

**FOURTH AMENDATORY AGREEMENT
TO SUPPLEMENTAL AGREEMENT NO. VII**

THIS FOURTH AMENDATORY AGREEMENT is entered into as of the date set forth on the signature sheet below between **WINTER PARK RECREATIONAL ASSOCIATION**, a Colorado nonprofit corporation (“Association”) and the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (“City”).

W I T N E S S E T H:

WHEREAS, the Association and the City entered into that certain Supplemental Agreement No. VII to Agreement between Winter Park Recreational Association and the City and County of Denver, dated October 4, 2002, as amended by that certain First Amendatory Agreement to Supplemental Agreement No. VII, dated December 20, 2005, and as amended by that certain Second Amendatory Agreement to Supplemental Agreement No. VII, dated December 30, 2008, and as further amended by that certain Third Amendatory Agreement to Supplemental VII, dated August 30, 2012 (together, the “Supplemental Agreement”); and

WHEREAS, the parties now desire to amend the Supplemental Agreement to clarify certain financial terms.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein, the parties hereto agree as follows:

1. Section 13, entitled **PROCEEDS FROM THE LEASE AND OPTION AGREEMENT** of the Supplemental Agreement is hereby deleted in its entirety and replaced as follows:

13. Proceeds from the Lease and Option Agreements. The Association agrees to collect from Intrawest any and all money due or payable to the Association under the terms of the Lease and Option Agreements and to transmit said money in accordance with the Lease and Option Agreements and this Supplemental Agreement. The Association recognizes that some of these payments, specifically the Required Quarterly Payments and the Revenue-Based Annual Payments, are to be transmitted to the City. To expedite the City’s receipt of the Required Quarterly Payments, the Association may direct Intrawest to make the Required Quarterly Payments directly to the City. If at any time the Association collects the Required Quarterly Payments directly, it will transmit the funds to the City as promptly as possible, and in no event later than ten (10) days after receipt thereof. The Association agrees to transmit to the City its share of the Revenue-Based Annual Payment according to the formula and with the documentation described in Exhibit A, to the City as promptly as possible, and in no event later than ten (10) days after receipt thereof

2. Except as herein amended, the Supplemental Agreement is affirmed and ratified in each and every particular.

3. **Electronic Signatures and Electronic Records:** The Association consents to the use of electronic signatures by the City for this Fourth Amendatory Agreement. The Fourth

Amendatory Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Fourth Amendatory Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Fourth Amendatory Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the grounds that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Winter Park Recreational Association

By: *William E. Mosher*
William E. Mosher, President 12/16/13



EXHIBIT A

Calculation of the City and Association's Share of the Revenue-Based Annual Payment

Upon receipt of the Revenue-Based Annual Payment from the Tenant, the Association shall verify the amount based on Tenant's supporting documentation as required by Section 5.6 of the Lease. The Association will then calculate any portion of the Revenue-Based Annual Payment to be retained by the Association based on the following formula:

The Association will be entitled to retain up to a maximum of 15% of the total Revenue-Based Annual Payment in order to maintain, but not to exceed, a minimum fund balance equal to two years of operating expenses. Actual fund balance for the basis of this calculation will equal the total unrestricted cash balance as reported in the Association's previous fiscal year's annual Audit Report. Two years of operating expenses will be calculated as the sum of the Association's previous fiscal year's actual expenses as reported in the Association's Budget Reconciliation Report, plus the Association's current fiscal year's budgeted expenditures as reported in its current fiscal year's Adopted Budget.

To the extent the Association has a fund balance which exceeds two years of operating expenses (as described above), the Association will receive none of the Revenue-Based Annual Payment. If 15% of the Revenue-Based Annual Payment is insufficient to maintain the minimum fund balance, the Association shall be entitled to a portion of the Revenue-Based Annual Payment sufficient to fund 75% of the minimum fund balance as calculated above.

With the transmittal to the City of its portion of the Revenue-Based Annual Payment, the Association will provide the following: Tenant's documentation required by Section 5.6 of the Lease supporting the Revenue-Based Annual Payment amount; the Association's Audit Report for the most recently completed fiscal year; the Association's annual Budget Reconciliation Report for the most recently completed fiscal year; the Association's Adopted Budget for its current fiscal year; a summary of the minimum fund balance required; the amount of the Revenue-Based Annual Payment to be retained by the Association, if any; and the total amount of Revenue-Based Annual Payment to be delivered to the City.