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PARSONS BEHLE & LATIMER  
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Efile: September 17, 2015

Attorneys for Interested  
Party Friends of Arrowcreek, LLC

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

IN RE:  
  
ASPEN SIERRA LEASING COMPANY,  
  
Debtor.

Case No. BK-N-14-50087-btb  
Chapter 11  
MOTION TO APPROVE COMPROMISE  
  
Date: November 5, 2015  
Time: 10:00 a.m.

Interested Party, Friends of Arrowcreek, LLC (“FOA”) hereby moves the Court, pursuant to LR 9014.1, LR 9019, and Fed. R. Bankr. P. 9019 for an order approving a settlement between FOA and Washoe County. The settlement does not affect payments to the Debtor or to Creditors. However, the Court retained jurisdiction over payments to be made pursuant to the approved plan of reorganization.

1. The Court conducted a hearing on the sale of the Debtor’s assets to FOA, on September 24, 2014. Attached hereto as Exhibit “1” is a true and correct copy of the portion of the transcript from the hearing that pertains to Washoe County’s acceptance of the plan. (Transcript, pp. 7-9.) Washoe County and the FOA agreed to negotiate the payments claimed by Washoe County, outside the bankruptcy process, to enable the sale to close.

1           2. Washoe County and FOA entered into an agreement, attached hereto as Exhibit  
2 “2,” concerning the payment of Washoe County’s claim, subject to negotiation of certain legal  
3 issues in connection with the claim raised by the FOA. During the negotiation, FOA raised the  
4 following issues with respect to Washoe County’s assertion of the secured claim for penalties and  
5 interest:

6           NRS 244.36605(2)(a) provides that the board of county commissioners may elect by  
7 ordinance to have delinquent charges for sewerage or water service collected on the tax roll, in  
8 the same manner with the county’s general taxes. Section (2)(d) provides that the amount of the  
9 delinquent charges constitutes a lien against the lot. Section (2)(f) provides that all laws  
10 applicable to the levy, collection and enforcement of general taxes are applicable to these  
11 delinquent charges. The relevant text of the statute:

12                   **NRS 244.36605**

13                   2. In a county whose population is less than 700,000:

14                   (a) The board of county commissioners of a county which provides sewerage,  
15 storm drainage or water service, or any combination of those services, may elect  
16 by ordinance to have delinquent charges for any or all of those services collected  
17 on the tax roll . . . .

18           Washoe County has a series of ordinances in Chapter 40 of the Washoe County Code  
19 which includes a provision adopting the procedures set forth in NRS 244.36605. Chapter 40  
20 governs water and sewage. Section 40.348 provides, in pertinent part:

21                   1. The Board hereby adopts and incorporates in this Ordinance the procedures set  
22 forth in NRS 244.36605 for the collection of delinquent repayment of Loans or  
23 services, including without limitation, service charges, fees, interest and penalties.

24           Washoe County code section 40.150 and 40.160 previously distinguished between  
25 “water” and “wastewater,” prior to amendment effective Nov. 21, 2014. The former versions of  
26 the code provided:

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40.150. "Wastewater" defined. "Wastewater" means treated effluent from any sewage treatment plant operated by a governmental or private entity or effluent emitted from an individual sewage disposal system approved by the district health department.

40.160. "Water" defined. "Water" refers to all water, except wastewater, supplied from a public water system to any customer who uses water.

In Bill No. 1727, Ord. No. 1546, the Washoe County Commissioners revised these definitions:

40.160. "Water" defined. "Water" refers to all water, including wastewater, supplied from a public water system to any customer who uses water.

Ord. No. 1546 was proposed on Oct. 28, 2014, passed on Nov. 12, and went into effect as of Nov. 21, 2014.

NRS 244.36605(2)(a) authorized the Washoe County Commissioners to adopt an ordinance addressing collection of delinquent payments for "water services." Prior to the Nov. 21, 2014 amendment, "water" was explicitly defined as "all water, except wastewater." FOA's golf course is irrigated with wastewater. Accordingly, prior to the Nov. 21, 2014 amendment, the Washoe County Commissioners had not adopted an ordinance addressing collection of delinquent payment for "wastewater," and Washoe County lacked authority to (a) include the delinquent water bills on the tax roll or within a tax lien, and (b) impose penalties pursuant to the tax code.

Since it is unclear from Section 40.160 of the Washoe County Code (prior to the Nov. 21, 2014 amendment) whether Washoe County could (a) include the delinquent water bills on the tax roll or within a tax lien, and/or (b) impose penalties pursuant to the tax code, NRS 360.291(o) indicates that the uncertainty of this Code should be construed against Washoe County and in favor of FOA (Taxpayers' Bill of Rights).

1 Washoe County believes that the Debtor was the only customer that was receiving  
2 reclaimed water to which this provision would have applied prior to its amendment.  
3 Consequently, the resolution of the present issue with the FOA will not affect any other  
4 customers or rights. Washoe County believes that the resolution of this matter is in the best  
5 interests of the County and taxpayers. The Board of County Commissioners has approved this  
6 settlement.

7 3. Washoe County and FOA have now agreed that the payment to be made by FOA  
8 will be reduced by the amount of \$218,501.06, to a total of \$1,233,383.38. FOA has paid  
9 \$580,773.00, leaving a balance of \$652,610.38, and upon approval of this settlement agreement  
10 by the Bankruptcy Court, FOA will pay the remaining balance in cash to Washoe County, within  
11 sixty (60) days.

12 4. Consideration of compromise and settlement agreements is governed by the  
13 criteria set forth in the case of In re A&C Property, 784 F.2d 1377 (9th Cir. 1986). Those criteria  
14 are:

- 15 a. Likelihood of success on the merits of the underlying litigation with due  
16 consideration for uncertainty in the facts and law;
- 17 b. Difficulties, if any, to be encountered in collection;
- 18 c. Complexity of the litigation and the expense, inconvenience and delay  
19 attending it; and
- 20 d. The paramount interest of creditors and proper deference to their reasonable  
21 views of settlement. Id. at 1381.

22 5. The settlement will not affect the Debtor, or the payment of any creditors other  
23 than Washoe County. Accordingly, the A&C Property factors suggest that approving the  
24 settlement between FOA and Washoe County is generally in the best interest of the bankruptcy  
25 estate, as it resolves a dispute between a creditor and a party in interest.  
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1 WHEREFORE, based on the foregoing, Interested Party, Friends of Arrowcreek, LLC,  
2 respectfully requests the Court enter an order approving the settlement agreement.

3 DATED: September 17, 2015.

4 PARSONS BEHLE & LATIMER

5 By:   
6 Rew R. Goodenow, Nevada Bar ID #3722  
7 Attorneys for Interested Party, Friends of  
8 Arrowcreek, LLC  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 17<sup>th</sup> day of September, 2015, I caused to be filed and served through the Bankruptcy Court's ECF system, a true and correct copy of the foregoing MOTION TO APPROVE COMPROMISE, to:

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Committee

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Attorney for Arrowcreek Homeowners'  
Association

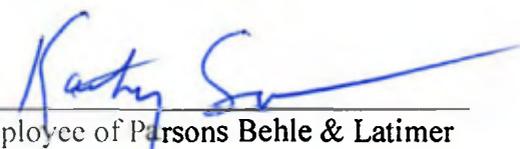
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Attorney for Tim Ortez and Theresa Ortez

Laury Miles Macauley  
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Attorney for Charles Leider

U.S. Trustee-RN-11  
[USTPRegion17.RE.ECF@usdoj.gov](mailto:USTPRegion17.RE.ECF@usdoj.gov)

  
Employee of Parsons Behle & Latimer

# **EXHIBIT 1**

# **EXHIBIT 1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA (RENO)

IN RE:	.	Case No. 14-50087-btb
	.	
	.	Chapter 11
ASPEN SIERRA LEASING	.	
COMPANY,	.	300 Booth Street
	.	Reno, NV 89509
Debtor.	.	
	.	Wednesday, September 24, 2014
.....	.	2:30 p.m.

TRANSCRIPT OF HEARING ON AMENDED CHAPTER 11 PLAN NUMBER 2  
JOINT FIRST AMENDED DEBTOR'S PLAN OF REORGANIZATION  
FILED BY STEPHEN R. HARRIS ON BEHALF OF  
ASPEN SIERRA LEASING COMPANY [82]  
BEFORE THE HONORABLE BRUCE T. BEESLEY  
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For Debtor:	Harris Law Practice LLC
	By: STEPHEN R. HARRIS, ESQ.
	6151 Lakeside Drive, Suite 2100
	Reno, NV 89511
	(775) 786-7600

For the U.S. Trustee:	Office of the United States Trustee
	By: WILLIAM COSSITT, ESQ.
	300 Booth Street, Suite 3009
	Reno, NV 89509
	(775) 784-5335

For Charles Lieder:	Macauley Law Group
	By: LAURY MILES MACAULEY, ESQ.
	200 S. Virginia Street, 8th Floor
	Reno, NV 89501
	(775) 323-1210

APPEARANCES CONTINUED.

Audio Operator:	Court Personnel
-----------------	-----------------

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	Fishers, IN 46038
	(855) 873-2223
	www.accesstranscripts.com

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transcript produced by transcription service.

1           The next line is the ACC group is offering another  
2 \$700,000 cash, and it's the debtor's contention that basically  
3 everything below the \$160,000 line should not be included in  
4 the overbid procedure. But just for the Court's information so  
5 the Court has a general idea of, you know, what's going on,  
6 Mr. Pahl's group, the ACC group, they're offering 700,000 in  
7 cash --

8           THE COURT: And this is up from the 356,220 that was  
9 offered previously?

10          MR. HARRIS: No. Of the 700, Your Honor, 350 --

11          THE COURT: Oh, that -- so it's being divided up.  
12 Okay.

13          MR. HARRIS: See, 356 goes to repairs, CapEx, and 343  
14 for 2015 shortfall and capital expenditures. But what Mr. Pahl  
15 is saying is I will immediately put in \$860,000 cash and have  
16 another 400,000 ready for my investors to fund any future  
17 shortfalls, CapEx and expenses.

18           And then if I'm reading the FOA proposal correctly,  
19 they have got 185,000 cash earmarked for shortfalls and capital  
20 expenditures as opposed to the 700,000 from Mr. Pahl's group.

21           On the IRS, we have in there a \$52,000 -- IRS has a  
22 claim for about 52,000.

23          THE COURT: But everyone pretty much agrees --  
24 probably not the IRS -- that that's probably not a good claim.

25          MR. HARRIS: That's because Mr. Bosma just did the

1 2013 tax return, and there is a \$99,000 loss, and he believes,  
2 Mr. Bosma believes, that once he applies that loss and shows a  
3 different accounting treatment, that the IRS claim will be  
4 zero. But whatever it is, either -- both groups are agreeing  
5 to assume and pay whatever amount that is, 52 or less or zero.  
6 We're hoping it's zero.

7           The Washoe County Treasurer, and this amount of money  
8 has been agreed by Mr. Salter on behalf of the Washoe County  
9 Treasurer, and that's approximately \$1,452,000 for round  
10 numbers. And the Steve Paul Group, ACC, they're paying that  
11 over five years. It's 10 percent statutory interest, so it's  
12 just what the statute says, and a five-year amortization, so --  
13 and that first payment starts January 1, '15, representing the  
14 fourth quarter of 2014, and it goes on for five years.

15           And the FOA group, they're paying the same -- they're  
16 assuming and paying the same Washoe County Treasurer claim, but  
17 they're paying approximately 580,000 in cash, and then they're  
18 going to pay the other 871, if I read it correctly, in three  
19 installments of approximately 290. It's the same money, the  
20 same assumption. I haven't heard anything from the Washoe  
21 County Treasurer saying, you know, anything about the plan  
22 other than it's 10 percent interest, you've got to pay us in  
23 five years, and this is the amount, 1,452,000 approximately.

24           THE COURT: Okay.

25           MR. HARRIS: And, of course, they have lien rights.

1 These are past-due water bills, SAD fees, and real property  
2 taxes. And then we have the Lighthouse Bank loan. The balance  
3 with the October payment, the balance right now is  
4 approximately 75,000 with the September payment having been  
5 made. And so with the October payment, that balance would go  
6 down to approximately 65.

7 And both parties are agreeing to assume and pay that,  
8 but it's subject to the claim objection that the creditor's  
9 committee and Mr. Hartman has filed. And so -- but both  
10 parties are even in their treatment of that. On the special  
11 assessment, right now I believe FOA has their check or one of  
12 their member's check in with Mr. Salter, and I think the Court  
13 remembers that interchange a couple weeks ago.

14 THE COURT: I do.

15 MR. HARRIS: And -- but if the ACC group prevails,  
16 they will have a check delivered tomorrow for the equal amount  
17 of 126,890 approximately and Mr. Pestello's check will be  
18 returned. So that's basically where I see us right now. And  
19 that -- if you go to -- there's two pieces of -- two pleadings  
20 I think the Court needs. Number one, the pleading I filed  
21 yesterday, Number 134, debtor's proposed bidding closing  
22 procedures.

23 THE COURT: And 144, Mr. Goodenow's.

24 MR. HARRIS: One thirty-four, Your Honor.

25 THE COURT: Yeah, and 144, Mr. Goodenow's.

# **EXHIBIT 2**

# **EXHIBIT 2**

## Settlement Agreement

This Settlement Agreement ("Agreement") is made and entered into as of the Effective Date by and among Friends of Arrowcreek, LLC, a Nevada limited liability company ("Friends of Arrowcreek"), and the County of Washoe, a legal subdivision of the State of Nevada ("Washoe County"), who are collectively referred to herein as the "Parties".

### Recitals

1. The real property parcels identified by the Washoe County Assessor for tax year 2013 as APNs 152-021-03, 152-021-06, 152-390-02, 152-390-03, 152-443-22, 152-880-01, 152-582-07, 152-611-07, 152-850-06, 152-471-11 have a combined area of approximately 525 acres and are improved with two 18-hole golf courses, a club house, practice facilities and maintenance buildings (the "Subject Property"). The Subject Property is located in a suburban residential development known as Arrowcreek.

2. Friends of Arrowcreek purchased Subject Property from a Chapter 11 Bankruptcy (Case No. BK-N-14-50087-btb) and the purchase was confirmed by the court through the Bankruptcy Plan. Aspen Sierra Leasing Company was the bankruptcy debtor and predecessor of the Subject Property. The value of the claims in the bankruptcy exceeded the value of the assets and there was no equity in the Subject Property.

3. Washoe County owns and operates the South Truckee Meadows Water Reclamation Facility which produces Class A reclaimed water which is useable for irrigating landscaping and golf courses. Washoe County also operates a sanitary sewer collection system in certain regions of the Truckee Meadows and until December, 2014 also operated a municipal water utility that provided services in a defined service area that included Arrowcreek. The reclaimed water used on the Subject Property is a significant portion of Washoe County's reclaimed water supply in the region. Without a financially stable customer operating on the Subject Property and consuming reclaimed water Washoe County would have a significant amount of excess supply.

4. Special Assessment District 23 ("SAD 23") was formed under Chapter 271 of the NRS and Washoe County Bonds were authorized (Washoe County Ordinance No. 1001, adopted November 10, 1997) to provide funds to pay the cost of developing a South Truckee Meadows Water Reclamation Facility reclaimed water delivery system among other improvements in Arrowcreek. Through SAD 23 the infrastructure to deliver reclaimed water to the Subject Property was constructed. Owners of parcels included in SAD 23 pay assessments that retire the debt and pay other expenses of the SAD.

5. Washoe County bills customers for the delivery of water, the delivery of reclaimed water, and for the operation of the sanitary sewer system. At the time of its bankruptcy Aspen Sierra Leasing Company was delinquent in the payment of charges for water, reclaimed water, sewer charges property taxes and special assessment district assessments. Penalties and interest were added to those amounts pursuant to Nevada property tax statutes. Washoe County filed claims in the Aspen Sierra Leasing bankruptcy. When the value of claims in bankruptcy exceed the value of the bankruptcy estate, claims can be disallowed and creditors receive less than the amount of their claims.

6. Pursuant to NRS 244.157 and NRS 318.197(2), and if proper notice is given, unpaid rates, tolls or charges imposed by a county making use of the powers of a general improvement district constitute a perpetual lien on and against the property served. Under NRS 244.36605(2) the board of county commissioners of a county which provides "sewerage, storm drainage or water service, or any combination of those services" may elect by ordinance to have delinquent charges for any or all of those services collected on the tax roll. When delinquent charges for those services are placed on the tax roll, they are subject to the penalties and interest imposed upon delinquent real property taxes.

7. Section 7.5 of Washoe County Ordinance No. 1299 (Reclaimed Water Services Ordinance, May 23, 2006) provides: "Until paid, all rates, tolls, charges and fines provided in this Ordinance constitute a perpetual lien on and against the property served and may be foreclosed upon as provided by law." Section 7.5 of Washoe County Ordinance No. 1344 (Sanitary Sewer Service Ordinance, September 25, 2007) provides: "Until paid, all rates, tolls, charges and fines provided in this Ordinance constitute a perpetual lien on and against the property served and may be foreclosed upon as provided by law." Section 8.5 of Washoe County Ordinance No. 1470 (Water Service Ordinance, August 23, 2011) provides: "Until paid, all rates, tolls, charges and fines provided in this Ordinance constitute a perpetual lien on and against the property served and may be foreclosed upon as provided by law."

8. The Friends of Arrowcreek and the Washoe County Tax Collector (County Treasurer) entered into a Tax Repayment Agreement in October of 2014 providing for the payment of \$1,451,884.44 which is a pre-petition debt of Aspen Leasing for utility charges, SAD assessments and property taxes (the "Washoe County Debt"). The Washoe County Debt was secured by a perpetual lien acknowledged in the Bankruptcy and Washoe County filed Proofs of Claims for the Subject Property. The terms of the Tax Repayment Agreement were approved by the Bankruptcy Court in its Order Confirming Joint First Amended Debtor's Plan of Reorganization (October 1, 2014.) The first payment under the Tax Repayment Agreement in the amount of \$580,773 was made by Friends of Arrowcreek and received by Washoe County in October of 2014. Three payments of \$290,376.88 are due on November 2, 2015; November 1, 2016; and November 1, 2017.

9. Friends of Arrowcreek asserts that it has all the rights and defenses of Aspen Sierra Leasing from the purchase of the assets from the bankruptcy. Friends of Arrowcreek asserts that Aspen Sierra Leasing could have challenged the treatment of the reclaimed water charges as collectable as property taxes because of the county code definitions in effect at the relevant times. Specifically, Friends of Arrowcreek asserts that because wastewater (reclaimed water) was excluded from the definition of water in the county code at the time Aspen Sierra Leasing's utility bills were delinquent, Washoe County was not authorized under NRS 244.36605(2) to have delinquent charges for "sewerage, storm drainage or water service, or any combination of those services" collected as property taxes. Prior to November of 2014, Washoe County Code 40.160 defined "Water" as "all water, except wastewater, supplied from a public water system to any customer who uses water." That code section was amended, effective November 21, 2014, to change the definition of water to "all water, including wastewater, supplied from a public water system to any customer who uses water."

In addition, Friends of Arrowcreek asserts it could seek to reopen the bankruptcy case to contest Washoe County's claims and the allocations of Aspen Sierra Leasing's previous utility payments.

10. Washoe County asserts that phrase "combination of those services" within the phrase "sewerage, storm drainage or water service, or any combination of those services" in NRS 244.36605(2) contemplates reclaimed water being considered as a combination of water services and sewerage services and the county is authorized to have delinquent charges for any or all of those services collected on the tax roll.

11. The difference between Friends of Arrowcreek's assertion and Washoe County assertion over the treatment of delinquent charges for utility services constitutes a dispute between the Parties.

12. If the portion of the Washoe County Debt attributable to reclaimed water charges is not treated as delinquent property taxes, the penalties and interest that attached to that portion of Aspen Sierra Leasing's property tax bills must be removed which reduces the Washoe County Debt by \$179,195.11. The Washoe County Debt can also be adjusted by crediting \$25,064.48 in utility late fees charged and \$14,241.47 in late fees previously paid by Aspen Sierra Leasing. These three amounts total \$218,501.06.

13. Litigating the dispute in a reopened bankruptcy case would cause the Parties to incur significant legal expenses and fees.

In consideration of the mutual conditions, covenants and terms contained in this Agreement including the recitals above, the parties agree:

1. Definitions. In addition to the definitions stated in the preceding recitals, the following defined terms, wherever used in this Agreement, shall have the meanings described below:

1.1 "Effective Date" means the date on which this Agreement has been signed by all of the Parties.

1.2 "Friends of Arrowcreek" means Friends of Arrowcreek, LLC, a Nevada limited liability company, and its assigns and successors in interest.

1.3 "Subject Property" is defined in Recital 1, above.

1.4 "Subject Years" means the years the Aspen Sierra Leasing Company's debts were incurred as stated in Washoe County's Proof of Claims, namely those which begin on: July 1, 2010; July 1, 2011; July 1, 2012; July 1, 2013 and July 1, 2014 as tax years under the Nevada property tax laws.

1.5 "Tax Repayment Agreement" is defined in Recital 6, above.

1.6 "Washoe County" means Washoe County, a political subdivision of the State of Nevada, and its elected and appointed officials, officers, managers,

employees, attorneys, contractors, agents, successors in interest, assigns and all other affiliated persons or entities in their personal and official capacities.

1.7 "Washoe County Debt" is defined in Recital 8, above.

2. Compromise.

2.1 Washoe County agrees to reduce the Washoe County Debt by \$218,501.06.

2.2 Friends of Arrowcreek agrees to accept the reduction of the Washoe County Debt by \$218,501.06.

2.3 The Parties acknowledge and agree they have received adequate consideration for this Agreement.

2.4 Friends of Arrowcreek agrees to accelerate the payments due under the Tax Repayment Agreement, reduced by the reduction described in section 2.2 of this Agreement, contingent upon obtaining financing or raising capital. Friends of Arrowcreek will pay Washoe County \$217,536.79, plus accrued interest, on November 2, 2015, representing one third (.33%) of the remaining balance after deducting the reduction of \$218,501.06. Provided the financing contingency described in this section 2.4 is satisfied, Friends of Arrowcreek will pay the remaining balance on or before February 1, 2016. If Friends of Arrowcreek is not able to satisfy the financing contingency, then it will pay the remaining balance, together with interest at the rate of ten percent (10%) per annum in two equal annual installments on November 1, 2016 and November 1, 2017.

3. Future Years. This Agreement resolves the dispute between the Parties concerning the treatment of reclaimed water charges as property taxes for the Subject Property for the Subject Years. Nothing in this Agreement affects the rights of the Parties as to other and future years. The treatment accorded the Subject Property for the Subject Years should not be construed as precedent for how the Subject Property should be treated in future tax years.

4. Bankruptcy Court Approval. The Parties agree to cooperate with each other to obtain the approval of the Bankruptcy Court for the implementation of this Agreement.

5. Covenants Not to Sue.

5.1 Washoe County agrees and covenants on behalf of itself and its elected and appointed officials, officers, employees, attorneys, contractors, agents, managers, successors in interest, assigns and all other affiliated persons or entities in their personal and official capacities that neither it nor they will commence any legal action, or otherwise assert any claims or demands, against Friends of Arrowcreek or its members, officers, employees, attorneys, contractors, agents, managers, successors in interest, assigns, and all other affiliated entities or persons in their personal and official capacities which relate to the treatment of the reclaimed water charges as a property tax debt.

5.2 Subject to the reservations set forth above, Friends of Arrowcreek agrees and covenants on behalf of itself and its members, officers, employees, attorneys, contractors, agents, managers, successors in interest, assigns and all other affiliated persons or entities in their personal and official capacities that neither it nor they will commence any legal action, or otherwise assert any claims or demands, against Washoe County or its officers, employees, attorneys, contractors, agents, managers, successors in interest, assigns, and all other affiliated entities or persons in their personal and official capacities which relate to the treatment of the reclaimed water charges as a property tax debt.

5.3 The Parties reserve their rights in the event of a dispute over the interpretation or enforcement of this Agreement and those rights are not waived by this section.

6. Tax Repayment Agreement. Each provision of the Tax Repayment Agreement remains in effect unless expressly amended or unless in direct conflict with the terms of this Agreement.

7. Representations and Warranties. Each party represents and warrants for itself as follows:

7.1 Such party has the full authority and power to enter into this Agreement and to consummate the transactions contemplated under this Agreement.

7.2 The execution, delivery and consummation by such party of the transactions contemplated under this Agreement will not result in the breach of any term or provision of, or constitute a default under, any applicable law or regulation or under any other agreement or instrument to which such party is a party or by which it is bound.

8. No Admission of Liability. This Agreement is made to compromise, settle, terminate and to constitute an accord in satisfaction of the claims released by the Parties in accordance with this Agreement. The Parties admit no fault, liability or wrongdoing of any nature or any kind whatsoever and expressly deny and disclaim any fault, liability or wrongdoing alleged, or which could have been alleged.

9. Voluntary Agreement. Each of the Parties represents and warrants for itself that it has read this Agreement and understands its contents, and that this Agreement is executed voluntarily with full knowledge of the consequences and implications of the obligations and rights of the other party in this Agreement. Each party represents and warrants for itself that it has had an opportunity to review this Agreement and to be represented by independent counsel of its choice during the negotiations which preceded execution of this Agreement and in connection with the preparation and execution of this Agreement.

10. Governing Law. The terms and conditions of this Agreement shall be construed and enforced in accordance with the laws of the State of Nevada.

11. Sole Agreement and Modification. Except as otherwise expressly provided in the Tax Repayment Agreement, this Agreement is intended to be the full and final expression and complete and exclusive statement of all of the terms of the understanding between the

Parties for their compromise and settlement of the claims of the Parties. This Agreement may not be amended or modified except by a written instrument executed by each of the Parties.

12. **Binding Effect.** This Agreement shall inure to the benefit of and be binding on each of the Parties, their members, officers, employees, attorneys, contractors, agents, trustees, intended beneficiaries, managers, elected and appointed officials, successors in interest, assigns, all other affiliated persons or entities in their personal and official capacities and each party shall have the right to enforce this Agreement in accordance with its terms.

13. **No Unintended Third-Party Beneficiaries.** Except as otherwise set forth herein, nothing in this Agreement shall be construed to benefit any non-party or third party. The Parties to this Agreement agree that no non-party or third-party shall be considered or construed to be a beneficiary or third-party beneficiary of this Agreement except as otherwise set forth herein.

14. **Severability.** If any part, term or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law of the United States or any state, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

15. **Construction.** This Agreement shall be interpreted as if prepared by the Parties equally, and shall not be construed against or in favor of any one party or group of Parties.

16. **Costs and Attorneys' Fees.** Except as expressly provided in this Agreement, each party shall pay and be responsible for any attorney's fees or costs incurred by such party arising from or relating to the disputes among the Parties which have been compromised and settled in accordance with this Agreement.

17. **Further Assurances.** The Parties covenant and agree that each of them will perform such other acts and provide such other assurances as are reasonably required to implement the intentions of the Parties as stated in this Agreement.

18. **Notices.** Any notices required or authorized to be given by this Agreement shall be in written form. Any notices required or authorized to be given by this Agreement may be sent by registered or certified delivery, postage prepaid and return receipt requested, addressed to the proper party at the following address or such address as the party shall have designated to the other Parties in accordance with this Section:

For Washoe County:

Washoe County  
Director of Community Services Department  
1001 E. Ninth Street  
Reno, Nevada 89520

For Friends of Arrowcreek:

Friends of Arrowcreek, LLC  
5920 Sky Terrace Ct.  
Reno, Nevada 89511

Any notice required or authorized to be given by this Agreement shall be deemed to have been sufficiently given or served in written form if mailed as provided herein,

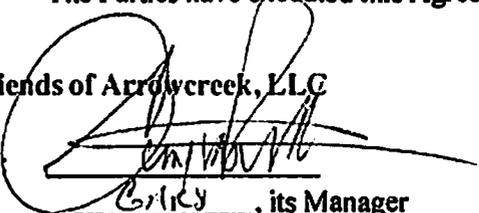
personally delivered to the proper party, or sent by facsimile and actually received by the addressee. Such notice shall be effective on the date of receipt by the addressee party.

19. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which shall constitute the same Agreement.

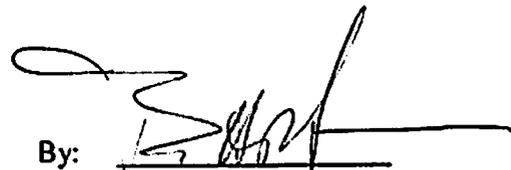
The Parties have executed this Agreement on the dates indicated below.

Friends of Arrowcreek, LLC

By:

  
Eric W. Pestello, its Manager  
W PESTELLO

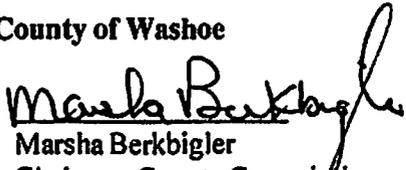
Date: AUG 12, 2015

  
By: THOMAS GUARE its Manager

Date: Aug 12, 2015

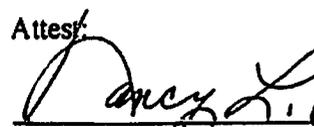
The County of Washoe

By:

  
Marsha Berkgigler  
Chairman County Commission

Date: 9/8/15

Attest:

  
Nancy L. Parent  
Washoe County Clerk

Date: 9/8/15

