

**AGREEMENT BETWEEN THE CRYSTAL PARK HOMEOWNERS  
ASSOCIATION AND THE CRYSTAL PARK METROPOLITAN DISTRICT FOR  
USE OF THE BUILDING LOCATED AT 496 PALMER TRAIL**

The Crystal Park Homeowners Association (the HOA) and the Crystal Park Metropolitan District (the District) agree to cooperate with each other concerning the use of the Building located at 496 Palmer Trail, Manitou Springs, CO 80829, as follows:

**1. TERM**

This Agreement will begin August 27, 2010 and will continue for a period of fifteen (15) years.

**2. USES**

- a) District Use – The District shall be entitled to use the building for the regular conduct of Crystal Park Volunteer Fire Department activities, including vehicle and equipment storage and repair, meetings, training and any other ancillary activities of an operational fire department. Occasional “Open Houses” may be held.
- b) HOA Use – The HOA shall be entitled to use of the building for maintenance of the HOA’s large heavy equipment and for meetings and gatherings. The process for each occasion of such use, shall be for the HOA to notify the Fire Chief, Deputy Fire Chief or designated representative(s) of their desire to utilize the building. This requirement is only to ensure that such use does not interfere with Fire Department response readiness and operations. Because of the danger of freezing, Fire Department vehicles and equipment that must be removed from the building to accommodate such use at times of freezing temperatures shall be temporarily housed in the HOA maintenance shop. Sufficient notice is required (to the Fire Chief, Deputy Chief or designated representatives) for this to be accomplished.
- c) Third Party Use – The HOA and the District agree that no third party use will be allowed except as approved by both the HOA Board and the Fire Chief.

**3. ALLOCATION OF COSTS**

- a) Electricity – The District shall pay the cost of electrical use in the building, billed directly to the District on a separate meter.
- b) Propane – The District shall pay for the cost of propane used to heat the building. This shall be accomplished through the use of a meter and billing by the HOA to the District OR by the installation of a separate tank and direct billing to the District, in which case the District shall negotiate it’s own contract for propane.
- c) Internet Access and VOIP – The HOA currently has in place a no-cost contract to provide these services free of charge. This provision of no-cost service to the building will continue for as long as such a contract with

the current provider or any other provider is in effect. Should this situation change in the future, the parties agree to negotiate an equitable solution.

#### **4. IMPROVEMENTS**

- a) The District agrees to follow the established HOA procedure for any exterior changes proposed for the building, to the same extent that is required for changes to any other structure under HOA jurisdiction.
- b) The District agrees to obtain prior consent of the HOA Board of Directors for any major change to the building interior. Minor and/or cosmetic changes do not require approval. Permits will be obtained for any changes requiring them.
- c) Since the issue has already arisen, the HOA agrees that the District may proceed to have the building's occupancy code amended to allow for a higher occupancy than currently allowed.

#### **5. MAINTENANCE**

The District agrees to perform or pay for required maintenance and to keep the building in good repair.

#### **6. RESTITUTION AND REPAIR**

The District and the HOA agree that whichever party is using the building shall be responsible for repairing, remediating or funding the replacement or remediation of any and all damage or vandalism to the building or any property contained therein, occurring during or as a result of that party's use of the building.

#### **7. SECURITY**

The District shall be solely responsible for the security of the building and the contents. Open access cannot be allowed due to the nature items kept in the building. Fire Department members and District Board members will have authorized access to the building; all others must be accompanied by a Fire Department member or be authorized by the Fire Chief or his designated representative(s). HOA road maintenance employees will be expressly authorized to access the building and utilize it, subject to the provisions of Section 2(b).

#### **8. FUEL**

The Fire Department shall be allowed to fuel Fire Department vehicles (no personal vehicles, even if used by the Fire Department) from the HOA fuel tanks without charge. An HOA employee will be present. Usage may be tracked and the HOA may bill the District for usage in excess of 300 gallons per year, excluding fuel used in the "shared use" vehicles.

#### **9. INSURANCE**

The HOA and the District each agree to separately provide the following insurance in connection with this Agreement.



- a) Commercial General Liability for bodily injury and property damage, including Personal Injury, with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate.
- b) Worker's Compensation coverage as required by Colorado State Law.
- c) The District and the HOA shall provide each other a Certificate of Insurance each year this Agreement is in effect, showing proof of the above coverage. Such certificate shall each name the other party as additional insureds on the General Liability policy.

**10. HOLD HARMLESS AND INDEMNIFICATION**

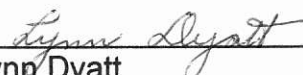
- a) The HOA shall indemnify, defend and hold harmless the District, the Fire Department, District officers and agents, from and against any and all liability, loss, expense, attorney's fees or claims for injury or damages, arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury are caused by or result from the negligent or intentional acts or omissions of the HOA, its employees, its officers, or agents.
- b) The District shall indemnify, defend and hold harmless the HOA, its employees, officers and agents, from and against any and all liability, loss, expense, attorney's fees or claims for injury or damages, arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury are caused by or result from the negligent or intentional acts or omissions of the District, the Fire Department, District officers, or agents.
- c) Waiver of Subrogation – Both the HOA and the District each hereby releases and waives all right of recovery against each other or any one claiming through or under each of them by way of subrogation or otherwise.

**11. ENTIRE AGREEMENT**

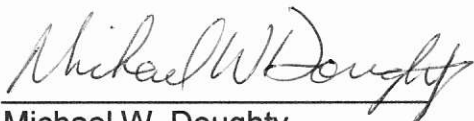
This Agreement constitutes the entire understanding between the parties with respect to the subject matter, and supercedes any prior negotiations, representations, agreements and understandings, and shall be binding on successor Boards of Directors of both the HOA and the District.

**12. AMENDMENTS**

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

  
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Lynn Dyatt  
President, Crystal Park HOA

8/27/10

  
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Michael W. Doughty  
Chairman, CP Metro District

9/1/2010