is subject to weather conditions, mechanical failures, labor difficulties, fuel or material shortages, fire, government authority or regulation, acts of God, engineering changes, contractors not included in this Agreement or any cause beyond Connell’s control.

3. SPONSOR’S RESPONSIBILITIES: This quotation does not include any charges for tapping fees unless noted. Sponsor to furnish all easements and adequate working right of ways. Sponsor will pay all costs of design engineering and inspections and quality control testing.

4. SOIL MECHANICS AND UNDERGROUND CONDITIONS: During excavation, if material is encountered that a 1-½ yard backhoe cannot remove for utility installation or a D8 tractor cannot rip for grading work, a price adjustment may be necessary. If blasting (or other approved method) becomes necessary, this work will be done as an additional cost on a time and material basis or a negotiated lump sum basis. Also, if unstable subgrade conditions are encountered, these conditions shall be the criteria for change order negotiations between Sponsor and Connell.

5. DESIGN AND ENGINEERING SERVICES: Sponsor acknowledges that Connell is not providing professional design or engineering services. Sponsor is solely responsible for performing, or retaining qualified professionals to perform, all such services, at their cost. Connell shall not be liable for any damages resulting from design or engineering services performed by sponsor, sponsor’s agents or third parties.

6. EXTRA WORK: Upon written notice from Connell to the sponsor, sponsor’s agent or employee that extra work not specifically included in the quotation is necessary to complete the work described, the parties shall negotiate a written, signed agreement for the extra work within three (3) working days of the date of such notice. If such written agreement is not reached within three (3) working days and Connell has not otherwise received from the sponsor any written authorization for the extra work, then Connell may in its sole absolute discretion proceed with extra work if Connell considers it necessary. As compensation for the extra work, the sponsor shall pay Connell on a time and material basis for all costs related to such work unless the parties agree in writing on another method of compensation.

7. QUANTITY DETERMINATION AND BILLINGS: For any unit price quotation, the quantities shall be verified by in-field measurement after construction, and the total price to be paid by sponsor will be calculated by multiplying the verified quantities times the unit prices for such quantities. This quotation shall be considered a unit price quotation unless it is specifically designated as a lump-sum quotation.

8. PAYMENT TERMS: The sponsor agrees to pay Connell the full quoted price with any adjustments, provided for the work herein specified. Invoices or progress payments will be due on the 10th of each month following their issue. Payment shall be overdue and delinquent if not received by Connell by the due date. Time is of the essence to this Agreement. Connell will be entitled to a 1-1/2% per month LATE PAYMENT CHARGE, NOT A FINANCE CHARGE, which is an ANNUAL PERCENTAGE RATE OF 18%, on any past due balances. Acceptance by Connell of a partial payment shall not be construed as a waiver of Connell’s right to full and immediate payment.

9. DEFAULT: If sponsor defaults in timely making any payment or performing any obligation under this Agreement, sponsor shall pay all costs and expenses (including reasonable attorney’s fees) incurred by Connell as a result of the default.

10. WARRANTIES: All work shall be performed in a good and workmanlike manner in accordance with the applicable ordinances and regulations of the City, County or District in which it is performed. All warranties will be as per the City, County or District in which the work is performed, as stated by their ordinances or regulations. EXCEPT AS PROVIDED ABOVE, CONNELL MAKES NO WARRANTIES WITH RESPECT TO THE WORK PERFORMED UNDER THIS AGREEMENT AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED BY CONNELL AND WAIVED BY BUYER.

11. ASPHALT PRICE ADJUSTMENTS: In the event of national and regional shortages of crude oil or other factors beyond Connell’s control, Connell’s suppliers will no longer furnish a long-term price for asphalt cement. If paving work is not performed during Connell’s current paving season, the price may be increased by Connell to reflect price increases in the following paving season when the work is completed. The normal paving season extends from April to November 15, depending on weather conditions.

12. ESTIMATOR: Shane Westlind

13. AUTHORITY TO PERFORM WORK: The sponsor accepting this quotation represents that it is the representative of the Owner of the premises on which the work is to be done, or that the signer is an authorized representative of the Owner, and that permission and authority are hereby granted to Connell to perform such work on the premises in accordance with the terms and conditions of this Agreement.

14. INDEMNIFICATION/LIABILITY LIMITATION: Connell shall not be responsible for sponsor’s acts or omissions, or those of any other person or entity. Sponsor shall indemnify and hold Connell harmless from and against all claims, demands, suits, liabilities, losses and expenses (including reasonable attorneys fees) arising from or relating to any act or omission of sponsor, sponsor’s agents, or any third party. In no event shall Connell be liable for any consequential, incidental, special, punitive or indirect losses or damages which the sponsor may incur or suffer in connection with this Agreement.

15. BINDING EFFECT: This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

16. HAZARDOUS MATERIALS: In the event Connell encounters on the job site hazardous chemicals, wastes, or material as defined by any federal, state, or local authority (referred to as “Hazardous Materials”) which are not introduced to the job-site by Connell, Connell shall have no duty or responsibility for handling, storage, or disposal of such Hazardous Materials, or for complying with any federal, state, or local laws, regulations or ordinances pertaining to the handling, storage, or disposal of the Hazardous Materials. Connell shall not be required to perform further work in the vicinity of the Hazardous Materials to the extent such Materials may, in Connell’s sole opinion, pose any threat to the health and safety of Connell personnel. Any delays in the performance of Connell’s work related to or caused by the presence of Hazardous Materials on the job-site will extend Connell’s time for performance under this Agreement a like amount of the time.
### TIMNATH COUNCIL COMMUNICATION

**Meeting Date:** May 10, 2016

**Item:** Resolution Approving a Standard Services Agreement with W.L. Contractors Inc. for the installation of a new signal at Harmony Road and Three Bell Parkway

**Staff Recommendation:** Approval

---

**EXECUTIVE SUMMARY:** Installation of a new signal at Harmony Road and Three Bell Parkway as part of the Harmony Road Phase 3 project. The contract value is $161,954.00.

**STAFF RECOMMENDATION:** Approval

**KEY POINTS/SUPPORTING INFORMATION:**
- WL currently provides the Town’s signal maintenance and support.
- Current signal is temporary until Harmony Road is widened.
- New signals are required for the wider road section.

**ADVANTAGES:** By awarding a separate contract for the signal installation, materials that have a long lead time can be ordered, and possible installed, in advance of the general contractor starting. In addition, having WL install the new signal streamlines the transition from construction to long term maintenance and any warranty issues.

**DISADVANTAGES:** Coordination between contractors by the Town will be required.

**FINANCIAL IMPACT:** Expense is a budgeted item

**RECOMMENDED MOTION:** I move to approve Resolution No. 37, Series 2016 approving the Standard Services Agreement with W.L. Contractors Inc. for the installation of a new signal at Harmony Road and Three Bell Parkway.

**ATTACHMENTS:**
2. Resolution
3. Agreement
Town Council Purchase Authorization

Date: May 3, 2016
Vendor: W.L. Contractors Inc.
Department: Engineering
Project: Harmony Road Phase 3
Description: Install new signal at Harmony & Three Bell for the Harmony Road Phase 3 road widening.

<table>
<thead>
<tr>
<th>Is this purchase more than $25,000</th>
<th>Yes</th>
<th>No</th>
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<tr>
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<table>
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<tr>
<th>Is this the purchase of Real Estate or Land</th>
<th>Yes</th>
<th>No</th>
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<td>Yes</td>
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<thead>
<tr>
<th>Is this the purchase of Public Art</th>
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<th>No</th>
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<tbody>
<tr>
<td>X</td>
<td></td>
<td></td>
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<table>
<thead>
<tr>
<th>Is this a budget request for a purchase that will exceed the approved budget</th>
<th>Yes</th>
<th>No</th>
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<tr>
<td>X</td>
<td></td>
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Advantages: WL provides the Town's existing signal maintenance and support. Having them install the new signal streamlines the transition from installation to maintenance & any warranty issues. By awarding as a separate contract, materials (which have a long lead time) can be ordered in advance of the road contractor starting.

Disadvantages: None

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<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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<td>$5,927,676</td>
<td>$0.00</td>
<td>$161,954</td>
<td>$5,765,722</td>
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Financial Impact: Expense is a budgeted item

Recommendation/Justification: Recommend approval as item is budgeted for and part of the Phase 3 project.

[Signature]
5/4/16

Requesting Department Signature

Date

[Signature]

Town Manager Signature

Date
TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 37, SERIES 2016

A RESOLUTION APPROVING STANDARD SERVICES AGREEMENT WITH W.L. CONTRACTORS FOR THE INSTALLATION OF A NEW SIGNAL AT HARMONY ROAD AND THREE BELL PARKWAY

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 Standard Services Agreement Between the Town of Timnath and W.L. Contractors Inc. (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.


TOWN OF TIMNATH, COLORADO

________________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

________________________________________
Milissa Peters, CMC
Town Clerk
EXHIBIT A

AGREEMENT
STANDARD SERVICES AGREEMENT
BETWEEN
THE TOWN OF TIMNATH
AND W.L. CONTRACTORS INC.

This Standard 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:
         W.L. Contractors Inc.
         5920 Lamar St.
         Arvada, CO  80003
         Phone: 303-422-7985

   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 $161,954.00. 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. As these services need to be coordinated with the construction of Harmony Road Phase Three, the “Commencement Date” shall be negotiated with the Contractor to achieve the required coordination.

F. Termination Date. Due to the aforementioned coordination requirement, the "Termination Date" of this Agreement is upon the completion of the proposed services.

G. Approval by the Town Council. This Agreement ______ 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 therefrom.

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-contractors’) 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, except 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 ___________________________, 2016.

TOWN OF TIMNATH

_________________________________
Jill Grossman-Belisle, Town Mayor

ATTEST

_____________________________________
Milissa Peters, CMC
Town Clerk

CONTRACTOR:
W.L. Contractors, Inc.

By:__________________________________
Title:________________________________

STATE OF COLORADO )
COUNTY OF _________) ss.

The foregoing Standard 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
ATTACHMENT A
(Scope of Services)
W.L. Contractors Inc.
5920 Lamar St.
Arvada, CO 80003
303-422-7985 FAX 303-422-1634

Date: 5/3/2016

Bid Proposal

Job Name or Bid Number Three Bell Signal

Total Bid: $ 161,954.00

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<tr>
<th>Bid #</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit Prices</th>
<th>Unit</th>
<th>Ext.</th>
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<td>$ 246.00</td>
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<td>110</td>
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<td>$ 3,143.00</td>
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<td>120</td>
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<td>LF</td>
<td>$ 4,228.00</td>
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<td>$ 16.00</td>
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PRICES GOOD FOR 30 DAYS

EXCLUSIONS:
- ASPHALT REMOVAL OR PATCHING
- CONCRETE REMOVAL OR REPLACEMENT
- LANDSCAPE OR SPRINKLER REPAIR
- SPOILS REMOVAL FROM JOB SITE
- UNFORESEEN UNDERGROUND CONDITIONS
- HAZMAT HANDLING
- SURVEYING
- ENGINEERING
- MATERIALS TESTING
- PERMIT FEES
- TAXES

INCLUSIONS:
- FURNISH AND INSTALL TRAFFIC SIGNAL POLES AND EQUIPMENT
The above prices, specifications and conditions are satisfactory and are accepted. W.L. Contractors is authorized to do the work as specified.

Signature: 

Company Name: 

Billing Address: 

Tim March  
Project Engineer  
Kevin Marsh  
Estimator  
W.L. Contractors  
303-422-7985  
Fax 303-422-1634  
kmash@teamwl.com
**EXECUTIVE SUMMARY:** Cache la Poudre Reservoir Company is requiring a crossing agreement for the Town’s replacement of the box culvert under Harmony Road. This is associated with the Harmony Road Phase 3 project.

**STAFF RECOMMENDATION:** Approval

**KEY POINTS/SUPPORTING INFORMATION:**
- Cache la Poudre Reservoir Company is the operator of the Timnath Reservoir Outlet Canal (TROC).
- Construction of Harmony Road requires the replacement of the crossing structure. Structure will be in Town ROW.
- Crossing structure is also being increased in size to accommodate 100-yr runoff (currently would overtop Harmony) and to add a pedestrian crossing.
- Agreement addresses construction and maintenance requirements.
- Town would be required to maintain the structure.
- New Cache is asking for compensation for review of the plans & preparation of the agreement. This amount is still being negotiated, but should not exceed $20,000.

**ADVANTAGES:** Allows Town to build required structure, with a pedestrian component.

**DISADVANTAGES:** None.

**FINANCIAL IMPACT:** Expense would be part of the Harmony Road Phase 3 budget

**RECOMMENDED MOTION:** I move to approve Resolution No. 38_, Series 2016 approving the Crossing Agreement with Cache la Poudre Reservoir Company for Harmony Road.

**ATTACHMENTS:**
1. Resolution
2. Agreement
TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 38, SERIES 2016

A RESOLUTION APPROVING THE CROSSING AGREEMENT WITH CACHE LA Poudre Reservoir Company for Harmony Road

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, the Town of Timnath and Cache la Poudre Reservoir Company (the “Company”) wish to enter into an agreement for the construction and long term maintenance of the Timnath Reservoir Outlet Canal crossing of Harmony Road, more particularly described in Exhibit A (agreement); and

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


TOWN OF TIMNATH, COLORADO

________________________________________
Jill Grossman-Belisle, Mayor

ATTEST:

________________________________________
Milissa Peters, CMC
Town Clerk
EXHIBIT A

AGREEMENT
AGREEMENT
(TOWN OF TIMNATH – HARMONY ROAD)

THIS AGREEMENT, is entered into this _____ day of _____________, 2016, between the Cache la Poudre Reservoir Company, a Colorado mutual reservoir company ("Company"), and the Town of Timnath, a Colorado municipal corporation ("Town").

RECITALS

WHEREAS, the Company is the operator of a canal or ditch commonly known as the Timnath Reservoir Outlet Canal ("TROC"); and

WHEREAS, the TROC presently exists and conveys water beneath Harmony Road via a single box culvert located in the SW ¼ of the SW ¼ of Section 36, Township7 North, Range 68 West, 6th P.M.; and

WHEREAS, the Town is constructing improvements to Harmony Road which will require the expansion of Harmony Road over the TROC, the removal of the existing box culvert, and the installation of three new box culverts in the TROC under the expanded Harmony Road ("Project"); and

WHEREAS, the Company is willing to allow for the construction of the Project in and around the TROC in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of ______________________ ($_____________) paid to the Company by the Town, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Recitals. The foregoing recitals are incorporated herein as if fully set forth.

2. Project. Detailed plans and specifications that describe and depict the location of the Project ("Project Area") and the scope of work for the Project are attached as Exhibit A and incorporated herein by this reference as if set forth fully (the “Project”). The Project shall be constructed in accordance with the plans and specifications and the plans and specifications shall not be materially altered without the written approval of the Company, which approval shall not be unreasonably withheld or delayed.
3. Grant of Easement. The Company grants a temporary easement for the construction of the Project and a perpetual easement for access to and maintenance of the box culverts and associated structures constructed as part of the Project (“Improvements”), and ongoing use of the one box culvert planned for pedestrian access and a trail. It is understood and agreed that during construction of the Project the Company reserves the right to use the TROC for the delivery of water which deliveries shall be accommodated and delivered through the Project Area as set forth in the plans and specifications, and once the Project is completed the Company shall continue to use the Project Area and the Improvements for purposes including continued delivery of water through the TROC, as well as maintaining, cleaning, repairing and operating the TROC.

4. Approval of Construction Plans by the Company. Through the execution of this Agreement, and subject to paragraph 2 above, the Company is approving the plans and specifications described and depicted as Exhibit A. The Town agrees to reimburse the Company for the reasonable expenses incurred in preparing this Agreement and reviewing the plans and specifications, which costs shall be deemed to have been paid upon tender of the consideration set forth above. The proposed timeline of construction of the Project is from ________________ to ___________. In no event shall construction of the Project extend beyond _____________. The Company’s review and any approval of the plans and specifications and the contemplated work and any supervision of the work by the Company shall not constitute an engineering review or supervision and does not affect, release or limit the Town from any obligation, responsibility or liability to conduct such work in accordance with all applicable governmental rules and regulations, or for any damages that may result from the design and construction of the Improvements. The Town and the Company agree to cooperate and coordinate in good faith during construction of the Project to ensure continued water deliveries and the expeditious and efficient completion of the Project.

5. TROC and Improvement Maintenance by Company. As part of the consideration for this Agreement, the Town agrees to be solely responsible for the maintenance of the Improvements and the Project Area in perpetuity upon completion of the construction of the Project. Such maintenance shall include but is not limited to assuring the continued bank stability in the Project and assuring the continued structural integrity and performance of the Improvements including the removal of all debris and trash in an around the Improvements as necessary to assure the performance and safe operation of the Improvements. The foregoing notwithstanding, the Company shall have full power to continue to operate, maintain, alter, enlarge, clean and manage the TROC, including the Improvements as necessary due to the Town’s failure to adequately maintain the Improvements and Project Area as if this Agreement had not been made, and any expense or damages caused by the Improvements to the Town shall not be chargeable to the Company, except as to any damage as may be caused by the Company's negligence. The Company agrees that except in emergencies, it will first provide the Town with notice of the needed maintenance and a
reasonable time to respond, before undertaking the work itself. It is specifically agreed that normal maintenance and repair activities in accordance with standards of reasonable care, including the operation of machinery for such purposes upon the TROC right of way and within the TROC itself, shall not constitute negligence. In the event, however, that any such action on the part of the Company could reasonably be expected to affect the Town, the Company agrees to give prior notice to the Town, and to cooperate to avoid injuries or damages to the structures. In the event any sum is expended by the Company for repair or maintenance of the TROC within the Project Area, which repair or maintenance is necessary because of the Town's acts or omissions in constructing the Improvements or because of the existence of the Improvements or because of any malfunction of the Improvements, the Town shall reimburse the Company for such expense. Determination of whether repair or maintenance is necessary, and whether an emergency exists, shall be at the reasonable discretion of the Company. In the event that the company finds it necessary to perform emergency repairs to the TROC, either now or at any future time, the Company shall be wholly without liability for damages to the Town as the result of the performance of such repairs, except as to such damage as may be caused by the Company's negligence.

6. **No Disturbance to Company Operations.** Construction of the Project shall be entirely without disturbance by Town to the Company’s operation of the TROC for diversion and delivery of water, unless permission in writing is first received from the Company for such disturbance. The Town shall at no time cause the delivery of water be interrupted for any reason without the Company’s prior approval. Subject to appropriation and legal availability of funds, the Town expressly agrees that it shall be liable to the Company and/or the Company’s shareholders for actual damages for any unauthorized disturbance of the flow of water through the TROC without the Company’s prior written permission. Upon completion of the Project or after completion of any maintenance or repair of the Improvements by the Town, the Town shall clean the Project Area and any other affected areas of the TROC and will cause the TROC bank area to be placed in the same or better condition than it was before the activity began, including the compacting of any disturbed soils. Any portion of the TROC bank disturbed by the Town shall be lined with rock to within one (1) foot of the top of the bank. Following construction of the Project, any subsequent repairs, or maintenance that might affect the Company’s use and operation of the TROC shall occur during a time period when the affected portion of the TROC is not being used to carry water, and be completed before such use begins, unless the Town obtains the Company’s prior written approval, or unless emergency conditions dictate otherwise. Subject to appropriation and legal availability of funds, the Town expressly agrees that it shall be liable to the Company and/or the Company’s shareholders for actual damages for any unauthorized disturbance of the flow of water through the TROC, to the extent that such disturbance is caused by or due to the activities of the Town or those working on its behalf.
7. **Construction Costs.** Construction of the Project and, maintenance and repair of the Improvements shall be entirely without cost to the Company. The Company’s costs associated with the review of the plans and specifications and the preparation of this Agreement are deemed paid by the consideration for this Agreement; however, to the extent the Company is compelled to expend additional funds in the review of revised plans and specifications or revisions to this Agreement, or for other unexpected reasons, the Town agrees to reimburse the Company for any such reasonable additional expenses.

8. The Town further understands and agrees as follows:

   a. Approval by the Company of the plans and specifications and the construction of the Project and related Improvements shall not constitute approval or authorization of existing or proposed drainage and/or stormwater improvements by the Town or others impacting the TROC and related or appurtenant structures, including the Improvements.

   b. The Town shall not install a fence, plant trees, brush or vegetation that obstruct access to the TROC or the Project Area, or construct any building within the TROC or Project Area unless written authorization is first received from the Company.

   c. The Town shall not allow any other entity to install other construction improvements within the easement granted, nor shall it add utility crossings or other equipment within the easement, without first obtaining the written permission of the Company to do so, which permission can be withheld at the Company's discretion.

   d. If at any time the Improvements or any work by the Town on the Improvements causes any settling in the TROC or its embankments, or any part of the Project Area, the Town shall, upon notification from the Company, immediately make all repairs required by the Company at the Town's expense.

   e. **The existing ditch is unlined.** Should any water seepage and/or leakage from the TROC occur as a result of Town’s construction of the Project installation of the Improvements, upon notification from the Company, Town shall repair the TROC to stop the seepage and/or leakage to the satisfaction of the Company. In the event Town fails to perform such repair, the Company may perform such repair and Town shall reimburse the Company for any reasonable expenses incurred in repairing the TROC in order to stop the water seepage and/or leakage.

9. **Enforcement Costs and Fees.** In the event that any party institutes legal proceedings with respect to this Agreement or the enforcement thereof, the prevailing party shall be entitled
to court costs and reasonable attorneys’ fees incurred by such party in connection with such legal proceedings. The Town’s exposure to payment of attorney fees under this sub-section shall be subject to the limitations on local governments set forth in the Colorado Constitution and Colorado case law.

10. No Warranties. This Agreement, and any grant by the Company, is subject to all restrictions, reservations, rights-of-way, easements, documents or agreements existing or of record in the Records at the time this Agreement is recorded. The Company makes no representations or warranties (including, without limitation warranties of title) in or by this Agreement or any grant herein.

11. Binding Effect, No Assignment. This Agreement and all the terms and conditions thereof shall extend to and be binding upon the successors and assigns of each of the parties hereto. This Agreement shall not be assigned by the Town without the written consent of the Company.

12. Recording. Upon execution by the Parties, the Town shall promptly record this Agreement or an executed copy thereof with the Clerk and Recorder of Larimer County.

13. Notice. Any notice required or permitted hereunder shall be deemed effective when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, and addressed to the party to whom notice is to be given, as follows:

   If to Company:          P O Box 104  
                         Lucerne, CO  80646

   If to the Town:          Town of Timnath

or such other address as may be furnished to the other party by written notice.

14. Indemnification. Except as limited by Colorado law, the Town shall be liable for, and shall indemnify and hold Company, its shareholders, successors and assigns, harmless from any damages and expenses, including attorneys’ fees, arising in connection with the exercise by the Town of its rights pursuant to this Agreement, including, but not limited to, any personal injuries, deaths, property damage, mechanic’s liens or other claims and causes of action of any kind arising out of the Town’s construction of the Project and the maintenance and repair of the Improvements by the Town or its employees or invitees, except to the extent caused by the negligence or intentional misconduct of the Company or its shareholders, employees, agents, contractors or subcontractors.
IN WITNESS WHEREOF, the parties have caused these presents to be duly executed by the proper persons, and have affixed their seals hereto on the day and year first above written.

THE CACHE LA Poudre Reservoir Company

By: ________________________________
    Mike Hungenberg, President

ATTEST:

By: ________________________________
    Kenton Brunner, Secretary

Town of Timnath

By: ________________________________

Its: ________________________________

ATTEST: (if necessary)

By: ________________________________

Its: ________________________________
**EXECUTIVE SUMMARY:** The project is a budgeted, 2016 Capital Improvement Project. It includes the completion of improvements north of the railroad and the connection of the Timnath Elementary School to the Phase 1 sewer. Due to the timing of council meetings in May and June, it is the Town’s desire to award this project prior to the June council meeting. The attached resolution allows the Town Manager to award the bid if it is within budget.

**STAFF RECOMMENDATION:** Approval

**KEY POINTS/SUPPORTING INFORMATION:**
- Bid opening for the project is May 17th. Awarding prior to the June 14th meeting allows the contractor to acquire the required bonds and begin scheduling the work.
- Per the request of the Poudre School District, the Town is bidding the work at the Timnath Elementary School. This work must be complete by the end of July. Delaying award of the contract could impact this schedule.
- The budget for the Town’s portion of the project is $1.0 million. The Timnath Elementary portion has been budgeted at $400,000 and will be paid from the Town’s school impact fund. It is anticipated that the contract maximum would be $1.4 million.

**ADVANTAGES:** As this is a budgeted project, allowing the Town Manager to issue the notice of award, after review of bids, allows for the project to start as soon as possible.

**DISADVANTAGES:** Approval is prior to bid opening so the total amount of the contract is unknown at this time.

**FINANCIAL IMPACT:** Expense is a budgeted item

**RECOMMENDED MOTION:** I move to approve Resolution No. 39, Series 2016 approving a contract for the Old Town Improvements – Phase 2 North.

**ATTACHMENTS:** 1. Resolution
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, the Town is bidding the project known as “Old Town Improvements – Phase 2 North” on May 17, 2016 and immediate award to an appropriate bidder is important to keep the project on schedule; and

WHEREAS, the Town desires to be able to issue a Notice of Award and Agreement for the construction of said project as soon as possible; and

WHEREAS, the construction project is an approved, budgeted and anticipated expense by the Town; and

WHEREAS, the Town Council is familiar with the project 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 Manager is hereby given authority to issue a Notice of Award and Agreement for the Old Town Improvements – Phase 2 North upon review of bids, consultation, and recommendation by Town Engineer, Legal Counsel, and other applicable staff or consultants if the successful bidder is within budget as previously approved by the Town Council.


TOWN OF TIMNATH, COLORADO

____________________________
Jill Grossman-Belisle, Mayor
ATTEST:

Milissa Peters, CMC
Town Clerk
TOWN COUNCIL COMMUNICATION

Meeting Date: 

Item: 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: Town Attorney

Ordinance □
Resolution □
Discussion X

KEY POINTS/SUPPORTING INFORMATION:

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
TOWN COUNCIL COMMUNICATION

Meeting Date: May 10, 2016

Item: RESOLUTION 40 SERIES 2016 APPROVING THE HOLLOWAY ANNEXATION APPLICATION AND RATIFYING THE ANNEXATION AGREEMENT.

Presented by: Matt Blakely
Town Planner

EXECUTIVE SUMMARY: The Holloway Annexation is a 35 acre parcel of land located north of Weld County Road 78 and east of Larimer County Road 1 (Latham Parkway). This property is designated as Very Low Density Residential (VLR) on the Comprehensive Plan, which would translate to a proposed zoning of Rural Estate (R-E). At this time the applicant has no interest in developing the property, they are requesting the annexation to guarantee their inclusion to the Town of Timnath. This property is within the Town of Timnath’s growth management area.

In addition, the Town and the Applicant have reached agreement annexation terms. These terms are incorporated attached agreement (the “Agreement”) and staff requests ratification of the Agreement with this resolution. The Applicant has also submitted a Petition for Annexation to the Town, which is also attached for reference.

The applicant and Town staff recommend that the Town Council’s substantial compliance finding be deferred until such time as staff and the applicant are able to commence with Sketch Plan planning and negotiation.

STAFF RECOMMENDATION: Staff recommends approval of Resolution X Series 2016.

KEY POINTS/SUPPORTING INFORMATION:
Owner: Edward & Renee Holloway
Applicant: Edward & Renee Holloway

The applicant wishes to Annex to the Town of Timnath in order to guarantee their inclusion in the Town.

- Streets: Streets will be governed by the Larimer County Urban Area Street Standards, as adopted by the Town of Timnath.
- Water: Currently served by North Weld.
- Sanitary Sewer: Currently served by Boxelder Sanitation District.
- Storm Sewer: No issues with current development.
- Schools: - Weld RE-4 will serve development, no specific comments at this time.
- Compliance with Comp Plan – The proposed development is consistent with the land uses called for in the Comprehensive Plan.
- Towns cost to serve Development: There will be additional services required, including Police, Public Works, Office Administration and Code Enforcement.

ADVANTAGES:
- Increase the Land Area of the Town of Timnath.

DISADVANTAGES:
- Increase in cost of services provided by the Town.
**FINANCIAL IMPACT:**
- See Town costs to serve development section above.

**RECOMMENDED MOTION:**
- I move to approve Resolution 40 Series 2016.

**ATTACHMENTS:**
1. Resolution 40 Series 2016
2. Draft Annexation Map
3. Annexation Agreement (for ratification)
4. Annexation Petition
TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 40, SERIES 2016

A RESOLUTION APPROVING THE HOLLOWAY ANNEXATION APPLICATION,
GENERALLY LOCATED NORTH OF WCR 78 AND EAST OF LATHAM PARKWAY,
AND RATIFYING THE ANNEXATION AGREEMENT

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

WHEREAS, Ed Holloway (the “Applicant”) has submitted an Annexation Application for real property located generally north of WCR 78 and East of Latham Parkway, more particularly described in Exhibit A (legal description) and Exhibit B (Annexation Application) and attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, the Town of Timnath (the “Town”) has received and wishes to approve the Annexation Application with the following conditions:

1) Waive requirements on the Annexation Application including but not limited to the following due to the specific nature of this annexation:
   a) All fees associated with the annexation
   b) The annexation concept plan
   c) The annexation assessment report
   d) Deposit for professional and administrative costs

2) Ratify the Annexation Terms Agreement

WHEREAS, the Town finds it in the best interest of the citizens of the Town to proceed to the Annexation Petition process as defined in Article 10 of the Timnath Land Use Code;

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

Section 1. Approval
The Annexation Application made by the Applicant is approved with conditions listed above.

TOWN OF TIMNATH, COLORADO

Jill Grossman-Belisle, Mayor

ATTEST:

Milissa Peters, CMC
Town Clerk
EXHIBIT A
Legal Description of Property
[Attached]
EXHIBIT B
Annexation Application
[Attached]
ANNEXATION APPLICATION CHECKLIST

Pre-Annexation Conference

Is the site within Timnath’s planning area  Yes  No

Preparation of the Annexation

Please attach the following documents (as appropriate):

☐ 1. Application and Annexation Fee

☐ 2. Annexation Maps: Map showing exact location of property subject to annexation.

☐ 3. List of known hazards (If present due to the topography, geology, or hydrology of the property).

☐ 4. List of environmental issues

☐ 5. General development concept plan describing the desired use of the property after annexation with appropriate maps.

☐ 6. Outline of any known terms proposed for the Annexation Agreement.

☐ 7. Description of other subjects pertinent to the property that may be included in the annexation agreement between the Town of Timnath and the applicant.

☐ 8. Narrative report, using currently available information, assessing impact of proposed development on the community, services and facilities. This report should detail the possible need for any expansion of those services and facilities and should be one or more paragraphs in length. Please fully explain the needs, concepts and proposed solutions for each of the following:

I (We) certify that I (We) am (are) the lawful owner(s) of the parcel(s) of land affected by this application and hereby consent to this action. I (We) certify that the information and attachments I (We) have submitted are true and correct to the best of my (our) knowledge. In filing this application, I (We) am (are) acting with the knowledge and consent of the property owner(s). I understand that all materials and fees required by the Town of Timnath must be submitted prior to having this application processed.

Owner(s) signatures:  

Print Name:  Edward Holloway  

Date:  4/15/16

Owner(s) signatures:  

Print Name:  Peace C. Holloway  

Date:  4/15/16
ANNEXATION
APPLICATION
TECH FORM

Pre-Annexation Conference

Is the site within Timnath’s planning area ☑ Yes ☐ No

Preparation of the Annexation

Please attach the following documents (as appropriate):

☒ 1. Application and Annexation Fee
   a. Fill out the Application for Annexation. Sign the original with blue ink. Make four copies of the original.
   b. The application should be signed by 100% of the owners of the property.
   c. Application Fee ($500 + $150 x # of acres, + $2,000 for administrative costs);
      CK#: __________; Amt: $__________
   d. Signed Fee Agreement; CK#: __________; Amt: $__________

☒ 2. Annexation Maps: Map showing exact location of property subject to annexation.

☒ 3. List of known hazards (If present due to the topography, geology, or hydrology of the property).

☒ 4. List of environmental issues

☒ 5. General development concept plan describing the desired use of the property after annexation with appropriate maps.

☒ 6. Outline of any known terms proposed for the Annexation Agreement.

☒ 7. Description of other subjects pertinent to the property that may be included in the annexation agreement between the Town of Timnath and the applicant.

☒ 8. Narrative report, using currently available information, assessing impact of proposed development on the community, services and facilities. This report should detail the possible need for any expansion of those services and facilities and should be one or more paragraphs in length. Please fully explain the needs, concepts and proposed solutions for each of the following:
   a. An assessment of the community need for the proposed annexation and land use.
   b. The economic impact of the proposed annexation. This should include an analysis of short-term and long-term revenues to the Town as generated by the development; short and long-term expenses incurred by the Town as a result of the annexation and development, and proposals to mitigate any negative impacts.
   c. Impact on schools including an estimate of the number of students to be generated by the development of the property, capital construction required to educate the students, and proposals to mitigate any negative impacts on schools.
   d. Description of the source(s) of water, both potable and non-potable, and sanitary sewer systems anticipated to serve the property, including a description of any regional facilities that must be constructed or upgraded to serve the development on the property proposed for annexation.
   e. Impact on the existing transportation system including arterial and collector street improvements, intersection improvements and signalization, alternative modes of transportation, etc. and proposals to mitigate any negative impacts on transportation resulting from the proposed annexation and development.
   f. Impact of the proposed development on the existing storm drainage system including historic rainfall drainage patterns, detention and retention areas, storm sewer requirements, discharged irrigation ditches, floodways and floodplains, etc. and proposals to mitigate any negative drainage impacts of the proposed development.
   g. Impact of the proposed development on law enforcement including special security needs, additional officers required, additional equipment requirements in Timnath and proposals to mitigate any negative impact of the proposed development on existing law enforcement services.
   h. Impact of the proposed development on the Poudre Fire Protection Authority including special fire hazards.
fire prevention, fire detection, emergency access, additional equipment requirements, additional manpower requirements, additional fire stations, etc. and proposals to mitigate any negative impact of the proposed development upon the existing fire protection services.

i. Impact of the proposed development on the Town park and recreation programs and proposals to mitigate any negative impact of the proposed development upon the existing facilities and programs.

j. Impact of the proposed development on the environment of the Town identifying environmentally sensitive areas, endangered species, significant habitats, etc. and proposals to mitigate any negative impact of the proposed development on the environment of the Town.

k. Projected short and long-term economic development potential (number of jobs created; sales, use and property tax generation; additional utility revenues; development incentives to be offered, etc.) of the proposed development.

l. Address the compatibility of the proposed development with the street master plan, as depicted by the Transportation Map contained in Timnath’s Comprehensive Plan and proposals for mitigating any negative impact of the proposed development on the Town street master plan.

m. Address the compatibility of the proposed development with Timnath’s Comprehensive Plan and any plan amendments that may be necessary for the proposed development.

n. Address the compatibility of the proposed development with Timnath’s Land Use Code and any deviations in setbacks, space requirements, and permitted uses that may be required for the proposed development.

o. Review existing and adjacent land uses, areas of compatibility or conflict, and possible mitigation measures that may be required for the proposed development.

I (We) certify that I (We) am (are) the lawful owner(s) of the parcel(s) of land affected by this application and hereby consent to this action. I (We) certify that the information and attachments I (We) have submitted are true and correct to the best of my (our) knowledge. In filing this application, I (We) am (are) acting with the knowledge and consent of the property owner(s). I understand that all materials and fees required by the Town of Timnath must be submitted prior to having this application processed.

<table>
<thead>
<tr>
<th>Owner(s) signatures:</th>
<th>Print Name:</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Signature]</td>
<td>Edward Helloway</td>
<td></td>
</tr>
<tr>
<td>[Signature]</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ANNEXATION
Petition Instructions

One (1) original and three (3) copies of the following should be delivered to the Town’s Building Department with a completed Land Use Application Form (marked for Petition and, if applicable, for zoning).
Original signatures should be in blue ink.

1. Letter of intent to request annexation to the Town of Timnath, signed by property owner or representative.
2. Executed agreement for payment of development review expenses incurred by the Town.
3. Annexation Agreement.*
4. Petition for Annexation.
5. Annexation Map.*
   Submit 1, original 24" x 36" and 4, 11" x 17" reductions. Compliant with all technical drawing requirements contained in the Timnath Municipal Code 16-13-7 and signed and sealed by the registered and surveyor or engineer responsible for preparation of the map.
6. Concept Plan Map.*
   Submit 1, original 24" x 36", and 4, 11" x 17" reductions. Comply with all technical drawing requirements contained in the Timnath Municipal Code 16-13-5
7. Auto CAD™ Drawing File (release 12 or higher).
   Submit annexation map(s), concept plan map, existing conditions map & title sheets & all fonts used, on an acceptable form of electronic transfer.
8. Word Processing File
   Submit legal description, annexation impact report & Town Comprehensive Plan Project Summary in an acceptable form of electronic transfer.
9. Title Commitment for impacted property.
11. Annexation Impact Report, if applicable.
12. Narrative addressing conformance with Town Comprehensive Plan
13. Water Rights Report, including signed warranty deed(s)
   If zoning is requested simultaneously with annexation, attach a completed Rezoning Petition, zoning map of Property, zoning amendment map amending the official zoning map, and the application and recording fees.
16. Letters of Support.
   Attach letters from all special districts servicing, or proposed to service, the area to be annexed.
17. Prior year’s Property Tax Statement for all property to be annexed.

Note: The Town must certify this application is complete and compliant with all submittal requirements or reject it as incomplete. Applicants will be notified of any deficiencies or inadequacies in the materials submitted. Incomplete submissions will not be processed or referred to the Board.

*For additional information regarding Annexation, see Timnath Municipal Code
PETITION FOR ANNEXATION

PETITION FOR ANNEXATION TO THE TOWN OF TIMNATH, COLORADO

THE UNDERSIGNED, being "landowners" as defined in C.R.S. § 31-12-103(6), hereby Petition the Town of Timnath, Colorado (the "Town") for annexation for the following described property and further state:

1. The legal description of the land which Landowners request to be annexed to the municipality is attached hereto as Exhibit "A", hereinafter referred to as the "Property."

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

3. The following requirements of C.R.S. § 31-12-104 exist or have been met:
   a. Not less than 1/6th of the perimeter of the Property is contiguous with the Town.
   b. A community of interest exists between the Property and the Town. The Property is urban or will be urbanized in the near future; and the Property is capable of being integrated into the Town.

4. None of the limitations provided in C.R.S. § 31-12-105 are applicable and the requirements of that statute have been met because of the following:
   a. The annexation of the Property will not result in the Property being divided into separate parts or parcels under identical ownership;
   b. No land area within the Property held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate comprising 20 acres or more and having a valuation for assessment in excess of $200,000 for ad valorem tax purposes has been included in the area of the Property to be annexed without the written consent of the landowners thereof;
   c. No annexation proceedings have been commenced for annexation of any part of the Property by any other municipality;
   d. The entire width of all streets and alleys to be included within the area annexed are included;
   e. The annexation of the Property will not result in the detachment of area from any school district or the attachment of same to another school district; and
   f. Annexation by the Town of the Property will not have the effect of, and will not result in, the denial of reasonable access to landowners, owners of an
easement, or owners of a franchise adjoining a platted street or alley, inasmuch as annexation of the Property will not result in annexation of a platted street or alley which is not bounded on both sides by the Town.

5. The annexation of the Property will not have the effect of extending a boundary of the Town more than three miles in any direction from any point of the municipal boundary in the past 12 months.

6. The Petitioners comprise the owners in fee of more than 50 percent of the area of the Property, exclusive of public streets and alleys, and comprise more than 50 percent of the landowners of the Property. The legal description of the land owned by each signer of this petition is shown on Exhibit A.

7. The Petitioners request that the Town Council approve the annexation of the Property.

8. This Petition is accompanied by four (4) copies of an annexation boundary map in the form required by C.R.S. § 31-12-102(1)(d) and attached as Exhibit B.

9. The Petitioners reserve the right to withdraw this Petition in the event the Property is not zoned in accordance with the Annexation Agreement, if any.

10. This instrument may be executed in one or more counterparts, all of which taken together shall constitute the same document.

PETITIONERS:  
By:  
Mailing Address: 3892 Taosick cir.
Limonite Colo 80537

STATE OF COLORADO  }  
COUNTY OF LARIMER  )  
)  

Subscribed and sworn to before me this 15 day of April, 2012 by Edward Holloway and Renee Holloway

Witness my hand and official seal.

My commission expires: 8/8/16

[Notary Seal]

MILISSA A PETERS  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20044026568  
MY COMMISSION EXPIRES AUGUST 8, 2016
AFFIDAVIT OF CIRCULATOR IN SUPPORT OF PETITION
[Required for all petitions, including those signed by a single owner]

STATE OF COLORADO )
) ss.
COUNTY OF LARIMER )

__________________________, being first duly sworn states as follows:

a. I have circulated the foregoing Petition for Annexation to the Town of Timnath set forth herein.

b. I know the persons whose names are subscribed to the foregoing Petition on behalf of the Petitioners.

c. The signatures on the foregoing Petition were affixed in my presence and each signature is a true, genuine and correct signature of the person it purports to be.

d. To the best of my knowledge and belief, the persons whose names are affixed to the foregoing Petition are authorized to sign such document on behalf of Petitioners.

CIRCULATOR

__________________________

STATE OF COLORADO )
) ss.
COUNTY OF LARIMER )

__________________________

Subscribed and sworn to before me this ___ day of __________, 20__, by _____________________.

Witness my hand and official seal.

My commission expires: ____________________________

__________________________

Notary Public
EXHIBIT A

LEGAL DESCRIPTION OF
PROPERTY PROPOSED FOR ANNEXATION

To Be Attached
EXHIBIT B
ANNEXATION BOUNDARY MAP
[Attached]

To be attached
TERMS OF ANNEXATION AGREEMENT
FOR THE HOLLOWAY PROPERTY

THIS TERMS OF ANNEXATION AGREEMENT ("Agreement"), is made and entered into to
be effective the 15th day of April, 2016, by and between the Town of Timnath, a Colorado municipal
corporation (the "Town"), and The 5258 Ranch LLC, a Colorado limited liability corporation, and
Edward and Renee Holloway, (collectively the "Property Owner") and is made concerning the real
property described on Exhibit A, attached hereto and incorporated herein by reference ("the
Property"), and generally known as the "Holloway Property." The Town and Property Owner are
referred to herein individually as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Property consists of approximately 35 acres, more or less, located at 38094
County Road 13 in Weld County, Colorado; and

WHEREAS, the Parties have engaged in negotiations to effectuate the annexation of Property
into the Town, and the Parties desire to enter into this Agreement in order to provide mutual assurances
and facilitate annexation of the Property; and

WHEREAS, annexation of the Property will be in accordance with the terms and conditions of
this Agreement, the annexation petition, if any, and the Colorado Municipal Annexation Act of 1965 (as
amended, the "Act"), the Town of Timnath Municipal Code (the "Code"), and all applicable laws.

NOW, THEREFORE, in consideration of the foregoing and the terms, covenants, conditions and
provisions hereinafter set forth and other good and valuable consideration, the receipt and adequacy of
which are hereby confessed and acknowledged, Parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms and conditions for
annexation and development of the Property within the Town. All conditions contained herein are in
addition to any and all requirements of Town and applicable state statutes, and are not intended to
supersede such requirements, except as specifically provided in this Agreement. All exhibits attached
hereto are incorporated herein by this reference and are an integral part hereof.

2. Indemnification. The Town hereby agrees to release and to indemnify, defend, and hold
harmless ("indemnify" meaning protect by reimbursement or payment) the Property Owner, its
representatives, directors, employees, agents, and subcontractors with respect to any and all actions,
liabilities, suits, and/or claims brought by or on behalf of the DRAPAC Group or the Town of
Severance, Colorado, for any specific performance, monetary damages, or other loss in any way
connected, directly or indirectly, with the annexation of the Property by the Town or this Agreement.

3. Fee Waiver. The Town hereby agrees to waive all Town fees associated with annexation
of the Property. The Town further agrees to pay any additional fees required for annexation, including
but not limited to county and recording fees.

4. Disconnection. In the event that the Town does not meet, or fails to satisfy, any of the
conditions set forth in this Agreement, the Property Owner shall have the option to disconnect the
Property from the Town. Property Owner has the right to withdraw the annexation petition at any time prior to the petition’s approval. Property Owner’s option to disconnect pursuant to this paragraph shall be exercised no later than three years from the date of annexation. If Property Owner chooses to waive its right to disconnect, it shall provide written notice of such waiver to the Town. In the event that the Property is disconnected pursuant to this paragraph, this Agreement shall be terminated and considered null and void on the date of disconnection.

5. **Title and Authority.** Property Owner warrants and represents to Town that it is the record owner of the Property. Each person signing this Agreement on behalf of an entity represents and warrants that he or she has full power and authority to enter into this Agreement on behalf of the entity. Property Owner and the undersigned individuals understand that the Town is relying on such representations and warranties in entering into this Agreement.

6. **Acknowledgement.** It is expressly understood that Town cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with the Code and the laws of the State of Colorado. Nothing contained in this Agreement shall constitute or be interpreted as a repeal of existing codes or ordinances, or as a waiver or abrogation of Town's legislative, governmental, or police powers to promote and protect the health, safety and general welfare of Town or its inhabitants; nor shall this Agreement prohibit the enactment by Town of any fee, ordinance, resolution, rule or regulation which is of uniform and general application.

7. **Severability.** If any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of Parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid, and Parties shall cooperate to cure any such defect.

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

9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Should any Party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that exclusive venue of such suit or action shall be in Larimer County, Colorado.

10. **Third Party Beneficiaries.** This Agreement is made by and between Parties and their successors and, to the extent permitted, assigns and solely for their benefit. No third parties, including but not limited to adjacent property owners and/or individual lot owners or buyers, shall be entitled to enforce the duties or enjoy the rights created herein.

IN WITNESS WHEREOF, this Agreement has been executed by Parties, intending to be legally bound hereby, as of the date set forth above.

**TOWN:**

**TOWN OF TIMNATH, COLORADO,**

1229.0900; 748462

2
ATTEST:  

Milissa Peters, Town Clerk

A Colorado Municipal Corporation

Jill Grossman-Belisle, Mayor

PROPERTY OWNER:

THE 5258 RANCH LLC, a Colorado limited liability company

Edward A. Holloway, Manager
3892 Tayside Court
Timnath, CO 80547

EDWARD A. AND RENEE HOLLOWAY

Edward A. Holloway

Renee Holloway

STATE OF COLORADO  )
) ss.
COUNTY OF LARIMER  )

The foregoing instrument was acknowledged before me this 15th day of April, 2016, by Edward A. Holloway, as Manager of The 5258 Ranch LLC.

WITNESS my hand and official seal.

Dezire M Sanchez
Notary Public
State of Colorado
Notary ID 20134032954
My Commission Expires June 10, 2017

1229.0900, 748462
STATE OF COLORADO  

COUNTY OF LARIMER

The foregoing instrument was acknowledged before me this 15th day of April, 2016, by Edward A. Holloway.

WITNESS my hand and official seal.

[Signature]
Notary Public
My Commission expires: June 10, 2017

STATE OF COLORADO  

COUNTY OF LARIMER

The foregoing instrument was acknowledged before me this 15th day of April, 2016, by Renee Holloway.

WITNESS my hand and official seal.

[Signature]
Notary Public
My Commission expires: June 10, 2017
PROPERTY DESCRIPTION
HOLLOWAY PROPERTY

Weld County Parcel ID Number: 070519000038

23687-E PT SW4 19767 BEG SW COR OF SEC N1333.63' TO PT WHICH BEARS S1321.4' FROM W4 COR OF SEC N86D24'E 1321.4' S85D04'E 451.57' S03D24'E 290.56' S86D13'W 135' S45D32'W 556.28' S33DW 639.38' S0D15'W 93.23' S86D13'W 446.99' S86D13'W TO BEG EXC BEG AT PT WHICH IS S1321.4' FROM W4 COR OF SEC N86D24'E 435' S520' S86D24'W 435' N520' TO BEG (1.32R 10S)

County of Weld
State of Colorado