

TRI-LAKES MONUMENT FIRE PROTECTION DISTRICT

16055 Old Forest Point, Suite 103

Monument, CO 80132

719-484-0911 Fax 719-481-3456



DISPUTE RESOLUTION, WAIVER & RELEASE OF CLAIMS

This Dispute Resolution, Waiver, and Release of Claims (the "**Agreement**") is made and entered into by the Tri-Lakes Monument Fire Protection District, a Colorado special district formed pursuant to Title 32, Colorado Revised Statutes (hereinafter "**District**"), and _____, a Colorado _____,

whose principal place of business is _____

(hereinafter "**Developer/Builder**"). Developer/Builder and the District may be referred to herein collectively the "**Parties**" or individually as a "**Party**".

RECITALS

A. On or around August 23, 2006, the District Board of Directors approved an impact fee study and resolution recommending an impact fee be collected on new development pursuant to Section 29-20-104.5, C.R.S., as in effect at such date, for a five year period; and

B. On or around September 5, 2006, the District approached the Town of Monument ("**Town**") on the imposition of such impact fee and the Town of Monument considered and approved the impact fee as adopted by the District Board; and

C. In the Fall of 2006, the District staff also approached the Pikes Peak Regional Building Department ("**PPRBD**") regarding the impact fee and the impact fee began to also be collected on at least some new development within the District and El Paso County prior to issuing building permits; and

D. On or about October 1, 2006, the District began collecting and/or receiving the impact fees; and

E. In approximately December 2015, the District discovered that the impact fees authorized in 2006 were still being collected, that more than five years had passed since their original authorization, and the District immediately ceased collection or receipt of the impact fees; and

F. Developer/Builder has provided sufficient proof to the District that it has paid \$_____ in impact fees to the District (or to the Town or PPRBD for payment to the District) in the period of October 1, 2011 through December 2015 ("**2011-2015 Impact Fees**") or after the expiration of the five year authorization period provided in 2006; and

G. The Parties desire to fully and finally settle, resolve, and terminate all issues of any kind arising from or related to payment of the 2011-2015 Impact Fees and any prior paid impact fees to the District as set forth herein.

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THEREFORE, in consideration of the foregoing Recitals and the mutual promises, covenants, and payments provided for in this Agreement, the receipt and sufficiency of which is expressly acknowledged, the Parties agree as follows:

AGREEMENT

1. **Effective Date.** The Effective Date of this Agreement shall be date of last signature on either party on the signature page hereof.

2. **Payment by District.** In exchange for the Waiver and Release of Claims provided by Developer/Builder as set forth in Paragraph 3, the District shall pay to Developer/Builder within one month of the Effective Date of this Agreement, the amount of \$_____ (“**Settlement Payment**”), which equates to 50% of the 2011-2015 Impact Fees paid by Developer /Builder to the District (or to the Town or PPRBD for payment to the District). Payment shall be made by check payable to Developer/Builder and shall be available at the District offices for pick-up by Developer/Builder on the required date, or, at the request of the Builder/Developer, may be placed in the United States mail to the address of Builder/Developer set forth in the opening recital of this Agreement.

3. **Waiver & Release of Claims.** In consideration for the Settlement Payment, Developer/Builder hereby releases all claims that Developer/Builder has or may have against the District for impact fees collected by or paid to the District (or to the Town or PPRBD for payment to the District) prior to April 1, 2017, including the 2011-2015 Impact Fees, as follows:

a. Developer/Builder agrees that, by executing this Agreement, Developer/Builder intends to release and forever discharge, and in fact releases and forever discharges, the District, as well as its past and present elected and appointed officials, employees, managers, officers, contractors, agents, insurers, attorneys, executors, assigns, and other representatives of any kind (“**Released Parties**”) from any and all claims, demands, rights, liabilities, and causes of action for impact fees collected by or paid to the District (or to the Town or PPRBD for payment to the District) prior to April 1, 2017, including the 2011-2015 Impact Fees, whether known or unknown (“**Released Claims**”).

b. Released Claims include, but are not limited to, any and all claims, demands, rights, liabilities, and causes of action that could be brought pursuant to Part 1 of Article 20 of Title 29, C.R.S.

c. Developer/Builder and the District intend that this Agreement shall settle in full each and every claim and demand, at law or in equity, that Developer/Builder has or may have had, whether known or unknown, regarding impact fees collected by or paid to the District (or to

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the Town or PPRBD for payment to the District) prior to April 1, 2017, including the 2011-2015 Impact Fees.

d. Developer/Builder warrants and represents that Developer/Builder has not assigned any Released Claim to any person or entity and has not filed any suit asserting any similar claim against the District or any of the Released Parties in any jurisdiction.

e. Notwithstanding any provision of this Agreement to the contrary, nothing in this Agreement shall be construed as a waiver of either Party's right to take any and all lawful action, including filing claims, in order to enforce this Agreement or to pursue any and all other claims that arise after the execution of this Agreement.

4. Additional Provisions

a. By entering into this Agreement, neither of the Parties in any way admits, acknowledges, or concedes any liability or wrongdoing whatsoever. None of the facts recited in this document are intended by the Parties to be admissions or stipulations that may be admitted in any proceeding of any kind, except in a proceeding to enforce this Agreement.

b. The Parties acknowledge that each has freely entered into this Agreement and that none has been subjected to coercion regarding this Agreement by the other or by any other person.

c. In the event that a court of competent jurisdiction enters a judgment declaring that any material provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect, and the remaining provisions shall be deemed modified to the extent necessary to comply with the judgment.

d. This Agreement may be executed in multiple parts and each shall have the effect of an original.

e. This Agreement contains the entire agreement and understanding between the Parties regarding the subjects covered herein, and, except as expressly provided otherwise herein, supersedes all other understandings, negotiations, and agreements between the Parties as to those subjects. This Agreement may not be amended or modified except by a written instrument signed by the Parties or their duly authorized representatives.

f. This Agreement shall be governed by the laws of the State of Colorado. Venue for any disputes shall be in El Paso County, Colorado.

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g. All of the terms, provisions, covenants, and conditions of this Agreement are binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.

Completed agreements to include copies of supporting documentation may be submitted in person to the administration office, faxed or emailed to jmartin@tlmfire.org

Builder Name: _____

Mailing Address: _____

Phone Number: _____

Email Address: _____

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5. Authority

a. By the signature of its undersigned Fire Chief, the District warrants and represents that its Board of Directors has authorized the Fire Chief to execute this Agreement and bind the District to this Agreement.

b. By the signature of its undersigned representative, the Builder/Developer warrants and represents that the undersigned representative has the requisite corporate authority as applicable to execute this Agreement and bind the Builder/Developer to this Agreement.

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IN WITNESS WHEREOF, the District and Developer/Builder hereby execute this Agreement.

TRI-LAKES MONUMENT FIRE PROTECTION DISTRICT

By:

Chris Truty, Fire Chief

Date of Signature: _____, 2017

DEVELOPER/BUILDER:

By:

Printed name: _____

Printed title: _____

Date of Signature: _____, 2017