TOWN OF TIMNATH
TOWN COUNCIL
Tuesday, August 8, 2017
IMMEDIATELY FOLLOWING THE TIMNATH DEVELOPMENT AUTHORITY MEETING AT 6:00 p.m.
4800 Goodman Street, Timnath, Colorado

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, they are requested to select a spokesperson to state that position.

4. CONSENT AGENDA
   a. Approval of the July 25, 2017, Town Council Meeting Minutes
   b. Approval of the Check Registers

5. REPORTS
   a. Mayor and Council
   b. Manager

6. BUSINESS
   a. ORDINANCE NO. 18, SERIES 2017, PUBLIC HEARING, An Ordinance Repealing and Reenacting Chapter 10,
   Article 10 of the Timnath Municipal Code Relating to Door-to-Door Solicitation
      Presented by Robert Rogers, Contracted Town Attorney

   b. RESOLUTION NO. 47, SERIES 2017, A Resolution Approving the First Amended and Restated Subdivision Improvement Agreement for Timnath South Subdivision
      Presented by Robert Rogers, Contracted Town Attorney

   c. RESOLUTION NO. 48, SERIES 2017, A Resolution Approving the Timnath Ranch 7th Filing Final Plat
      Presented by Matt Blakely, Contracted Community Development Director

   d. RESOLUTION NO. 49, SERIES 2017, A Resolution Approving A Vehicle Take Home Policy For The Police Department
      Presented by April Getchius, Town Manager

   e. RESOLUTION NO. 50, SERIES 2017, A Resolution Authorizing the Town Manager to Enter Into a Contractor Agreement for the General Sidewalk Improvement Project
      Presented by Matt Blakely, Contracted Community Development Director
f. **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 Robert Rogers, Contracted Town Attorney

7. **ADJOURNMENT**
1. CALL TO ORDER AND ROLL CALL:
Mayor Grossman-Belisle called to order the meeting of the Town Council on Tuesday, July 25 2017, at 6:01 p.m.

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

Absent:
  a. Councilmember Aaron Pearson

Also Present:
  a. April Getchius, Town Manager
  b. Milissa Peters, Town Clerk
  c. Robert Rogers, Contracted Town Attorney
  d. Don Taranto, Contracted Town Engineer
  e. Matt Blakely, Contracted Community Development Director
  f. Brian Williamson, Contracted Town Planner
  g. Kevin Koelbel, Contracted Town Planner
  h. Christine Harwell, Contracted Finance Director
  i. Sherri Wagner, Police Chief
  j. Phil Goldstein, Timnath Resident
  k. Navin Ghisiawan, Timnath Resident
  l. Eric Barnes, Auditor from Barnes Griggs & Associates P.C.
  m. Raymond and Janice Wright
  n. Michael Kuykendall
  o. Landon Hoover, Hartford Homes
  p. Dave Thorp, Norris Design
  q. Brock Reimer, Norris Design
  r. Grant Gifford, Timnath Resident
  s. Marjolene Van de Graf, Timnath Resident

2. AMENDMENTS TO THE AGENDA:
   a. NONE
3. PUBLIC COMMENT ON NON-AGENDA ITEMS:
   a. Raymond Wright, Timnath Resident, spoke to Council about the sales tax letter as positive and informative.

4. CONSENT AGENDA:
   a. Approval of the June 27, 2017, Town Council Meeting Minutes
   b. Approval of the Check Registers
   c. ORDINANCE NO. 18, SERIES 2017, FIRST READING, An Ordinance Repealing and Reenacting Chapter 10, Article 10 of the Timnath Municipal Code Relating to Door-to-Door Solicitation and setting a public hearing on August 8, 2017 at 6:00 p.m.

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

5. REPORTS:
   a. Mayor/Council
      i. Sales tax informational coffee talks schedule
      ii. Work Session on August 8th at 4:00 p.m.
   b. Staff-Included in the packet
      i. Harmony Road construction speed limit

6. BUSINESS:
   a. PRESENTATION: Citizen Awards
      Police Chief Wagner presented a citizen award to Navin Ghisiawan and Felicia Digiallonardo for saving a bird watcher stuck in the mud at the reservoir.

   b. RESOLUTION NO. 44, SERIES 2017, A Resolution Approving the Coordination of the November 7, 2017 Election of the Town of Timnath, Colorado
      Staff Comments:
      - Mr. Rogers spoke to Council about the proposed resolution.

Councilmember Neal moved to approve RESOLUTION NO. 44, SERIES 2017, A Resolution Approving the Coordination of the November 7, 2017 Election of the Town of Timnath, Colorado. Councilmember Steinway seconded the motion. The motion passed unanimously by voice vote.

   c. RESOLUTION NO. 45, SERIES 2017, A Resolution Accepting the 2016 Audit Performed by Barnes Griggs & Associates, PC
      Staff Comments:
      - Ms. Harwell spoke to Council about the proposed resolution.
      - Mr. Barnes presented and explained the 2016 audit to Council.

Councilmember Steinway moved to approve RESOLUTION NO. 45, SERIES 2017, A Resolution Accepting the 2016 Audit Performed by Barnes Griggs & Associates, PC. Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.
d. ORDINANCE NO. 17, SERIES 2017, FIRST READING, An Ordinance Approving the Planned Development Overlay for Timnath Landing Subdivision
Mayor Grossman-Belisle opened the public hearing at 6:36 p.m.

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

Applicant Presentation:
- Mr. Kuykendall spoke to Council about the process during the past 2 years. He spoke in detail about the Phase 1 final plat and the plan for the 55 estimated homes and tracts.

Public Comments:
- Beth Butcher, Timnath Resident, spoke to Council about her concerns regarding current traffic issues on Main and the need for the parkway sooner rather than later.
- Marjolene Van de Graff, Timnath Resident, spoke to Council about traffic concerns on Main Street.
- Raymond Wright, Timnath Resident, asked if Second Avenue would relieve current Main Street traffic issues.
- Grant Gifford, Timnath Resident, asked about the curb and gutter timeline for Main Street and Mr. Taranto stated that the Developer would have to make the improvements as soon as the projects starts.

Council Comments:
- Councilmember Voronin asked about the additional driveways being added to Main Street and Mr. Taranto stated the consideration taken regarding the impact of the driveways.
- Councilmember Steinway asked about the time frame for the parkway and Mr. Taranto explained that the parkway would be a few years out but that Second Avenue would be completed as soon as possible.
- Councilmember Neal asked about the possible sales tax ballot issue failing and Mayor Grossman-Belisle stated that priorities would have to change in the future.
- Councilmember Steinway asked for permanent speed signs on Main Street.

Mayor Grossman-Belisle closed the public hearing at 6:43 p.m. Councilmember Neal moved to approve ORDINANCE NO. 17, SERIES 2017, FIRST READING, An Ordinance Approving the Planned Development Overlay for Timnath Landing Subdivision. Councilmember Voronin seconded the motion. The motion passed unanimously by voice vote.

e. RESOLUTION NO. 46, SERIES 2017, A Resolution Approving the Timnath Landing Final Plat Filing 1
Staff Comments:
- Mr. Blakely spoke to Council about the proposed resolution.
Councilmember Voronin moved to approve RESOLUTION NO. 46, SERIES 2017, A Resolution Approving the Timnath Landing Final Plat Filing 1. Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.

f. DISCUSSION/POSSIBLE ACTION: Fewell/Feldman Property Annexation
   Staff Comments:
   • Mr. Blakely spoke to Council about the initial annexation process for the Fewell/Feldman annexation. He also spoke about the preliminary plans for the property.

   Applicant Presentation:
   • Mr. Hoover spoke to Council about the preliminary concepts and objectives for the property.
   • Mr. Thorp presented the annexation site and concept plan. He spoke about a road plan, trails, parks and greenbelts.
   • Mr. Reimer spoke about open space and parks. He also spoke about the history of the Town, location and building blocks to include trails, connectivity to neighbors, and amenities within the community.

g. EXECUTIVE SESSION: “For Executive Session for the purposes of receiving legal advice on specific legal questions under C.R.S. § 24-6-402(4)(b).”
Councilmember Voronin moved to approve enter into EXECUTIVE SESSION: “For Executive Session for the purposes of receiving legal advice on specific legal questions under C.R.S. § 24-6-402(4)(b).” Councilmember Neal seconded the motion. The motion passed unanimously by voice vote.

Council went into executive session at 7:10 pm.
The regular meeting reconvened at 7:35 pm.

7. ADJOURNMENT:

Mayor Grossman-Belisle adjourned the meeting 7:42 p.m.


TOWN OF TIMNATH

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Jill Grossman-Belisle, Mayor
ATTEST:

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Milissa Peters, CMC
Town Clerk
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## Town of Timnath Payment Approval Report - Check Register

Report dates: 6/1/2017-8/31/2017

Aug 04, 2017 09:46AM

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Total TST, INC CONSULTING ENGINEERS: 153,414.65

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**Verizon Wireless**

| 97898025090 | Verizon Wireless | 07/31/2017 | 298.57 |

Total 97898025090: 298.57

Total Verizon Wireless: 298.57

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**Wagner Barnes & Griggs, PC**

| 20120 | Wagner Barnes & Griggs, PC | 07/31/2017 | 17,977.44 |

Total 20120: 17,977.44

Total Wagner Barnes & Griggs, PC: 17,977.44

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**Walker Manufacturing Company**

| ROW RESTRA | Walker Manufacturing Company | 08/31/2017 | 7,800.00 |

Total ROW RESTRA: 7,800.00

Total Walker Manufacturing Company: 7,800.00

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**Weld County Clerk and Recorder**

| ESCROW ACCOUNT | Weld County Clerk and Recorder | 07/31/2017 | 500.00 |

Total ESCROW ACCOUNT: 500.00

Total Weld County Clerk and Recorder: 500.00

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**Wright Express FSC**
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<td>Grand Totals:</td>
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Dated: ______________________________________________________

Mayor: ______________________________________________________

City Council: ________________________________________________

__________________________________________________________

__________________________________________________________

__________________________________________________________

__________________________________________________________

City Recorder: ______________________________________________
To: Town Council and Community

From: April D. Getchius, AICP
Town Manager

Date: August 4, 2017

Subject: Town Manager’s Report

**Town Administration Building.** We received eight responses to an RFP for construction management/general contractor (CM/GC) services for the new building. Staff and the architect screened the eight and selected three to interview. We interviewed Brinkman Construction, Bryan Construction and Golden Triangle Construction. Although it was a difficult decision, we selected Brinkman Construction. Brinkman is local and constructed PFA’s Station 8 in Timnath. PFA spoke very highly of them. We will sign a professional services agreement with them for pre-construction services. Brinkman will begin on cost estimates, identify any issues related to constructability and begin to get subcontractors on board. This will allow Brinkman to begin work immediately. These pre-construction services are within my spending authority and will cost $15,000. When we move forward with the construction, this fee will be reimbursed or credited against the larger contract. The CM/GC contract will come to Council for approval in August with staff’s recommendation for approval.

**Farmer’s Market.** Staff made a valiant effort to have a farmer’s market this summer at our concerts. It simply is too complex at this time and there is too little time to get organized. Vendors were also skeptical about joining a new farmer’s market late in the year with no proven track record. We will be issuing an RFP for a farmer’s market operator for next year who can start early, market it properly and reach out to vendors.

**Right of Way Election.** The election regarding the conflicting right of way subject to annexation to Severance and Timnath will be held August 15 from 10 am to 2 pm at the Old Fire Station on Main Street.

**Upcoming Events:** Please note that since the Town Council adopted Three bell Parkway, we are scheduling our first clean up at 5 pm on August 22 prior to Council. We’ll provide vests, bags, etc. Also, a reminder that the September 12th meeting has been moved to September 6. Thank you!

- Dates for Town Events for 2017:
  - Council Coffee – Saturday, August 5 at 10 am – Fire Station 8
- Timnath Community Park Concert Series - August 17th
- Taste in Timnath Fall Festival and 5K - October 7th
- Holiday Lighting Festival - December 1st
**EXECUTIVE SUMMARY:** The Ordinance repeals and replaces Chapter 10, Article 10 of the Timnath Municipal Code (the “Code”). The current Code prohibits commercial solicitation on any residential premises in the Town. The current Code also prohibits both commercial and noncommercial solicitation on any residential premises if a “No Solicitation” or “No Trespassing” sign is posted at or near the entrance to the residence.

The Ordinance would revise the Code to allow for commercial solicitation within the Town under a well-regulated permit system for commercial solicitors. The permit system requires commercial solicitors to pass a background check and wear an identification badge while soliciting. The Ordinance also restricts solicitations between the hours of 9:00 a.m. to 5:00 p.m. Under the revised Code both commercial and noncommercial solicitation will continue to be prohibited if a “No Solicitation” or “No Trespassing” sign is posted at or near the entrance.

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

**KEY POINTS/SUPPORTING INFORMATION:**

- Commercial solicitation means selling goods, wares, merchandise, newspaper and magazine subscriptions, services to be performed, or delivering a handbill or flyer advertising a commercial event or activity.
- Noncommercial solicitation means seeking a gift or donation for a Section 501(c)(3) organization, delivering a handbill or flyer advertising a not-for-profit event or activity, proselytizing on behalf of a religious organization, or soliciting support for a political candidate or ballot measure.
- Commercial solicitation requires participation in the Town’s permitting program, whereby applicants are required to register with the Town, pass a background check, and wear an identification badge while soliciting.
- Non-commercial solicitors are not required to participate in the Town’s permitting program.
- Both commercial and noncommercial solicitation are prohibited at locations where a “No Solicitation” or “No Trespassing” sign is posted at or near the entrance.
- Residents may “opt in” to have their address placed on a no solicitation list maintained by the Town. The Town Clerk will provide commercial solicitors with the list of these residences, and commercial solicitation at these residences will be prohibited.
- The Ordinance is effective September 1, 2017.

**ADVANTAGES:** The current Code places an outright ban on commercial solicitation within the Town. Given the evolution of 1st Amendment jurisprudence in recent years, it is unlikely that a complete ban on commercial solicitation would withstand a legal challenge and judicial scrutiny under the First Amendment of both the U.S. Constitution and the State of Colorado Constitution. This Ordinance amends the Code to strike a balance between permitting commercial solicitation within the Town and protecting residents from fraud, crime, and preserving residents’ privacy in their homes.
<table>
<thead>
<tr>
<th>DISADVANTAGES:</th>
<th>Administration of the permitting scheme established by the Ordinance will require additional time and resources from Town Staff.</th>
</tr>
</thead>
<tbody>
<tr>
<td>FINANCIAL IMPACT:</td>
<td>Commercial solicitors are required to pay an application fee, identification badge fee, and identification badge refundable deposit. Failure to comply with the Code may result in a fine of $750 for each offense. Town staff believes the fees and fines will adequately offset the additional administrative costs required to administer the permit program.</td>
</tr>
<tr>
<td>RECOMMENDED MOTION:</td>
<td>I move approval of Ordinance No. 18, Series 2017 An Ordinance Repealing and Reenacting Chapter 10, Article 10 of the Timnath Municipal Code Relating to Door-To-Door Solicitation.</td>
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<td>ATTACHMENTS:</td>
<td>1. Ordinance</td>
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TOWN OF TIMNATH, COLORADO
ORDINANCE NO. 18, SERIES 2017

AN ORDINANCE REPEALING AND REENACTING CHAPTER 10, ARTICLE 10
OF THE TIMNATH MUNICIPAL CODE
RELATING TO DOOR-TO-DOOR SOLICITATION

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

WHEREAS, the effect of the amendments to Chapter 10, Article 10 of the Code replace the
current regulation of solicitation with a permit system regulating commercial solicitation, and to
continue to allow non-commercial residential solicitation without a permit except that both
commercial and non-commercial solicitation would be prohibited at residences where a sign
prohibiting the same is posted, and that commercial solicitation would be prohibited at
residences that opt into a no-solicitation list maintained by the Town on its website; and

WHEREAS, Town staff has recommended that Chapter 10, Article 10 of the Code be revised to
ensure it is consistent with evolving First Amendment jurisprudence, while continuing to protect
residents from fraud and crime, and to preserve residents’ privacy in their homes; and

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

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

ARTICLE 1 – AMENDMENT
The Town Council hereby approves the repeal and replacement of Chapter 10, Article 10 of the Code with the following Sections:

ARTICLE 10 - Solicitations

Sec. 10-10-10. - Title; purpose.

(1) This Article shall be known and cited as the "Timnath Door-to-Door Solicitation Ordinance."

(2) The provisions of this Article are intended to balance the First Amendment rights of residential solicitors in the Town with the privacy, safety, health, and welfare, of the Town’s residents by:
(a) Requiring all commercial solicitors to conduct any door-to-door residential solicitation within the Town pursuant to a permit and identification badge issued by the Town;

(b) Reasonably limiting the hours of door-to-door solicitation activities; and

(c) Prohibiting solicitations at residences where the owner or occupant has prohibited solicitation in a manner consistent with the provisions of this Article.

Sec. 10-10-20. - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

**Applicant** means any person or entity who has submitted an application for a permit.

**Commercial solicitor** means any person, whether as volunteer, owner, agent, consignee or employee, who engages in door-to-door commercial solicitation.

**Door-to-door commercial solicitation** means attempting to make personal contact with a resident at his or her residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

(a) Attempting to sell, for present or future delivery, any goods, wares or merchandise, including newspaper or magazine subscriptions, or any services to be performed immediately or in the future, whether or not the person has, carries or exposes a sample of such goods, wares or merchandise, and whether or not he or she is collecting advance payments for such sales; or

(b) Personally delivering to the resident a handbill or flyer advertising a commercial event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a future time.

**Door-to-door noncommercial solicitation** means attempting to make personal contact with a resident at his or her residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

(a) Seeking or asking for a gift or donation for a public entity or nonprofit organization exempt from federal income tax under § 26 U.S.C. 501 (c)(3);

(b) Soliciting the sale of goods, wares or merchandise for present or future delivery, or the sale of services to be performed immediately or in the future, with the entire proceeds of such sale to be paid directly to, or used exclusively for the benefit of, a public entity or nonprofit organization exempt from federal income tax under § 26 U.S.C. 501(c)(3);

(c) Personally delivering to the resident a handbill or flyer advertising a future, not-for-profit event, activity, good or service;

(d) Proselytizing on behalf of a religious organization; or
(e) Soliciting support for a political candidate or organization, or ballot measure or ideology; or

(f) Personally delivering to the resident a handbill, flyer, or newsletter published by an nonprofit, non-for-profit, for-profit corporation, or limited liability company organized under the Colorado Common Interest Ownership Act (§ 38-33.3-101, et seq. C.R.S.).

**Employer** means any person, company, corporation, business, partnership, organization, or any other entity on behalf of whom a person is acting.

**Noncommercial solicitor** means any person, whether as volunteer, owner, agent, consignee, or employee, who engages in door-to-door noncommercial solicitation.

**No-solicitation list** means a list of the addresses of Town residents who have requested that their residences be placed on a list maintained and published by the Town for the purpose of informing the general public and prospective solicitors that all door-to-door commercial solicitation at such addresses is prohibited.

**Permit** means a document issued by the Town Manager or Town Manager’s designee authorizing a commercial solicitor to engage in door-to-door commercial solicitation.

**Permit holder** means any person to whom a permit has been issued under the provisions of this Article.

**Premises** means the land and the improvements on it, including a building, store, shop, apartment, Residence, or other designated structure.

**Person** means a natural person or business entity, such as, without limitation, a corporation, association, firm, joint venture, estate, trust, business trust, syndicate, fiduciary, partnership or any group or combination thereof.

**Public entity** means the state, or any county, town, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof organized pursuant to law, and any separate entity created by intergovernmental contract or cooperation only between or among the state, county, Town, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof.

**Residence** means a private residence in the Town, including, but not limited to, condominium units and apartments, including the yards, grounds and hallways thereof.

**Supervising Staff** means any person who manages or supervises commercial solicitors.

**Sec. 10-10-30. - All solicitation prohibited by posting of "No Solicitation" or "No Trespassing" sign.**

(1) No solicitor, whether commercial or noncommercial, shall enter or remain upon any private Premises in the Town if a "No Solicitation" or "No Trespassing" sign is posted at or near
the entrance(s) to such Premises. For the purposes of this provision, if an occupant of a multi-
family dwelling, wishes to prohibit door-to-door solicitation by the posting of a sign, the sign
prohibiting solicitation must be posted at or near the entrance(s) to the occupant's individual
dwelling.

(2) This provision shall apply to all solicitation, including, without limitation, all activities
that are religious, charitable, or political in nature and all solicitation of newspaper or magazine
subscriptions.

Sec. 10-10-40. - No-solicitation list for commercial solicitations.

(1) Any owner or lawful occupant of any residence within the Town who wishes to prohibit
door-to-door commercial solicitation at his or her residence may register the address of such
residence with the Town by completing a form prepared by the Town Manager or Town
Manager’s designee, which form may be submitted to the Town either in person, by mail, or on
the Town's website. Such registration shall take effect thirty (30) calendar days after the date of
the Town's receipt of the registration form.

(2) The Town Manager or the Town Manager’s designee shall maintain and make available a
no-solicitation list consisting of all residential addresses that have been registered under
Subsection (1) above by the owner or lawful occupant of the registered property. Each permit
holder shall be responsible for obtaining and reviewing a copy of such list immediately upon
issuance of a permit under this Article and at such intervals thereafter as may be reasonably
necessary to ensure compliance with the requirements of Subsection (3) below.

(3) As of the effective date of the registration of a residential address under Subsection (1)
above, all door-to-door commercial solicitation at such address shall be prohibited until such
time, if at all, that the address has been removed from the no-solicitation list.

(4) Each residential address appearing on the Town's no-solicitation list will remain on the
list until the resident or homeowner requests, in writing, that the residential address be removed
from the Town’s no-solicitation list.

(5) Neither the Town nor any of its officers, employees, agents or authorized volunteers shall
be liable to any person for any injuries, damages or liabilities of any kind arising from or relating
to any errors or omissions that may occur in compiling or maintaining the no-solicitation list.

Sec. 10-10-50. - Permit and identification badge required for all commercial solicitors.

(1) Any person seeking to engage in commercial door-to-door solicitation must obtain a
permit from the Town Manager or Town Manager’s designee and pay the permit fee as provided
in this Article before commencing any such solicitation.

(2) All permits shall be issued in the name of the applicant. Upon issuance of each permit,
the Town Manager or Town Manager’s designee shall create and maintain a list of all persons
authorized to engage in door-to-door commercial solicitation under the permit. It shall be the
sole responsibility of the permit holder to:
(a) Provide a copy of the permit to each person authorized to engage in solicitation under the permit;

(b) Ensure that each person authorized to solicit under the permit complies with the terms and conditions of the permit and with the provisions of this Article;

(c) Notify the Town Manager or Town Manager’s designee in writing of any persons to be added to or deleted from the list of authorized solicitors; and

(d) Submit to the Town Manager or Town Manager’s designee, for each person to be added to such list, the information required under Sec. 10-10-60(1)(d), together with payment of the identification badge fee required under Sec. 10-10-60(3).

(3) The Town Manager or Town Manager’s designee shall, within ten (10) business days of the Town's receipt, via mail or in person, of a complete application for a permit under this Article, issue such permit, together with identification badges for all persons authorized to engage in door-to-door commercial solicitation under the permit, unless the Town Manager or Town Manager’s designee determines that the permit application is denied under the criteria stated in Sec. 10-10-100.

(4) Subsequent to the issuance of any permit, and upon receipt of the information and fee required under Sec. 10-10-60 below, the Town Manager or Town Manager’s designee shall, within five (5) business days, issue an identification badge to any new or additional person to be authorized to solicit under the permit as long as such person is not prohibited under Sec. 10-10-90. The Town Manager or Town Manager’s designee shall also, within five (5) business days, issue a replacement identification badge to any solicitor who, by affidavit, notifies the Town Manager or Town Manager’s designee that his or her identification badge has been lost or stolen, and who pays an additional identification badge fee as established under Sec. 10-10-60(3).

(5) If an employer applies for and is granted a permit under this Article, the employer shall be entitled to obtain identification badges from the Town Manager or Town Manager’s designee for each employee or agent authorized to solicit under the permit. The identification badges shall contain a photograph of the solicitor, bear the words "Permitted Solicitor," include the names of the employer and solicitor, and the expiration date of the permit.

Sec. 10-10-60. - Application contents; fees.

(1) Each person applying for a door-to-door commercial solicitation permit shall file with the Town Manager or Town Manager’s designee an affidavit on a form supplied by the Town Manager or Town Manager’s designee stating:

(a) The full name, business address and business telephone number of the applicant;

(b) Information regarding the business as required by the Town Manager or Town Manager’s designee, including, without limitation, the business’s legal status and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State;
(c) A complete list of all persons to be authorized to solicit under the permit and all Supervising Staff;

(d) For each person authorized to solicit under a permit and all Supervising Staff, the following information:

(i) Names, address, telephone number, and date of birth;

(ii) A background check to be completed by the Town’s background service provider and paid for by the Applicant;

(iii) A description of the individual including height, weight, color of eyes and color of hair;

(iv) The number and state of issuance of the individual's motor vehicle operator's license or chauffeur's license, if any, or other state-issued photo identification;

(v) A photograph of the individual that must be in color, printed on photo quality paper, 2 x 2 inches in size, sized such that the head is between 1 inch and 1 3/8 inches from the bottom of the chin to the top of the head, taken within the last 6 months to reflect their current appearance, taken in front of a plain white or off-white background, taken in full-face view directly facing the camera, with a neutral facial expression and both eyes open, and taken in clothing that the individual normally wears.

(e) A brief explanation of the nature of the solicitation activity that requires a permit under this Article;

(f) If the applicant is a foreign corporation or an employee of such corporation, the name, address and telephone number of an agent for process residing in the state;

(g) Proof that the applicant has obtained a valid Town sales and use tax license;

(h) Any other information determined to be relevant by the Town Manager or Town Manager’s designee.

(2) At the time of application, each applicant shall pay a fee in an amount determined by the Town Manager or Town Manager’s designee to be sufficient to defray the costs incurred by the Town in processing the application, plus an additional fee to defray the costs of preparing and issuing an identification badge for each person to be authorized to solicit under the permit, including the applicant. Said fees shall be nonrefundable.

(3) At the time of application, the applicant shall pay a fifty-dollar ($50) deposit for each badge, to be refunded to the permit holder at the expiration of the term of the badge or upon revocation or voluntary relinquishment.

Sec. 10-10-70. - Duration of permit; renewal.

(1) Each permit shall be valid for two (2) years, effective from the date of issuance.
(2) Any permittee wishing to renew a permit issued under this Article must apply for the renewal of the permit no less than thirty (30) days prior to the expiration of its term. Said application shall be accompanied by a criminal background check as required under Sec. 10-10-60 for each person who is to be authorized to solicit under the permit during the renewal term of the permit. If a permittee fails to apply for such renewal within said thirty-day period of time, the permit will expire. The renewal fee for each permittee shall be determined by the Town Manager or Town Manager’s designee in an amount sufficient to defray the costs incurred by the Town in processing the renewal application. Said fee shall be nonrefundable.

Sec. 10-10-80. –Public Entity or Nonprofit Organization Proof of Tax-Exempt Status.

(1) For persons or groups engaged in door-to-door noncommercial solicitation on behalf of a public entity or nonprofit organization exempt from federal income tax under § 26 U.S.C. 501(c)(3), the Town Manager or the Town Manager’s designee, may request a copy of the organization’s Internal Revenue Service tax-exempt entity determination letter or other proof of the organization’s tax-exempt status.

(2) Any persons or groups who are unable to provide proof of their organization’s tax-exempt status must apply for and receive a Permit to engage in door-to-door commercial solicitation.

(3) After being provided verbal or written notice under subsection (2) above, any persons or groups that continue to engage in door-to-door noncommercial solicitation individually or on behalf of an organization without providing proof of tax-exempt status under § 26 U.S.C. 501(c)(3) shall be guilty of a misdemeanor punishable in accordance with Sec. 1-4-20 and may be fined in accordance with this Article.

Sec. 10-10-90. - Persons prohibited.

A person shall not be eligible for issuance of a permit or identification badge under this Article if:

(1) Such person has been released within the ten (10) years immediately preceding the application from any form of incarceration or court-ordered supervision, including a deferred sentence, resulting from a conviction of any felony or Class 1 misdemeanor under the laws of the State of Colorado or an equivalent offense under any federal, state, county or municipal law;

(2) Such person has been found to be a sexually violent predator pursuant to § 18-3-414.5, C.R.S., or any person required to register under § 16-22-101, et seq., C.R.S. (the Colorado Sex Offender Registration Act) who has been convicted of a felony for an offense requiring registration, or has multiple convictions for offenses requiring registration, or whose offenses requiring registration involved multiple victims; or

(3) A permit or an identification badge previously issued to such person by the Town Manager or Town Manager’s designee under Sec. 10-10-50 has been revoked by the Town Manager or Town Manager’s designee under Sec. 10-10-150 or Sec. 10-10-160 below.
Sec. 10-10-100. - Denial of permit.

The Town Manager or Town Manager’s designee shall deny an application for a permit or any renewal of a permit under this Article if the Town Manager or Town Manager’s designee determines that the applicant has:

1. Made any material misrepresentation or false statement in the application for the permit; or

2. Failed to obtain a sales and use tax license as required by the Town or to remit any sales tax due the Town; or

3. Been convicted of a felony or Class 1 misdemeanor under the laws of the State of Colorado or an equivalent offense under any federal, state, county or municipal law; or

4. Been found to be a sexually violent predator pursuant to § 18-3-414.5, C.R.S.; or

5. Otherwise been required to register under the Colorado Sex Offender Registration Act; or

6. Been convicted of a felony for an offense requiring sex offender registration under any federal, state, county or municipal law.

Sec. 10-10-110. - False or deceptive representation prohibited.

No person shall attempt to obtain, by telephone or otherwise, an invitation to visit any private residence for the purpose of soliciting the purchase or sale of goods, services or any other thing of value, by knowingly making a false or deceptive representation or statement.

Sec. 10-10-120. - Duty to display identification badge and to exhibit permit.

1. Any commercial solicitor engaging in door-to-door commercial solicitation under a permit issued pursuant to this Article shall conspicuously display his or her identification badge.

2. Whenever requested by any police officer, Town representative, resident, or by any customer, or prospective customer, any commercial solicitor engaged in door-to-door commercial solicitation under a permit issued pursuant to this Article shall exhibit his or her identification badge and permit.

Sec. 10-10-130. - Permissible times.

All door-to-door commercial solicitation and all door-to-door noncommercial solicitation shall be undertaken and completed between the hours of 9:00 a.m. and 5:00 p.m.

Sec. 10-10-140. - Transfer of permits prohibited.

No permit issued pursuant to this Article shall be transferred or assigned to any person.

Sec. 10-10-150. - Suspension or revocation of identification badge.
The Town Manager or the Town Manager’s designee may suspend or revoke the identification badge of any solicitor that has engaged in unlawful solicitation after giving the solicitor ten (10) days prior written notice. The solicitor may request a hearing in front of the Town Clerk by providing written notice of such request within twenty (20) days of the mailing of the notice from the Town.

The grounds for such suspension or revocation may include, but shall not be limited to, the following:

1. Failure to solicit in a manner that is in compliance with the permit and the provisions of this Article;

2. Soliciting in such a manner as to constitute a menace to the health, safety, or general welfare of the public.

In the event the alleged conduct that is the basis for the suspension or revocation of the identification badge is the subject of a pending criminal or non-traffic civil citation, the Town Manager or Town Manager’s designee may either defer his or her decision regarding suspension or revocation until such citation has been resolved or immediately proceed with the foregoing administrative action prior to the resolution of such citation.

Sec. 10-10-160. - Suspension, revocation or nonrenewal of permit.

The Town Manager or the Town Manager’s designee may suspend or revoke the permit of any solicitor, permit holder, or Supervising Staff, that has engaged in unlawful solicitation by giving the solicitor, permit holder, or Supervising Staff ten (10) days prior written notice. The solicitor, permit holder, or Supervising Staff, may request a hearing in front of the Town Clerk by providing written notice of such request within twenty (20) days of the mailing of the notice from the Town.

The grounds for such suspension or revocation may include, but shall not be limited to, the following:

1. Fraud, misrepresentation or false statement in the application for the permit or any renewal application, including, without limitation, representations made as to the criminal history of any person to be authorized to solicit under the permit;

2. Failure to obtain a sales and use tax license as required by the Town or to remit any sales tax due the Town;

3. Failure to supervise solicitation conducted under the permit so as to reasonably ensure that such solicitation is in compliance with the terms of the permit and with the provisions of this Article; or

4. Authorizing, condoning, or knowingly tolerating any unlawful solicitation or any solicitation conducted in such a manner as to constitute a menace to the health, safety, or general welfare of the public.
In the event the alleged conduct that is the basis for the suspension or revocation of the identification badge is the subject of a pending criminal or non-traffic civil citation, the Town Manager or the Town Manager’s designee may either defer his or her decision regarding suspension or revocation until such citation has been resolved or immediately proceed with the foregoing administrative action prior to the resolution of such citation.

Sec. 10-10-170. - Emergency summary suspension of identification badge or permit.

(1) If reasonable grounds exist to believe that a permittee and/or badge holder has engaged in illegal activity such that emergency action is required to preserve public health, safety or welfare, the Town Manager or Town Manager’s designee may summarily suspend the permit and/or badge pending the outcome of the proceedings set forth in Sec. 10-10-150 and 10-10-160 above, as applicable.

(2) The temporary suspension of a permit or badge without notice pending a hearing shall be for a period not to exceed fifteen (15) days.

Sec. 10-10-180. - Displaying a badge after suspension, revocation or nonrenewal.

No person shall display an identification badge after it has been invalidated by suspension, revocation or nonrenewal.

Sec. 10-10-190. - Promulgation of rules and regulations.

The Town Manager or the Town Manager’s designee may promulgate administrative rules and regulations to effectuate the implementation, administration, enforcement, and the purposes of this Article.

Sec. 10-10-200. - Records.

The Town Manager or the Town Manager’s designee shall maintain records showing each permit issued and any alleged violations of this Article.

Sec. 10-10-210. - Appeal.

An applicant may appeal any decision relating to his or her permit by the Town Manager or the Town Manager’s designee to the Town Council, the Town Council’s decision shall be final.

Sec. 10-10-220. - Violations and penalties.

In addition to the revocation, suspension or denial of a permit or identification badge issued under this Article, any applicant, permittee or solicitor who violates any of the provisions of this Article, and any person who violates Sec. 10-10-30, 10-10-40, 10-10-80, 10-10-100, or 10-10-120 shall be guilty of a misdemeanor punishable in accordance with Sec. 1-4-20 and may be fined in accordance with this Article.
Sec. 10-10-230. – Fees and Fines.

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<th>Section</th>
<th>Activity</th>
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<tbody>
<tr>
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<td>Sec. 10-10-60(2)</td>
<td>ID Badge Fee</td>
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<td>Sec. 10-10-60(3)</td>
<td>ID Badge Refundable Deposit</td>
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<td>Sec. 10-10-30</td>
<td>Solicitation prohibited where sign posted</td>
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<td>Sec. 10-10-40</td>
<td>Solicitation at residence on no-solicitation list</td>
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<td>Sec. 10-10-80</td>
<td>Continuing to engage in noncommercial solicitation after failure to provide proof of tax-exempt status</td>
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<td>Sec. 10-10-120</td>
<td>Failure to display permit or ID badge</td>
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<td>Sec. 10-10-110</td>
<td>False/deceptive representation while soliciting</td>
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<td>Sec. 10-10-130</td>
<td>Solicitation outside of permitted hours</td>
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<tr>
<td>Sec. 10-10-140</td>
<td>Impermissible transfer or permit or ID badge</td>
<td>$750</td>
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ARTICLE 2 – SEVERABILITY
If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

ARTICLE 3 – REPEALER
All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.
ARTICLE 4 – EFFECTIVE DATE
This Ordinance shall take effect on September 1, 2017.


MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON AUGUST 8, 2017.

TOWN OF TIMNATH, COLORADO

______________________________
Jill Grossman-Belisle, Mayor

ATTEST:

______________________________
Milissa Peters, CMC
Town Clerk
<table>
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<tr>
<th>Meeting Date: August 8, 2017</th>
<th>Item: Resolution Approving the First Amended and Restated Subdivision Improvement Agreement for Timnath South Subdivision (the “First Amended SIA”).</th>
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<td>Presented by: Robert Rogers Town Attorney</td>
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<td>Ordinance □ Resolution ✓ Discussion □ For Information □</td>
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**EXECUTIVE SUMMARY:** The Town and Timnath Farm Investments, LLC (the “Developer”) are parties to that certain Subdivision Improvement Agreement for Timnath South Subdivision which was executed on November 30, 2005 (the “Original SIA”). This First Amended SIA accommodates multiple phases of development within the Timnath South Subdivision and incorporates all the changes to the Town’s Form SIA since 2012 when the Original SIA was executed.

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

**KEY POINTS/SUPPORTING INFORMATION:** The First Amended SIA includes the following terms, among others.

- The Town agrees that all the park requirements have been met for the 758 currently platted lots within the Timnath South Subdivision. If additional lots are platted, it could trigger be additional park requirements.
- A warranty period of two (2) years from the date the Town issues a letter of Initial Acceptance of any Public Improvements.
- The Town will not issue any occupancy certificates for any phase until the Public Improvements (including landscaping and signage) have been completed for that phase.
- The Developer is required to construct an extension on a phase-by-phase basis of the trail that has previously been constructed along the eastern edge of the developed portion of the property.

**ADVANTAGES:** This First Amended SIA will accommodate multiple phases of development within the Timnath South Subdivision without requiring the Developer to resubmit a new SIA to the Town Council for each future phase. The First Amended SIA also incorporates all the changes to the Town’s Form SIA, including several provisions that were not included in the Original SIA.

**DISADVANTAGES:** None.

**FINANCIAL IMPACT:** None.

**RECOMMENDED MOTION:** I move approval of Resolution No. 47, Series 2017.

**ATTACHMENTS:**
1. Resolution
2. First Amended and Restated Subdivision Improvement Agreement for Timnath South
A RESOLUTION APPROVING FIRST AMENDED AND RESTATED SUBDIVISION IMPROVEMENT AGREEMENT FOR TIMNATH SOUTH SUBDIVISION

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

WHEREAS, the Town and Timnath Farm Investments, LLC (the “Developer”) are parties to that certain Subdivision Improvement Agreement for Timnath South Subdivision which was executed on November 30, 2015 (the “Original SIA”); and

WHEREAS, the Town and the Developer desire to amend and restate the Original SIA to accommodate multiple phases of development; and

WHEREAS, attached hereto as Exhibit A is the First Amended and Restated Subdivision Improvement Agreement for Timnath South Subdivision (the “First Amended SIA”), which shall supersede and replace the Original SIA; and

WHEREAS, the Town Council is familiar with the First Amended SIA 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 FOLLOW:

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

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON AUGUST 8, 2017.

TOWN OF TIMNATH, COLORADO

__________________________________________
Jill Grossman-Belisle, Mayor
ATTEST:

Milissa Peters, CMC
Town Clerk
EXHIBIT A

FIRST AMENDED AND RESTATED SUBDIVISION IMPROVEMENT AGREEMENT FOR
TIMNATH SOUTH SUBDIVISION
FIRST AMENDED AND RESTATE
SUBDIVISION IMPROVEMENT AGREEMENT
FOR
TIMNATH SOUTH SUBDIVISION

THIS AGREEMENT made as of this ____ day of ____, 2017 by and between the TOWN OF TIMNATH, COLORADO, a Colorado municipal corporation ("Town"); and TIMNATH FARM INVESTMENTS, LLC, a Colorado Limited Liability Company (the "Developer"). Collectively, the Town and Developer are referred to herein as the “Parties.”

RECITALS

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

B. The Property was annexed to Town by Ordinance No. 13-2004, adopted on November 17, 2004, and is subject to the terms and conditions of the Annexation Agreement among the Parties dated December 13, 2004 (the “Annexation Agreement”).

C. On November 2, 2005, the Board of Trustees of the Town, after holding all necessary public hearings and having received a recommendation of approval from the Timnath Planning Commission, approved by Resolutions No. BF, BG and BH-2005, the final plat for Timnath South Subdivision- First Filing, zoning and site development plan for the Property.

D. The approval of the final plat and site development plan were conditioned upon the execution of a “Subdivision Improvement Agreement for Timnath South Subdivision” which was executed on November 30, 2005 (the “SIA”) establishing the obligation of Developer to provide certain public improvements and landscaping necessitated by the proposed development as provided in the Resolution.

E. The parties to the SIA desire now to amend and restate the SIA to clarify certain of its terms and to modify certain of the obligations of the parties thereto.

F. This Amended and Restated Subdivision Improvement Agreement for Timnath South Subdivision shall supersede the SIA in its entirety.

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

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

1. Purpose. The purpose of this Agreement is to set forth the terms, conditions, responsibilities, and covenants of Developer to provide Public Improvements, as defined below, for the Property, and the fees to be paid by Developer associated with additional public infrastructure necessary to support the development of the Property. This Agreement shall serve as the Master Subdivision Improvement Agreement for the Property. The Parties acknowledge that as the Property is developed in phases over time, it may be necessary to either amend this Agreement or enter into separate Subdivision Improvement Agreements for each Phase of the Property after Phase 1 as conditions change. Any amendment and/or new agreement would not be inconsistent with the Master Subdivision Agreement but would just clarify rights and obligations with more specificity to a particular phase. All conditions contained herein are in addition to the provisions of the Annexation Agreement, all land use approvals previously granted by Town for the Property, any and all requirements of the Town of Timnath Municipal Code, any and all applicable local, state, and federal law, any other ordinances of the Town of Timnath. The obligations of this Agreement are not intended to supersede any statutory or regulatory requirements referenced in this paragraph.

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

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

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

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

   D. "Landscaping" shall refer to the landscaping for the Property described in this agreement and shown on the Landscape Plan attached hereto as Exhibit D, including the cost thereof.
E. "Final Plat" shall refer to any “Timnath South Subdivision” plat filing or amendment previously approved by the Town Council and that has been submitted in connection with any given Phase of development of the Property.

F. “Final Acceptance” shall have the meaning set forth in Paragraph 14.

G. “Initial Acceptance” shall have the meaning set forth in Paragraph 13.

I. “Phases” shall refer to development of the Property in up to ten separate phases. Exhibits B-H identifying Public Improvements and Landscaping, are each separated into the appropriate Phase. It is not assumed that all Phases shall be constructed in sequential numerical order. If Phases are not constructed in sequential order, any Public Improvements and Landscaping tied to a Phase that is being passed over nonetheless may, upon the Town’s determination in its reasonable discretion that such Public Improvements and Landscaping are necessary for the Phase being constructed, be required as if the Phases are being constructed in sequential order.

J. "Property" shall mean the real property described as Timnath South Subdivision, Larimer County, Colorado.

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

L. “Completed Neighborhood Park” shall mean the neighborhood park described in Exhibit G, construction of which has been completed. For purposes of all provisions of this Agreement concerning completed Public Improvements, the Park described in Exhibit G shall be deemed a component of such completed Public Improvements unless the context specifically indicates otherwise. Exhibit G contains a graphic depiction of the Park and an itemization of construction elements that were constructed as required by the Town.

M. “Parks” shall mean any Pocket, Neighborhood, or Community Parks required under Section 5.7.6.2(B), (C), and (D) of the Code. The parties agree that all Park requirements for up to 758 lots within the Property have been deemed satisfied, and the park-to-lot ratio shall be deemed neutral for up to 758 lots. The parties agree that it is likely that additional lots will be platted such that the total number of lots will rise above 758. The parties further agree that if additional lots are platted beyond the 758 then the
park requirements will be based upon the difference between the total number of lots platted and 758.

N. “Warranty Period” shall have the meaning set forth in Paragraph 13.

3. Agreement and Other Requirements. Developer hereby understands and agrees that the Property is subject to the conditions and requirements of this Agreement, the Annexation Agreement, all Final Plats and the zoning for the Property. The Parties agree and acknowledge that the “Timnath South Subdivision Rezoning Map” reception number 20100021537, reflects the current zoning for the Property. Nothing herein shall relieve Developer of any financial obligation to Town contained in this Agreement or any other agreements to which Developer is a party or pursuant to Town Code.

4. Fees. As a condition to any person seeking a building permit for any improvement on the Property, the person seeking such building permit shall be required to pay all fees, charges and costs required by the Code at the time of application for the building permit. The below specifies how the Town will handle certain specific fees.

A. Fees-in-lieu. Developer has met requirements for Community Park land dedication for the Property, no Community Park fee in lieu of dedication shall be required for this or future phases within the Property. The Developer shall remain responsible for the Town’s Parks, Open Space, and Trails Impact Fees, which are due on a per-lot basis at building permit, as provided for in the Town Code.

5. Public Improvements to be Constructed, Managed, or Maintained by Districts. Developer has included within Fort Collins-Loveland Water District for potable water services to the Property (the “Water District”) and South Fort Collins Sanitation District for sanitary sewer services to the Property (the “Sewer District”) (the Water District and Sewer District collectively referred to as the “Districts”). Developer recognizes that it is in Town’s interest that all potable water and sanitary sewer services, even though provided by the Districts, are of vital concern to Town, and therefore, the Public Improvements, except where specifically provided otherwise, include the facilities required by each District. The Completed Neighborhood Park and all current and future Parks to be constructed as indicated on currently approved plats shall be operated and maintained by the metropolitan districts serving the Property and not by the Town; provided, however, that Town shall be entitled to review all standards for maintenance by such metropolitan districts and shall have authority to mandate changes to such standards as necessary to protect public health, safety and welfare.

6. Completion of Public Improvements and Landscaping. Developer shall install all Public Improvements and Landscaping in compliance with the requirements of this Agreement at Developer’s expense. Toward this end, Developer is authorized to coordinate with a metropolitan district or districts to provide Public Improvements but Developer shall retain primary responsibility for all Public Improvements. Any metropolitan districts are separate entities and are not parties to this Agreement. The Public Improvements and Landscaping
required by this Agreement and shown on the Final Plat for each Phase and associated construction documents, are set forth on Exhibits B-H, attached hereto and incorporated herein. In addition to Public Improvements required in the body of this Agreement, Developer shall also meet all requirements and install all public improvements described on Exhibits B-H. The anticipated costs of the Public Improvements and the Landscaping are included in line-item format on the Exhibits attached hereto, as applicable. Developer acknowledges these costs are estimates and the actual costs of such Public Improvements and Landscaping may vary between approval of this Agreement and construction of the applicable Public Improvements and Landscaping. All Public Improvements and Landscaping covered by this Agreement shall be constructed in accordance with the Final Plat for each Phase and associated plans and construction documents, which shall be approved by the Town and shall be drawn according to the Town’s then-existing regulations and construction standards for such improvements. If Phases are not constructed in sequential order, any Public Improvements and Landscaping tied to a Phase that is being passed over nonetheless may, upon the Town’s determination in its reasonable discretion that such Public Improvements and Landscaping are necessary for the Phase being constructed, be required as if the Phases are being constructed in sequential order.

7. **Neighborhood Park Acknowledgment/Completion of Public Improvements and Restriction on Issuance of Building Permits.** The Town hereby acknowledges and the Developer affirms that the Completed Neighborhood Park described in Exhibit G has been completed to the reasonable satisfaction of Town, as demonstrated by the completion of the itemized elements set forth in Exhibit G. The Developer has demonstrated that it has contributed one hundred fifty thousand dollars ($150,000) to the construction effort.

8. **Building Permits.** There shall be no issuance of any building permits by the Town for lots within any defined Phase until all Public Improvements within that Phase including but not limited to streets, curbs, gutters, sidewalks, crossspans, drainage facilities, erosion control, water and wastewater improvements, and street fixtures have been granted preliminary acceptance by the Town as provided for in the Code. There shall be no issuance of any occupancy certificates within any Phase until all Public Improvements within that Phase, including Landscaping and signage, have been granted Initial Acceptance by the Town as provided for in the Code. As a limited exception to the requirements contained in this paragraph, the Town hereby agrees that up to six (6) building permits for model homes may be issued and outstanding at any given time for the entirety of the Property upon the completion of water and sanitary sewer improvements, which have been approved by all applicable regulatory entities, and completion of an all-weather surface on streets within the applicable Phase of the Property.

9. **Performance Guarantee - Public Improvements.**
   
   A. **Completion Security for Public Improvements.** To assure the construction, installation, and completion of the Public Improvements in all Phases of the Property, Developer shall, prior to commencing any work within a particular phase of the Property, furnish Town an irrevocable sight draft letter of credit or other security reasonably acceptable to Town (“Completion Security”) to secure the completion of Public Improvements.
required by this Agreement for the applicable Phase of the development. Town shall be designated as a beneficiary of the Completion Security. The Completion Security shall be provided Phase by Phase and shall be in an amount equal to the then-current Town Code Requirements based on the estimated costs of the Public Improvements to be completed within a Phase. The amount of the Completion Security shall not include the portion of the Public Improvements which are to be constructed for the water improvements managed by the Water District or the sanitary sewer improvements managed by the Sewer District, nor shall it include any costs of improvements for gas, electric, telephone, or cable TV. Upon provision of such Completion Security to Town in a manner acceptable to Town for the applicable Phase, authorization to proceed with construction may be issued by Town within such Phase. Upon issuance of a letter of Initial Acceptance of 100% of the required improvements by the Town Engineer in accordance with the provisions herein, the Completion Security will be reduced to twenty percent (20%) of the initial Completion Security to be held as Warranty Security or released once replaced by Warranty Security as described below. Upon Initial Acceptance of all of the Public Improvements within a Phase, the Town may, at its discretion, reduce the Completion Security to ten percent (10%) of the actual costs of the Public Improvements for that Phase. The Completion Security shall remain in place until Final Acceptance, as defined below, is issued by the Town for the improvements within the applicable Phase.

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

10. Public Improvement Construction Plan Review. The plans and construction documents for all Public Improvements shall be drawn according to regulations and construction standards of Town for such improvements. All applicable plans for Public Improvements shall be subject to review and approval by Town to determine if such plans are in general conformance with applicable Town standards. No commencement of construction of Public Improvements shall occur without plan approval by Town. Prior to commencement of construction of any Public Improvement, Developer shall attend a pre-construction meeting with Town engineer to assure compliance of all proposed activities with this Agreement and the Code.
11. **Construction Testing.** Developer, at its sole expense, shall employ a professionally qualified, independent testing company to perform all testing of materials or construction as may be reasonably required by Town to ensure compliance with applicable standards and specifications. All testing companies so employed by Developer shall maintain and have in effect a professional liability insurance policy with policy limits of at least one million dollars ($1,000,000), which will provide coverage for damage sustained by Town which is caused by the professional negligence of such company, its employees or agents in completing such testing and shall provide proof of insurance to Town upon request. Developer shall furnish Town with certified copies of test results and agrees to release and authorize full access to Town and its designated representatives for all work-up materials, procedures and documents used in preparing the test results.

12. **Construction Inspection.** At all times during construction of the Public Improvements and until Final Acceptance thereof by Town, Town shall have the right, but not the duty, to inspect materials and workmanship to ascertain conformance with the Approved Plans and applicable standards and specifications. Developer shall reasonably cooperate and assist Town in gaining appropriate access to the areas designated for the inspection. For a period of two (2) years after Final Acceptance of any Public Improvement the developer shall notify Town upon actual discovery of any nonconformance of such Public Improvement with said plans, standards and specifications.

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

14. **Final Acceptance of Public Improvements.** Upon expiration of the Warranty Period set forth in the Initial Acceptance Letter for Public Improvements for the applicable Phase, Developer shall provide notice to Town engineer that the Public Improvements are ready for final inspection. Upon satisfactory completion of the final inspection, and after conveyance
of the Public Improvements as provided herein, and after payment of all fees due to the Town related to the Property, Town shall certify Final Acceptance of the Public Improvements and evidence the same by issuance of letter of Final Acceptance from Town engineer to Developer specifying in detail the Public Improvements being finally accepted and the Warranty Security for such Phase shall be released ("Final Acceptance"). If upon final inspection by Town, significant defects are discovered, Town may elect to issue a supplemental letter of Initial Acceptance (instead of Final Acceptance) specifying corrective work to be completed and additional Warranty Period in accordance with Paragraph 9 above. All such corrective work shall be the sole expense of Developer.

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

16. Conveyance or Dedication of Improvements. Except for Public Improvements dedicated to the Water District, Sewer District, or metropolitan districts organized to serve the Property, as applicable, as a condition of Final Acceptance, Developer shall convey to Town all Public Improvements required by the Final Plat for each Phase and, upon request by Town, shall execute such bills of sale as Town may request to assure title thereto is vested in Town notwithstanding the date of construction or Initial Acceptance of such Public Improvements. Acceptance of Public Improvements by dedication on the Final Plat shall not constitute Initial or Final Acceptance of such improvements. The community park land dedication has been satisfied for the Property, and the neighborhood and pocket park requirement has been satisfied for up to 758 lots. Any platted lots in addition to 758 will be subject to a neighborhood and/or pocket park requirement which will be reflected in an amendment to this SIA.

17. Proof of Ownership. Prior to the recordation of any plat, a title commitment for the Property shall be provided to Town at the expense of the Developer. The title commitment shall show that any portion of the Property to be dedicated to Town, and all property reserved or dedicated for public purposes, is or shall be, free and clear of all liens and encumbrances (other than real estate taxes which are not yet due and payable) that would make the dedications unacceptable as Town determines in its reasonable discretion. A title policy evidenced by the title commitment shall be provided by Developer within thirty (30) days of execution hereof as to any property to be dedicated to Town pursuant to such Plat in an amount equal to the fair market value of such property. An update to such title commitment shall be provided upon request of Town as a condition of Final Acceptance, with the policy evidenced by such commitment update to be provided thirty (30) days after Final Acceptance. Developer further agrees to provide quitclaim deeds as deemed necessary by the Town in order to facilitate proper categorization of the property for tax assessment purposes by the Larimer County Tax Assessor.
18. Trails. The plans for the Property may include trails to be constructed and funded by the Developer. Any such trails shall be open to the public and shall be constructed with the Public Improvements of the Property as identified on the applicable Exhibits. In addition, Developer shall construct an extension of the trail that has been previously constructed by the Developer on the eastern edge of the property. Said extension shall continue on a phase by phase basis to the Southern edge of Developer’s property and shall be constructed to the same dimensions and standards as the rest of the trails per approved construction plans.

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

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

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

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

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

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

Unless necessary to protect the immediate health, safety, and welfare, or to protect the interest of Town with regard to security given for the completion of the public improvements, Town shall provide Developer thirty (30) days written notice of its intent to take any action under this paragraph, during which thirty-day period Developer may cure the breach described in the notice and prevent further action by Town; provided, however, if such breach cannot be reasonably cured within such thirty-day period, then Town agrees to reasonably extend such thirty-day period so long as Developer has commenced such cure within such thirty-day period and is diligently pursuing the same to completion. In no event shall the extension of time to cure the breach exceed ninety days.
21. **Indemnification.** Developer shall indemnify and hold harmless Town, its officers, employees, agents or servants from any and all suits, actions, and claims of every nature and description caused by, arising from or on account of any act or omission of Developer, or of any other person or entity for whose act or omission Developer is liable with respect to construction of the Public Improvements through the date of Final Acceptance; and Developer shall pay any and all judgments rendered against Town as the result of any suit, action or claim, together with all reasonable expenses and attorney’s fees incurred by Town in defending any such suit, action or claim, excluding only suits, actions and claims arising from Town's independent gross negligence or intentional malfeasance. Developer shall pay all property taxes on the Property dedicated to Town to the date of conveyance after Final Acceptance, and shall indemnify and hold harmless Town for any property tax liability until such time as the Larimer County Tax Assessor updates its records to reflect said dedication.

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

23. **Waiver of Defects.** In executing this Agreement, Developer waives all objections it may have concerning defects, if any, in the formalities whereby it is executed, or concerning the power of Town to impose conditions on Developer as set forth herein, and concerning the procedure, substance and form of the ordinances or resolutions adopting this Agreement, the Annexation Agreement, or any Final Plat.

24. **Modifications.** This Agreement shall not be amended except by subsequent written agreement of the parties.

25. **Captions.** The captions to this Agreement are inserted only for the purpose of convenient reference, and in no way define, limit or prescribe the scope or intent of this Agreement or any part thereof.
26. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns as the case may be.

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

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

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

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

Notice to Town:  Town of Timnath  
4800 Goodman Street  
Timnath, Colorado 80547  
Telephone 970-224-3211  
Fax No. 970-224-3217  
With copy to:  Town General Counsel  
Robert Rogers, Esq.  
White Bear Ankele Tanaka and Waldron Attorneys at Law  
2154 E. Commons Ave, Suite 2000  
Centennial, CO 80122  
Telephone 303-858-1800  
Fax No. 303-858-1801

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

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

32. **Entire Agreement.** It is expressly understood that Town cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with documents approved by the Town Council at a public meeting. This Agreement, the “Timnath South Subdivision Rezoning Map” reception number 20100021537, and the Annexation and Development Agreement for the Timnath Farms South Parcel dated December 13, 2004 reception number 20040122897, and all Final Plats embody the whole agreement of the Parties with respect to the Property. There are no promises, terms, conditions or obligations other than those contained herein, which together supersede all previous communications, representations or agreements, either verbal or written between the Parties hereto. In the event that the Property is subdivided and lots are sold to different individuals in the future, this Agreement may be amended by agreement between the Developer and Town, without consent of such lot owners to the extent such amendment does not adversely affect such other future lot owners in a material manner as determined in the sole and absolute discretion of Town.

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

34. **Recording of Agreement.** The covenants of this Agreement touch and concern the Property. Therefore, this Agreement shall be promptly recorded in the real estate records of Larimer County and shall be a covenant running with the Property in order to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof.
35. **Further Assurances.** The parties shall execute such additional documents and take such additional action as may be necessary to effectuate the intent of this Agreement.

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

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

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

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

TOWN OF TIMNATH, COLORADO

Attest:

By: ________________________________
   Milissa Peters, Town Clerk

By: ________________________________
   Jill Grossman-Belisle, Mayor

DEVELOPER

Timnath Farm Investments, LLC, a Colorado Limited Liability Company

By: ________________________________
   Dino DiTullio, Manager
EXHIBIT LIST

The following Exhibits are a part of and incorporated within the FIRST AMENDED AND RESTATED SUBDIVISION IMPROVEMENT AGREEMENT FOR TIMNATH SOUTH SUBDIVISION.

EXHIBIT A  Legal Description
EXHIBIT B  Public Improvement Schedule By Phase including Costs in Line-Item Format
EXHIBIT C  Abutting and Offsite Public Improvements By Phase Including Costs in Line-Item Format
EXHIBIT D  Landscape Plan By Phase Including Costs in Line Item Format
EXHIBIT E  On-Site Phasing Plan
EXHIBIT F  Off-Site Phasing Plan (Intentionally Omitted)
EXHIBIT G  Completed Neighborhood Park
EXHIBIT H  Trails and Parks Plan
EXHIBIT A
Property Legal Description

1229.0400:460,292
LEGAL DESCRIPTION:

A tract of land located in Section 12, Township 6 North, Range 68 West of the 6th Principal Meridian, Town of Timnath, County of Larimer, State of Colorado being more particularly described as follows:

Considering the North line of the Northwest Quarter of said Section 12 as bearing South 88°01'30" East and with all bearings contained herein relative thereto:

Commencing at the Northwest corner of said Section 12, said point being monumented with a 2 1/2" aluminum cap, LS No. 31169; thence, along the North line of said Northwest Quarter, South 88°01'30" East, 33.03 feet to the POINT OF BEGINNING; thence continuing along said North line, South 88°01'30" East, 2,576.15 feet to a point being the North Quarter corner of said Section 12, said point being monumented with a 3 1/4" aluminum cap, LS No. 12374; thence, along the North line of the Northeast Quarter of said Section 12, South 88°01'18" East, 985.94 feet to a found No. 4 rebar with cap, LS No. 12374; thence, departing said North line, South 22°04'31" East, 2,893.59 feet to a point being a found No. 4 rebar with obliterated cap, said point being on the East-West Centerline of said Section 12; thence, along said East-West line, North 88°03'48" West, 749.44 feet to a point being the Center-East 1/16th corner being monumented by a 3 1/4" aluminum cap, LS No. 22098; thence, departing said East-West line, South 00°25'25" East, 1,699.51 feet to a point being a found No. 4 rebar with obliterated cap; thence, North 89°31'43" West, 1,299.76 feet to a found No. 4 rebar with cap, LS No. 12374; thence, South 00°28'17" West, 301.16 feet to a found No. 4 rebar with cap, LS No. 12374; thence, North 89°31'27" West, 924.27 feet to a found No. 4 rebar with cap, LS No. 33193; thence, North 00°28'11" East, 715.06 feet to a found No. 4 rebar with cap, LS No. 12374; thence, North 87°35'36" West, 547.66 feet to a found No. 4 rebar with cap, LS No. 12374; thence, departing said South line, North 44°53'37" West, 1,402.55 feet; thence, North 89°31'16" West, 126.96 feet to a found No. 4 rebar with cap, LS No. 33193, said point being a point on the East line of a 45 foot wide ingress-egress easement recorded at Reception No. 87054961; thence, along said East line, South 00°17'33" East, 360.09 feet to a found No. 4 rebar; thence, departing said East line, South 88°16'14" East, 346.93 feet to a found No. 4 rebar with obliterated cap; thence, South 29°03'42" East, 275.18 feet; thence, South 39°35'31" East, 77.69 feet; thence, South 59°42'31" East, 121.40 feet; thence, South 65°35'06" East, 218.98 feet; thence, South 75°47'42" East, 105.45 feet; thence, South 82°57'12" East, 176.08 feet to a found No. 4 rebar with cap, LS No. 12374; thence, North 02°56'32" East, 493.09 feet to a found No. 4 rebar with cap, LS No. 12374, said point being on the East-West Centerline of said Section 12; thence, along said East-West Centerline, North 88°03'04" West, 1,134.79 feet to a point being 33 feet east of and parallel with the West line of the Northwest Quarter of said Section 12; thence, along said parallel line, North 00°34'57" West, 2,647.63 feet to the POINT OF BEGINNING.

The above described tract of land contains 16,259,583 square feet or 373.269 acres more or less and is subject to all easements and rights-of-way now on record or existing.

September 16, 2005
EXHIBIT B
Public Improvement Schedule by Phase Including Costs in Line-Item Format

Additional improvements associated with future filings will be accompanied with future exhibits, exhibit supplements, or addendums as agreed to by the Parties.
EXHIBIT B - PUBLIC IMPROVEMENTS BY PHASE

NOTE: FUTURE FILINGS WILL HAVE FUTURE EXHIBITS
<table>
<thead>
<tr>
<th>Improvement</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staking</td>
<td>$4,000</td>
</tr>
<tr>
<td>Erosion Control</td>
<td>$12,000</td>
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<tr>
<td>Overlot Grading</td>
<td>$0</td>
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<tr>
<td>Sanitary Sewer System</td>
<td>$77,588</td>
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<tr>
<td>Storm Sewer System</td>
<td>$50,000</td>
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<tr>
<td>Potable Water System</td>
<td>$52,413</td>
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<tr>
<td>Concrete (Curb, Gutter, Sidewalks, Trails)</td>
<td>$82,500</td>
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<tr>
<td>Paving</td>
<td>$94,000</td>
</tr>
<tr>
<td>Signage and Striping</td>
<td>$2,000</td>
</tr>
<tr>
<td>Dry Utilities</td>
<td>$25,000</td>
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<tr>
<td>Landscaping</td>
<td>$25,000</td>
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<tr>
<td>Fencing</td>
<td>$25,000</td>
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<tr>
<td>Street Lights</td>
<td>$15,000</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>$464,501</strong></td>
</tr>
</tbody>
</table>
EXHIBIT C
Abutting and Offsite Public Improvements by Phase Including Costs in Line-Item Format

1. **Traffic Signal** - The Town has constructed a warranted traffic signal at the intersection of Larimer County Road 3 and East Harmony Road. The Developer’s obligation to pay Town thirty thousand dollars ($30,000.00) toward the cost of said traffic signal is due and payable at the recording of this Agreement.

2. **Larimer County Roads #3 and #36** - Larimer County Roads #3 and #36 have been constructed by Developer with curb and gutter per Town Code. The Developer’s cash in lieu contribution to the Town of twenty five thousand dollars ($25,000.00) for County Road 3 extension will be due if and when the Town extends or causes others to extend County Road 3 south of Summerfields Parkway. If the Town decides that this area will be better served with the internal street system of future phases of development of this or adjoining properties instead of extending County Road #3 then Developer will not be required to contribute $25,000. Developer is excused from any obligation under the SIA with respect to County Road 36. The Town will reserve the funds received as part of the Agreement, which will be restricted for the aforementioned County Road 3 extension.

3. **Folsom Parkway Construction/Payment** - Developer is obligated to construct 100% of Folsom Parkway for approximately 400 feet east of Yellowtail Street on the most recent final plat (the “Developer Folsom Construction Line”), or escrow funds with the Town for the same. Construction or Payment for this portion of Folsom Parkway is due upon the earlier to occur of: (A) The six hundred eighty third (683rd) building permit for the Property or if additional lots are platted, the building permit representing the 90th percentile of total lots in the property; or (B) the sale of all remaining lots within the Property to an unaffiliated third party. Additionally, from the Developer Folsom Construction line to County Road 1, Developer is obligated to contribute twenty five thousand dollars ($25,000.00) to the Town for the remainder of the extension of Folsom Parkway. Payment of this twenty five thousand dollars ($25,000.00) is due concurrent with the Folsom Parkway Construction Payment as described above. The Town will reserve the funds received as part of the Agreement, which will be restricted for the construction of Folsom Parkway to County Line Road. In the event the Town elects to not construct this road, then this money shall be returned to the Developer.
EXHIBIT D
Landscape Plan By Phase Including Costs in Line Item Format

Additional landscaping associated with future filings will be accompanied with future exhibits, exhibit supplements, or addendums as agreed to by the Parties.
Phasing plans for additional phases associated with future filings will be accompanied with future exhibits, exhibit supplements, or addendums as agreed to by the Parties.
Intentionally omitted.
EXHIBIT G - COMPLETED NEIGHBORHOOD PARK
## Timnath South First Filing Neighborhood Park Cost Exhibit

<table>
<thead>
<tr>
<th>Improvement</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning and Engineering</td>
<td>32,000.00</td>
</tr>
<tr>
<td>Staking</td>
<td>4,000.00</td>
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<tr>
<td>Erosion Control</td>
<td>12,000.00</td>
</tr>
<tr>
<td>Play Equipment</td>
<td>55,000.00</td>
</tr>
<tr>
<td>Basketball Court</td>
<td>15,000.00</td>
</tr>
<tr>
<td>Concrete (Sidewalks, Trails)</td>
<td>31,000.00</td>
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<tr>
<td>Shelters</td>
<td>45,000.00</td>
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<tr>
<td>Signage and Striping</td>
<td>2,000.00</td>
</tr>
<tr>
<td>Landscaping</td>
<td>110,000.00</td>
</tr>
</tbody>
</table>

Total: 306,000.00
EXHIBIT H
Trails and Parks Plan

To be completed as necessary with future filings.
TOWN COUNCIL COMMUNICATION

Meeting Date: August 8, 2017
Item: Resolution 48, Series 2017, Timnath Ranch Seventh Filing Final Plat

Presented by:
Matt Blakely
Community Development Director

Ordinance □
Resolution √
Discussion □
For Information □

EXECUTIVE SUMMARY: This is a Final Plat proposal to create 73 single family attached, fee simple lots located in the 7th Filing of the Timnath Ranch Subdivision, with the intent to create townhomes. The lots will range from 1,800 square feet to 5,000 square feet, and the lot sizes are consistent with the R-3 zoning. The density for this project will be roughly 8.5 dwelling units per acre. There are two pocket parks being provided on the site. The parking requirement for this development is 1.5 spaces per unit for 117 spots. Each unit will have 2 garage spaces along with driveway parking. The applicant is also providing 44 additional spaces for visitors or residents making the total number of spaces 263, which exceeds the parking requirement.

PLANNING COMMISSION DECISION: At its regular scheduled meeting on August 1, 2017 the Planning Commission recommended approval to the Timnath Town council unanimously (4-0) by voice vote, with the following conditions:

a. Allow staff to work with the owner and applicant to address minor, non-substantive modifications prior to final signatures.

STAFF RECOMMENDATION: Staff recommends the approval of the Final Plat application

KEY POINTS/SUPPORTING INFORMATION:

Owner: Jon Turner, Hillside Commercial Group
Applicant: TB Group

Legal Description/address: Timnath Ranch Subdivision 7th Filing
Application Type: Final Plat  Case Number: FP-2017-003

Parcel Size (acres): 8.5

<table>
<thead>
<tr>
<th>Task</th>
<th>Description</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application Submitted</td>
<td></td>
<td>4/27/2017</td>
</tr>
<tr>
<td>Acceptance of Application</td>
<td></td>
<td>4/27/2017</td>
</tr>
<tr>
<td>Referral Agency Notification</td>
<td>Referral comments were due by 5/19/2017</td>
<td>5/1/2017</td>
</tr>
<tr>
<td>Comments Issued</td>
<td></td>
<td>5/26/2017</td>
</tr>
</tbody>
</table>
SERVICES:
- **Water**: Fort Collins – Loveland Water District
- **Sewer**: South Fort Collins Sanitation District
- **Fire**: Poudre Fire Authority
- **Electric**: Xcel
- **Special Districts**: Timnath Ranch Metro District

Adjacent Zoning/Land Uses:

<table>
<thead>
<tr>
<th>Direction</th>
<th>Zoning</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>R-4 w/ PD Overlay</td>
<td>Vacant Land</td>
</tr>
<tr>
<td>South</td>
<td>R-2</td>
<td>Single Family Residential</td>
</tr>
<tr>
<td>East</td>
<td>R-2</td>
<td>Vacant Land</td>
</tr>
<tr>
<td>West</td>
<td>R-2</td>
<td>Vacant Land/Bethke Elementary</td>
</tr>
</tbody>
</table>

Application Description:

**Site Location & Layout:**
The project is proposed in Timnath Ranch Subdivision north of Wheatfield Lane and east of School House Drive. The proposal is for a Final Plat to create 73 single family lots.

Reference Timnath Land Use Code Section 2.9.10.9.D Final Plat for details on the Final Plat Process.

**Final Plat Review Criteria.** In addition to all provisions of this Code, the Town shall use the following criteria to evaluate the applicant’s request:

1. The final plat conforms to the approved preliminary plat and incorporates required changes, modifications and conditions attached to the approval of the preliminary plat unless otherwise approved by the Town Council.
   
   **Response:** The final plat as presented meets this criterion. It is in compliance with the approved preliminary plat and incorporates required changes, modifications and conditions.

2. The development will substantially comply with this Code.
   
   **Response:** This application complies with the land use code.

3. All applicable technical standards have been met.
   
   **Response:** This application complies with the standards that are set in the R-3 standards along with the technical criteria manual.

**Existing Zoning:** R-3 – Two-Family and Multi-Family Residential

**Proposed Zoning:** R-3 – Two-Family and Multi-Family Residential
**Existing Land Use:** Vacant  
**Proposed Land Use:** Multi-Family Residential

<table>
<thead>
<tr>
<th>REFERRAL COMMENTS:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Not returned:</strong> AT&amp;T Communications, Poudre School District, Poudre River Public Library District, CenturyLink, Timnath Finance, Timnath Public Works, Xcel Energy, Timnath Town Attorney, Timnath Post Office, Xcel, Larimer County Department of Natural Resources.</td>
</tr>
<tr>
<td><strong>Returned with no comments:</strong> Safebuilt,</td>
</tr>
<tr>
<td><strong>Returned with comments:</strong> Colorado Geologic, Timnath Community Development, Timnath Engineering, Poudre Fire Authority, Larimer County Department of Health and Environment, Fort Collins/Loveland Water District/South Fort Collins Sanitation District</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>RECOMMENDED MOTION:</th>
</tr>
</thead>
<tbody>
<tr>
<td>I move to approve Resolution 48, Series 2017, Timnath Ranch 7th Filing Final Plat finding that a complete application was submitted and reviewed in accordance with all applicable Town regulations, the application conforms with the mission and goals of the Timnath Comprehensive Plan, and all criteria outlined in Section 2.9.10.9.C. of the Timnath Land Use Code have been met, the following conditions:</td>
</tr>
<tr>
<td>1. Allow staff to work with the owner applicant to address minor, non-substantive modifications and unresolved comments prior to final signatures</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ATTACHMENTS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Resolution</td>
</tr>
<tr>
<td>2. Narrative</td>
</tr>
<tr>
<td>3. Final Plat</td>
</tr>
<tr>
<td>4. Final Landscape Plan</td>
</tr>
<tr>
<td>5. Rendered Elevation</td>
</tr>
</tbody>
</table>
TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 48, SERIES 2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIMNATH
APPROVING THE TIMNATH RANCH 7TH FILING FINAL PLAT, GENERALLY
LOCATED NORTH OF AND ADJACENT TO WHEATFIELD LANE, AND EAST OF
AND ADJACENT TO SCHOOL HOUSE DRIVE

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, Hillside Commercial Group (the “Developer”) has submitted a Preliminary Plat for the Timnath Ranch 7th Filing, more particularly described in Exhibit A (legal description) and Exhibit B (Final Plat) and attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, a properly noticed public hearing was held on August 1, 2017, and the above described Preliminary Plat was recommended for approval to the Town Council by the Town of Timnath Planning Commission with the following conditions:

1. Allow staff to continue to work with applicant to address all unresolved non-substantive technical comments to the satisfaction of Town Staff and Referral Agencies

WHEREAS, a properly noticed public hearing with the Town Council was held on August 8, 2017 and upon hearing the statements of staff, the applicant(s) and giving consideration to the recommendations, the Town Council determines as provided below.

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

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

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON AUGUST 8, 2017

TOWN OF TIMNATH, COLORADO

________________________
Jill Grossman-Belisle, Mayor
ATTEST:

Milissa Peters, CMC
Town Clerk
EXHIBIT A

Legal Description of Property Proposed for Final Plat

LEGAL DESCRIPTION:

A tract of land located in Section 1, Township 6 North, Range 68 West of the 6th Principal Meridian, Town of Timnath, County of Larimer, State of Colorado and being more particularly described as follows:

Tract B, Timnath Ranch Subdivision - Sixth Filing

The above described tract of land contains 371,691 square feet or 8.533 acres more or less and is subject to all easements and right-of-way now on record or existing.
EXHIBIT B

Final Plat

[attached]
FINAL PLAT OF
TIMNATH RANCH SUBDIVISION - SEVENTH FILING
A REPLAT OF TRACT B, TIMNATH RANCH SUBDIVISION - SIXTH FILING, LOCATED IN SECTION 1, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE 6th PRINCIPAL MERIDIAN, TOWN OF TIMNATH, COUNTY OF LARIMER, STATE OF COLORADO
General Notes:
1. LANDSCAPE CONTRACTOR SHALL ENSURE THAT APPROPRIATE PLANT DIVERSITY IS ACHIEVED. VARIETIES MAY NOT BE SUBSTITUTED.
2. LANDSCAPING Notes, Details, and Landscape Schedule
3. LANDSCAPE CONTRACTOR SHALL COORDINATE WITH SPRINKLER IRRIGATION HEAD LOCATIONS TO AVOID CONFLICTS.
4. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH ROCKERY/GRAVEL MULCH/WOOD MULCH.
5. PLANT MATERIAL LOCATIONS SHALL BE CoORDINATED WITH SPRINKLER IRRIGATION HEAD LOCATIONS TO AVOID CONFLICTS.
6. DISTURBED SOIL ON AREAS REQUIRING REVEGETATION AND EROSION CONTROL SHALL BE THOROUGHLY LOOSENED. SOIL SHALL BE AMENDED WITH ORGANIC MATTER AT THE RATE OF 3 CUBIC YARDS/1000 S.F.
7. LANDSCAPING SHALL BE CONSIDERED EXCLUDED ITEMS. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH ROCKERY/GRAVEL MULCH/WOOD MULCH.
8. MINOR CHANGES IN SPECIES AND PLANT LOCATIONS MAY BE MADE DURING CONSTRUCTION.
9. PLAYGROUND SURFACING, BIKE RACKS, HANDICAP PARKING, ALL CANOPY TREES, AND FLOWERING/ACCENT TREES SHALL ADHERE TO THE STANDARDS AND REQUIREMENTS OF THE TOWN OF TIMNATH. IN THE EVENT OF CONFLICT WITH THE QUANTITIES INCLUDED IN THE PLANT LIST, SPECIES AND QUANTITIES SHALL BE PROVIDED.
10. 25,547 S.F. IN THE EVENT OF CONFLICT WITH THE QUANTITIES INCLUDED IN THE PLANT LIST, SPECIES AND QUANTITIES SHALL BE PROVIDED.
11. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH ROCKERY/GRAVEL MULCH/WOOD MULCH.
12. LANDSCAPING SHALL BE CONSIDERED EXCLUDED ITEMS. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH METAL RAILINGS.
13. STREET AND ORNAMENTAL TREES SHALL BE PLANTED NO CLOSER THAN 40' AND 15' RESPECTIVELY FROM STREET LIGHTS. NO TREES SHALL BE PLANTED WITHIN 10' FROM MULTI-STEM PEAR.
14. LANDSCAPING SHALL BE CONSIDERED EXCLUDED ITEMS. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH ROCKERY/GRAVEL MULCH/WOOD MULCH.
15. PLANT MATERIAL LOCATIONS SHALL BE COORDINATED WITH SPRINKLER IRRIGATION HEAD LOCATIONS TO AVOID CONFLICTS.
16. DISTURBED SOIL ON AREAS REQUIRING REVEGETATION AND EROSION CONTROL SHALL BE THOROUGHLY LOOSENED. SOIL SHALL BE AMENDED WITH ORGANIC MATTER AT THE RATE OF 3 CUBIC YARDS/1000 S.F.
17. LANDSCAPING SHALL BE CONSIDERED EXCLUDED ITEMS. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH METAL RAILINGS.
18. MINOR CHANGES IN SPECIES AND PLANT LOCATIONS MAY BE MADE DURING CONSTRUCTION.
19. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH ROCKERY/GRAVEL MULCH/WOOD MULCH.
20. LANDSCAPING SHALL BE CONSIDERED EXCLUDED ITEMS. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH METAL RAILINGS.
21. MINOR CHANGES IN SPECIES AND PLANT LOCATIONS MAY BE MADE DURING CONSTRUCTION.
22. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH ROCKERY/GRAVEL MULCH/WOOD MULCH.
23. LANDSCAPING SHALL BE CONSIDERED EXCLUDED ITEMS. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH METAL RAILINGS.
24. MINOR CHANGES IN SPECIES AND PLANT LOCATIONS MAY BE MADE DURING CONSTRUCTION.
25. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH ROCKERY/GRAVEL MULCH/WOOD MULCH.
NEW TOWNHOMES FOR LANDMARK HOMES ::

TIMNATH RANCH

TIMNATH, COLORADO

DRAWING TITLE
04.30.2015

DRAWING RELEASE
04.30.2015

REVISIONS (6 UNIT BUILDING)
NEW TOWNHOMES FOR LANDMARK HOMES:

1 DRAWING RELEASE

04.30.2015 - DRAWING RELEASE TITLE

NOT FOR CONSTRUCTION REVISES (6 UNIT BUILDING)

TIMNATH, COLORADO
NEW TOWNHOMES FOR LANDMARK HOMES:

TIMNATH RANCH

TIMNATH, COLORADO

1 - DRAWING RELEASE

04.30.2015 - DRAWING RELEASE TITLE

NOT FOR CONSTRUCTION REVISIONS

(6 UNIT BUILDING)

DRAWING SHEET NO.

09/21/2016

JM

NSPJ

ARCHITECTS

F. TAYLOR

SPRING 2016

TIMNATH, COLORADO

DATE

DRAWN

DESIGNED

DRAWN BY

DRAWN BY

PRINTED SHEET NO.

A6
EXECUTIVE SUMMARY: The Town’s Police Department has seven police vehicles. The Town Administration Building site does not have the space or the security for the continued storage of these vehicles. The attached policy sets the standards and parameters that allow sworn officers to take vehicles home at the end of their shift. If they live beyond a 15 mile radius from the police department, the officers will be charged the IRS mileage rate beyond that radius.

STAFF RECOMMENDATION: Staff recommends approval of this resolution.

KEY POINTS/SUPPORTING INFORMATION:
- The Police Department currently has seven vehicles and this number will increase as staff is added in the coming years.
- The current Town Administration Building site is limited and there is not enough secure storage for these vehicles.
- Other communities allow the take home of police vehicles under certain parameters and it is often considered an additional employee benefit that is helpful in attracting new officers.
- The attached policy allows sworn officers to take home police vehicles with parameters governing vehicle security, maintenance and use.
- If an officer lives more than 15 miles from the Town Police Station, they will be charged the IRS rate for mileage beyond that radius.
- Officers will be better equipped to respond in a more timely manner from home should an emergency arise.

ADVANTAGES: This policy provides for the security of our police vehicles and allows officers to better respond if needed in an emergency.

DISADVANTAGES: None.

FINANCIAL IMPACT: The 2018 Budget will reflect some additional costs related to fuel and vehicle maintenance.

RECOMMENDED MOTION: I move approval of Resolution No. 49, Series 2017 entitled “A Resolution Approving A Vehicle Take Home Policy For The Police Department.”

ATTACHMENTS: 1. Resolution
               2. Policy
TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 49, SERIES 2017

A RESOLUTION APPROVING A VEHICLE TAKE HOME POLICY FOR THE POLICE DEPARTMENT

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 a Town policy (“Policy”) regarding take home vehicles for the Police Department; and

WHEREAS, the Town’s Police Department staff and vehicle stock have grown over the years; and

WHEREAS, the current Town Administration Building does not provide adequate or secure storage for police vehicles; and

WHEREAS, allowing sworn officers to take police vehicles home at the end of their shift assures the vehicles will be secure, officers will be readily available in case of an emergency, and the Town Administration Building site will not be overwhelmed with vehicles storage; and

WHEREAS, the Town Council is familiar with the Policy 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 FOLLOW:

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

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON AUGUST 8, 2017.
TOWN OF TIMNATH, COLORADO

______________________________
Jill Grossman-Belisle, Mayor

ATTEST:

______________________________
Milissa Peters, CMC
Town Clerk
SUBJECT: Police Take Home Vehicles

ISSUE DATE         EFFECTIVE DATE
August 8, 2017        August 8, 2017

INTENT

The intent of this policy is to establish a procedure related to taking home of police vehicles. The Town has limited storage area and a limited number of police vehicles. This policy establishes the parameters that allow a police officer to take a marked police vehicle home until such time as circumstances change.

POLICY

Radius Limitations. The Town of Timnath will provide a take home police vehicle to sworn police officers. Any officer living beyond a 15 mile radius from the Town of Timnath Police Station will be charged the IRS mileage rate beyond the 15 mile radius unless they serve in “on call” capacity for special assignments such as special regional law enforcement teams.

Fringe Benefit – Exempt Vehicles. According to IRS regulations and guidelines for the purposes of tax calculation only, certain vehicles designed by the IRS regulations are exempt for the purpose of increased tax liability for the employee. A qualified non-personal-use vehicle is any vehicle the employee is not like to use more than minimally for personal purposes because of its design. According to IRS publications, qualified non-personal-use vehicles generally include the following:

- Clearly marked, through painted insignia or words, police, fire, and public safety vehicles. The employee must be on-call, required to commute in the vehicle, and be prohibited from personal travel outside the jurisdiction.
- Unmarked vehicles used by law enforcement officers if the use is officially authorized. The officer must be authorized to carry a firearm, execute search warrants and make arrests.

**Authorized Passengers.** Employees operating a Town-owned vehicle shall not permit persons other than Town employees or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as a passenger in their vehicle.

**Security.**
- Off-street parking should be available at the employee’s residence.
- Vehicles shall be locked when not attended.
- When off duty (successive days off, out of town), patrol rifles, shotguns or kinetic impact weapons shall be stored either in employee’s home or at the Town Administration Building.

**Maintenance.**
- Each employee is responsible for the cleanliness (exterior and interior) and overall maintenance of the assigned vehicles. Cleaning supplies will be provided by the Department.
- Employees shall make daily inspections of their assigned vehicle for service/maintenance requirements and damage.
- Supervisors shall make, at minimum, monthly inspections of vehicles assigned to employees under their command to ensure the vehicles are being maintained in accordance with policy.

The Town Manager and Police Chief will review this policy on an annual basis and recommend changes, if any, in conjunction with the Town’s annual budget process.
TOWN COUNCIL COMMUNICATION

Meeting Date: August 8, 2017

Item: Resolution No. 50, Series 2017, A Resolution Approving an Agreement with either Coyote Ridge Construction, Lightfield Enterprises, Inc., or Coffman and Laub Construction for the General Sidewalk Improvements Project

Presented by: Matt Blakely Town Planner

Ordinance ☐ Resolution √ Discussion ☐ For Information ☐

EXECUTIVE SUMMARY:

- Staff has solicited bids from three contractors on the Town’s qualified bidders list to provide pricing for two sidewalk projects. The three contractors that have been asked to provide numbers are Coyote Ridge Construction, Lightfield Enterprises, Inc., and Coffman and Laub Construction.

- Staff is requesting that Town Council authorize the Town Manager to enter into an agreement with the lowest bidder.

- This agreement will be between the Town and the lowest bidder to complete General Sidewalk Improvements that includes approximately 900’ of 8’ wide sidewalk along the east side of Main Street from Timnath Elementary School to Outlook Street along with approximately 90’ of 5’ wide sidewalk along Summerfields Parkway just south of the Timnath Community Park.

- Original approved budget for 2017 of $550,000, with a reallocation of $400,000 to the Timnath Reservoir leaving $150,000 for design and construction of these improvements.

- The anticipated Base Bid and Add Alternate are not expected to exceed the budget amount of $150,000 including design and construction administration.

The Main Street sidewalk segment will provide a vital segment of sidewalk between Old Town/Timnath Elementary School and Fairview Village. Currently Main Street sidewalk improvements terminate at the north end of the Timnath Elementary School. This segment will be constructed on the east side of Main Street only since there are fewer conflicts. There is a small add alternate to this project that includes a sidewalk segment on the School District property at Timnath Elementary to connect Main Street to an existing internal walk on the school property.

The Summerfields Parkway sidewalk connection was originally intended to be a standalone project. However, Staff is recommending combining the work with the Main Street sidewalk for ease of administration and potentially more favorable numbers due to the size and scope of the work. This connection will provide an essential linkage across the vacated portion of Riverpass Road. Currently the sidewalk along Summerfields Parkway terminates on the north and south sides of Riverpass Road. This forces pedestrians to walk in the street or cross three street segments to continue north and south along the east sidewalk. This segment is anticipated to see an increase in usage once the school year starts. Time is of the essence for this segment of trail and it is prioritized over the Main Street segment. This portion of sidewalk is anticipated to be complete prior to August 22nd in advance of school starting.

STAFF RECOMMENDATION: Staff recommends that Council grant authorization to the Town Manager to enter into a Contract with either Coyote Ridge Construction, Lightfield Enterprises, Inc., or Coffman and Laub Construction based on the attached documents.
**KEY POINTS/SUPPORTING INFORMATION:**
Town Staff has reached out to several construction companies that are on the preferred bidders list and that have recently done work for the Town of this nature. The following contractors have been asked to provide bids to the Town: Coyote Ridge Construction, Lightfield Enterprises, Inc., or Coffman and Laub Construction.

**ADVANTAGES:**
- Awarding this contract will complete critical sidewalk connections.
- Provide safe pedestrian connections.

**DISADVANTAGES:**
- Additional maintenance.

**FINANCIAL IMPACT:**
- The original approved budget for General Trail Improvements was $550,000.
- $450,000 was reallocated to the Timnath Reservoir Improvements leaving $150,000 for design, construction, and construction administration.

**RECOMMENDED MOTION:**
- I move to approve Resolution No. 50, Series 2017 allowing the Town Manager to enter into an Agreement with either Coyote Ridge Construction, Lightfield Enterprises, Inc., or Coffman and Laub Construction for the Timnath General Sidewalk Improvements Project.

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

Town Council Purchase Authorization

Date: August 15, 2017

Vendor: Lowest Bid Preferred Contractor (Coyote Ridge Construction, Lightfield Enterprises, or Coffman and Laub Construction)

Department: Parks and Recreation

Project: General Trail Improvements (100-6200-7603-000)

Description: General Sidewalk Improvements that includes approximately 900' of 8' wide sidewalk along the east side of Main Street from Timnath Elementary School to Outlook Street along with approximately 90' of 5' wide sidewalk along Summerfields Parkway just south of the Timnath Community Park.

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

Advantages:
• Awarding this contract will complete critical sidewalk connections.
• Provide safe pedestrian connections.

Disadvantages:
• Additional maintenance

<table>
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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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<tr>
<td>General Trail Improvements</td>
<td>$550,000</td>
<td>$140,000</td>
<td>$0</td>
<td>$140,000</td>
<td>$0</td>
</tr>
</tbody>
</table>

Financial Impact:
• This is a budgeted item. The original budget for General Trail Improvements was $550,000. $400,000 was reallocated by Council to the Timnath Reservoir, leaving $150,000 for design, construction, and construction administration.

Recommendation/Justification:
• Staff recommends that Council grant authorization to the Town Manager to enter into a Contract with one of the following contractors on the Town’s preferred bidder’s list; Coyote Ridge Construction, Lightfield Enterprises, Inc., or Coffman and Laub Construction based on the lowest bid estimate.

[Signatures and dates]

[Requesting Department Signature]

[Date: 8/3/17]

[Town Manager Signature]

[Date: 8/3/17]
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 a draft of the Town’s Standard Services Contract for this project; and

WHEREAS, the Town Council finds it in the best interest of the Town to proceed with the General Sidewalk Improvements to complete vital sidewalk linkages on Main Street and along Summerfields Parkway; and

WHEREAS, Staff recommends that Council grant authorization to the Town Manager to enter into a Contract with one of the three contractors on the Town’s preferred bidder’s list; Coyote Ridge Construction, Lightfield Enterprises, Inc., or Coffman and Laub Construction based on the lowest bid estimate; 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. Furthermore, the Town Council authorizes the Town Manager to execute this Agreement on behalf of the Town.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON AUGUST 8, 2017.
EXHIBIT A

AGREEMENT
AGREEMENT

This agreement is dated as of the _____ day of __________________, 2017 by and between:

Town of Timnath (hereinafter called Owner) and
__________________________ (hereinafter called Contractor).

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK

Contractor shall complete all work as specified or indicated in the Contract Documents. The work is generally described as follows: **Town of Timnath General Sidewalk Improvements**

ARTICLE 2. ENGINEER

The project has been designed by TST, Inc. Consulting Engineers who is hereinafter called Engineer and who will assume all duties and responsibilities and will have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the work in accordance with the Contract Documents.

ARTICLE 3. CONTRACT TIME

3.1 The work will be substantially completed by ___TBD____ or within ___ calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions by ___TBD____ or within ___ calendar days after the date when the Contract Time commences to run.

3.2 **Liquidated Damages:** Owner and Contractor recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the work is not substantially complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the work is not substantially complete on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner five hundred dollars ($500.00) for each calendar day that expires after the time specified in paragraph 3.1 for substantial completion until the work is substantially complete.

3.3 After Substantial Completion if Contractor shall neglect, refuse or fail to complete the remaining work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner five hundred dollars ($500.00) for each calendar day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.
ARTICLE 4. CONTRACT PRICE

4.1 Owner shall pay Contractor for performance of the work in accordance with the Contract Documents in current funds as follows: TBD based on Contractor’s Bid.

ARTICLE 5. PAYMENT PROCEDURES

Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

5.1 Progress Payments. Owner shall make progress payments on account of the Contract Price on the basis of Contractor’s Applications for Payment as recommended by Engineer, on or about the 10th day of each month following the month that the Engineer received and processed the application during construction as provided below. All progress payments will be on the basis of the progress of the work measured by the schedule of values established in paragraph 2.07 of the General Conditions (and in the case of Unit Price work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1 Prior to Substantial Completion progress payments will be in the amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or Owner may withhold, in accordance with paragraph 14.02 of the General Conditions.

Ninety-five percent (95%) of work completed.

Ninety-five percent (95%) of materials and equipment not incorporated in the work (but delivered, suitably stored and accompanied by documentation satisfactory to Owner as provided in paragraph 14.02 of the General Conditions).

5.1.2 Upon Substantial Completion in an amount sufficient to increase total payments to Contractor to ninety-five percent (95%) of the Contract Price, less such amounts as Engineer shall determine or Owner may withhold in accordance with paragraph 14.02 of the General Conditions.

5.2 Final Payment. Upon final completion and acceptance of the work in accordance with paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said paragraph 14.07.

ARTICLE 6. INTEREST

All moneys not paid when due hereunder as provided in Article 14 of the General Conditions shall bear interest at a rate not exceeding 12.0 percent per annum.

ARTICLE 7. CONTRACTOR’S REPRESENTATIONS

In order to induce Owner to enter into this Agreement Contractor makes the following representations:

7.1 Contractor has familiarized himself with the nature and extent of the Contract Documents, work, site, locality, and with all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance, or furnishing of the work.
7.2 Contractor has studied carefully all reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the technical data contained in such reports and drawings upon which Contractor is entitled to reply.

7.3 Contractor has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports, and studies (in addition to or to supplement those referred to in paragraph 7.2 above) which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as Contractor considers necessary for the performance or furnishing of the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.02 of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by Contractor for such purposes.

7.4 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by Contractor in order to perform and furnish the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.04 of the General Conditions.

7.5 Contractor has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.

7.6 Contractor has given Engineer written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Contractor.

ARTICLE 8. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between Owner and Contractor concerning the work consist of the following:

8.1 This Agreement (pages 1 to 6, inclusive).

8.2 Performance and Labor and Material Payment Bond.

8.3 Notice of Award.

8.4 General Conditions (pages 1 to 62, inclusive).

8.5 Supplementary Conditions (pages 1 to 9, inclusive).

8.6 Drawings, consisting of a cover sheet and sheets numbered 1 through ___ inclusive with each sheet bearing the following general title: ____________________________.

8.7 Contractor’s Bid.
8.8 The following which may be delivered or issued after the Effective date of the Agreement and are attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

ARTICLE 9. MISCELLANEOUS

9.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.

9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge that assignor from any duty or responsibility under the Contract Documents.

9.3 Owner and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

ARTICLE 10. PROHIBITION AGAINST EMPLOYMENT OF ILLEGAL ALIENS

1. The Contractor shall not:

   (A) Knowingly employ or contract with an illegal alien who will perform work under the public contract for services; or

   (B) Enter into a contract with a Subcontractor that fails to certify to the Contactor that the Subcontractor shall not knowingly employ or contract with an illegal alien who is newly hired to perform work under the public contract for services.

2. 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 employment verification program established pursuant to C.R.S. 8-17.5-102(5) (“the Department Program”) or 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 (“the E-verify Program”) 

3. The Contractor shall use either the E-verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed.
4. The Contractor shall, within twenty days after hiring an employee who is newly hired for employment to perform work under the public contract, 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. 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 Owner.

5. If the Contractor obtains actual knowledge that a Subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall:

(A) Notify the Subcontractor and the Owner within three 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 days of receiving the notice required pursuant to paragraph 4(A) 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 days the Subcontractor provides information to establish that the Subcontractor has not knowingly employed or contracted with an illegal alien.

6. The Contract shall comply with any reasonable request by the Colorado Department of Labor and Employment (“the Department”) made in the course of an investigation that the Department is undertaking pursuant to C.R.S. 8-17.5-102(5)(a).

7. If a Contractor violates a provision of the public contract for services required pursuant to paragraphs 1-5, the Owner may terminate the contract for breach of the contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to the Owner.
ARTICLE 11. OTHER PROVISIONS

In witness whereof, the parties hereto have signed this Agreement in triplicate. One counter part each has been delivered to Owner, Contractor and Engineer. All portions of the Contract Documents have been signed or identified by Owner and Contractor or by Engineer on their behalf.

This Agreement will be effective on __________________________, 2017.

Owner: Town of Timnath

Contractor: __________________________

By: __________________________

By: __________________________

(CORPORATE SEAL)   (CORPORATE SEAL)

Attest: __________________________

Attest: __________________________

Address for giving notices
Town of Timnath
4800 Goodman St.
Timnath, CO 80547

Address for giving notices

License No. __________________________
**TOWN COUNCIL COMMUNICATION**

<table>
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<tr>
<th>Meeting Date:</th>
<th>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.”</th>
<th>Ordinance □ □ Resolution □ Discussion X</th>
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<tr>
<td>Presented by: Town Attorney</td>
<td><strong>KEY POINTS/SUPPORTING INFORMATION:</strong> 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.”</td>
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<td><strong>FINANCIAL IMPACT:</strong> N/A</td>
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<td><strong>RECOMMENDATIONS:</strong> I move to enter into Executive Session “For __________________________________________.”</td>
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