

After Recording, Return to:
WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122

**SECOND AMENDED AND RESTATED
JOINT RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
PARKDALE COMMUNITY AUTHORITY
AND
PARKDALE METROPOLITAN DISTRICT NOS. 1-3**

CONCERNING THE IMPOSITION OF AN OPERATIONS FEE

WHEREAS, the Parkdale Metropolitan District Nos. 1-3 (the “**Districts**”) were formed pursuant to §§ 32-1-101, *et seq.*, C.R.S., as amended (the “**Special District Act**”), by orders of the District Court for Boulder County, Colorado, and after approval of the Districts’ eligible electors at an election; and

WHEREAS, the Districts are governed by an Amended and Restated Service Plan for Parkdale Metropolitan District Nos. 1-3 that was approved by the Town of Erie on December 10, 2019 (the “**Service Plan**”); and

WHEREAS, the Parkdale Community Authority (the “**Authority**”) was formed pursuant to the Colorado Constitution Article XIV, Sections 18(2)(a) and (b) and Sections 29-1-203 and 29-1-203.5, C.R.S., as amended (the “**Authority Act**”) pursuant to that certain Agreement Establishing the Parkdale Community Authority dated February 20, 2020 (the “**Establishment Agreement**”) by and among the Districts; and

WHEREAS, the Districts and the Authority are also parties to that certain Operating Pledge Agreement dated March 27, 2020 (the “**Operations Pledge Agreement**”); and

WHEREAS, pursuant to the Operations Pledge Agreement, the Authority is responsible for providing certain O&M Services (as defined in the Operations Pledge Agreement) on behalf of the Districts; and

WHEREAS, pursuant to the Authority Act and the Establishment Agreement, the Board of Directors of the Authority (the “**Board**”) shall have the management, control and supervision of all the business and affairs of the Authority, including the power to approve, set, impose, collect, pledge, spend, reserve, and use rates, fees, tolls, charges and penalties for facilities, services, and programs furnished or to be furnished by the Authority; and

WHEREAS, pursuant to Section V.A.8 of the Service Plan, the Districts may impose fees to cover the costs of the provision of the following services within the District: covenant enforcement, design review services, and commercial maintenance services including without limitation landscaping and snow removal (collectively, the “**Services**”); and

WHEREAS, the Districts and the Authority have determined it to be in the best interests of the Authority and the Districts, and the property owners, taxpayers, and residents thereof, for the Authority to provide the Services on behalf of the Districts; and

WHEREAS, the annual estimated costs for provision of the Services at build-out of the community is \$704,000; and

WHEREAS, pursuant to the Service Plan, the maximum mill levy the Districts may impose to fund administration, operations, and maintenance is 15 mills, subject to any Gallagher adjustments; and

WHEREAS, the revenue from the Districts' general fund mill levies is insufficient to pay for administrative, operations and maintenance costs and the Services; and

WHEREAS, the Districts and the Authority intend to impose an operations fee comprised of two components, an annual fee and a one-time fee to cover the costs of providing the Services as permitted by the Establishment Agreement, Operations Pledge Agreement, and the Service Plan; and

WHEREAS, based on the Operations Fee Calculation prepared by the Authority's accountant, attached hereto as **Exhibit B**, Board has determined that the fees set forth in **Exhibit A** are reasonable; and

WHEREAS, the establishment and continuation of a fair and equitable fee (the "**Operations Fee**") to provide a source of funding to pay for the Services, which costs are generally attributable to the persons and/or properties subject to such Operations Fees, is necessary to provide for the common good and for the prosperity and general welfare of the Authority and the Districts and their inhabitants and for the orderly and uniform administration of the Authority's affairs; and

WHEREAS, the Authority and the Districts find that the Operations Fee, as set forth in this Resolution, is reasonably related to the overall cost of providing the Services, and that imposition thereof is necessary and appropriate; and

WHEREAS, on October 21st, 2020, the Board adopted an Amended and Restated Joint Resolution of the Board of Directors of the Parkdale Community Authority and Parkdale Metropolitan District Nos. 1-3 Concerning the Imposition of an Operations Fee, which was recorded in the real property records of the Boulder County Clerk and Recorder's Office on November 9, 2020, at Reception No. 03831742 (the "**Prior Fee Resolution**"), and the Board desires to adopt this Resolution to amend and restate the Prior Fee Resolution in its entirety. Any fees, rates, tolls, penalties or charges due under the Prior Fee Resolution, to the extent outstanding and unpaid, shall remain in effect until fully paid and shall not be eliminated hereby.

NOW, THEREFORE, be it resolved by the Authority and Districts as follows:

1. **DEFINITIONS**. Except as otherwise expressly provided or where the context indicates otherwise, the following capitalized terms shall have the respective meanings set forth below:

“**Apartment Unit**” means a unit within an apartment building which unit is held for lease or rent for residential occupancy and for which a final certificate of occupancy has been issued.

“**Authority Boundaries**” means the legal boundaries of the Authority, as more particularly set forth in the map and legal description attached hereto as **Exhibit C** and incorporated herein by this reference.

“**Due Date**” means the date by which the Operations Fee is due, which Due Date is reflected on the Schedule of Fees.

“**End User**” means any third-party homeowner or tenant of any homeowner occupying or intending to occupy a Residential Unit. End User specifically excludes a tenant occupying an Apartment Unit.

“**Fee Schedule**” or “**Schedule of Fees**” means the schedule of fees set forth in **Exhibit A**, attached hereto and incorporated herein by this reference, until and unless otherwise amended and/or repealed.

“**Lot**” means each parcel of land established by a recorded final subdivision plat and which is located within the Authority Boundaries.

“**Residential Unit**” means each residential dwelling unit (including, without limitation, condominiums, townhomes, and any other attached dwelling unit and detached single family dwelling units) located within the Authority Boundaries which has been Transferred to an End User.

“**Transfer**” or “**Transferred**” shall include a sale, conveyance or transfer by deed, instrument, writing, lease or any other documents or otherwise by which real property is sold, granted, let, assigned, transferred, exchanged or otherwise vested in a tenant, tenants, purchaser or purchasers.

“**Vacant Lot**” means each parcel of land within the Authority established by a recorded final subdivision plat, but specifically excluding any parcel upon which one or more Residential Units or Apartment Units is situated and specifically excluding any parcel owned by the Authority.

2. OPERATIONS FEE.

a. The Authority and the Districts have determined, and do hereby determine, that it is in the best interests of the Authority and the Districts and their respective residents and property owners to impose, and do hereby impose an Operations Fee to fund the Services. The Operations Fee is hereby established and imposed in an amount as set forth by the Authority from time to time pursuant to a “Fee Schedule” and shall constitute the rate in effect until such schedule is amended or repealed. The initial Fee Schedule is set forth in **Exhibit A**, attached hereto and incorporated herein by this reference. The Operations Fee shall consist of a recurring payment (the “**Annual**

Operations Fee”) and a separate payment imposed on transfers of a Residential Unit (the **“One-Time Operations Fee”**), which together shall comprise the Operations Fee.

b. The One-Time Operations Fee shall be imposed on all Transfers of a Residential Unit to an End User. The One-Time Operations Fee shall not apply to any of the following, except to the extent the Authority determines that such exception is being undertaken for the purpose of improperly avoiding the Operations Fee:

i. Any Transfer wherein the United States, or any agency or instrumentality thereof, the State of Colorado, any county, city and county, municipality, district or other political subdivisions of this State, is either the grantor or the grantee.

ii. Any Transfer by document, decree or agreement partitioning, terminating or evidencing termination of a joint tenancy, tenancy in common or other co-ownership; however, if additional consideration or value is paid in connection with such partition or termination the Transfer Payment shall apply and be based upon such additional consideration.

iii. Any Transfer of title or change of interest in real property by reason of death, pursuant to a will, the law of descent and distribution, or otherwise.

iv. Any Transfer made and delivered without consideration for the purpose of: confirming, correcting, modifying or supplementing a Transfer previously made; making minor boundary adjustments; removing clouds of title; or granting easements, rights-of-way or licenses.

v. Any decree or order of a court of record quieting, determining or resting title, except for a decree of foreclosure.

vi. Transfers to secure a debt or other obligation, or releases other than by foreclosure, which is security for a debt or other obligation.

vii. Transfers pursuant to a decree of separation or divorce.

c. The Districts and the Authority have determined, and does hereby determine, that the Operations Fee is reasonably related to the overall cost of providing the Services, and is imposed on those who are reasonably likely to benefit from the Services.

d. The revenues generated by the Operations Fee will be accounted for separately from other revenues of the Authority. The Operations Fee revenue will be used solely for the purpose of paying the costs of the Services, and may not be used by the Authority to pay for general administrative costs of the Authority.

3. LATE FEES AND INTEREST. Pursuant to § 29-1-1102(3), C.R.S., any Operations Fee not paid in full within fifteen (15) days after the scheduled due date will be

assessed a late fee in the amount of Fifteen Dollars (\$15.00) or up to five percent (5%) per month, or fraction thereof, not to exceed a total of twenty-five percent (25%) of the amount due. Interest will also accrue on any outstanding Operations Fees, exclusive of assessed late fees, penalties, interest and any other costs of collection, specially including, but not limited, to attorney fees, at the rate of 18% per annum, pursuant to § 29-1-1102(7), C.R.S. The Authority may institute such remedies and collection procedures as authorized under Colorado law, including, but not limited to, foreclosure of its perpetual lien. The defaulting property owner shall pay all fees and costs, specifically including, but not limited to, attorneys' fees and costs and costs associated with the collection of delinquent fees, incurred by the Authority and/or its consultants in connection with the foregoing.

4. PAYMENT. Payment for all fees, rates, tolls, penalties, charges, interest and attorney fees shall be made by check or equivalent form acceptable to the Authority, made payable to "Parkdale Community Authority" and sent to the address indicated on the Fee Schedule. The Authority may change the payment address from time to time and such change shall not require an amendment to this Resolution.

5. LIEN. The fees imposed hereunder, together with any and all late fees, interest, penalties and costs of collection, shall, until paid, constitute a statutory, perpetual lien on and against the property served, and any such lien may be foreclosed in the manner provided by the laws of the State of Colorado for the foreclosure of mechanic's liens, pursuant to § 32-1-1001(1)(j)(I), C.R.S. Said lien may be foreclosed at such time as the Authority, in its sole discretion, may determine. The lien shall be perpetual in nature (as defined by the laws of the State of Colorado) on the property and shall run with the land. This Resolution shall be recorded in the offices of the Clerk and Recorder of Boulder County, Colorado.

6. SEVERABILITY. If any portion of this Resolution is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Resolution, 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 Resolution a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

7. THE PROPERTY. This Resolution shall apply to all property within the Authority Boundaries, including, but not limited to, the property set forth in **Exhibit C**, attached hereto and incorporated herein by this reference, and any additional property included into the Authority after the date of this Resolution.

8. EFFECTIVE DATE. This Resolution shall become effective June 8, 2023.

[Remainder of Page Intentionally Left Blank. Signature Page to Follow.]

ADOPTED this 8th day of June, 2023.

PARKDALE COMMUNITY AUTHORITY

CJanke
Christian Janke (Jun 12, 2023 11:01 MDT)

Officer of the Authority

ATTEST:

Corey Elliott
Corey Elliott (Jun 9, 2023 13:09 MDT)

PARKDALE METROPOLITAN DISTRICT NOS.
1-3

CJanke
Christian Janke (Jun 12, 2023 11:01 MDT)

Officer of the Districts

ATTEST:

Corey Elliott
Corey Elliott (Jun 9, 2023 13:09 MDT)

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys At Law

Megan G. Murphy

General Counsel to the Authority and the Districts

Signature page to Joint Resolution Concerning the Imposition of an Operations Fee

EXHIBIT A
PARKDALE COMMUNITY AUTHORITY
Schedule of Fees
Effective June 8, 2023

Schedule of Fees		
Fee Type	Classifications	Rate
Operations Fee	Apartment Unit	N/A
	Residential Unit	\$219 quarterly
	Vacant Lot	N/A
The Due Date for each Operations Fee – Recurring Payment is the first day of the first month of each quarter (i.e. each January 1, April 1, July 1, and October 1)		
One-Time Operations Fee	Apartment Unit	N/A
	Residential Unit	\$600 per Transfer
	Vacant Lot	\$600 per Transfer
The Due Date for each Operations Fee – Payment Due Upon Transfer is the date upon which the Transfer occurs.		

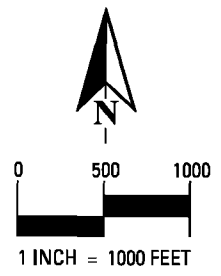
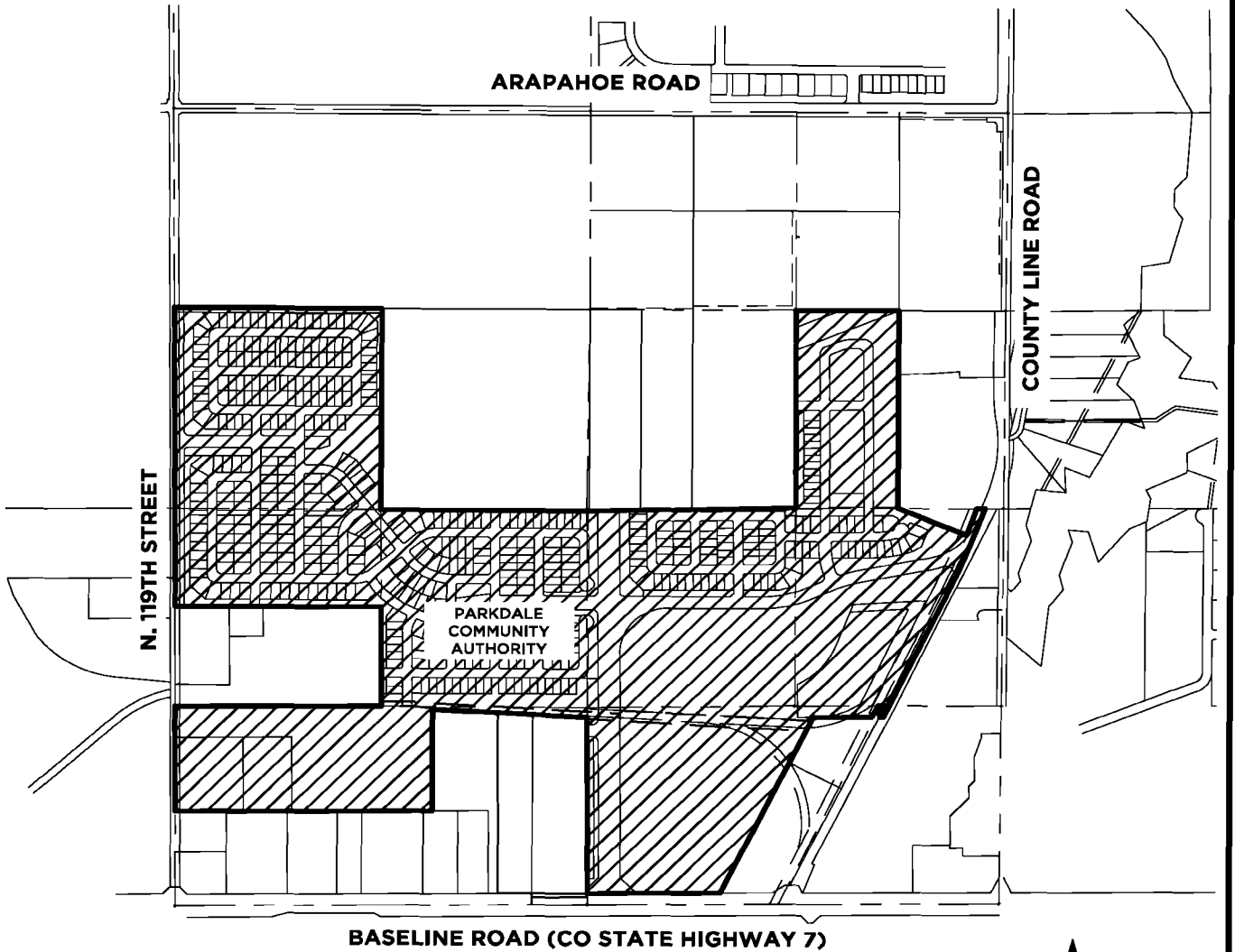
PAYMENTS: Payment for each fee shall be made payable to the Parkdale Community Authority and sent to the following address for receipt by the Due Date:

Parkdale Community Authority
 c/o AdvanceHOA Management
 PO Box 98113
 Phoenix, AZ 85038

EXHIBIT B
PARKDALE COMMUNITY AUTHORITY
Operations Fee Calculation

EXHIBIT C
PARKDALE COMMUNITY AUTHORITY
Authority Boundaries

PARKDALE COMMUNITY AUTHORITY



TITLE:
PARKDALE COMMUNITY AUTHORITY

LOCATION:
 A PORTION OF SECTION 36
 TOWNSHIP 1 NORTH, RANGE 69 WEST, 6TH P.M.,
 TOWN OF ERIE, COUNTY OF BOULDER, STATE OF COLORADO

SCALE: 1"=1000'	DATE: 3/17/2020	PROJECT NO: 0043-1532	AREA: 249.51 AC	PATH: J:\0043\1532\SURVEY\DISTRICT BOUNDARIES\PARKDALE_DISTRICT COMMUNITY AUTHORITY.DWG
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