

Date: January 26, 2010

To: The Crystal Park Homeowners Association Board of Directors,

This is in response to Sharon Rozwick's email dated 1/18/10, concerning a lease on the building located at 496 Palmer Trail.

The Metropolitan District agrees that a written Agreement between the District and the Crystal Park Homeowners Association is desirable in order to resolve the issues that have arisen concerning the building located at 496 Palmer Trail. However, based on consultation with an insurance expert and legal counsel, we do not believe that a lease arrangement is the correct vehicle for this in our situation, as a lease both confers and imposes certain legal obligations and powers on both parties that may be unintended and burdensome. We believe that a "Use Agreement" is the proper vehicle for this situation, as it will allow the parties to more accurately set forth the conditions/requirements of the building usage by both parties without those added obligations, burdens and powers. We would also like to progress directly to a final Agreement, in the interest of promptly and efficiently reaching a mutually acceptable resolution. To both those ends, attached you will find a draft of such a Use Agreement.

The District believes that it is important to clearly state the basis upon which some of the provisions of that Agreement have been arrived at by the District:

- 1) The first point upon which our reasoning is based is the fact that in the August, 2008, HOA budget vote, the uses of the proposed building at 496 Palmer Trail were clearly stated in the explanation accompanying the budget. Prominent among them was the clearly stated use as a fire protection facility. The three primary benefits stated were: an area for Park employees to work on the larger road equipment, Fire vehicle and equipment storage, and a shelter-in-place. The membership voted overwhelmingly to approve the building construction. The District's Fire Department personnel, as requested by the HOA Board, became the "overseers" of the construction of the building, doing a substantial amount of both the physical work and arranging for other work to be done by qualified people at no cost or reduced costs, saving the members of the HOA substantial amounts of money. Examples of this include: clearing the property, securing the necessary surveying and staking work (at no cost), preparation for the concrete floor (including leveling, forming, drain installation and supervision of the actual pour), painting and more. Accordingly, the Fire Department, and by extension the District, has substantial "sweat equity" in the building. Additionally, the Fire Department has already committed to complete the interior of the building, finishing walls, enclosing and insulating the ceiling, painting, installing additional lighting, etc., all of which will add value and usefulness. Also, the Fire Department has committed to a minimum of 200 hours of forestry work under the Forestry Grant submitted to and approved by the State. This has a minimum value of over \$4,000 in a reduction of matching funds that the HOA must pay under the provisions of that grant. We believe that although the Fire

Department, and by extension the District, is very grateful for the approval of the membership to construct the building, it should be recognized that Fire Department personnel have greatly contributed to it's creation, and have (and will continue to) offset some of the cost through their efforts.

- 2) Key to this second point is the basic organization of Crystal Park itself. Because Crystal Park is organized as a PUD, the vast majority of the land is commonly held by the members. The Park pays no taxes on this land; in fact, the HOA pays a total of approximately \$25 in taxes to the District, yet receives fire protection on the approximate 2000 acres of commonly held property. Of the 360 memberships in the HOA, only approximately 220 who have deeded property pay any tax to the District. Thus, less than 2/3 of the members pay the full cost of fire protection for all 360 members and the entity of the HOA, both to support the CPVFD and to pay the \$10,000 fee to Manitou Springs for the Fire Protection Agreement currently in place. The District does not believe this situation, although completely legal, is an equitable one. The District believes that the HOA (and therefore the approximately 140 memberships without deeded property) should pay at least something for fire protection, as they certainly benefit from it through preservation of the value of their memberships. Payment of "rent" by the District to the HOA is, in effect, a transfer of funds from the 220 property tax paying members to the 140 non-tax paying members, creating a larger inequity. Thus we fail to see any value in this.
- 3) A third point is that by entering into a Use Agreement on the two HOA vehicles jointly used by the FD, insurance savings of approximately \$2400 per year can be achieved by insuring these vehicles under the District's vehicle insurance policy with the HOA paying the premiums on a "pass through" basis. This savings to the HOA membership will substantially, if not completely, offset any costs to the HOA indicated in the attached Building Use Agreement. Accordingly, attached you will find a Vehicle Use Agreement for cooperative usage of the 2001 Ford water truck and the 1999 Ford F-450 flatbed pickup that the Fire Department has used on a shared basis for the last three years. This Agreement will enable these vehicles to be insured as described in the Agreement, saving the HOA approximately \$2400.
- 4) The fourth point is that the District recognizes that this building was built for a number of uses. We are quite willing to work with the HOA Board and staff to see that these uses are accommodated. Our understanding is that these uses are maintenance of the heavy equipment that cannot be done in the Maintenance building and occasional use for meetings and gatherings. We have attempted to accommodate these in the attached Use Agreement. If there are other contemplated uses that have not been disclosed, please let us know. Any constraints placed on the use of the building in the Agreement exist solely to ensure that Fire Department operations and "ready response" capabilities are not impaired, for the benefit of the community and for no other reason.

The District feels strongly that the overwhelming majority of the members of both the Crystal Park HOA and the District itself, are in favor of having a cooperative effort on

fire and EMS protection between our entities and that the attached Use Agreements represent the best way to equitably accomplish that end. We would be happy to have representatives of the District, along with a Fire Department representative, meet with your representatives at your earliest convenience to discuss and resolve this matter.

Yours truly,
Crystal Park Metropolitan District Board

Michael Doughty, Chairman
James R. Webster, Treasurer
Michael Young, Secretary
Timothy Britton, Board Member
Chris Spratt, Board Member