TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 55, SERIES 2018

A RESOLUTION APPROVING THE AGREEMENT WITH CONNELL RESOURCES INC. FOR THE CONSTRUCTION OF TIMNATH TRAIL 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, attached hereto as Exhibit A is the Agreement between the Town of Timnath and Connell Resources Inc. (the "Agreement"); and

WHEREAS, the Town Council is familiar with the Agreement and finds it to be in the best interest of the Town, its residents, and the general public.

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

Section 1. Approval
The Agreement is hereby approved in substantially the form as attached hereto, subject to technical or otherwise non-substantive modifications, as deemed necessary by the Town Manager in consultation with the Town Planner, Engineer, Legal Counsel, and other applicable staff or consultants. The Council further authorizes, ratifies, and approves all incidental actions taken on the Town's behalf to date and in the future in connection with the above-referenced Contract and that the Town Manager can execute said contracts on behalf of the Mayor and Town Council.


TOWN OF TIMNATH, COLORADO

[Signature]
Jill Grossman-Belisle, Mayor

ATTEST:

[Signature]
Milissa Peters-Garcia,
Town Clerk
EXHIBIT A

AGREEMENT
AGREEMENT

This agreement is dated as of the 24th day of July, 2018 by and between:

The Town of Timnath (hereinafter called Owner) and

Connell Resources LLC. (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: Construction of Timnath Trail Drive and associated utilities.

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 within 130 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 within 145 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:
One Hundred and Sixty One Thousand three hundred and sixteen dollars and twenty cents.
($161,316.20).

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 percent (90%) of work completed. If work has been 50% completed as determined by Engineer, and if the character and progress of the work have been satisfactory to Owner and Engineer, Owner on recommendation of Engineer, may determine that as long as the character and progress of the work remain satisfactory to them, there will be no additional retainage on account of work completed in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the work completed.

Ninety percent (90%) 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 32 inclusive with each sheet bearing the following general title:

8.7 Contractor’s Bid (pages 1 to 9, inclusive).

8.8 The following which may be delivered or issued after the Effective the 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 **July 24**, 2018.

Owner: **Town of Timnath**

By: **[Signature]**

Contractor: __________________________

By: __________________________

(CORPORATE SEAL)

Attest: **[Signature]**

Address for giving notices

**Town of Timnath**

4700 Goodman Street

Timnath Co 80547

Attest: __________________________

Address for giving notices

______________________________

______________________________

License No. __________________________
We have prepared for your information the following items for budget evaluation purposes for the referenced project. This budget includes conceptual quantities, resource costs, scope-of-work and schedules and therefore may not completely represent all items of work or cost ultimately necessary for completion of the project. This budget was prepared using reasonable skill and judgment, but is not an offer to perform the Work described.

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<th>Item Description</th>
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### K. Asphalt Paving

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<th>Price per Unit</th>
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**Total Price for above K. Asphalt Paving Items:** $40,998.00

### L. Traffic Control

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<th>Item</th>
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**Total Price for above L. Traffic Control Items:** $6,200.00

**Total Bid Price:** $161,316.20

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**Notes:**
- Pricing is based upon the Preliminary Not For Construction plans entitled "Timnath Trail Drive" dated 04-19-18, Sheets 1 through 11, as prepared by Interwest Consulting Group. No geotechnical engineering report was provided at bid time and all paving sections have been based on similar projects within the same work area of Signal Tree and Harmony Road as stated in the plan set.
- The following are excluded from this proposal: Construction engineering; Drainage facility certification; Warrantee period in excess of one year; Street cleaning for work performed by others; Permits & Fees; Dewatering; Maintenance of erosion control devices for others; quality control or acceptance testing; prairie dog removal, relocation, or extermination; landscaping, seeding, or revegetation.
- Pavement Drainage less than 1.5% designed or obtainable fall will not be guaranteed.
- Material prices for pipeline Items are guaranteed for a period of 30 days from the date shown on the top of this quote. After 30 days the material prices may change the unit prices quoted.

* All work is contingent on the availability of construction water, access to the work, negotiation of acceptable contract terms, a mutually agreeable schedule, and verification of financing.
* Please provide a minimum of 4 weeks advanced notification of work requests to allow for scheduling the work. No work will be completed without a signed Contract Agreement. Work is anticipated late summer / fall of 2018.
* Frost removal or winter protection is not included. If requested, it will be billed either on a time and material basis or a lump sum amount that is mutually agreed upon.
* Asphalt cement suppliers are adjusting pricing monthly. Asphalt cement prices are subject to adjustment.
* Environmental site assessment / mitigation of hazardous or contaminated materials is excluded. Treatment or testing for contaminated groundwater is specifically excluded.
* Add 1% to include performance and payment bond.
* All fine grading and concrete placement for the detached sidewalk is excluded.