

LATE MATERIAL

MEETING DATE 5-2-13

ITEM # 23B.

AMENDMENT NO. 5 TO GROUND LEASE

This Amendment No. 5 is dated _____ and is between **Carson City**, a consolidated municipality and political subdivision of the State of Nevada, ("Landlord") and **The Seasons Limited Partnership**, a Nevada non-profit limited partnership ("Tenant") and amends the original Ground Lease entered into by the parties dated January 7, 2005 and recorded with the Carson City Clerk-Recorder on February 22, 2005 File # 332275, as amended.

WHEREAS, The purpose of the Ground Lease was for the construction and use of housing for senior citizens as set forth in Paragraph 1(b) of the Ground lease; and

WHEREAS, The Ground Lease, as amended, between the City and The Seasons Limited Partnership (Autumn Village) involves APN 002-121-15, which must be maintained by the Carson City Assessor as to its: 1) tax status under Nevada law; and 2) Ground Lease payment in lieu of taxes (as contractual consideration owed to the City); and

WHEREAS, In the past Autumn Village has applied for and did qualify for a tax exemption pursuant to NRS 361.082, which established its legal tax status for the official records of the Assessor. As a matter of contract (and not by operation of law) this exemption triggered the contractual requirement that the consideration owed to the City be calculated based upon "all real property taxes that would otherwise have been paid"; and

WHEREAS, Any "ad valorem tax" owed from Autumn Village to Carson City is exclusively a contractual obligation to the City and no other jurisdiction has any interest in the Ground Lease between the parties; and

WHEREAS, Paragraph 2 of the Ground Lease provides that rent shall be fixed as one dollar (\$1.00), and it was the intent of the parties that the means to calculate that contractual obligation was the treatment of the leasehold as "taxable" regardless of its actual legal tax status; and

NOW THEREFORE, in consideration of the above and other valuable consideration the parties named above do hereby agree as follows:

1. INCORPORATED DOCUMENTS. All provisions of the original Ground Lease dated January 7, 2005 and record on February 22, 2005 File # 332275; its Amendment No. 1 to the Ground Lease dated September 8, 2006 and recorded on December 7, 2006 File # 361860; its Amendment No. 2 dated November 27, 2006 and recorded as File # 361861; its Amendment No. 3 dated October 16, 2008 (not recorded); and its Amendment No. 4 dated September 20, 2012 and recorded on October 9, 2012 File # 426995, are hereby incorporated and remain in full force and effect with the exception of the following amendment, which alters any prior

inconsistent terms and conditions contained in the Ground Lease and any of its Amendments No. 1 through 4, inclusive:

2. AMENDMENT. Paragraph 3 – Taxes, Assessments, etc., is hereby amended to add a new subparagraph (f) as follows:

(f) Calculation of Ad Valorem Taxes. All ad valorem taxes due and payable pursuant to Paragraphs 3(a), 3(b), 3(c), 3(d) and 3(e) of the Ground Lease, as amended, shall be deemed a contractual payment in lieu of any ad valorem taxes due. The calculation of ad valorem taxes shall be the same as any other taxpayer, but the contractual payment in lieu of all ad valorem taxes due shall be those taxes attributable only to Carson City's portion of the total ad valorem taxes due net of those additional tax portions of the State of Nevada and the Carson City School District.

3. PARTIAL WAIVER OF DELINQUENT TAX PAYMENTS. Any currently outstanding delinquent unpaid ad valorem taxes now due and payable pursuant to the Ground Lease, as amended, shall be limited and adjusted retroactively to the amount due pursuant to this Amendment No. 5. Any outstanding delinquent unpaid ad valorem taxes in excess of Carson City's portion of those total ad valorem taxes due are hereby waived and released.

4. REQUIRED APPROVAL. This amendment to the original contract shall not become effective until and unless approved by the Carson City Board of Supervisors.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original Ground Lease to be signed and intend to be legally bound thereby.

THE SEASONS LIMITED PARTNERSHIP

By:

Community Development Inc, dba Date
West Coast Affordable Housing, Inc.,
General Partner

By:

C. Fred Cornforth, Chief Executive Date

By:

Janice McIntosh, Director Date
Carson City Senior Citizens Center, Inc.
General Partner

CARSON CITY

By:

Robert Crowell, Mayor Date

Approved as to form by:

Deputy District Attorney Date

Approved by the Carson City Board of Supervisors:

Attest:

Carson City Clerk-Recorder Date