

**AMENDED AND RESTATED PINE DRIVE PROPERTY  
ANNEXATION AGREEMENT**

THIS AMENDED AND RESTATED PINE DRIVE PROPERTY ANNEXATION AGREEMENT (the "Agreement") is voluntarily made and entered into this 30<sup>th</sup> day of ~~SEPTEMBER~~, 2021, by and between the Town of Parker, a Colorado home rule municipality (hereinafter referred to as the "Town"), the Parker Water and Sanitation District (hereinafter referred to as the "District") (only as to Paragraph 3), and Douglas County School District RE-1, its successors and assigns (hereinafter referred to as the "Property Owner").

**RECITALS:**

A. The Property Owner is the owner of certain real property situated in the Town of Parker, Colorado, which is described in **Exhibit A**, attached hereto and made a part hereof (the "**Parcel 1**") and zoned PD-Planned Development District under the Parker Land Development Ordinance.

B. The Property Owner is also the owner of certain real property situated in unincorporated Douglas County, State of Colorado, which is described in **Exhibit B**, attached hereto and made a part hereof (the "**Parcel 2**") and zoned SR-Suburban Residential in Douglas County.

C. **Parcel 1** is subject to the "Pine Drive Property Annexation Agreement," dated May 15, 2006, and recorded at Reception No. 2006046564 of the Douglas County Clerk and Recorders Office (the "Original Annexation Agreement").

D. Pine Drive II, LLC, the predecessor-in-interest to the Property Owner, entered into the Original Annexation Agreement "in reliance upon the Town's concurrent adoption of an ordinance ... zoning [Parcel 1] PD-Planned Development ... (the "Original Zoning").

E. The Original Zoning limited the use of **Parcel 1** to single family detached residential and the Original Annexation Agreement contained terms and conditions to address the impacts of residential development including opens space, trails, parks, deficit reduction fees and school mitigation fees.

F. The Property Owner desires that the Town annex Parcel 2 and zone both Parcel 1 and Parcel 2 (collectively referred to as the "**Property**"), PF-Public Facilities District under the Parker Land Development Ordinance.

G. The Property Owner further desires to amend and restate the Original Annexation Agreement to remove the terms and conditions that address the impacts of residential development.

H. Concurrently with its petition for annexation of **Parcel 2**, the Property Owner has filed with the District a petition for inclusion of the Property.

I. The Town wishes to annex **Parcel 2** into the Town and shall consider the zoning application for the Property upon the condition that **Parcel 1** and **Parcel 2** are subject to this

Agreement and this Agreement is approved by the Town and is executed by the Town, the District and the Property Owner.

J. Section 110(2) of the Colorado Municipal Annexation Act of 1965, C.R.S. § 31-12-101, *et seq.*, authorizes the Town to impose terms and conditions upon the annexation of the Property, which terms and conditions are set forth in their entirety herein.

NOW, THEREFORE, in consideration of the foregoing recitals, mutual covenants, and promises set forth below, the receipt and sufficiency of which are mutually acknowledged, the Town, the District (only as to Paragraph 3) and the Property Owner hereby agree as follows:

1. Annexation. The annexation of the Property shall be in accordance with the Colorado Municipal Annexation Act of 1965, as amended.

a. Conditions Precedent. Annexation of **Parcel 2** shall not become effective, and neither the Property Owner nor the Town shall record or cause to be recorded the items described in § 31-12-113(2)(a)(II)(A), C.R.S. or this Agreement, until each of the following conditions have been satisfied (it being acknowledged that the Town shall cause recordation of the requisite documents to effect annexation of the Property upon satisfaction of the conditions precedent):

i. The Property Owner and the Town have mutually executed and delivered this Agreement.

ii. Parcel 2 has been fully included within the boundaries of the District by virtue of an Order of Inclusion having been signed by the Douglas County District Court and recorded in the real estate records of Douglas County, Colorado (the "Records").

iii. The District signs this Agreement.

b. Failure of Conditions. Until the conditions precedent set forth in Subparagraph 1.a have been satisfied, this document shall constitute an offer by the Property Owner and the Town to enter into this Agreement (notwithstanding the parties' mutual execution and delivery of this document), and the annexation of the Property to the Town shall not become effective. In such case, neither the Property Owner nor the Town shall record or cause to be recorded this Agreement or the items described in § 31-12-113(2)(a)(II)(A), C.R.S.

(c) Satisfaction of Conditions; Recording; Release of Original Annexation Agreement. On and after the Effective Date (as defined below), and without regard to the date upon which recording occurs as contemplated below, this Agreement shall be legally effective and binding on the Property Owner and the Town, shall supersede and replace in its entirety the Original Annexation Agreement with respect to **Parcel 1**, and the Original Annexation Agreement shall be null, void and of no further force and effect with respect to **Parcel 1**. Promptly following satisfaction of the Conditions Precedent, the Town shall cause

this Agreement to be recorded in the real property records of the Douglas County Clerk and Recorder's Office in accordance with Paragraph 22.

2. Purpose. The purpose of this Agreement is to set forth the terms, conditions, and fees to be paid by the Property Owner upon annexation and initial development of the Property. Unless otherwise expressly provided to the contrary herein, all conditions contained herein are in addition to any and all requirements of the Town of Parker Land Development Code, as amended, any and all state statutes, and other sections of the ordinances of the Town of Parker.

3. Water and Sewer Services. The parties to this Agreement acknowledge that the Town has no obligation under this Agreement to provide water and sewer service to the Property. The District will provide water and sewer services to the Property if the Property Owner satisfies all requirements of the District, including, but not limited to, the dedication of water resources and/or the payment of fees in lieu thereof, and the construction of water, sewer and wastewater treatment lines and facilities necessary to service the land use proposed for the Property.

4. Zoning and Development.

a. The Property Owner hereby consents to zoning the Property to PF-Public Facilities, pursuant to the Town of Parker Land Development Ordinance that is adopted by Ordinance No. 3.241.2, contemporaneously with this Agreement.

b. Town Fees. The Property Owner hereby agrees to pay the Town the actual cost, plus fifteen percent (15%), to defray the administrative and review expenses of the Town, and for engineering, surveying, and legal services rendered in connection with the review of the annexation of the Property, which cost shall be determined by the Town Planning Director. In addition, the Property Owner shall reimburse the Town for the actual cost of making corrections or additions to the official Town Map, with a fee for recording such map, if necessary, and accompanying documents with the County Clerk and Recorder. The Property Owner further agrees to pay all building fees, use taxes, impact fees and excise taxes as established by Town ordinance at the time this Agreement is executed and such additional fees and taxes as may be in effect at the time of development of the Property (as evidenced by plat approval), except as specifically provided by this Agreement. The Town may withhold any plat approval or withhold the issuance of any permits for construction or occupancy for failure to pay Town fees and taxes as provided herein. All fees recited in this Agreement shall be subject to amendment by the Town Council by ordinance so long as any amendment is Town wide. Any amendment to the fees shall be incorporated into this Agreement as if originally set forth herein.

5. Open Space. The Property Owner acknowledges and agrees that the Town, as a condition to annexation, requires an open space dedication for any residential development. The Town acknowledges and agrees that if the Property is zoned in the manner described in Paragraph 4 of this Agreement, which does not include any residential uses, then the Property Owner will have no obligation to dedicate Open Space. The Property Owner acknowledges and agrees that the Town may require the dedication of Open Space as a condition to any change in the zoning initiated by the Property Owner, which results in any residential uses on the Property.

6. Deficit Reduction Fee. The Property Owner acknowledges and agrees that the Town, as a condition to annexation, requires a "Deficit Reduction Fee" to the Town to off-set the impact to the Town's General Fund as a result of annexation. The Town acknowledges and agrees that if the Property is zoned in the manner described in Paragraph 4 of this Agreement, then the financial impact to the Town will be financially neutral, and the Property Owner will not have to pay a Deficit Reduction Fee. The Property Owner further acknowledges and agrees that the Town may impose a deficit reduction fee as a condition to any change in the zoning initiated by the Property Owner, which results in any residential uses on the Property, based upon the method used by the Town for calculating the "Deficit Reduction Fee" at the time such change in zoning is initiated by the Property Owner, as described herein.

7. Construction of Roads. The Property Owner shall design and construct, at its sole expense, the following road improvements, in accordance with Town standards, except as otherwise provided in this Paragraph.

a. Pine Drive.

i. The Property Owner shall design and construct an 8-foot detached sidewalk on the west side of Pine Drive adjacent to the Property (the "Sidewalk Improvement"). The Sidewalk Improvement shall be designed and constructed according to the Town of Parker Roadway Design and Construction Criteria Manual, prior to the issuance of any certificates of occupancy for the Property, temporary or otherwise.

ii. The Property Owner shall design and construct the median improvements to Pine Lane adjacent to the Property, according to Town standards, prior to issuance of any certificates of occupancy for the Property, temporary or otherwise.

iii. The Property Owner shall pay to the Town Fifty Thousand Dollars (\$50,000.00), which constitutes the Property Owner's share of a traffic signal at the intersection of Pine Drive and Hills Drive, prior to the issuance of any certificates of occupancy for the Property, temporary or otherwise.

iv. The Property Owner shall design and construct all necessary auxiliary lanes for Pine Drive, as determined in the Town-approved Traffic Study for the Property, and in accordance with Town standards, prior to the issuance of any certificates of occupancy for the Property.

b. Hills Drive. The Property Owner shall design and construct Hills Drive on the west side of Pine Drive with a new alignment, as approved by the Town, which alignment will intersect with Pine Drive directly opposite Parker Hills Court on the east side of Pine Drive, prior to the issuance of the first certificate of occupancy, temporary or otherwise, for the Property. Hills Drive shall be constructed according to the Town of Parker Design and Roadway Criteria Manual, as amended, as a Residential Collector directly west of the intersection with Pine Drive and shall taper to match the existing section west of the project entry for the Property. The Property Owner shall remove existing Hills Drive and

revegetate the land as permitted by the Town of Parker Storm Drainage and Environmental Criteria Manual, prior to the issuance of any certificates of occupancy for the Property, temporary or otherwise.

8. Land Dedication. The Property Owner shall either dedicate by plat or convey to the Town, by special warranty deed, free and clear of all liens and encumbrances, the following real property:

a. Pine Drive. Sufficient portions of the Property in fee simple absolute, including any slope, drainage and construction easements, as determined by the Town, to construct the sidewalks and any necessary auxiliary lanes for Pine Drive, as described in Paragraph 9 of this Agreement, at the time of the first final plat for the Property or upon thirty (30) days' written notice of the Town to the Property Owner, whichever occurs first.

b. Hills Drive. Sufficient portions of the Property in fee simple absolute, including any slope, drainage and construction easements, as determined by the Town, to construct Hills Drive as a residential collector at the time of the first final plat for the Property.

9. Permitted Development. The Property Owner shall develop the Property in accordance with this Agreement, Town ordinances and regulations, and applicable state and federal laws and regulations. The Town shall allow and permit the development of the Property upon submission of proper application and payment of fees imposed by the Town ordinances and regulations.

10. Property Owner. The Property Owner is entering into this Agreement and is undertaking the obligations imposed upon the Property Owner herein in reliance upon the Town's concurrent adoption of an ordinance annexing the Property into the Town, adoption of an ordinance zoning the Property PF-Public Facilities as provided in paragraph 4.a. of the Agreement. Performance of the Property Owner's obligations hereunder is expressly conditioned upon the Town's adoption of the ordinance described in paragraph 4.a. If the Town fails to adopt the ordinance described in paragraph 4.a., then the petition for annexation will be deemed withdrawn and the annexation process will be terminated.

11. Waiver of Prior Vested Rights. The Property Owner waives any prior vested property rights acquired in Douglas County so long as the Property remains annexed into the Town.

12. Remedies. The Property Owner's remedies against the Town for the Town's breach of this Agreement are limited to breach of contract claims. The Town's remedies under this Agreement include, but are not limited to, the following:

- a. The refusal to issue any building permit or certificate of occupancy.
- b. The revocation of any building permit previously issued under which construction directly related to such building permit has not commenced, except a building permit previously issued to a third party.

c. A demand that the security given for the completion of the public improvements be paid or honored.

d. Any other remedy available at law.

13. Authority of the Town. Nothing contained in this Agreement shall constitute or be interpreted as a repeal of existing codes or ordinances or as a waiver or abrogation of the Town's legislative, governmental, or police powers to promote and protect the health, safety and general welfare of the Town or its inhabitants; nor shall this Agreement prohibit the enactment by the Town of any fee that is of uniform or general application.

14. Termination. If the zoning, as set forth above, is not approved by ordinance, or if the annexation of the Property is for any reason not completed, or this Agreement is not approved by the Town Council, then this Agreement shall be null and void and of no force and effect whatsoever, and any monies paid will be reimbursed to the Property Owner.

15. Binding Effect. This Agreement, when executed, shall inure to the benefit of and be binding on the successors or assigns in interest or the legal representatives of the parties hereto, including all the purchasers and subsequent owners of any lots or parcels within the Property. This Agreement constitutes the entire agreement of the parties and may be amended only in writing, approved in substantially the same manner as the Agreement itself. This Agreement is binding upon and shall run with the land.

16. Recordation of Agreement. When the annexation ordinance and zoning ordinance, as described in this Agreement, have been adopted by the Town, this Agreement shall be recorded with the Clerk and Recorder of Douglas County, Colorado, and shall run with the land, and shall be binding upon and shall inure to the benefit of the heirs, successors, and permitted assigns of the parties hereto.

17. Effective Date. This Agreement shall be effective and binding upon the parties immediately upon the effective date of an ordinance annexing and zoning the Property, regardless of whether the Agreement is executed prior to the effective date of said ordinance annexing and zoning the Property.

18. Severability. It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

19. 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 venue of such suit or action shall be in Douglas County, Colorado.

20. 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 on the earlier of actual receipt or seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

To the Town:                           Town Administrator/Town Attorney  
Town of Parker  
20120 East Mainstreet  
Parker, Colorado 80134

To the Property Owner:           Douglas County School District RE-1  
Attn: Board of Directors, Board of Education  
620 Wilcox St.  
Castle Rock, Colorado 80104

With a copy to:                       Douglas County School District RE-1, General Counsel  
Attn: Mary Klimesh, Esq.  
620 Wilcox St.  
Castle Rock, Colorado 80104

21. Effective Date. This Agreement shall be effective and binding upon the parties immediately upon the effective date of the satisfaction of the conditions precedent described in Paragraph 1(a) of this Agreement.

22. Entire Agreement - Amendments. This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written, between the parties hereto. This Agreement may be amended by written agreement between the Property Owner and the Town acting pursuant to Town Council authorization.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date set forth above.

**TOWN OF PARKER, COLORADO**

By: \_\_\_\_\_  
Jeff Toborg, Mayor

ATTEST:

\_\_\_\_\_  
Chris Vanderpool, Acting Town Clerk

APPROVED AS TO FORM:

James S. Maloney, Town Attorney

PROPERTY OWNER: DOUGLAS  
COUNTY SCHOOL DISTRICT RE-1

By:

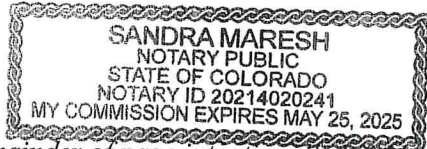
*[Signature]*  
COREY WISE, SUPERINTENDENT  
[Please print name/title on line.↑]

STATE OF COLORADO )  
  ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of SEPTEMBER, 2021, by COREY WISE, as SUPERINTENDENT of Douglas County School District RE-1.

My commission expires: MAY 25, 2025

(SEAL)



*[Signature]*  
Notary Public

[Remainder of page intentionally left blank. Signatures continue on following page.]



**PARKER WATER AND SANITATION  
DISTRICT**  
(AS TO PARAGRAPH 3)

By: \_\_\_\_\_  
Ron R. Redd, P.E., District Manager

ATTEST:

\_\_\_\_\_  
Maleia Good, Executive Coordinator

**EXHIBIT A**

**Legal Description of Parcel 1**

A PARCEL OF LAND AS DESCRIBED IN RECEPTION NO. 2013073297 RECORDED ON SEPTEMBER 3, 2013, DOUGLAS COUNTY CLERK AND RECORDER'S OFFICE, STATE OF COLORADO, LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 6 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 15 WHENCE THE NORTHEAST CORNER OF SAID SECTION 15 BEARS N00°30'58"W, A DISTANCE OF 5,349.66 FEET; THENCE S89°53'49"W, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 15, A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S89°53'49"W, ALONG SAID SOUTH LINE, A DISTANCE OF 660.00 FEET TO THE SOUTHEAST CORNER OF BLOCK 12 OF PARKER NORTH AS RECORDED AT RECEPTION NO. 247647; THENCE N00°30'59"W, ALONG THE EAST LINE OF SAID BLOCK 12, A DISTANCE OF 1,187.73 FEET TO THE SOUTHWEST CORNER OF TRACT H OF SAID PARKER NORTH; THENCE N89°54'12"E, ALONG THE SOUTH LINE OF SAID TRACT H, A DISTANCE OF 660.00 FEET TO THE SOUTHEAST CORNER OF SAID TRACT H, BEING ON THE WEST RIGHT-OF-WAY LINE OF PINE DRIVE; THENCE S00°30'58"E, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 1,187.66 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 783,863 SQUARE FEET OR 17.995 ACRES, MORE OR LESS.

**EXHIBIT B**

**Legal Description of Parcel 2**

TRACT H OF PARKER NORTH AS RECORDED AT RECEPTION NO. 247647, DOUGLAS COUNTY CLERK AND RECORDER'S OFFICE, STATE OF COLORADO.

CONTAINING AN AREA OF 1.95 ACRES, MORE OR LESS.