TOWN OF TIMNATH, COLORADO
ORDINANCE NO. 2, SERIES 2017

AN ORDINANCE APPROVING AMENDMENT #1 TO THE ANNEXATION AGREEMENT – RIVERBEND PROJECT

WHEREAS, the Town of Timnath (the "Town") is a home rule municipality operating under the Timnath Home Rule Charter (the “Charter”) adopted on November 7, 2006 and the Town’s Municipal Code (the “Code”). Pursuant to the Charter, the Code and the authority given home rule municipalities, the Town may adopt and amend ordinances; and

WHEREAS, the Town Council approved the Annexation Agreement – Riverbend Project on November 5, 2008; and

WHEREAS, the Town Council and property owner, Riverbend Ventures, LLC, Arbor Holdings, LLC and Timnath Lands, LLC agree that a change in allowable land use is warranted to allow multiple family residential; and

WHEREAS, the Town Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of public health, welfare, peace, safety and property and that this Ordinance is necessary for the protection of public convenience and welfare.

NOW, THEREFORE, THE COUNCIL OF THE TOWN OF TIMNATH, COLORADO, ORDAINS:

ARTICLE 1 - The Town Council hereby approves the Amendment #1 to the Annexation Agreement – Riverbend Project.

ARTICLE 2 – SEVERABILITY
If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

ARTICLE 4 – EFFECTIVE DATE
This Ordinance shall take effect upon adoption at second reading, as provided by Section 3.5.5 of the Charter.


Please Return to:
Town of Timnath
4800 Goodman Street
Timnath, CO 80547
MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON JANUARY 10, 2017.

TOWN OF TIMNATH, COLORADO

______________________________
Jill Grossman-Belisle, Mayor

ATTEST:

______________________________
Milissa Peters, CMC
Town Clerk
AMENDMENT #1 TO THE ANNEXATION AGREEMENT – RIVERBEND PROJECT

This Amendment #1 to the Annexation Agreement – Riverbend Project (the “Amendment #1”) is entered into as of this 13 January 2017, between the Town of Timnath, Colorado (the “Town”), a Colorado home-rule municipality, and Riverbend Ventures, LLC, a Colorado limited liability company Arbor Holdings, LLC, a Colorado limited liability company, and Timnath Lands, LLC, a Colorado limited liability company, (collectively referred to as the “Owner”).

RECITALS

WHEREAS, the signatories on the Annexation Agreement – Riverbend Project (the “Agreement”) were Arbor Holding, LLC, a Colorado limited liability company, and Timnath Lands, LLC, a Colorado limited liability company (“Previous Owners”); and

WHEREAS, the Agreement was executed dated December 22, 2008; and

WHEREAS, Riverbend Ventures, LLC, Timnath Lands, LLC and Arbor Holdings, LLC are the successors to the Previous Owners and have the standing to sign an amendment to the Agreement; and

WHEREAS, circumstances have changed to warrant a change in land use restrictions originally governed by the Agreement and requires this Amendment #1; and

WHEREAS, Section 4.1 of the Agreement governs zoning on the property and refers to Exhibit C outlining the Permitted Uses on Parcel A (as illustrated on Exhibit A attached hereto and incorporated herein by reference).

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Changes to Land use. Exhibit C of the Agreement that governs land uses on Parcel A is hereby amended to include “multiple family residences” as a permitted use.

Section 2. Entire Agreement. This Agreement represents the full understanding of the parties on the land use of Parcel A, and supersedes any prior understanding, agreement or discussion of the parties regarding the subject matter. This Agreement is not intended to supersede or modify other terms of the Agreement or the Amended and Restated Public Improvements Agreement previously entered into by the Town and the Owner.

Section 3. Severability. If any provision of this Agreement is held invalid or unenforceable for any reason, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

Section 4. Notice. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if hand delivered or sent by certified mail, return receipt requested, postage and fees prepaid, or by commercial overnight courier, addressed to the party to whom such notice is to be given at the address
set forth below, or at such other address as has been previously furnished in writing, to the other party or parties. Such notice shall be given when deposited in the United States mail or with a commercial courier.

FOR THE TOWN OF TIMNATH,
COLORADO
Town Manager
4800 Goodman Street
Timnath, CO 80547

FOR RIVERBEND VENTURES, LLC
c/o Craig Harrison
4605 South County Road 3F
Timnath, Colorado 80547

Section 5. Exhibits. Exhibits referred to in this Agreement are incorporated herein for all purposes.

Section 6. Assignment. This Agreement shall not be assigned or amended by any party, unless in writing executed by all parties.

Section 7. Paragraph Headings. The paragraph headings in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the meaning, scope or intent of this Agreement or of any provisions herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this day and first above written.

TOWN OF TIMNATH

[Signature]
Jill Grossman-Belisle
Mayor

Attest:

[Signature]
Milissa Clerk, CMC
Town Clerk
RIVERBEND VENTURES, LLC

Craig Harrison, Managing Partner

STATE OF COLORADO  )
    ) ss.
COUNTY OF    Larimer     )

The foregoing instrument was acknowledged before me this 13 day of January, 2017, by Craig Harrison, as the Managing Member of Riverbend Ventures, LLC.

WITNESS my hand and official seal.

My commission expires: 7/26/2018

(SEAL)

LINDSEY WALKER KALICKI  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20064028981  
MY COMMISSION EXPIRES 07/26/2018

Notary Public
ARBOR HOLDINGS, LLC

Craig Harrison, Managing Partner

STATE OF COLORADO )
) ss.
COUNTY OF Larimer )

The foregoing instrument was acknowledged before me this 13 day of January, 2017, by Craig Harrison, as the Managing Member of Arbor Holdings, LLC.

WITNESS my hand and official seal.

My commission expires: 7/26/2018

(SEAL)

LINDSEY WALKER KALICKI
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20064028981
MY COMMISSION EXPIRES 07/26/2018

Notary Public
TIMNATH LANDS, LLC

Craig Harrison, Managing Partner

STATE OF COLORADO )
) ss.
COUNTY OF Larimer )

The foregoing instrument was acknowledged before me this 13 day of January, 2017, by Craig Harrison, as the Managing Member of Timnath Lands, LLC.

WITNESS my hand and official seal.

My commission expires: 7/26/2018

(SEAL)

LINDSEY WALKER KALICKI
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20064028981
MY COMMISSION EXPIRES 07/26/2018
EXHIBIT A

Parcels
RIVERBEND
ANNEXATION - ZONING EXHIBIT
DECEMBER 10, 2008

SCALE 1" = 400'0"