

**Memorandum of Understanding**  
Between  
**Hidden Pointe Homeowners Association, Inc.**  
**Castle Pines North [Master] Association, Inc.**  
**Castle Pines Parks Authority**  
**Castle Pines North Metropolitan District**

Dated December 31<sup>st</sup>, 2004

The purpose of this Memorandum of Understanding is to provide a basis for the drafting of binding legal agreements between the above noted parties, and lead to the ultimate settlement and dismissal of pending litigation between the parties. Such litigation is currently filed as Hidden Pointe Homeowners Assn, Plaintiff, Castle Pines North Association, Inc., Defendant, Douglas County District Court, Colorado, Case #03CV1198.

**WHEREAS**, Hidden Pointe Homeowners Association, Inc., 216 Valley Group, L.P., and Castle Pines North Association, Inc. entered into an agreement on December 14<sup>th</sup>, 1999 (1999 Agreement), which is set forth in Exhibit A. All parties now agree this contract must be amended to revise points of discrepancy, and to reinforce its legality.

**WHEREAS**, Hidden Pointe Homeowners Association, Inc. is a non-profit organization that represents all homes and lots remaining within the Green Valley Subdivision, which is adjacent to the boundaries of Castle Pines North.

**WHEREAS**, the developer of the Green Valley Subdivision, 216 Valley Group, L.P. was the original Declarant. The Board of Directors of the Hidden Pointe Homeowners Association ("Hidden Pointe HOA"), who by authority granted in the Association's Declaration and By-Laws, are authorized to execute this agreement on behalf of all of the homeowners and property owners within Hidden Pointe.

**WHEREAS**, the Castle Pines North Association, Inc. ("CPN Master Association") is a non-profit organization that represents the homes within the boundaries of the Castle Pines North and Romar West Planned Development.

**WHEREAS**, the Hidden Pointe HOA filed a request for declaratory judgment with the Douglas County District Court on September 3, 2003, regarding the 1999 Agreement, with Hidden Pointe HOA as Plaintiff, and the CPN Master Association as Defendant.

**WHEREAS**, on May 24, 2004, Defendant CPN Master Association filed an unopposed motion before the Douglas County District Court to add Castle Pines Parks Authority and Castle Pines North Metropolitan District as additional Party Defendants to the action.

**WHEREAS**, the Hidden Pointe HOA, representing the homeowners of Hidden Pointe, willingly desire to establish a more formal relationship with Castle Pines North.

**NOW THEREFORE**, in order to establish a new relationship between Hidden Pointe, (as represented by the Hidden Pointe HOA), and Castle Pines North, (as represented by the Castle Pines North [Master] Association, Inc., the Castle Pines Parks Authority, and the Castle Pines North Metropolitan District), all parties now agree to the following:

1. **CPN Master Association Full Membership.**

The Hidden Pointe HOA will enter into a new agreement with the CPN Master Association whereby the Hidden Pointe HOA, and all homeowners in Hidden Pointe, shall have equivalent rights as any other homeowner, or HOA, which are currently legally recognized as full members of the CPN Master Association. The “Full Membership” agreement will stipulate the following provisions, and rights and services described in this section will be granted upon execution of the new agreement:

- a. The Hidden Pointe HOA will pay directly to the CPN Master Association any regular assessments required on homeowners and lots in accordance with the Master Association bylaws and declaration.
- b. The Hidden Pointe HOA shall be entitled to name a Delegate who shall have representative rights at all CPN Master Association meetings, and shall be legally entitled to vote at Delegate Meetings, including the Annual Meeting to elect Directors. At any such Delegate Meeting, the Hidden Pointe Delegate may cast one vote for each lot within the Green Valley Subdivision, consistent with the one-vote-per-lot provisions for all Delegates from other Delegate Districts within the current legal boundaries of the CPN Master Association.
- c. The Hidden Pointe Delegate shall have the right to run for and, if elected, serve as a Director on the CPN Master Association Board of Directors.
- d. Hidden Pointe homeowners shall have equal rights regarding “resident status” access, and benefits to participate in all community activities provided by the CPN Master Association, on the same basis as any Castle Pines North homeowner within other subdivisions who are currently legally recognized as full members of the CPN Master Association. If the CPN Master Association charges a fee for a particular activity (i.e. tickets for a social event), the fee for a Hidden Pointe homeowner shall be the same as any other member of the CPN Master Association.
- e. Hidden Pointe homeowners shall be entitled to “resident status” at Coyote Ridge Park, Castle View Park, and any other CPN park that is built using the portion of CPN Master Association dues that are allocated to the Parks Authority. [Note that there are additional Castle Pines North parks and services that are provided by the Castle Pines North Metropolitan District, which are addressed in Paragraph 2, defined below.]
- f. The new agreement will clearly define the legal relationship between Hidden Pointe HOA and the CPN Master Association, including the order of precedence for

resolving any inconsistencies that may exist between the two Association's governing documents.

- g. The legal agreements required to achieve this goal include the modification of the Hidden Pointe HOA Declaration, and execution of necessary agreements between the Hidden Pointe HOA and the CPN Master Association, under Section 3.6 of the Master Association Declaration. The Hidden Pointe HOA and the CPN Master Association shall take necessary actions to ensure completion of annexation into the CPN Master Association not later than June 30, 2005, or as soon thereafter as is reasonably possible if the necessary legal steps require additional time.

## **2. CPN Metro District Services**

Both the CPN Master Association and the Hidden Pointe HOA recognize that certain rights and privileges available to other Castle Pines North residents are provided by the CPN Metro District, and are not affected by this agreement. The services and privileges related to the Metro District that will NOT be given to Hidden Pointe residents are:

- a. Ability of Hidden Pointe homeowners to vote in CPN Metropolitan District elections, to be eligible to run for and serve as a Director on the CPN Metro District Board of Directors, and to have a equal voice in Metro District's affairs, goals, and priorities.
- b. Equal payment for water, sewer, and storm drain services provided by the CPN Metro District. (Hidden Pointe residents currently pay a 25% surcharge for these services and will continue to do so)
- c. Equal payment for all property taxes and fees assessed by the Metropolitan District (Hidden Pointe residents do not currently pay a portion of property taxes that fund the Metro Districts operating activities, and will continue to NOT pay taxes into this fund )
- d. Equal, resident, access to all current and future CPN Metro District parks and recreation centers. Current parks include the Daniels Gate Park and the Retreat Park. In the event that a CPN recreation center is developed and/or operated by the CPN Metro District operating funds, Hidden Pointe residents would be subject to a 25% surcharge on user fees.
- e. Equal, resident, access to the CPN Metro District's Community Center at 7404 Yorkshire Dr, and/or any additional/replacement facilities made available for use by Castle Pines North residents and organizations that are full members of the CPN Metro District.

Both parties also agree that any attempt to alter these terms and obtain any of the above privileges and services for Hidden Pointe residents will require amendment of the 1994 agreement between the CPN Metro District and the Green Valley Water & Sanitation

District, and is out of the scope of this agreement. The Hidden Pointe HOA also agrees to communicate this issue to its residents through its website, email, and through a letter to each homeowner within Hidden Pointe.

3. **Restate 1999 Agreement.**

While the parties agree to pursue negotiations on the above noted agreements, there is an immediate need to execute a new contract that would replace the 1999 Agreement, to revise points of discrepancy, and to reinforce its legality. The restated contract will incorporate, update, and amend the original agreement, as outlined below. The Hidden Pointe HOA and the CPN Master Association intend to execute the restatement of the 1999 Agreement no later than January 14, 2005.

The restated contract will define the relationship between the Hidden Pointe HOA and the CPN Master Association until such time as the parties have completed the agreements outlined in Paragraph 1 of this Memorandum, Hidden Pointe's annexation to obtain full membership on the same terms and conditions as other sub associations of the CPN Master Association. As noted above, the parties desire to complete the annexation process no later than June 30, 2005.

a. *Responsibility for collecting CPN Master Association dues.*

The contract will provide for the Hidden Pointe HOA to directly pay CPN Master Association dues, beginning with dues for the Year 2005. This obligation will replace the current arrangement whereby the CPN Master Association invoices each individual Hidden Pointe homeowner. The contract will specify the details of this arrangement, including:

- i. The Hidden Pointe HOA will be responsible for collection of the CPN Master Association dues assessment by increasing the Hidden Pointe HOA's regular dues assessment for homeowners and lots within Hidden Pointe.
- ii. The CPN Master Association agrees to allow Hidden Pointe to make payments of the CPN Master Association dues obligation on the same collection schedule established by the Hidden Pointe HOA. The contract will define the process for establishing the dates when the Hidden Pointe HOA remits payment to the CPN Master Association, including the method for coordination with the CPN Master Association should the Hidden Pointe HOA change its' billing dates or frequency.
- iii. The contract will define the process for reconciling the Hidden Pointe HOA dues roster with the CPN Master Association's list of homes and lots that are to be assessed in accordance with the CPN Master Association bylaws and declaration.

- iv. The CPN Master Association will invoice the Hidden Pointe HOA for the total dues for all homes and lots that are identified for the billing period. The Hidden Pointe HOA will be responsible for remitting payment for the entire invoice amount, and is responsible for collecting the dues from their members.
- v. The Hidden Pointe HOA agrees to remit payment to the CPN Master Association no later than 15 days following the due date of the Hidden Pointe HOA dues, or other such timely manner as specified in the contract.
- vi. If the Hidden Pointe HOA fails to remit payment in accordance with these terms, the CPN Master Association shall assess the Hidden Pointe HOA for per-home late payment penalties, interest, and other penalties as defined in the Master Association's collection policy, fine schedule, and collection rights. The CPN Master Association will have no authority to levy, fine, or lien any individual homes within the Green Valley Subdivision ("Hidden Pointe") for any dues invoiced under the new contract, since the new arrangement transfers the payment obligation to the Hidden Pointe HOA.
- vii. If the Hidden Pointe HOA defaults on the obligation to pay the Master Association dues [*the contract will define the difference between 'late' and 'default'*], the CPN Master Association reserves the right to sue the Hidden Pointe HOA to recover the funds, and attorney fees associated with this action.
- viii. The obligation for the Hidden Pointe HOA to collect CPN Master Association dues applies to dues for the year 2005 and future years. The CPN Master Association retains responsibility for collecting any Hidden Pointe homeowners' unpaid dues for 2004 or prior years. The Hidden Pointe HOA agrees to assist the CPN Master Association in collecting any Hidden Pointe homeowners' prior-year dues which may remain unpaid as of December 31, 2004. However, both parties acknowledge that Hidden Pointe HOA has no legal authority to collect the 2004 and earlier dues obligations on behalf of the CPN Master Association, and the CPN Master Association has no right to levy these past obligations upon the Hidden Pointe HOA.

b. CPN Master Association Dues Assessment Amount.

- i. The amount of the CPN Master Association dues assessment for the Hidden Pointe HOA shall be the same as the amount assessed on other homeowners and lots that are full members of the Master Association.
- ii. The CPN Master Association's Board of Directors will approve the dues assessment amount in accordance with the process defined in the Master Association's by-laws and Declaration.

- iii. If the CPN Master Association's Board of Directors proposes an increase in the CPN Master Association dues assessment, the Hidden Pointe HOA Board of Directors will be formally notified.
- iv. Each year, the CPN Master Association will send notice to the Hidden Pointe HOA Board of Directors the Master Association's initial draft and adopted budgets, the dues assessment amount for the upcoming year, and the maximum annual assessment. The Hidden Pointe HOA will transmit a copy of the Hidden Pointe HOA's budget and any other notifications regarding establishing the portion of the Hidden Pointe HOA dues that are to be allocated to CPN Master Association dues.

c. Representation.

- i. The Hidden Pointe HOA shall be entitled to name a Delegate who shall have representative rights at all CPN Master Association meetings. The Hidden Pointe Delegate shall have the same rights to participate in meeting discussions, and receive all meeting agendas, minutes, and other communications currently distributed to other Delegates from Homeowner Associations that have full membership in the CPN Master Association.
- ii. Upon execution of the agreement for full membership in the CPN Master Association, as specified in Paragraph 1 of this Memorandum of Understanding, the Hidden Pointe Delegate shall also be granted full rights to vote at any CPN Master Association Delegate Meeting, including the Annual Meeting, and shall be eligible to be a candidate for the CPN Master Association's Board of Directors.

d. Rights of Participation.

- i. The restated contract will reiterate the rights of Hidden Pointe Homeowners to obtain equal access and use of any CPN park that is built using the portion of CPN Master Association dues that are allocated to the Parks Authority, and participation in all services and activities provided by the CPN Master Association.
- ii. The restated contract will more clearly define Hidden Pointe Homeowners participation if Castle Pines North were to build and/or operate an indoor Recreation Center.

e. Coyote Ridge Park Commitments from the 1999 Agreement.

- i. The restated contract will acknowledge completion of some of the terms of the 1999 Agreement, including the development of Coyote Ridge Park and the transfer of land and developer funds as specified in the original agreement.

- ii. The restated contract will continue to reflect the restrictions on lighting and league play as are noted in Paragraph 5 of the original 1999 Agreement.
- iii. The restated contract will retain the provision of the 1999 Agreement that states “the parking lot for the replacement for Hidden Pointe Park will have no more than 30 parking spaces.” The contract will also note that Coyote Ridge Park, as constructed, currently has 20 parking spaces in this parking lot (the small parking lot that is accessible directly from Hidden Pointe Boulevard), and that this complies with the terms of the 1999 Agreement.
- iv. The Castle Pines North Metropolitan District and Castle Pines Parks Authority agree to uphold the terms of Paragraph 6 of the 1999 Agreement, which specifies that this parking lot “will be buffered from view on Hidden Pointe Blvd. with landscaping”.

**4. Communications with homeowners.**

- a. Both Hidden Pointe and Castle Pines North agree to issue a joint press release that will outline the terms of the settlement of previous lawsuits and detail the new agreement. This release will be made through existing CPN communication vehicles, including, but not limited to, newsletter, website, email, and mail.
- b. The CPN Master Association agrees that all informational items that the CPN Master Association encloses in the regular dues invoices will continue to be available to Hidden Pointe homeowners. These materials may be distributed by the CPN Master Association or Hidden Pointe HOA, as appropriate.
- c. The Hidden Pointe HOA agrees to draft a letter and informational packet regarding the terms of this agreement and the settlement of all legal disputes with CPN Master Association and send it via postal mail to all Hidden Pointe residents. The Hidden Pointe HOA also agrees to post the same package of information on its website and provide it to all new residents of Hidden Pointe on an ongoing basis.

**5. Legal Fees.**

- a. Both the Hidden Pointe HOA and the CPN Master Association agree that the prior agreement had no provisions for payment of legal fees by either party, and therefore, neither party has any legal right to claim damages for prior legal fees incurred.
- b. Both parties agree to absorb all legal fees already incurred and all future fees associated with restating the original 1999 Agreement, and establishing other new agreements.
- c. Both parties agree that all future agreements will provide remedies for legal expenses in the event of future disputes or conflicts.

**6. Dismissal of Lawsuit.**

- a.** After the completion of the Restated 1999 Agreement specified in Paragraph 3 of this Memorandum of Understanding, and the formal drafting of a settlement agreement, the Hidden Pointe HOA agrees to dismiss its complaint, filed with the Douglas County District Court, against the CPN Master Association. In addition, the CPN Master Association, the Castle Pines Parks Authority, and the Castle Pines North Metropolitan District agree to dismiss their counter claims and litigation filed against the Hidden Pointe HOA and the previous Hidden Pointe HOA Board of Directors.
- b.** The Court has currently granted an extension for legal action on this case until February 24, 2005. While further extensions can be requested, all parties agree that the goal is to resolve the lawsuit prior to that date.


**7. Other Provisions.**

- a.** Final agreements between all parties may contain other provisions necessary to fully state the agreements and intentions of the parties.




**APPROVALS:**

**Hidden Pointe Homeowners Association, Inc.**

  
Rick Schafer, President


12/3/04  
Date

**Castle Pines North [Master] Association, Inc.**

  
Linda Nuzum, President

12/31/04  
Date

**Castle Pines North Metropolitan District**

  
John Ewing, President

12-31-04  
Date

**Castle Pines Parks Authority**

  
Sandy Colling, President

12-31-04  
Date