TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 19, SERIES 2018

A RESOLUTION RATIFYING AND APPROVING THE FIRST AMENDMENT TO THE PURCHASE AND SALE AGREEMENT (South Farm)

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

WHEREAS, the Town Council approved the Purchase and Sale Agreement (South Farm) on January 9, 2018; and

WHEREAS, attached hereto as Exhibit A is the First Amendment to the Purchase and Sale Agreement (South Farm) (the “Agreement”) which was signed as part of the closing on the Purchase and Sale Agreement (South Farm); 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 FOLLOW:

Section 1. Approval
The Agreement is hereby ratified and approved in substantially the form as attached hereto as Exhibit A with such modifications and additions as the Town Manager, in consultation with Legal Counsel, determines to be necessary and appropriate to protect the interests of the Town or effectuate the purposes set forth herein and not otherwise inconsistent with this Resolution.


TOWN OF TIMNATH, COLORADO

Jill Grossman-Belisle, Mayor

ATTEST:

Milissa Peters, CMC
Town Clerk
EXHIBIT A

FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT
(South Farm)
FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT ("First Amendment") is made and entered into this 12 day of June, 2018 (the "Effective Date") by and between the Town of Timnath, a Colorado municipal corporation ("Town"), and Hartford Investments, LLC, a Colorado limited liability company ("Hartford"). The Town and Hartford are sometimes hereinafter referred to as the "Parties" or individually as a "Party."

Background Statements

The following background statements are made to aid in the understanding and interpretation of this First Amendment:

A. The Parties hereto previously entered into a Purchase and Sale Agreement on the 9th day of January, 2018 (the "Agreement"), pursuant to which the Town agreed to buy and Hartford agreed to sell certain real property more particularly described in Exhibit A of the Agreement (the "Property").

B. Pursuant to the Agreement, the Parties agreed to attach as an exhibit and make a part of the Agreement a mutually acceptable form of a Disconnection Agreement.

C. The Parties hereto desire to amend and modify the Agreement to include a mutually acceptable form Disconnection Agreement as set forth in this First Amendment.

D. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Agreement.

Agreement

NOW, THEREFORE, for and in consideration of the mutual

1. Incorporation of Background Statements. The foregoing Background Statements are incorporated herein as if fully set forth. All such statements are material terms of this First Amendment and not merely recitals.

2. Exhibit D. The Parties have agreed to the terms of a Disconnection Agreement in the form of Exhibit D attached hereto and made part of the Agreement, said Disconnection Agreement to be executed by the Parties at Closing.

3. Original Agreement. The Parties agree that the Agreement shall remain in full force and effect except as specifically modified herein by this First Amendment.

4. Binding Effect. This First Amendment shall be binding upon the Parties hereto, their successors, assigns and legal representatives.

[Signature Page Follows]
IN WITNESS WHEREOF, the Parties hereto have entered into and executed this First Amendment effective as of the Effective Date first mentioned above, and each Party affirms that it has taken all necessary action to authorize said representative to execute this First Amendment.

TOWN:

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

\[Signature\]
Jill Grossman-Belisle, Mayor

ATTEST:

\[Signature\]
\[Town Clerk\]

[Signature Page to First Amendment of Purchase and Sale Agreement]
HARTFORD:
HARTFORD INVESTMENTS, LLC

By: [Signature]
Landon Hoover, Manager

STATE OF COLORADO  )
 ) ss.
COUNTY OF LARIMER  )

The foregoing instrument was acknowledged before me this 18th day of January, 2018, by Landon Hoover, as Manager, of HARTFORD INVESTMENTS, LLC.

WITNESS my hand and official seal.

[Signature]
LAURA COMBS
Notary Public
State of Colorado
Notary ID # 20114032610
My Commission Expires 06-03-2019

My Commission expires: 6/3/19

[Signature Page to First Amendment of Purchase and Sale Agreement]
EXHIBIT D
(Disconnection Agreement)

DISCONNECTION AGREEMENT

This Disconnection Agreement ("Disconnection Agreement"), is executed by and between THE TOWN OF TIMNATH, a Colorado municipal corporation ("Town"), and HARTFORD INVESTMENTS, LLC, a Colorado limited liability company ("Hartford"), and is effective as of January 18, 2018 ("Effective Date"). The Town and Hartford may hereinafter be referred to collectively as the "Parties" or individually as a "Party."

RECITALS:

A. WHEREAS, the Town and Hartford entered into a Purchase and Sale Agreement on January 9, 2018 (the "PSA"), pursuant to which on this date, the Town purchased certain real property from Hartford more particularly described in Exhibit A attached hereto and made a part hereof by this reference (the "Property").

B. WHEREAS, as partial payment for purchase of the Property, the Town executed and delivered a promissory note in the amount of Six Hundred Ninety Two Thousand Eight Hundred Forty Four and 75/100ths Dollars ($692,844.75), payable to Hartford over a three (3) year term in three annually-appropriated installments (the "Note").

C. WHEREAS, the Note is secured by a first lien deed of trust encumbering the Property (the "Deed of Trust").

D. WHEREAS, the execution of this Disconnection Agreement and the Town’s performance of the Town’s obligation as set forth in this Disconnection are additional and valuable consideration for the sale of the Property to the Town by Hartford. But for the Town’s agreement to perform its obligations in this Disconnection Agreement, Hartford would not have agreed to accept the Note as partial payment for the sale of the Property to the Town.

THEREFORE, based on the foregoing, and in consideration of the mutual promises of the Parties, the terms and conditions contained in this Disconnection Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and Hartford covenant and agree as follows:

AGREEMENT:

1. Incorporation. The foregoing Recitals are incorporated herein as if fully set forth. The Parties agree that all such Recitals are material terms of this Disconnection Agreement.

2. Disconnection of Property In The Event Of Default. In the event the Town defaults under the Note or Deed of Trust, and Hartford exercises its right to cause the Public Trustee to sell the Property in satisfaction or partial satisfaction of the Note, Hartford shall also have the following rights and remedies:

   2.1. If the Town has initiated but not completed annexation of the Property to the Town, upon written demand from Hartford, the Town shall immediately terminate and discontinue all processes and efforts to annex the Property to the Town including but not limited to a withdrawal of any petitions for annexation of the Property if applicable; or
2.2. If the Town has completed annexation of the Property to the Town, upon written
demand from Hartford, the Town shall promptly allow and will take all such actions as may be
necessary to cause a disconnection of the Property from the Town.

3. **No Taxes, Fees, Costs of Material Changes.** The Town agrees that it shall not assess any
taxes, fees, or costs against the Property while this Disconnection Agreement is in effect and further
agrees that it shall not assess any taxes, fees or costs to Hartford or against the Property associated in any
way with the disconnection process. In the event a disconnection of the Property from the Town is
required hereunder, the Town shall bear all costs, fees and expenses associated therewith and will
indemnify Hartford for all of the same. Additionally, while this Disconnection Agreement is in effect, the
Town agrees that it shall not transfer any development density from the Property, enter into any Inter-
Governmental Agreements of any kind or nature associated in any way with or affecting the Property or
take any action that could negatively impact the value or potential uses of the Property in any material
way.

4. **No Services Provided to Property.** The Town hereby acknowledges and agrees that,
regardless of whether the Property is annexed to the Town, it will not begin providing any municipal
services to the Property while this Disconnection Agreement is in effect. As such, and in connection
thereto, the Town further acknowledges and agrees that disconnection of the Property from the Town
under the terms of this Disconnection Agreement will not result in prejudice to the best interests of the
Town. The parties mutually acknowledge that compliance by the Town with the specific requirements of
the Dry-Up Covenant shall not be deemed to constitute “municipal services” within the meaning of this
agreement.

5. **Recordation.** This Disconnection Agreement shall be recorded in the office of the clerk
and county recorder in the County of Weld, State of Colorado.

6. **Termination.** This Disconnection Agreement shall become effective on the Effective
Date first above written and shall terminate by its own terms upon the earlier of the following to occur:

6.1. A release of the Deed of Trust on the Property by Hartford; or

6.2. The passage of one (1) year after the date that a foreclosure or a deed in lieu of
foreclosure revests title to the Property in Hartford or its successors or assigns, if Hartford has
not, prior to that time, recorded a demand for disconnection of the Property from the Town. In no
event shall a foreclosure or a deed in lieu of foreclosure that revests title to the Property in
Hartford or its successors or assigns by itself terminate this Disconnection Agreement.

Upon termination in accordance with the provisions set forth in this Section Six (6), this
Disconnection Agreement shall be terminated and of no further force or effect.

7. **Town Not Released.** Neither the extension of the time for payment or performance nor
modification of the terms of the Note or Deed of Trust shall operate to release, in any manner, the liability
and obligations of the Town, nor the Town’s successors in interest, under the terms of this Disconnection
Agreement.

8. **Forbearance by Hartford Not a Waiver.** Any forbearance by Hartford in exercising any
right or remedy hereunder, or otherwise afforded by law, shall not be a waiver or preclude the exercise of
any such right or remedy at a later date.

9. **The Town’s Representations, Warranties, and Covenants.** The Town hereby makes the
following representations, warranties and covenants, which shall be true and applicable as of the Effective
Date, and which shall survive until the proper termination of this Disconnection Agreement under the terms hereof.

9.1. The Town has the full right, power, and authority under its Home Rule Charter, Land Use Code, and applicable laws, to make the promises to Hartford as set forth in this Disconnection Agreement and to carry out all of its obligations hereunder; and all required action necessary to authorize the Town to enter into this Disconnection Agreement and to carry out its obligations hereunder has been taken prior to the Effective Date.

9.2. This Disconnection Agreement and all actions or inactions of the Town required hereby are and shall be valid, legally binding obligations of and enforceable against the Town in accordance with their terms this Disconnection Agreement. The person or entity executing this Disconnection Agreement on behalf of the Town has the full right and authority to do so.

10. Remedies. The Parties acknowledge and agree that due to the unique value and benefits associated with Hartford’s right to demand a disconnection of the Property from the Town, any refusal or inability of the Town to promptly disconnect the Property from the Town pursuant to the terms hereof, will result in irreparable and continuing harm to Hartford which the Parties agree cannot be fully satisfied by and through an award of damages. Accordingly, in the event the Town, for any reason, does not allow, cause, or effect the disconnection of the Property from the Town after such disconnection is demanded by Hartford, Hartford shall be entitled to seek an order for specific performance of the Town’s obligation to complete such disconnection from the Town. In the event specific performance is found to not be available as a remedy, Hartford shall be entitled to damages for the Town’s breach and failure to cause a disconnection of the Property from the Town. Each remedy provided for in the Note, the Deed of Trust, and this Disconnection Agreement is distinct from and cumulative to all other rights or remedies under the Note, the Deed of Trust, and this Disconnection Agreement or afforded by law or equity, and may be exercised concurrently, independently or successively.

11. Notices. Any notice, demand or document which any Party is required or any Party desires to give or deliver to or make upon any other Party shall, in the case of a notice or demand, be given electronically or in writing, and if made in writing may be personally delivered or given or made by recognized overnight courier service (such as Federal Express, Airborne or DHL), or by United States registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

To the Town: Town of Timnath  
4800 Goodman Street  
Timnath, CO 80547  
Attention: Town Manager  
agetchius@timnathgov.com

With a copy to: WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law  
2154 East Commons Avenue, Suite 2000  
Centennial, Colorado 80122  
Attention: Robert G. Rogers, Esq.  
rrogers@wbapc.com
To Hartford: Hartford Investments, LLC
4801 Goodman Street
Tinmuth, CO 80547
Attention: Landon Hoover
Landon@Hartfordco.com

With a copy to: Coan, Payton & Payne, LLC
103 W. Mountain Avenue, Suite 200
Fort Collins, CO 80524
Attention: G. Brent Coan, Esq.
gbcowan@cp2law.com

12. Costs. In any action for relief against the other, declaratory or otherwise, arising out of
this Disconnection Agreement, the losing Party shall pay to the prevailing Party a reasonable sum for
attorneys’ fees incurred in bringing such action and/or enforcing any judgment granted therein, all of
which shall be deemed to have accrued upon commencement of such action and shall be paid whether or
not such action is prosecuted to judgment.

13. Governing Law. This Disconnection Agreement shall be governed by the laws of the
State of Colorado.

14. Entire Agreement. This Disconnection Agreement constitutes the entire agreement
between the Parties with respect to the subject matter hereof and supersedes all prior agreements, written
or oral, with respect to such subject matter.

15. Amendments and Waivers. This Disconnection Agreement may not be amended except
in writing signed by both Parties. Any waiver under this Disconnection Agreement must be in writing,
and no failure or delay in exercising any right, power, or privilege will operate as a waiver. Failure to
enforce any provision of this Disconnection Agreement shall not constitute a waiver of any term or
condition herein.

16. Severability. In the event that a court in any jurisdiction declares any portion of this
Disconnection Agreement invalid or unenforceable as applied to any circumstance, the remaining terms
and provisions of this Disconnection Agreement and the application of the offending term or provision to
other persons or circumstances shall not be affected. Any unenforceable provision of this Disconnection
Agreement will be modified to the extent necessary to make it enforceable.

17. Counterparts. This Disconnection Agreement may be executed in one or more
counterparts, each of which shall be deemed an original but all of which together will constitute one and
the same instrument. Delivery of an executed counterpart of this Disconnection Agreement by facsimile,
in .pdf form, or in other electronic form will be equally effective as delivery of a manually executed
counterpart of this Disconnection Agreement.

[Signatures found on the following pages.]
IN WITNESS WHEREOF, the Parties have entered into and executed this Disconnection Agreement effective as of the Effective Date first mentioned above, and each Party affirms that it has taken all necessary action to authorize said representative to execute this Disconnection Agreement.

TOWN:

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

Jill Grossman-Belisle, Mayor

ATTEST:

[Signature]

Town Clerk
HARTFORD:
HARTFORD INVESTMENTS, LLC

By: ____________________________
      Landon Hoover, Manager

STATE OF COLORADO   
      )
COUNTY OF LARIMER   ) ss.

The foregoing instrument was acknowledged before me this ___ day of __________, 2018,
by Landon Hoover, as Manager, of HARTFORD INVESTMENTS, LLC.

WITNESS my hand and official seal.

______________________________
Notary Public

My Commission expires: __________
EXHIBIT A
THE PROPERTY

THE NE1/4 OF SECTION 18, TOWNSHIP 7 NORTH, RANGE 67 WEST OF
THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO,

EXCEPT THAT PORTION CONVEYED BY DEEDSRecorded
NOVEMBER 2, 1907 IN BOOK 269 AT PAGE 254 AND SEPTEMBER 24, 1976
AT RECEPTION NO. 1699780 IN BOOK 778 AND OCTOBER 9, 1951 IN
BOOK 1313 AT PAGE 346.