

AGREEMENT

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This Agreement is made and entered into between Carbondale and Rural Fire Protection District (Fire District) and the Carsam Realty Ten, Ltd., a Texas limited partnership (Developer), to become effective upon execution by the parties:

WHEREAS, on December 8, 1993, the Fire District, approved Resolution No. 93-7, Series of 1993, providing for collection of a base development impact fee of \$200.00 per residential lot, multi-family residential unit, or for each 10,000 square feet of commercial or industrial buildings to be paid by all developers of property subdivided within the district; and

WHEREAS, by Resolution No. 94-2, Series of 1994, the amount of said development impact fee was increased to \$235.00 per residential lot, multi-family residential unit, or for each 10,000 square feet of commercial or industrial buildings; and

WHEREAS, by Resolution No. 97-2, Series of 1997, the amount of said development impact fee was increased to \$339.00 for each residential lot, multi-family residential unit, or each commercial or industrial building up to 1,900 square feet in size with an additional fee of \$339.00 for each additional 1,900 square feet of size or fraction thereof; and

WHEREAS, by Resolution No. 99-6, Series of 1999, the amount of said development impact fee was increased to \$417.00 for each residential lot, multi-family residential unit, or each commercial or industrial building up to 1,900 square feet in size with an additional fee of \$417.00 for each additional 1,900 square feet of size or fraction thereof, or \$1,042.50 for each 1,900 square feet of hotel/motel buildings in size with an additional fee of \$1,042.50 for each additional 1,900 square feet of size or fraction thereof; and

WHEREAS, the Developer has applied for subdivision approval from the Town of Carbondale to create twenty-two lots on the property known as Town Center Subdivision as more particularly described in Exhibit A; and

WHEREAS, the Fire District has requested that as a condition of approval of such subdivision by the Town of Carbondale that the Developer pay the Fire District development impact fees based on the square footage of any commercial or professional space at current per square footage impact fee rates and for residential development at current per unit rates at the time of issuance of any building permit within the subdivision; and

WHEREAS, the parties have reached an agreement regarding the amount, time of payment, and other matters agreed to by the parties, and the parties wish to set forth their agreement in writing.

For good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

Return: R. EMERSON
86 S. 3rd St
Carbondale, Mo
63623

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1. The Developer or any subsequent owner of any lot within Town Center Subdivision shall pay the Fire District impact fees at the time of issuance of any building permit for any lot within the subdivision. The amount of impact fees shall be based on the square footage of any commercial or professional space at the then current per square footage Fire District impact fee rates and for residential development at current per unit rates. Current rates are set forth in the fourth recital paragraph above pursuant to Resolution No. 99-6, Series of 1999, and are subject to change in the future.

2. The Developer acknowledges and agrees that the contemplated development in Town Center Subdivision will cause certain fiscal impacts on the Fire District and will create the need for additional Fire District facilities and services. The Developer further acknowledges that this development should share proportionately in the cost of providing these additional facilities and services. The Developer further acknowledges and agrees that the development impact fee collected according to the above-referenced resolutions and the terms of this Agreement is based on a rational nexus between the impact of this development and the amount of said fees and that said fee is reasonable and necessary to offset the additional costs that will be incurred by the Fire District for capital improvements, facilities, equipment, personnel, and services as a result of this development. Finally, the Developer acknowledges and agrees that the development impact fee is lawful and valid and that the terms and conditions of said Resolutions are binding on and enforceable against the Developer.

3. The Developer hereby irrevocably waives and releases and agrees to indemnify the Fire District from any and all claims of any kind that might be asserted against the Fire District arising out of or in connection with the development impact fee, the collection or use thereof by the Fire District, or the terms of this Agreement; provided, however, that this waiver shall not preclude the Developer from enforcing the terms of this Agreement relating to reimbursement of excess fees as set forth more fully above.

4. Both parties have participated in the negotiation and drafting of this Agreement, and it shall therefore be interpreted or construed in favor of or against either party by virtue thereof.

5. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Colorado. The venue for any litigation arising out of this Agreement shall be the District Court of Garfield County, Colorado. In the event of any such litigation, the prevailing party shall be entitled to an award of reasonable attorney's fees and costs incurred by the prevailing party.

6. This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.



7. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

8. The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

9. The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

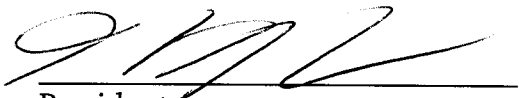
10. This Agreement shall be executed by the parties in duplicate, each copy of which shall have the same force and effect as an original.

11. Upon execution, this Agreement shall be binding upon the parties, their successors and assigns.

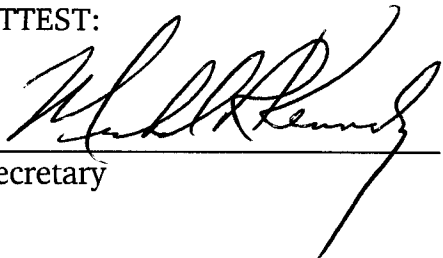
12. The obligations of the Developer to pay Fire District impact fees pursuant to the terms of this Agreement for any lot in this subdivision shall be deemed to be an obligation running with the land as to each separate lot and shall be binding upon the owner of each separate lot. This Agreement shall be recorded, once executed, following the recording of the Subdivision Plat for Phase I, Town Center Subdivision.

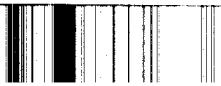
Dated: 3/19/03

CARBONDALE AND RURAL FIRE
PROTECTION DISTRICT

By: 
President

ATTEST:


Secretary





CARSAM REALTY TEN, LTD., a Texas limited partnership,
 By: CSR Carbondale, LLC, a Texas limited liability company, its General Partner

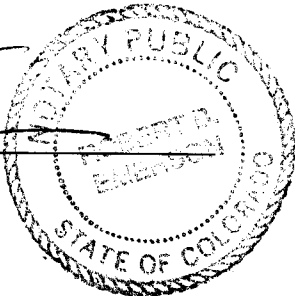
By: Wm. G. Smith, Jr.
 William G. Smith, Jr., Co-Chairman

STATE OF COLORADO)
) ss.
 COUNTY OF GARFIELD)

Subscribed, sworn to, and acknowledged before me this 19th day of March, 2003, by Kevin Keegan as President and Michael R. Kennedy as Secretary of Carbondale and Rural Fire Protection District.

Witness my hand and official seal.

[Signature]
 Notary Public



My commission expires: 9/10/2005

STATE OF COLORADO)
) ss.
 COUNTY OF Garfield)

Subscribed, sworn to, and acknowledged before me this 21st day of March, 2003, by William G. Smith, Jr., Co-Chairman of CSR Carbondale, LLC, a Texas limited liability company, General Partner of Carsam Realty Ten, Ltd., a Texas limited partnership.

Witness my hand and official seal.

[Signature]
 Notary Public



My commission expires: May 15, 2004

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EXHIBIT A

LOTS 1 AND 3 BERRY EXEMPTION ACCORDING TO THE FINAL PLAT
RECORDED APRIL 11, 1985 AS RECEPTION NO. 360810

TOWN OF CARBONDALE
COUNTY OF GARFIELD
STATE OF COLORADO

TOGETHER WITH

LOTS 1, 2, 3, 4, 5, AND 6
BLOCK 20

TOWN OF CARBONDALE
COUNTY OF GARFIELD
STATE OF COLORADO