

**TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 15, SERIES 2019**

**A RESOLUTION APPROVING A LICENSE AGREEMENT FOR THE
INSTALLATION AND MAINTENANCE OF A MONITORING STATION BY THE
UNITED STATES GEOLOGICAL SURVEY (USGS) ON TOWN OWNED PROPERTY
LOCATED AT 4800 GOODMAN STREET**

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

WHEREAS, the Town of Timnath will enter into a License Agreement with the U.S. Geological Survey (USGS) for a one year and two-month period commencing upon signing of the License Agreement; and

WHEREAS, the property owned by the Town is located at 4800 Goodman Street and is more specifically depicted on Exhibit A of the License Agreement; and

WHEREAS, the License Agreement is for the purposes of installing and maintaining a monitoring station for the intended purpose of collecting rainfall, snowfall, and wind data to be analyzed in a study as part of the National Atmospheric Deposition Program (NADP); and

WHEREAS, the License Agreement requires that the Town allow reasonable access to the monitoring station for the purposes of collecting samples and maintaining the instrumentation; and

WHEREAS, the License Agreement requires that the USGS remove the monitoring station and restore the site to the original condition after the term of the agreement or upon termination of the License Agreement in compliance with the terms as specified in the agreement; and

WHEREAS, should the Town wish to retain the equipment, the USGS may by a separate written agreement transfer the equipment to the Town if so approved by the USGS Regional Executive.

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

Section 1. Approval

The License 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.

**INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN
OF TIMNATH, ON FEBRUARY 11, 2020**

TOWN OF TIMNATH, COLORADO



Jil Grossman-Belisle, Mayor

ATTEST:



Milissa Peters-Garcia, CMC
Town Clerk



U.S. DEPARTMENT OF THE INTERIOR
U.S. Geological Survey

LICENSE AGREEMENT

(FOR INSTALLATION AND MAINTENANCE OF MONITORING STATION)

This License Agreement (“Agreement”) is made this 11th day of February 2020, by and between the Town of Timnath, a Colorado municipal cooperation (the “Landowner”), and the U.S. Geological Survey, Observing Systems Division, Hydrologic Networks Branch, a scientific agency of the United States government (“USGS”). The Landowner owns certain real property which is located at the description listed below and USGS desires to install and maintain a National Atmospheric Deposition Program – National Trends Network station (the “Station”) on such property. The Landowner hereby grants to USGS, and USGS hereby accepts, a license to install, use, and maintain the Station at the Location subject to the terms and conditions contained herein.

Location: The Station shall be located at Lat. 40° 31' 10" Long. 104° 57' 36" and/or at the Town of Timnath, Colorado Public Works Department. A map of the Location is included as **Exhibit A**.

The Landowner agrees that the USGS will have access to the site, as reasonably necessary for precipitation measuring and/or water-quality sampling during the life of this Agreement. Excavation and/or installation of the Station, at the USGS's own expense, may begin any time after this Agreement is fully executed. The Station shall be excavated, installed, and properly maintained by the USGS.

At the expiration of this Agreement, the Station may be disposed of in one of the following ways:

1. Removal of the Station by the USGS, at its own cost and expense, within a reasonable time after the expiration of this Agreement. Upon removal of the station, the USGS shall restore the Landowner's property, also at its own expense, as nearly as possible to the condition when installed, or
2. Transfer to a state, local, or tribal government agency or Federal Energy Regulatory Commission licensee under a separate written agreement, if approved by the Landowner and the USGS Regional Executive.

During the life of this Agreement, the U.S. Federal Government will be liable for any loss related to the installation, operation, maintenance, and other activities associated with the Station described above in accordance with, and to the extent permitted under, the Federal Tort Claims Act (28 U.S.C. §§ 1346(b) and 2671 *et seq.*). USGS agrees to defend, indemnify and hold harmless the Landowner and each of its directors, officers, contractors, employees, agents and consultants, from and against any and all claims, demands, losses, liabilities, actions, lawsuits, damages, and expenses, including legal expenses and attorneys' fees, arising directly or indirectly out of the errors or omissions, negligence, willful misconduct, or any criminal or tortious act or omission of USGS or any of its subcontractors, officers, agents or employees. USGS is not obligated to indemnify the Landowner for the Landowner's own negligence.

Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Landowner, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the Landowner and, in particular, governmental immunity afforded or available to the Landowner by the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.

If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

This agreement shall become effective when fully executed and shall remain in full force for $\sqrt[1]{\quad}$ year(s) $\sqrt[2]{\quad}$ month(s) unless terminated earlier by USGS upon sixty (60) days written notice. After $\sqrt[1]{\quad}$ year(s) $\sqrt[2]{\quad}$ month(s), the Agreement will continue in force until terminated by either the USGS or the Landowner upon sixty (60) days written notice to the other party.

For the purpose of this Agreement, " National Atmospheric Deposition Program – National Trends Network station " includes all instrumentation mounting stands and structure, including tripods, racks, platforms, and equipment, used in the operation and maintenance of the monitoring site.

Landowner: Town of Timnath

Address: 4750 Signal Tree Drive, Timnath CO, 80547

Telephone Number: 970-224-3211

USGS Project Chief: Gregory A. Wetherbee

Address: MS 401, Bldg. 95, Box 25046, Denver Federal Center, Denver, CO 80225

Telephone Number: 303-236-1837

USGS, Hydrologic Networks Branch Chief: Kurt McCoy (Acting)

Address: VA Water Science Center, 1730 E. Parham Road, Richmond, VA, 23228

Telephone Number: 804-261-2656

By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.


TOWN:

TOWN OF TIMNATH



Jill Grossman-Belisle, Mayor


ATTEST:



Milissa Peters-Garcia, CMC
Town Clerk

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law



General Counsel to the Town

USGS:

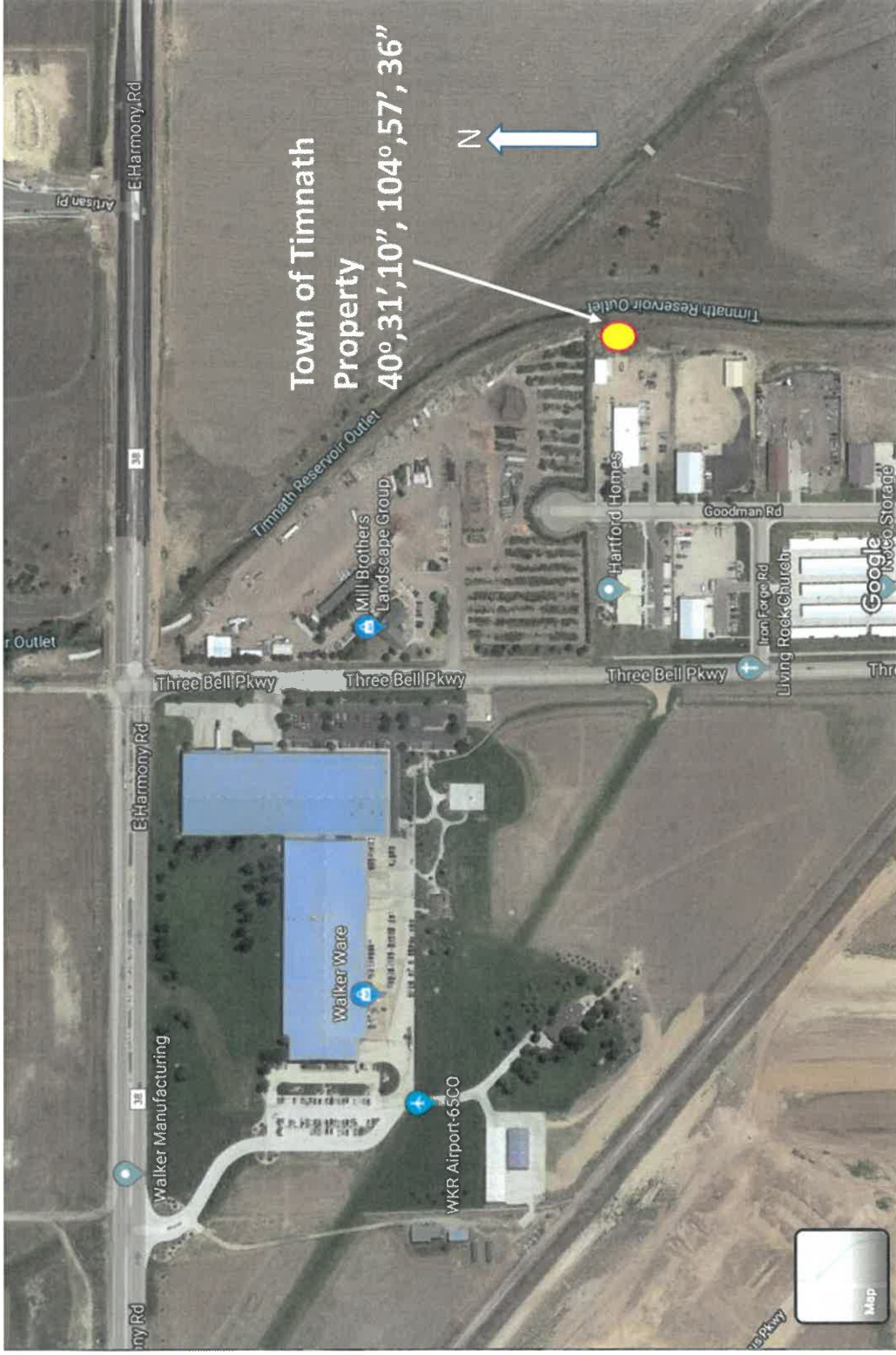
U.S. GEOLOGICAL SURVEY



By: Kurt McCoy, Acting Branch Chief

Exhibit A

Exhibit A



12/9/2019

Potential NADP Site, Timnath, CO

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