



## STAFF REPORT

**Report To:** Board of Supervisors                      **Meeting Date:** May 19, 2022

**Staff Contact:** Darren Schulz, Public Works Director

**Agenda Title:** For Possible Action: Discussion and possible action regarding an extension of deadlines to commence and complete construction on an affordable housing project to be built on 2.91 acres of undeveloped land within Assessor's Parcel Number 010-037-04 ("Property") through a development agreement ("Agreement") between Carson City and PalaSeek LLP, Oikos Development Corporation and Sierra Flats Senior LP (collectively, "Developer") that was approved by the Board of Supervisors ("Board") on December 16, 2021. (Dan Stucky, DStucky@carson.org)

Staff Summary: Under the Agreement, Developer will construct an 80-unit affordable housing project ("Sierra Flats 9% Project") on the Property. The Agreement provides that, unless the City consents in writing to an extension, the Agreement expires if Developer has not commenced construction of the Sierra Flats 9% Project by June 1, 2022. Developer has informed staff that it will not be able to commence construction before June 1, 2022 due to unexpected delays in lender due diligence.

**Agenda Action:** Formal Action / Motion                      **Time Requested:** 10 minutes

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### Proposed Motion

I move to extend the deadlines to commence and complete construction to \_\_\_\_\_, and to authorize the Mayor to sign a written notice of the extension.

### Board's Strategic Goal

Economic Development

### Previous Action

January 17, 2019 - The Board directed staff to initiate due diligence to determine whether to convey a portion of Assessor's Parcel Number 010-037-04 under NRS Chapter 244 for development of affordable/workforce housing and prepare a proposed Request for Proposals ("RFP") to allow the Board to seek proposals from qualified developers through a competitive process.

December 5, 2019 - The Board held a public hearing on the RFP and selected PalaSeek to work with the City to pursue a development agreement for PalaSeek's proposed project.

November 4, 2021 – The Board reviewed and provided direction to staff on a rough draft for a development agreement between the City and Developer for the Sierra Flats 9% Project.

November 18, 2021 - The ordinance seeking approval of the Agreement was introduced at first reading as Bill No. 115. The Board approved a motion to introduce the ordinance on first reading, subject to certain modifications to the Agreement. The motion carried 4-1.

December 16, 2021 - The ordinance seeking approval of the Agreement was adopted at second reading as Ordinance No. 2021-14 at the Board's meeting on December 16, 2021. The motion carried 4-1.

### **Background/Issues & Analysis**

On September 12, 1960, the City acquired approximately 127.7 acres of property along Butti Way from the State of Nevada. Since this time, the property has been developed to house several City Departments and facilities including the Carson City Public Works Department and Corporate Yard, the Carson City Parks, Recreation and Open Space Department, the Nevada Humane Society and the Carson City Water Resource Reclamation Facility. Within that 127.7 acres acquired by the City is the Property.

On December 5, 2019, the Board reviewed two proposals to an RFP for an affordable housing development on the Property, and the Board selected PalaSeek to form a development team and negotiate a development agreement with the City.

Since then, PalaSeek has partnered with Oikos (a tax-exempt 501(c)(3)) to form Sierra Flats, and together they have secured for the project \$1,250,000 in annual low-income housing tax credits, \$900,000 in National Housing Trust Funds and \$1,750,000 in federal HOME funds from the Nevada Housing Division. Additionally, PalaSeek, Oikos and Sierra Flats have split the proposed affordable housing project into two phases. The Agreement concerns only the Sierra Flats 9% Project. Any Phase 2 project would be the subject of a separate agreement. Based on the schedule for public funding and tax credit awards, PalaSeek and Oikos anticipate that they will have enough information to negotiate a wholly separate Phase 2 development agreement in August of 2022.

The Agreement establishes terms and requirements for the Sierra Flats 9% Project, including, but not limited to the terms for conveying the Property from the City to Developer, affordability requirements for future occupants and the construction timeline for the project.

Specifically, Section 2.2 of the Agreement states:

DEVELOPER further agrees that unless CARSON CITY agrees in writing to some modification, the Agreement shall expire if DEVELOPER fails to:

- A. Commence construction of the SIERRA FLATS 9% PROJECT on the...PROPERTY on or before June 1, 2022.
- B. Secure a certificate of occupancy for the SIERRA FLATS 9% PROJECT on or before December 31, 2023.

Since the approval of the Agreement, Developer has submitted applications to the City for a parcel map, building permit and engineering permit for site improvements. In addition, the due diligence period required by Developer's lender has taken longer than initially expected. Developer is still actively pursuing the Sierra Flats 9% Project, but it will not meet the June 1, 2022, deadline from the Agreement to commence construction.

The City has not yet conveyed the Property to Developer.

The Agreement gives the Board the discretion to extend the deadlines for commencement and completion of the Sierra Flats 9% Project, provided the Board's assent is given in writing. If the Board determines that it would like to exercise its discretion to extend those deadlines, it could approve such a motion and provide written notice of that decision through the attached Notice of Deadline Extensions for Development Agreement. The Developer has proposed to extend the deadlines from Section 2.2 of the development agreement by three (3) months, therefore to commence construction on or before September 1, 2022 and secure a certificate of occupancy on or before March 31, 2024.

If the Board elects not to extend the deadlines, the Agreement would terminate, and the City could commence the noticing requirements to declare a breach of the Agreement and cancel it.

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS 278.0201 et seq.; Carson City Municipal Code Chapter 17.08

**Financial Information**

**Is there a fiscal impact?** No

**If yes, account name/number:** N/A

**Is it currently budgeted?** No

**Explanation of Fiscal Impact:** N/A

**Alternatives**

Do not approve the proposed amendment to the Agreement and/or provide alternative direction to staff.

**Attachments:**

[Ntc Extend Deadlines v2.docx](#)

[FINAL\\_Development\\_Agreement\\_EXECUTED.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

**APN 010-037-04**

**RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:**

Carson City Public Works Department  
c/o Real Property Manager  
3505 Butti Way  
Carson City, NV 89701

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)
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NOTICE OF DEADLINE EXTENSIONS FOR DEVELOPMENT AGREEMENT

THIS NOTICE OF DEADLINE EXTENSIONS FOR DEVELOPMENT AGREEMENT (“NOTICE”) memorializes the assent of Carson City, a consolidated municipality of the State of Nevada (“CARSON CITY”) to the extension of certain deadlines set forth in the Development Agreement between CARSON CITY and PalaSeek LLP, a Nevada limited liability partnership; Oikos Development Corporation, a Missouri nonprofit corporation and tax-exempt 501(c)(3) organization and Sierra Flats Senior, LP, a Nevada limited partnership (collectively, “DEVELOPER”) which was enacted by Ordinance 2021-14 and recorded with the Carson City Recorder as Document No. 528321 on December 23, 2021 (“DEVELOPMENT AGREEMENT”).

CARSON CITY, through its Board of Supervisors (“Board”), now provides written notice of its decision to exercise its discretion to extend certain deadlines set forth in the DEVELOPMENT AGREEMENT, as follows:

1. Section 2.2(A) of the DEVELOPMENT AGREEMENT provides that, unless CARSON CITY extends the deadline in writing, the DEVELOPMENT AGREEMENT expires on June 1, 2022, if DEVELOPER has not commenced construction of the SIERRA FLATS 9% PROJECT (as defined in the DEVELOPMENT AGREEMENT).

2. Section 2.2(B) of the DEVELOPMENT AGREEMENT provides that, unless CARSON CITY extends the deadline in writing, the DEVELOPMENT AGREEMENT expires on December 31, 2023, if DEVELOPER has not secured a certificate of occupancy for the SIERRA FLATS 9% PROJECT.
3. At its May 19, 2022, meeting, the Board found that it was in the best interests of CARSON CITY to exercise its discretion to extend the deadlines from Section 2.2 of the DEVELOPMENT AGREEMENT by \_\_\_\_\_ month(s), such that unless CARSON CITY again agrees in writing to some modification, the DEVELOPMENT AGREEMENT shall expire if DEVELOPER fails to:
  - A. Commence construction of the SIERRA FLATS 9% PROJECT on the 9% PROPERTY (as defined in the DEVELOPMENT AGREEMENT) on or before \_\_\_\_\_.
  - B. Secure a certificate of occupancy for the SIERRA FLATS 9% PROJECT on or before \_\_\_\_\_.

This NOTICE is only intended to memorialize CARSON CITY's exercise of a discretionary power permitted under Section 2.2 of the DEVELOPMENT AGREEMENT to extend the deadlines set forth in that section. In all other respects, the terms and conditions of the DEVELOPMENT AGREEMENT remain unchanged and in full force and effect.

[Signature Page Follows]

**CARSON CITY**

APPROVED:

CARSON CITY, a consolidated municipality

By: \_\_\_\_\_  
Lori Bagwell, Mayor

APPROVED AS TO FORM:

Carson City District Attorney

By: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

Carson City Clerk-Recorder

By: \_\_\_\_\_  
Aubrey Rowlett

Date: \_\_\_\_\_

**APN 010-037-04**

**RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:**

Carson City Public Works Department  
c/o Real Property Manager  
3505 Butti Way  
Carson City, NV 89701

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into by and among PalaSeek LLP, a Nevada limited liability partnership (“PALASEEK”), Oikos Development Corporation, a Missouri nonprofit corporation and tax-exempt 501(c)(3) organization (“OIKOS”), Sierra Flats Senior, LP, a Nevada limited partnership (“SFS,” together with PALASEEK and OIKOS, “DEVELOPER”), as developer of that certain project known as the 9% LOW-INCOME HOUSING TAX CREDIT DEVELOPMENT OF 3410 BUTTI WAY (APN 010-037-04) FOR AFFORDABLE/WORKFORCE HOUSING (the “SIERRA LOFTS 9% PROJECT”), and Carson City, a consolidated municipality of the State of Nevada (“CARSON CITY”). PALASEEK, SFS, OIKOS, and CARSON CITY may be individually referred to as a “Party” and collectively referred to as “Parties.”

RECITALS

1. The land at issue in the Agreement (later defined herein as “9% PROPERTY”) is described and shown in the legal description attached as Exhibit “A”, and it is contained within 7.81 acres of land owned by CARSON CITY with Carson City Assessor’s Parcel Number (“APN”) 010-037-04.

2. CARSON CITY has made the western 6.31 acres of APN 010-037-04, more particularly shown in Exhibit “B,” available for the development of affordable/workforce housing (the “AVAILABLE PROPERTY”).
3. The easternmost 1.5-acre portion of APN 010-037-04 is not part of this Agreement, and will continue to be CARSON CITY’s property.
4. Originally PALASEEK planned for a single apartment project named CARSON LOFTS to be built upon the AVAILABLE PROPERTY.
5. Since PALASEEK’s original proposal, DEVELOPER has refined the development plan to include two apartment projects: the SIERRA LOFTS 9% PROJECT and a second project or phase, to be named later (“PHASE 2 PROJECT”), which will be rent restricted, and income restricted to take advantage of available low income housing tax credits.
6. The Agreement provides the terms upon which DEVELOPER will build the SIERRA LOFTS 9% PROJECT on the westernmost portion of the AVAILABLE PROPERTY, as shown in Exhibit “C” and as described and shown in the legal description attached as Exhibit “A” (the “9% PROPERTY”).
7. The remainder of the AVAILABLE PROPERTY (“PHASE 2 PROPERTY”) is not part of this Agreement but may be part of a future development agreement for the PHASE 2 PROJECT.
8. Therefore, this Agreement uses the following defined terms to describe portions of the approximately 7.81 acres of land owned by CARSON CITY at APN 010-037-04:
  - The AVAILABLE PROPERTY is the western 6.31 acres of APN 010-037-04, as shown in Exhibit “B”. The Agreement divides the AVAILABLE PROPERTY into two categories: the 9% PROPERTY and the PHASE 2 PROPERTY.
  - The 9% PROPERTY is the westernmost portion of the AVAILABLE PROPERTY, as shown in Exhibit “A” and Exhibit “C”.



- The PHASE 2 PROPERTY is the eastern portion of the AVAILABLE PROPERTY that is not included in the 9% PROPERTY, as shown in Exhibit “C”
9. On January 17, 2019, the Carson City Board of Supervisors directed staff to initiate due diligence to determine whether to convey the AVAILABLE PROPERTY under the provisions of NRS 244.287 for the development of affordable housing and to prepare a proposed Request for Proposals (“RFP”) to be reviewed by the Carson City Board of Supervisors in order to seek proposals from qualified developers through a competitive process.
  10. On September 12, 2019, CARSON CITY released a RFP to invite qualified and experienced affordable housing and workforce housing development teams to submit proposals for the Development of the AVAILABLE PROPERTY.
  11. On December 5, 2019, the Carson City Board of Supervisors reviewed the submitted proposals and selected PALASEEK to develop the AVAILABLE PROPERTY. PALASEEK’s proposal included one-hundred and sixty (160) mixed income affordable/workforce housing units. The Board of Supervisors directed CARSON CITY staff to work with PALASEEK to further develop the project proposal, begin the land entitlement process, conduct community outreach, and negotiate a Development Agreement.
  12. On June 26, 2020, Ordinance No. 2020-10, Bill No. 110, was recorded as Document No. 507505, effectuating a Zoning Map Amendment such that zoning for the AVAILABLE PROPERTY was changed from Public Regional (PR) to Multi-Family Apartment (MFA), which is incorporated herein by this reference. The easternmost 1.5-acre portion of APN 010-037-04 remains zoned as Public Regional (PR).
  13. On August 18, 2020, CARSON CITY and PALASEEK conducted a Major Project Review (MPR-2020-0023) of the preliminary development plans as required by CCMC 18.02.100.

14. On September 4, 2020, CARSON CITY provided PALASEEK with written Major Project Review Comments for MPR-2020-0023.
15. On March 2, 2021, CARSON CITY and PALASEEK conducted a Conceptual Map and Major Project Review (PM-2021-0049) of the preliminary development plans and proposed parcel map for PALASEEK's project. Once approved and completed, the proposed parcel map will sub-divide APN 010-037-04 into three separate parcels. The easternmost parcel (approximately 1.5 acres) created by the parcel map will be retained by CARSON CITY and will not be developed as part of the SIERRA LOFTS 9% PROJECT or the PHASE 2 PROJECT. The westernmost parcel created by the parcel map will be the 9% PROPERTY where the SIERRA LOFTS 9% PROJECT will be developed through this Agreement. The middle parcel created by that parcel map will be the PHASE 2 PROPERTY, which CARSON CITY may make available for the PHASE 2 PROJECT at a later time, through a separate development agreement.
16. On March 12, 2021, CARSON CITY provided PALASEEK with written Conceptual Map and Major Project Review Comments for PM-2021-0049.
17. On April 2, 2021, PALASEEK, together with OIKOS, caused SFS to be formed as a Nevada limited partnership by filing a certificate of limited partnership with the Secretary of State of the State of Nevada.
18. On April 15, 2021 CARSON CITY and PALASEEK entered into Exclusive Negotiating Rights Agreement providing that CARSON CITY would exclusively pursue a development agreement for affordable/workforce housing on the AVAILABLE PROPERTY with PALASEEK and its assigns through January 1, 2022.
19. SFS will be the owner of the SIERRA LOFTS 9% PROJECT, which will be built on the 9% PROPERTY.
20. PALASEEK and OIKOS have caused or will cause another entity to be formed that is intended to be the owner of the PHASE 2 PROJECT, which will be eligible to be built

on the PHASE 2 PROPERTY, upon approval of a later, separate development agreement by CARSON CITY.

21. The Parties believe that it is mutually beneficial to enter into this Agreement and each mutually desire that the SIERRA LOFTS 9% PROJECT be developed in accordance with this Agreement.
22. CARSON CITY, PALASEEK, OIKOS, and SFS desire to hereinafter have the provisions of this Development Agreement govern the development activities concerning the SIERRA LOFTS 9% PROJECT.

NOW THEREFORE, for good and valuable consideration, and the mutual covenants, conditions and promises herein contained, the Parties do agree as follows:

I.

PROJECT CHARACTERISTICS AND TENANCY REQUIREMENTS

This Agreement governs only the SIERRA LOFTS 9% PROJECT. References to the PHASE 2 PROJECT and PHASE 2 PROPERTY are intended only to provide context for the rights and obligations this Agreement creates in regard to the SIERRA LOFTS 9% PROJECT. Unless this Agreement expressly states otherwise, it creates no rights or obligations for any Party in regard to the PHASE 2 PROJECT and PHASE 2 PROPERTY.

The AVAILABLE PROPERTY encompasses 6.31 acres of real property, more or less, and is zoned Multi-Family Apartment (MFA). Although the PHASE 2 PROJECT is not yet finalized, based on the lot shape and the current plan, it is envisioned that the SIERRA LOFTS 9% PROJECT and PHASE 2 PROJECT will consist of four 3-story buildings with a total of one hundred and sixty (160) units of mixed income affordable/workforce housing available for rent to income-qualified individuals. Each building will have 40 units. One of the buildings will be reserved as senior housing for households age 55 years or older. The other buildings will be targeted to families. It is envisioned that sixty-three (63) of the total units will be 1-bedroom units (approximately 650 square feet in size), sixty-seven (67) of the total units will be 2-bedroom units (approximately 850 square feet in size), and up to thirty (30) units may be 3-bedroom units (approximately 1150 square feet in size).

The SIERRA LOFTS 9% PROJECT and PHASE 2 PROJECT are intended to primarily house seniors and families whose income does not exceed sixty percent (60%) of the median gross income (as determined by the Department of Housing and Urban Development “HUD” for Carson City), compared to other families residing in Carson City; however, sixteen (16) of the eighty (80) units making up the SIERRA LOFTS 9% PROJECT are not income restricted. The SIERRA LOFTS 9% PROJECT will provide a ten percent preference for veteran households. The SIERRA LOFTS 9% PROJECT will be financed through a mix of 9% Low Income Housing Tax Credits, HOME, National Housing Trust Funds, and/or other public sources and conventional sources. The specific funding mechanisms for the PHASE 2 PROJECT are not yet settled. The SIERRA LOFTS 9% PROJECT will receive a property tax exemption to contribute to the financial viability of the projects.

The SIERRA LOFTS 9% PROJECT will provide affordable housing units through income and rent targets at least as low as indicated in the two Area Median Income (“AMI”) target tables below:

Sierra Flats Senior (40 units of senior housing) – Part of the SIERRA FLATS 9% PROJECT

Targeted Population	Unit Size	# of Units	Income Target	Rent Target
Senior	1-bedroom	11	50% AMI	30% AMI
Senior	1-bedroom	16	50% AMI	40% AMI
Senior	1-bedroom	5	50% AMI	50% AMI
Senior	2-bedroom	1	50% AMI	30% AMI
Senior	2-bedroom	1	50% AMI	40% AMI
Senior	2-bedroom	6	50% AMI	50% AMI

Sierra Flats Family One (40 units of family housing) – Part of the SIERRA FLATS 9% PROJECT

Targeted Population	Unit Size	# of Units	Income Target	Rent Target
Family	1-bedroom	4	50% AMI	30% AMI

Family	1-bedroom	10	50% AMI	40% AMI
Family	1-bedroom	4	50% AMI	50% AMI
Family	1-bedroom	10	Non-restricted	Non-restricted
Family	2-bedroom	2	50% AMI	40% AMI
Family	2-bedroom	4	50% AMI	50% AMI
Family	2-bedroom	6	Non-restricted	Non-restricted

The PHASE 2 PROJECT is anticipated to provide an additional eighty (80) units of family housing on the PHASE 2 PROPERTY, which would require a separate development agreement with CARSON CITY.

II.

ADMINISTRATION OF THE PROJECT

The SIERRA LOFTS 9% PROJECT shall be developed in accordance with this Agreement, with the following characteristics and requirements:

2.1 PHASING. The SIERRA FLATS 9% PROJECT is the subject of this Agreement, it is expected to start in April 2022 with completion anticipated in July 2023, and it will be constructed on the 9% PROPERTY. The PHASE 2 PROJECT is not part of the Agreement and, if pursued, will be covered by a separate development agreement; however, DEVELOPER believes construction on the PHASE 2 PROJECT could start as early as July 2023 with completion anticipated in November of 2024. A Phasing Map showing the location of the SIERRA FLATS 9% PROJECT on the AVAILABLE PROPERTY, and the proposed location of the PHASE 2 PROJECT, if pursued, is attached hereto as Exhibit "C". The Parties agree that this Agreement must be fully executed prior to issuance of any construction permits for the SIERRA FLATS 9% PROJECT.

2.2 TERM OF AGREEMENT. This Agreement shall be effective upon the date that a fully executed original of this Agreement is recorded in the Carson City Clerk-Recorder's office ("Effective Date"). Pursuant to this Agreement, DEVELOPER agrees that the SIERRA FLATS 9% PROJECT must be diligently pursued. DEVELOPER further agrees that unless CARSON CITY agrees in writing

to some modification, the Agreement shall expire if DEVELOPER fails to:

- A. Commence construction of the SIERRA FLATS 9% PROJECT on the 9% PROPERTY on or before June 1, 2022.
- B. Secure a certificate of occupancy for the SIERRA FLATS 9% PROJECT on or before December 31, 2023.

If DEVELOPER timely commences and completes the SIERRA FLATS 9% PROJECT within the timeframes described in subparts A and B of Section 2.2, and the 9% PROPERTY is encumbered by a Declaration of Restrictive Covenants that is the same as or substantially similar to Exhibit "E" to the Agreement, then PALASEEK, SFS, and/or OIKOS may invoke subpart H of Section 2.3 of the Agreement and, if appropriate under subpart H of Section 2.3, CARSON CITY shall record a release and reconveyance for this Agreement.

2.3 LAND TRANSFER. Upon execution of the Agreement and completion of the parcel map described in Recital 15 above, CARSON CITY will convey the 9% PROPERTY to OIKOS, a tax-exempt organization under 26 U.S.C. § 501(c)(3) under NRS 244.287. That conveyance shall be accomplished through a Deed that is the same as or substantially similar to Exhibit "D", and that conveyance shall be restricted as follows:

- A. If, 5 years after the 9% PROPERTY is conveyed, one or more of OIKOS, SFS, or PALASEEK, or any of their lawful assignees, have not commenced construction of affordable housing, or entered into such contracts as are necessary to commence the construction of affordable housing, the 9% PROPERTY automatically reverts to CARSON CITY.
- B. If the Agreement expires under Section 2.2(A) or 2.2(B) because construction on the SIERRA FLATS 9% PROJECT did not commence on or before June 1, 2022 or because DEVELOPER failed to secure a certificate of occupancy for the SIERRA FLATS 9% PROJECT on or before December 31, 2023 (and CARSON CITY has granted no extension), CARSON CITY may declare a default consistent with NRS 278.0205, NRS 278.02053, and Section 3.2 of

this Agreement, and shall have the right to reenter and reclaim the 9% PROPERTY and/or exercise its rights under NRS 278.0205 or NRS 278.02053 to cancel this Agreement.

- C. In addition, the 9% PROPERTY shall be encumbered by a restrictive covenant requiring that the 9% PROPERTY be used for affordable housing as described in Section I of the Agreement until either (1) December 31, 2074; or (2) the passage of fifty-one (51) years from the date a certificate of occupancy is issued for the SIERRA FLATS 9% PROJECT, whichever occurs later (“AFFORDABILITY PERIOD”). Therefore, concurrent with conveyance of the 9% PROPERTY from CARSON CITY to OIKOS, a Declaration of Restrictive Covenants that is the same as or substantially similar to Exhibit “E” to the Agreement shall be recorded to encumber the 9% PROPERTY such that it may only be used for affordable housing that meets the requirements of this Agreement during the AFFORDABILITY PERIOD. Any remedies provided in this Agreement shall be in addition to any remedies CARSON CITY is entitled to for breach of the Declaration of Restrictive Covenants. The Parties shall not cause or allow the Declaration of Restrictive Covenants to be subordinate to any other interest in the 9% PROPERTY, except that CARSON CITY, through its Board of Supervisors, may subordinate the Agreement and/or Declaration of Restrictive Covenants through enactment, and subsequent recording, of a resolution finding that the requested subordination is in CARSON CITY’s best interests and necessary to promote investment in the construction of the 9% PROJECT. Presently, DEVELOPER anticipates that its construction lender, permanent lender, the Nevada Housing Division, or some combination thereof may decline to participate in the SIERRA FLATS 9% PROJECT unless the Agreement and/or Declaration of Restrictive Covenants are subordinated to some other interest.

- D. As a condition precedent to CARSON CITY's obligation to convey the 9% PROPERTY to OIKOS, DEVELOPER will provide CARSON CITY with an updated Exhibit "F," which lists all entities with an interest in SFS, each such entity's share of ownership in SFS, and all entities making up DEVELOPER's team for the SIERRA FLATS 9% PROJECT. This condition precedent for an updated Exhibit "F" also allows CARSON CITY, at its sole option and discretion, to demand the following information from DEVELOPER about entities with an interest in SFS: (1) For owners that are natural people, CARSON CITY may demand that Exhibit "F" contains the individuals' full name and ownership interest; (2) For any owner that is an artificial entity and a general partner of or a constituent of the general partner of SFS, CARSON CITY may demand that Exhibit "F" disclose ownership interests until all ownership interest can be traced to an identifiable natural person.
- E. The DEVELOPER agrees to pay all title and other transfer costs associated with conveyance of the 9% PROPERTY.
- F. The DEVELOPER shall pay all taxes imposed, including future and back taxes and liens (if any).
- G. OIKOS may assign its interest in the 9% PROPERTY to SFS, provided such assignment is subject to the limitations, re-entry rights, encumbrances, disclosures, and other terms set forth in Section 2.3 of this Agreement.
- H. PALASEEK, SFS, and/or OIKOS may request, in writing, that CARSON CITY record a release and reconveyance for this Agreement, provided that (1) the Parties have fully executed and recorded a Declaration of Restrictive Covenants that is the same as or substantially similar to Exhibit "E" of the Agreement; (2) a certificate of occupancy for the SIERRA FLATS 9% PROJECT has been issued by CARSON CITY; and (3) the requesting Party provides CARSON CITY with a proposed release and reconveyance for the



Agreement which expressly states that the release and reconveyance does not apply to, or in any way impact, the aforementioned recorded Declaration of Restrictive Covenants. DEVELOPER may request that CARSON CITY record a release and reconveyance for the Agreement, and if the three prerequisites above are fulfilled, CARSON CITY shall record the requested document within thirty (30) days of receiving it from the requesting Party.

2.4 MUTUAL COOPERATION. CARSON CITY shall cooperate with DEVELOPER to obtain all necessary approvals, permits or to meet other requirements which are or may be necessary to implement the intent of this Agreement. Nothing contained in this paragraph, however, shall require CARSON CITY or its employees to function on behalf of DEVELOPERS nor shall this Agreement be construed as an implicit pre-approval of any further actions required by CARSON CITY.

Further, CARSON CITY may—through its Board of Supervisors, Development Engineering Division, Planning Division, or other City departments—require DEVELOPER to make improvements related to the SIERRA FLATS 9% PROJECT. Any such improvements shall be completed by DEVELOPER at its own expense and within the specified time, which must in all instances be at least before issuance of any certificate of occupancy for the SIERRA FLATS 9% PROJECT.

2.5 CONSTRUCTION. All construction will be performed by a general contractor (or a hired sub-contractor) possessing the appropriate licensure in the State of Nevada. Any contractors, or sub-contractors, employed during the project shall be in good standing with the Nevada State Contractor's Board, or other appropriate licensing authority. Additionally, all contractors or sub-contractors performing work in Carson City must have or obtain a Carson City business license if required by the CCMC.

2.6 FUNDING. SFS, and its agents, shall at all times be in good standing with all applicable federal funding entities. Should any concerns arise during the project, SFS shall immediately make corrective actions to comply with the requesting funding entity.

2.7 TIMELINESS. Time is of the essence for this Agreement. DEVELOPER shall timely and diligently cause construction of the SIERRA FLATS 9% PROJECT. If certificates of occupancy for the SIERRA FLATS 9% PROJECT are not completed by the date specified in Section 2.2(B), then CARSON CITY shall have the right to the remedies set forth in this Agreement or the Declaration of Restrictive Covenants, or both. Any costs incurred by DEVELOPER, such as title transfer costs, will not be reimbursed by CARSON CITY if its right to reenter and reclaim the 9% PROPERTY is triggered.

### III.

#### DEFAULTS, REMEDIES, TERMINATION

3.1 GENERAL PROVISIONS. Failure or unreasonable delay in performing any term or provision of this Agreement shall constitute a default.

3.2 NOTICE OF DEFAULT OR BREACH & CURE PERIOD. Unless NRS 278.0205 and NRS 278.02053 apply, in the event of alleged default or breach of any terms or conditions of this Agreement, the Party alleging such default or breach shall give the other Party not less than thirty (30) days' notice in writing, specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such thirty (30) day period, the Party charged shall not be considered in default for purposes of termination, or institution of legal proceedings, or issuances of any building or improvement permit. The Parties may mutually agree, in writing, to provide more than thirty (30) days to the Party allegedly in default to cure that alleged default or breach ("CURE PERIOD"). Any lender or partner or member of DEVELOPER may, but shall not be obligated to, cure any alleged default. No default by DEVELOPER under this Agreement shall constitute a default under any subsequent agreement by CARSON CITY regarding the PHASE 2 PROJECT. The Parties covenant and agree that the SIERRA FLATS 9% PROJECT and PHASE 2 PROJECT shall be considered separate projects with separate owners and no cross default shall ensue, provided the non-defaulted project remains in compliance with its development agreement.

After notice of default or breach and expiration of the CURE PERIOD, the non-defaulting Party to this Agreement, at its option, may pursue any remedies permitted by the Agreement, Deed,

Declaration of Restrictive Covenant, or any other lawful remedy, including proceedings to terminate or amend this Agreement.

If CARSON CITY elects to terminate or amend this Agreement after PALASEEK, OIKOS, SFS, a lawful assignee or agent of any such Party, or some combination thereof has failed to timely cure any breach or default under this Agreement, such termination or amendment shall conform with NRS 278.0205 and NRS 278.02053, including the notice and public hearing requirements set forth in those statutes.

In the event CARSON CITY does not accept, review, approve or issue necessary permits for use in a timely fashion, or as otherwise agreed by the Parties, CARSON CITY agrees that DEVELOPER shall not be obligated to proceed with or complete the SIERRA FLATS 9% PROJECT, nor shall resulting delays in DEVELOPER performance constitute grounds for default, termination, or cancellation of this Agreement.

3.3 FORCE MAJEURE. In addition to specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walk-outs, riots, floods, earthquakes, avalanches, inclement weather, fires, casualties, acts of God, pandemics or epidemics, governmental restrictions imposed or mandated by other governmental entities, not parties to this Agreement, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation, or similar bases for excused performance.

If written notice of such delay is given by one Party to the other Party within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, as may be mutually agreed upon.

3.4 LIMITATIONS ON LIABILITY. CARSON CITY does not waive, and intends to assert, any and all immunity defenses available under NRS chapter 41, in all cases.

In addition to any other rights or remedies, any Party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation; nevertheless, in no event will CARSON CITY be liable to any Party for damages

(actual, incidental, or otherwise) as a result of its failure to review or approve permits and entitlements in a timely manner.

3.5 WAIVER OF RIGHTS. No waiver of any right or remedy shall be effective unless in writing. A waiver of any right or a Party's failure to insist on strict compliance with the terms of this Agreement shall not operate as a waiver of any other right or remedy.

#### IV.

#### MISCELLANEOUS

4.1 CONFLICTS WITH THIS AGREEMENT. Should any provision of this Agreement be deemed to be in conflict with any exhibit or attachment to this Agreement, or the RFP, PALASEEK's proposal, or the Exclusive Negotiating Rights Agreement, then the terms in this Agreement shall prevail. In the event a conflict exists between the rights and obligations set forth in the Agreement and the fully executed and recorded Declaration of Restrictive Covenants, the conflicting provisions must be interpreted harmoniously to give the fullest effect possible to both provisions. If no such harmonious interpretation is possible, the interpretation which better protects CARSON CITY's interest in seeing the 9% PROPERTY used for affordable housing during the full AFFORDABILITY PERIOD shall govern.

4.2 CARSON CITY CODE. The SIERRA FLATS 9% PROJECT shall be built and maintained in accordance with all ordinances adopted by CARSON CITY, applied on a uniform basis to all development projects in CARSON CITY, including, but not limited to Chapter 17.08 of the CCMC.

4.3 APPLICABLE LAW AND ATTORNEYS' FEES. This Agreement shall be construed and enforced in accordance with the laws of the State of Nevada. The Parties consent to the jurisdiction of, and agree that disputes will be resolved by, the courts of the First Judicial District Court of the State of Nevada in Carson City. Should any legal action be brought by a Party against another Party relating to this Agreement, the 9% PROPERTY, or the SIERRA FLATS 9% PROJECT, that legal action will be brought pursuant to the choice of law and choice of forum provisions provided in this Section. The prevailing party of such action shall be entitled to reasonable attorney's fees, court costs, and such other costs as may be fixed by the court; however, in the event that a Party is awarded

attorneys' fees, the Parties agree the reasonable rate for such attorneys' fees shall not exceed \$125 per hour.

4.4 SUCCESSORS AND ASSIGNS. The Parties hereto agree that the terms and conditions of this Agreement shall bind and inure to the benefits of the Parties' successors and assigns. No Party may assign, transfer, or delegate any rights, obligations, or duties under this Agreement without the prior written consent of the other Parties. CARSON CITY's consent may be given only by the Carson City Board of Supervisors.

4.5 ENTIRE AGREEMENT. This Agreement, together with any Exhibits, constitutes the entire understanding between the Parties with respect to the subject matter hereof, and supersedes all other agreements, written or oral, between the Parties with respect to such subject matter. The Parties understand and intend that, subsequent to this Agreement, the Parties will execute and record a Declaration of Restrictive Covenants that will be the same or substantially similar to Exhibit "E" of this Agreement. The Agreement does not supersede the fully executed and recorded Declaration of Restrictive Covenants, and the Agreement and Declaration of Restrictive Covenants must be construed in accordance with Section 4.1 of the Agreement.

4.6 HOLD HARMLESS AND INDEMNIFICATION.

4.6.1 To the extent permitted by law, including, but not limited to, the provisions of NRS Chapter 41, each Party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other Party (including the Parties' agents, employees, representatives, appointed boards, commissions, and officers) from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any party or person described in this Section. However, in no event shall CARSON CITY indemnify DEVELOPER or hold it harmless in a dispute arising under a sub-contract for the SIERRA FLATS 9% PROJECT.

4.6.2 Except as otherwise provided in Subsection 4.6.4 below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:

4.6.2.1 a written request for a legal defense for such pending claim(s) or cause(s) of action; and

4.6.2.2 a detailed explanation of the basis upon which the indemnified party believes that the claim or cause of action asserted against the indemnified party implicates the culpable conduct of the indemnifying party, its officers, employees, and/or agents.

4.6.3 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.

4.6.4 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall be obligated to reimburse the reasonable attorneys' fees and costs incurred by the indemnified party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

4.7 PROJECT AS PRIVATE UNDERTAKING. It is specifically understood and agreed by and between the Parties hereto that the SIERRA FLATS 9% PROJECT is a private development and no partnership, joint venture or other association of any kind is formed, except as defined by this Agreement.

4.8 FURTHER ASSURANCES. In the event of any legal action instituted by any third party or other government entity or official challenging this Agreement, CARSON CITY and DEVELOPER shall cooperate and use their best efforts in defending any such action.

4.9 MODIFICATION. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement is binding upon the Parties unless the same is in writing, signed by the Parties, and approved by the Carson City Board of Supervisors.

4.10 COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which, taken together, shall constitute one and the same Agreement.

4.11 SEVERABILITY. If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement will be construed as if the provision did not exist, the provisions will not be construed to render any other provision or provisions of this Agreement unenforceable, and the remaining terms of this Agreement will continue in full force and effect.

4.12 PUBLIC RECORDS REQUESTS MADE TO CITY. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. CARSON CITY will have the duty to disclose particular information or documents unless they are made confidential by law or a common law balancing of interest.

4.13 EFFECTIVE DATE. This Agreement is effective on the 20th day of December, 2021.

EXHIBITS:

- A. Legal Description for 9% PROPERTY
- B. Vicinity Map for AVAILABLE PROPERTY
- C. Phasing Map for AVAILABLE PROPERTY
- D. Deed for 9% PROPERTY
- E. Declaration of Restrictive Covenant for 9% PROPERTY
- F. Development Team Organization Chart

**[Counterpart Signature Pages Follow]**

**DEVELOPER – PALASEEK**

**PALASEEK:**

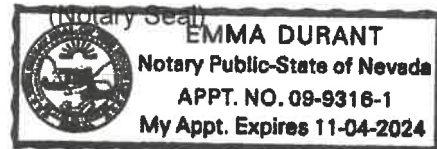
PALASEEK LLP, a  
Nevada limited liability partnership

By: Michael A. Schneider, MANAGING PARTNER  
Michael A. Schneider, Managing Partner

STATE OF NEVADA            )  
  ) ss.  
COUNTY OF CLARK        )

This instrument was acknowledged before me on 12/20, 2021 by Michael Schneider as  
Managing Partner of PalaSeek LLP.

Notary Signature: Emma Durant





**DEVELOPER – SFS & OIKOS**

**SFS:**

SIERRA FLATS SENIOR, LP, a Nevada limited partnership

By: Sierra Flats Senior LLC, a Nevada limited liability company, its General Partner

By: Oikos Development Corporation, a Missouri nonprofit corporation, its Manager

By:   
Michael Snodgrass, Executive Director

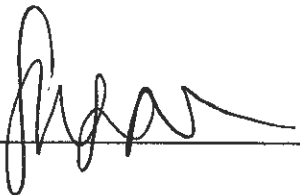
**OIKOS:**

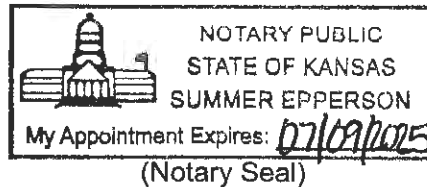
OIKOS DEVELOPMENT CORPORATION, a Missouri nonprofit corporation

By:   
Michael Snodgrass, Executive Director

STATE OF Kansas )  
COUNTY OF Johnson ) ss.

On Dec. 17<sup>th</sup>, 2021, Michael Snodgrass personally appeared before me, the undersigned Notary Public, and proved to me with satisfactory evidence that he is the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same voluntarily in his authorized capacities, and that by his signature on the instrument, the entities upon behalf of which he acts have executed the instrument.

Notary Signature: 



**CARSON CITY**

APPROVED:

CARSON CITY, a consolidated municipality

By: Lori Bagwell  
Lori Bagwell, Mayor

APPROVED AS TO FORM:

Carson City District Attorney

By: [Signature]

Date: 12/17/21

ATTEST:

Carson City Clerk-Recorder

By: Aubrey Rowlett  
Aubrey Rowlett

Date: 12-20-21

**EXHIBIT A**

**LEGAL DESCRIPTION FOR 9% PROPERTY**

**EXHIBIT A**  
**DESCRIPTION OF SIERRA FLATS – PHASE 1**

A portion of Parcel 1 shown on that Record of Survey supporting a Boundary Line Adjustment for Carson City, recorded as File No. 278817 on May 30, 2002, in Book 9, Page 2454 (Map No. 2454), in the Carson City Recorder's Office, Carson City, Nevada, situate within the Southwest 1/4 of the Northwest 1/4 of Section 15, Township 15 North, Range 20 East, Mount Diablo Base & Meridian, more particularly described as follows:

**BEGINNING** at the Northwest corner of said Parcel 1, described as the N1/16 Cor Sec 15-16, as shown on said Record of Survey point on the southerly line of said Parcel 1;

**THENCE**, leaving the **POINT OF BEGINNING**, and along the North line of said Parcel 1, departing said line, South 88°59'25" East, 410.00 feet;

**THENCE**, leaving said North line South 00°38'21" West, 189.75 feet, to the northerly right-of-way line of Butti Way, as described in Document Number 276885 as file in the Official Records of Carson City, Nevada on April 19, 2002, to the beginning of a non-tangent curve to the left from which the radius point bears South 21°45'16" East;

**THENCE**, southwesterly, along the northerly right-of-way line of said Butti Way, 33.93 feet along the arc of a curve having a radius of 426.66 feet and through a central angle of 04°33'25";

**THENCE**, continuing along said northerly right-of-way line, South 63°41'20" West, 50.52 feet;

**THENCE**, continuing along said northerly right-of-way line South 55°11'12" West, 187.18 feet;

**THENCE**, continuing along said northerly right-of-way line South 50°08'29" West, 81.25 feet, to the easterly right-of-way line of Airport Road;

**THENCE**, along the easterly right-of-way line of Airport Road, North 67°54'48" West, 134.59 feet to the beginning of a tangent curve to the right;

**THENCE**, continuing along the easterly right-of-way line of Airport Road, 65.14 feet along the arc of a curve having a radius of 370.00 feet and through a central angle of 10°05'06", to the most westerly corner of the above-mentioned Parcel 1;

**THENCE**, leaving the easterly right-of-way line of said Airport Road, and along the westerly line of said Parcel 1, North 79°28'19" East, 64.85 feet;

**THENCE**, continuing along the westerly line of said Parcel 1, North 00°38'21" East, 300.00 feet, **POINT OF BEGINNING**.

Containing 2.91 Acres, more or less.

See Exhibit "A-1" attached hereto and made a part hereof

**Basis of Bearings:** South 10°30'31" East between Carson City Control Monuments CC013 and CC087 shown on Record of Survey Map number 2749 recorded August 11, 2010 in the Official Records of Carson City, Nevada, as File Number 403425.

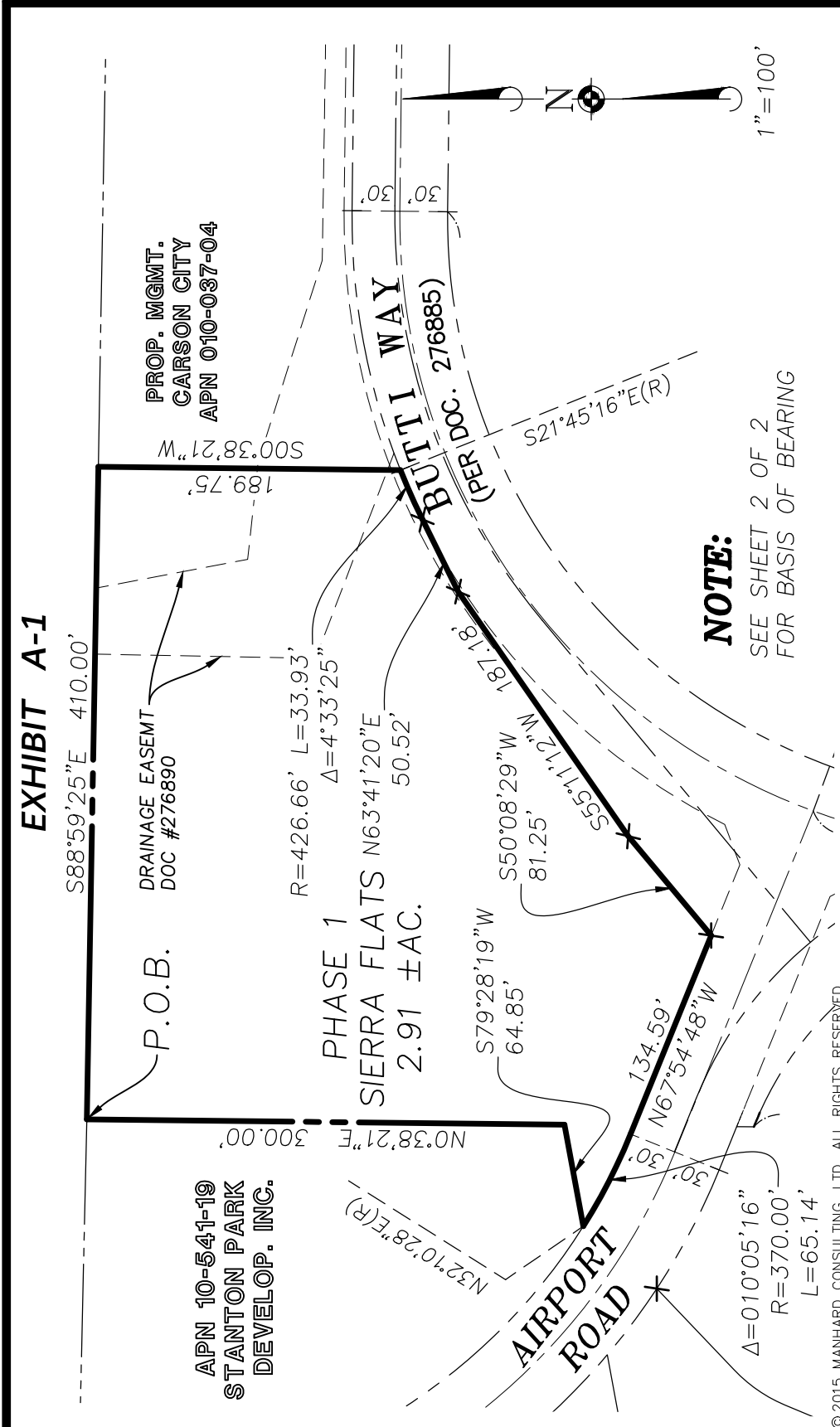
**Surveyor's Certificate:** I hereby certify that the attached description was prepared by me or under my direct supervision and is accurate to the best of my knowledge and belief.

Lee H. Smithson  
Nevada PLS 5097  
For and on behalf of

 **Manhard**  
CONSULTING  
241 Ridge Street, Suite 400  
Reno, Nevada 89501  
(775) 321-6525



**EXHIBIT A-1**



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241 Ridge Street, Suite 400, Reno, NV 89501  
 ph: 775.746.3500  
 Civil Engineers | Surveyors | Water Resource Engineers | Water & Waste Water Engineers  
 Construction Managers | Environmental Scientists | Landscape Architects | Planners

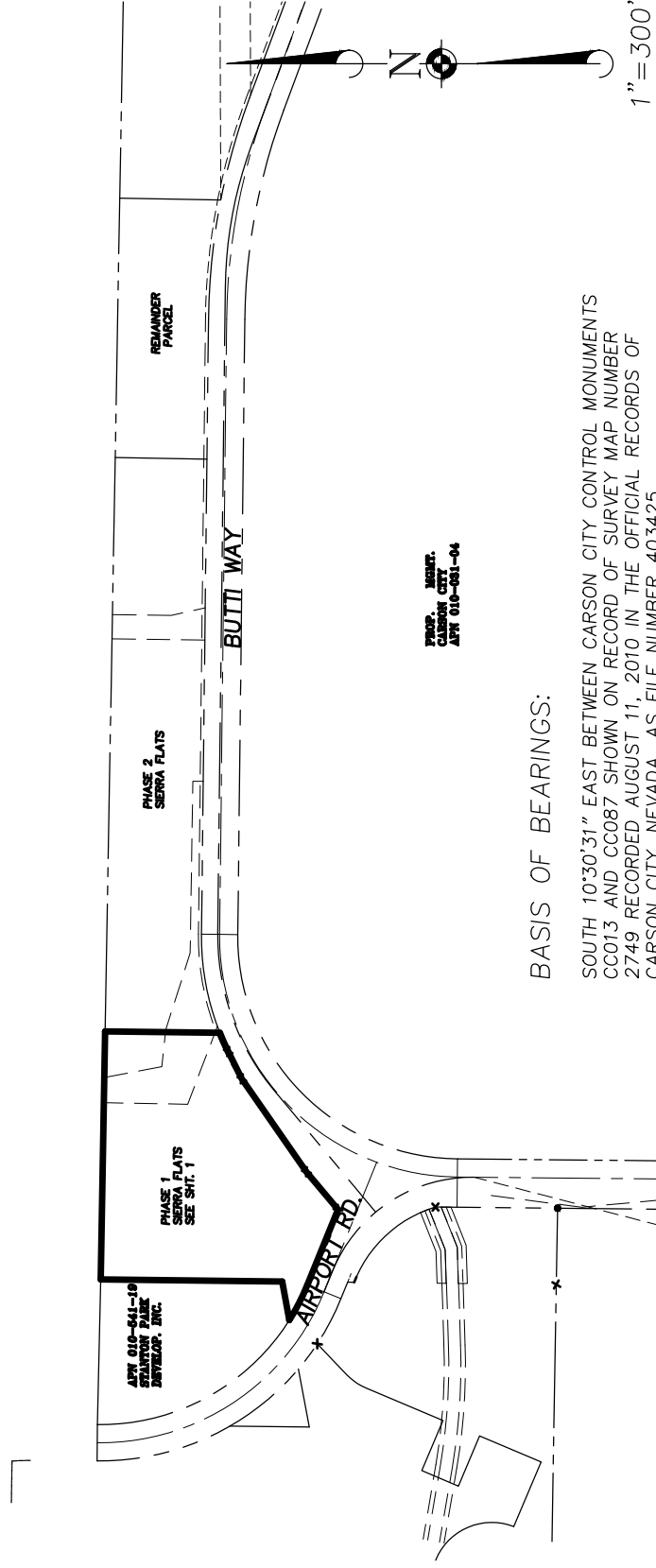
fx: 775.746.3520  
 manhard.com

SIERRA FLATS  
 CARSON CITY, NEVADA

TO ACCOMPANY LEGAL DESCRIPTION

PROJ. MGR.: LHS	PROJECT CODE CAACCNV01
DRAWN BY:	SHEET 1 OF 2
DATE: NOV. 2021	
SCALE: 1" = 100'	

# EXHIBIT A-1



### BASIS OF BEARINGS:

SOUTH 10°30'31" EAST BETWEEN CARSON CITY CONTROL MONUMENTS CC013 AND CC087 SHOWN ON RECORD OF SURVEY MAP NUMBER 2749 RECORDED AUGUST 11, 2010 IN THE OFFICIAL RECORDS OF CARSON CITY, NEVADA, AS FILE NUMBER 403425.

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241 Ridge Street, Suite 400, Reno, NV 89501  
 ph: 775.746.3500 fx: 775.746.3520 manhard.com  
 Civil Engineers | Surveyors | Water Resource Engineers | Water & Waste Water Engineers  
 Construction Managers | Environmental Scientists | Landscape Architects | Planners

SIERRA FLATS - A.P.N. 010-037-04

CARSON CITY, NEVADA

TO ACCOMPANY LEGAL DESCRIPTION

PROJ. MGR.:	LHS	PROJECT CODE	CAACCNV01
DRAWN BY:		SHEET	2
DATE:	NOV. 2021	OF	2
SCALE:	1" = 60'		

**EXHIBIT B**

**VICINITY MAP FOR AVAILABLE PROPERTY**



# EXHIBIT B - VICINITY MAP FOR AVAILABLE PROPERTY



**Property Information**

**Property ID** 01003704  
**Location** 3410 BUTTI WY  
**Owner** PROPERTY MANAGEMENT,CARSON CITY  
**Acres** 7.81



[CLICK LOGO FOR TUTORIAL](#)

**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

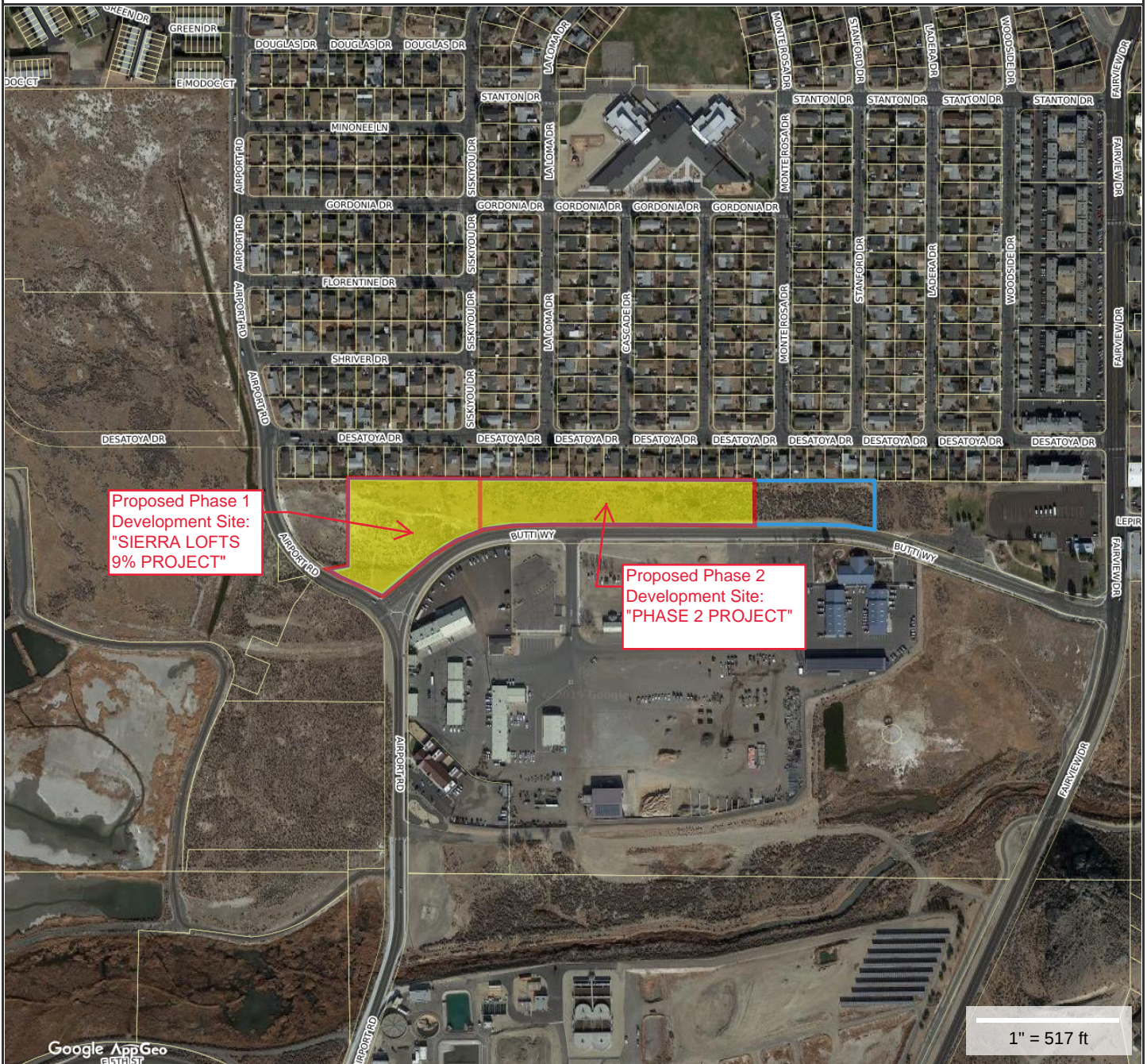
Carson City , NV makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 11/17/2018  
Data updated 11/17/2018

**EXHIBIT C**

**PHASING MAP FOR AVAILABLE PROPERTY  
(9% PROJECT & PROPERTY – PHASE 2 PROJECT & PROPERTY)**

# EXHIBIT C - PHASING MAP FOR AVAILABLE PROPERTY (9% PROJECT & PROPERTY – PHASE 2 PROJECT & PROPERTY)



Proposed Phase 1  
Development Site:  
"SIERRA LOFTS  
9% PROJECT"

Proposed Phase 2  
Development Site:  
"PHASE 2 PROJECT"

1" = 517 ft

### Property Information

Property ID 01003704  
 Location 3410 BUTTI WY  
 Owner PROPERTY MANAGEMENT,CARSON CITY  
 Acres 7.81



[CLICK LOGO FOR TUTORIAL](#)

**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

Carson City , NV makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 11/17/2018  
 Data updated 11/17/2018

**EXHIBIT D**  
**DEED FOR 9% PROPERTY**

APN [TBD]

AFTER RECORDING RETURN TO:  
Attention: Michael Snodgrass  
Oikos Development Corporation  
1712 Main Street, Ste. 206  
Kansas City, MO 64108

QUITCLAIM DEED

THIS DEED, made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between CARSON CITY, NEVADA, a CONSOLIDATED MUNICIPALITY, hereinafter called GRANTOR and OIKOS DEVELOPMENT CORPORATION, a Missouri nonprofit corporation and I.R.S. tax-exempt 501(c)(3) organization, hereinafter called GRANTEE,

WITNESSETH:

That said GRANTOR, pursuant to Resolution \_\_\_\_\_-R-\_\_\_\_\_ (Exhibit B) and NRS 244.287, for good and valuable consideration, the receipt whereof is hereby acknowledged, and acting in accordance with the provisions of NRS 244.287, does hereby remise, release and forever quitclaim unto the said GRANTEE all of the right, title and fee interest of said GRANTOR in and to that certain real property located at 3410 Butti Way, Carson City, Nevada (APN [TBD]) as shown on Exhibit A & A-1 ("PROPERTY").

SUBJECT TO:

- (1) Section 2.3(A) of the Development Agreement with GRANTOR (Exhibit C) and NRS 244.287(8) requiring the PROPERTY to automatically revert to GRANTOR if within 5 years after this conveyance GRANTEE or its lawful agents, partners, successors, or assignees have not commenced construction of affordable housing, or entered into such contracts as are necessary to commence the construction of affordable housing.
- (2) Section 2.3(B) of the Development Agreement with GRANTOR (Exhibit C) permitting GRANTOR to exercise a right to reenter and terminate GRANTEE's estate in the PROPERTY if (absent an extension from GRANTOR) construction on an affordable housing project has not commenced on the PROPERTY on or before June 1, 2022.
- (3) Section 2.3(B) of the Development Agreement with GRANTOR (Exhibit C) permitting GRANTOR to exercise a right to reenter and terminate GRANTEE's estate in the PROPERTY if (absent an extension from GRANTOR) construction on an affordable housing project has not been completed on the PROPERTY on or before December 31, 2023.
- (4) The Declaration of Restrictive Covenants attached as Exhibit D.

IN WITNESS WHEREOF said GRANTOR has hereunto signed on the day and year first above written.

\_\_\_\_\_  
LORI BAGWELL, Mayor

STATE OF NEVADA )

CARSON CITY )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

APPROVED AS TO FORM:  
Carson City District Attorney

By: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT E**

**DECLARATION OF RESTRICTIVE COVENANTS FOR 9% PROPERTY**

APN [TBD]

Mail Tax Statements To:

Oikos Development Corporation  
1712 Main Street, Ste. 206  
Kansas City, MO 64108  
Attention: Michael Snodgrass

Recording requested by:

Carson City  
Public Works Department  
3505 Butti Way  
Carson City, NV 89701

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040
--

**DECLARATION OF RESTRICTIVE COVENANTS**  
(Sierra Flats 9% Project)

**TABLE 1**

<i>Project</i>	Sierra Flats 9% Project, which is an affordable housing project to place improvements on the Land more fully described in the Development Agreement.
<i>Developer</i>	Sierra Flats Senior LP Attn: Michael Snodgrass 1712 Main Street, Suite 206 Kansas City, MO 64108
<i>Grantee</i>	Oikos Development Corporation Attn: Michael Snodgrass 1712 Main Street, Ste. 206 Kansas City, MO 64108



<i>Authorized Representative for Developer &amp; Grantee</i>	Michael Snodgrass 1712 Main Street, Suite 206 Kansas City, MO 64108			
<i>City</i>	Carson City, a consolidated municipality and political subdivision of the State of Nevada  City Manager's Office Attn: City Manager 201 North Carson Street, Suite 2 Carson City, Nevada 89701  AND  Carson City Public Works Department Attn: Real Property Manager 3505 Butti Way Carson City, NV 89701			
<i>Authorized Representative for City</i>	City Manager 201 North Carson Street, Suite 2 Carson City, Nevada 89701			
<i>Land (Ex. A, A-1)</i>	All that land located in Carson City, State of Nevada, more particularly described as the westernmost 2.91 acres of APN 010-037-04, as shown and described in the attached Exhibit A and A-1			
<i>Affordability Period (§2.01)</i>	Until December 31, 2074, or the passage of fifty-one (51) years from the date a certificate of occupancy is issued for the Project, whichever occurs later.			
<i>Rent Restricted Units (§2.02)</i>	Targeted Population: Senior			
	# Units	# Bedrooms	Tenant Eligibility (AMI Limit)	AMI for Maximum Rent Calculation
	11	1	50% AMI	30% AMI
	16	1	50% AMI	40% AMI

	5	1	50% AMI	50% AMI
	1	2	50% AMI	30% AMI
	1	2	50% AMI	40% AMI
	6	2	50% AMI	50% AMI
Targeted Population: Family				
	# Units	# Bedrooms	Tenant Eligibility (AMI Limit)	AMI for Maximum Rent Calculation
	4	1	50% AMI	30% AMI
	10	1	50% AMI	40% AMI
	4	1	50% AMI	50% AMI
	10	1	Non-restricted	Non-restricted
	2	2	50% AMI	40% AMI
	4	2	50% AMI	50% AMI
	6	2	Non-restricted	Non-restricted

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## RECITAL

Developer, Grantee, and PalaSeek LLP entered into a Development Agreement with the City, where City agreed to transfer the Land upon which the Project will be built, which is fully described and mapped at Exhibit A & A-1, to Grantee for the purpose of constructing the above named affordable housing Project with Developer. In connection with the transfer of the Land, the City and NRS 244.287 require that the Land, including the Project to be built upon the Land, be rent restricted for the Affordability Period. In consideration of the transfer of the Land from the City, Grantee, for itself and its assignees and successors in interest, hereby covenants and agrees that the Land shall be encumbered during the Affordability Period stated above by these covenants, and the City, Grantee, Developer, and PalaSeek LLP specifically intend that these covenants shall run with the Land and be binding on all Owners and Occupiers of the Land during the Affordability Period.

## DEFINITIONS

“**Affordability Period**” has the same meaning set forth at Table 1.

“**Authorized Representative**” means: (1) Michael Snodgrass when the term is used in reference to Grantee, Developer, Owner, and/or Occupier, unless some other individual is subsequently identified in a written notice to the City by the chief executive of such entity’s assign or successor; and (2) the City Manager when used in reference to the City.

“**City**” means Carson City, Nevada, a consolidated municipality and political subdivision of the State of Nevada.

“**Developer**” means Sierra Flats Senior LP, a Nevada Limited Partnership.

“**Development Agreement**” means the Development Agreement executed by the City, Grantee, Developer, and PalaSeek LLP and enacted as an ordinance whereunder, subject to certain restrictions, the City commits to transfer and convey the Land to Grantee for Developer and Grantee to complete the Project, which is an affordable housing project. The executed and recorded Development Agreement is attached as Exhibit B.

“**Grantee**” means Oikos Development Corporation, a Missouri nonprofit corporation authorized to do business in Nevada, and exempt from federal taxation as an I.R.S. tax-exempt 501(c)(3) organization.

“**Land**” has the same meaning set forth at Table 1.

“**Occupier**” or “**Occupiers**” means the entity or entities that own the Project on the Land. Occupier does not include Qualified Renters or any other residential tenant of the completed Project.

“**Owner**” or “**Owners**” means the entity or entities that own the interest in the Land conveyed by the City to Oikos through the Development Agreement. At the time of the Development Agreement and this Declaration Owner is Oikos.

“**Party**” means City, Owner, or Occupier, individually.

“**Parties**” means City, Owner, and Occupier, collectively.

“**Project**” has the same meaning set forth at Table 1.

“**Qualified Renters**” means a person or persons constituting a household who have a combined annual income that does not exceed the Area Median Income (“AMI”) percentages for Rent Restricted Units in Table 1, with AMI determined by the U.S. Department of Housing and Urban

Development (“HUD”) and, adjusted for family size at the time of the lease of the unit, who otherwise meet the requirements for eligibility set forth in the Declaration. HUD rules, regulations, and guidance will be used to determine whether and individual is considered part of a household for the purposes of determining annual income.

“**Rent Restricted Units**” means the 80 units shown in Table 1.

**Art. 1 COVENANT RUNNING WITH THE LAND; TERM OF DECLARATION; NO SUBORDINATION WITHOUT CONSENT OF CITY**

**§1.01 *Covenant Running with the Land.***

CITY AND GRANTEE HEREBY DECLARE that the Land is and shall be held, conveyed, encumbered, leased, used, occupied, improved, and otherwise affected in any manner, subject to the provisions contained in this Declaration as a restrictive covenant, which shall burden the Owner and Occupier, as well as their respective successors and assigns, and all persons hereafter acquiring or owning any interest in the Project or Land, however such interest may be acquired.

**§1.02 *Term of Declaration.***

All provisions in this Declaration shall remain in force and effect for the duration of the Affordability Period. Upon the expiration of the Affordability Period, City shall prepare and record a notice of termination of this Declaration.

**§1.03 *No Subordination without City Consent.***

This Declaration shall not be subject to subordination without approval by the City's Board of Supervisors. Developer and Grantee anticipate that the construction lender and permanent lender will require subordinations of this Declaration to their deeds of trust. Developer anticipates that it will enter into a declaration of restrictive covenants in connection with the low income housing tax credit program and another declaration of restrictive covenants in connection with the HOME Investment Partnerships Program. These additional declarations of restrictive covenants will impose income and rent restrictions on the Project, and the Nevada Housing Division might require that this Declaration be subordinated to one or more of the aforementioned declarations of restrictive covenants.

The City's Board of Supervisors may subordinate this Declaration (1) upon finding that the requested subordination is in the City's best interests and necessary to promote investment in the construction of the Project, (2) enacting a resolution memorializing those findings, and (3) recording that resolution with the Carson City Recorder's Office.

## **Art. 2 AFFORDABILITY REQUIREMENTS**

### **§2.01 *Affordability Period.***

a. Affordability Period. It is agreed that the Affordability Period for this Project and the Land under this Declaration is as stated above in Table 1. This period may be amended by agreement of the Parties *provided however* that (1) any reduction must be consistent with NRS 244.287 and approved by City's Board of Supervisors in its sole and absolute discretion for good cause shown and based on a determination that a reduction is in the best interests of the public, and (2) except as described by § 6.03, any extension in this period must be approved by Owner (or its successor or assign) in its sole and absolute discretion and without any obligation to do so.

### **§2.02 *Income and Rent Restrictions; Units Selected on Floating Basis.***

a. During the Affordability Period, Rent Restricted Units shall be set aside and rented to Qualified Renters with the income limits stated in Table 1. The Rent Restricted Units to be occupied by Qualified Renters may be selected on a floating basis so long as the total number of Rent Restricted Units is continuously maintained.

b. The maximum rents that can be charged on Rent Restricted Units shall be calculated using the AMI for Maximum Rent Calculation in Table 1, subject to §§ 2.02(c), 2.03.

c. If HUD requires a utility allowance for the Project, that utility allowance shall be provided to Qualified Renters in Rent Restricted Units throughout the entire Affordability Period. Utility allowances will be deducted from the maximum rents permitted for Qualified Renters in Rent Restricted Units. Utility allowances will be calculated for the full duration of the Affordability Period using HUD rules, regulations, and guidance.

### **§2.03 *Rent Calculations and Adjustments.***

a. Annual Updates of Utility Allowances. Owner and Occupier shall be jointly and severally responsible for updating the maximum allowance for utilities annually (if applicable), using the HUD Utility Schedule or otherwise determining the utility allowance for the Project based on the type of utilities based on HUD rules, regulations, and guidance.

b. Annual Approval of Rent Schedules. Owner and Occupier shall be jointly and severally responsible for submitting rent schedules for the Rent Restricted Units annually to the City. The rent schedules must provide the formula used for calculating rent schedules and an explanation of all data incorporated into the formula when performing the calculations to produce the rent schedules.



c. Subsequent Rents During the Affordability Period.

1. The maximum rent limits shall be annually recalculated to incorporate material changes to HUD's determinations on area fair market rents and AMI.

2. Owner and Occupier shall be jointly and severally responsible for providing the City with HUD maximum rent adjustments as they are announced.

d. Maximum Rent Formula. The maximum rents charged shall not exceed those permitted by the following formula:

$[(\text{Table 1 AMI for Maximum Rent Calculation} / 12 \times 30\%) - \text{utility allowance}] = \text{Maximum Rent}$

e. Rent Increases. Maximum rent increases with respect to the Rent Restricted Units must be approved by the City whenever the proposed rent increase would be in excess of ten percent (10%). Owner and Occupier shall be jointly and severally responsible for providing a minimum of sixty (60) days written notice to impacted tenants and City of an increase in rent with respect to the Rent Restricted Units.

**Art. 3 TENANT SELECTION AND PROTECTIONS**

**§3.01 *Tenant Selection.***

a. Affirmative Marketing; Nondiscrimination. Owner and Occupier shall be jointly and severally responsible for adopting and following written tenant selection policies in accordance with U.S. and Nevada anti-discrimination laws, including but not limited to the Fair Housing Act and NRS 118.010–120.

**§3.02 *Tenant Leases; Termination of Tenancy.***

a. Tenants must sign an initial one (1) year lease, unless otherwise mutually agreed by tenant and Occupier (or Occupier’s agent).

b. Tenant leases are governed by NRS 118A.200-230.

c. Occupier (or Occupier’s agent) may not terminate tenancy or refuse to renew a lease of Rent Restricted Units except for serious or repeated violation of the terms and conditions of the lease.

**§3.03 *Maintain Unit Habitability and Comply with NRS Chapter 118A.***

a. Owner and Occupier shall be jointly and severally responsible for maintaining all units in a habitable condition as defined in NRS 118A.290.

b. Owner and Occupier shall be jointly and severally responsible for complying with all applicable provisions of Nevada Landlord-Tenant law as it applies to dwellings, including NRS Chapter 118A.

**Art. 4**

**PROPERTY MANAGEMENT**

**§4.01**            *Maintenance.*

Owner and Occupier shall be jointly and severally responsible for keeping the Project in a clean, well maintained condition, reasonable wear and tear excepted. Owner and Occupier shall be jointly and severally responsible for maintaining the Project in accord with the Carson City Municipal Code. The following is a non-exhaustive list of such maintenance obligations. Landscaping shall be watered and groomed, and free of debris. Sidewalks shall be kept free of snow and clutter. Buildings shall be kept painted and roofs shall be maintained. Trash shall be kept in appropriate enclosures.

**§4.02**            *Compliance with Laws.*

Owner and Occupier shall be jointly and severally responsible for obtaining and keeping current all permits and licenses to construct, repair, operate and maintain the Project and shall comply in all material respects with all federal, state, and local laws and regulations, including the Carson City Municipal Code.

**§4.03**            *Safe and Quiet Environment.*

Owner and Occupier shall be jointly and severally responsible for providing and reasonably enforcing regulations to assure that tenants have a safe, secure, and quiet environment in which to live.

**§4.04**            *Taxes.*

Owner and Occupier shall be jointly and severally responsible for paying all taxes imposed on the Land and Project, including future and back taxes and liens (if any).

## **Art. 5 RECORDS; ANNUAL REPORTS**

### **§5.01 Records.**

a. Sufficiency. Records must be sufficient to determine compliance with the requirements and objectives of this Declaration and the Development Agreement.

b. Record retention. Owner and Occupier shall be jointly and severally responsible for maintaining records for the most recent five-year period, except as provided herein:

(i) Records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five-year period, until five years after the Affordability Period terminates.

(ii) Records for the disposition of non-expendable personal property valued at \$1,000 or more at the time of acquisition shall be retained for five years after final disposition; and,

(iii) *Provided, however,* that if any litigation, claim, or audit is started before the expiration of the five-year period and extends beyond the five-year period, the records will be maintained until all litigation or claims involving the records have been resolved, or audit findings involving the records have been received.

c. Public records. Owner and Occupier understand that, pursuant to NRS 239.010, information or documents regarding the Project may be open to public inspection and copying. If the City's documents for the Project are requested, it will have the duty to disclose such documents, unless they are made confidential by law or a common law balancing of interest.

### **§5.02 Annual Reporting.**

During the Affordability Period, Owner and Occupier shall be jointly and severally responsible for providing the City's Authorized Representative with a copy of annual low income housing tax credit compliance monitoring reports regarding the Project that are submitted to the State of Nevada Housing Division ("NHD"). Such copies are due to the City within 30 days of submission to NHD.

In the event that NHD no longer requires such reports for the Project, Owner and Occupier remain jointly and severally responsible for providing the City with some other substantially similar reporting, also due annually.

If any items are shown on the report as deficient and in need of curing, a copy of any cure

notices or additional information sent to NHD will also be delivered to the City.

If, at any time during the Affordability Period, Owner and Occupier, or their assigns or agents, fails to provide Rent Restricted Units to Qualified Renters within the income and maximum rent limits set forth in this Declaration, the City shall be entitled to pursue remedies as described in § 6.03 of the Declaration.

## **Art. 6 ENFORCEMENT AND REMEDIES**

### **§6.01 *Default.***

A default under this Declaration occurs if there occurs a breach of this Declaration, subject to applicable force majeure, notice and cure period provisions herein.

### **§6.02 *Notice and Opportunity to Cure.***

If City believes that a default under this Declaration has occurred, it shall give Owner and Occupier notice in writing, and Owner and Occupier shall have thirty (30) business days to cure the default. If Owner, Occupier, or a limited partner (1) has commenced and is diligently pursuing a cure for the default, and (2) demonstrated the ability to cure within a reasonable period of time, such cure period shall be extended as reasonably necessary to complete such cure.

### **§6.03 *Remedies.***

If a default occurs and remains uncured after written notice is provided to Owner and Occupier and the cure period specified in Section 6.02 has elapsed, City may exercise any rights and remedies herein, or otherwise available by law or equity. All such remedies are cumulative so that the identification of any particular remedy in this Declaration or the Development Agreement does not preclude the existence or exercise of any other remedy, and the actual exercise of any one or more of such rights or remedies shall not preclude the exercise, at the same or different times, of any other right or remedy for the same default or any other default. City remedies for default shall include:

- a. Seeking injunctive relief for specific performance of rent restrictions or other obligations under this Declaration;
- b. Disgorgement of profits gained through the breach of this Declaration, either for the benefit of, depending on context and equity, over-charged Qualified Renters or Carson City itself, which conveyed the Land at no cost to Grantee for the sole and express purpose of developing and maintaining an affordable housing project throughout the entire Affordability Period;
- c. Seeking a declaratory or other judgment from a Court of competent jurisdiction tolling (and therefore extending) the Affordability Period for the duration of any period during which rent restrictions or other obligations under this Declaration were not appropriately complied with; and/or

- d. If the default is related to the condition of the Project's improvements or the treatment of tenants, City may expend funds to correct the default which shall constitute a lien on the Project or Land under the provisions of NRS 108.221 through 108.246.

Notwithstanding anything to the contrary in this Declaration, City agrees that any cure of any default made or tendered by any member or partner of Owner or Occupier shall be deemed to be a cure by Owner/Occupier and shall be accepted or rejected by City on the same basis as if made or tendered by Owner or Occupier.

**§6.04            *Waivers.***

Failure or delay in giving notice of default shall not constitute a waiver of any default. Except as otherwise expressly provided in this Declaration, any failure or delay by any Party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default, or of any such rights or remedies, or deprive any such Party of its right to institute and maintain any actions or pursue any remedies. Waivers are binding on a Party only if expressed in writing, signed by the Authorized Representative of the waiving Party, except that any waiver by the City's Authorized Representative is not binding where the Declaration, Development Agreement, or Nevada law require such waiver to be approved by the City's Board of Supervisors.

**§6.05            *Attorney's Fees and Costs.***

If any Party brings any action or proceeding against another Party regarding a dispute arising from the Land, Project, or to enforce the provisions of this Declaration, the prevailing Party shall be entitled to reasonable attorney's fees and costs; however, in the event that a Party is awarded attorneys' fees, the Parties agree the reasonable rate for such attorneys' fees shall not exceed \$125 per hour.

**§6.06            *Force Majeure.***

In addition to specific provisions of this Declaration, performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walk-outs, riots, floods, earthquakes, avalanches, inclement weather, fires, casualties, acts of God, pandemics or epidemics, governmental restrictions imposed or mandated by other governmental entities, not parties to this Agreement, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation, or similar bases for excused performance.

If written notice of such delay is given by one Party to the other Party within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, as may be mutually agreed upon.



## **Art. 7                                GENERAL TERMS**

### **§7.01                    *Time Frames and Deadlines.***

The Parties agree to accomplish the actions within the time frames or deadlines stated above. Time is of the essence in the performance of the obligations in this Declaration. Unless otherwise specified: (i) the term “days” means calendar days; (ii) the term “business days” means calendar days, excluding weekends and holidays recognized by the State of Nevada; (iii) if a deadline falls on a weekend or holiday, then performance is due on the next following business day; and (iv) performance is due by 5 p.m. PST on the day of deadline.

### **§7.02                    *Assignment, Transfer of Project; Binding Effect.***

a.        This Declaration is a covenant running with the land and shall be binding on all Owners and Occupiers of the Land and their heirs, successors, trustees, representatives and permitted assigns.

b.        At the time the Development Agreement and this Declaration are executed, Grantee is the Owner. No Party may assign, transfer, delegate, or subordinate any rights, obligations, or duties under this Declaration without the prior written consent of the other Parties. The City’s consent may be given only by the Carson City Board of Supervisors. Notwithstanding the forgoing, the Parties agree that Grantee may assign or convey its interest in the Land to Developer, provided such assignment or conveyance remains subject to the terms of this Declaration.

### **§7.03                    *Standards for Approvals; Further Acts and Assurances.***

a.        Unless otherwise specified (such as with the words "sole discretion") wherever this Declaration requires the approval of a Party, or any of a Party’s officers, agents or employees, such approval shall not be unreasonably withheld delayed or conditioned.

b.        The Carson City Board of Supervisors is a governmental body whose decisions are legislative functions that may be subject to public hearings and input, and, except as otherwise provided herein, shall have sole and absolute discretion to approve or disapprove any matter submitted to them provided, however, that decisions are not procured by fraud or bribery, or arbitrary, capricious or an abuse of discretion.

c.        The Parties shall take all reasonable actions and enter into, execute, and deliver all documents reasonably required by the other Parties to carry out the terms of this Declaration, provided that no such action or documentation shall result in (1) a material change to the terms and

conditions of this Declaration, or, if applicable, the Development Agreement, or any document executed in connection therewith, or (2) any greater liability of the other Parties. This provision survives the termination of this Declaration.

d. In the event of any legal action instituted by any third party or other government entity or official challenging this Declaration, the Parties and/or their agents, assigns, and successors shall cooperate and use their best efforts in defending any such action.

**§7.04            *Notices.***

Notices provided under this Declaration must be in writing which shall be mailed or personally delivered to each Authorized Representative at the address specified in Table 1 or to any successor of Grantee or Developer (i.e. Owner or Occupier) at the Project address on Butti Way in Carson City, NV. Notice is deemed received by the other Party upon the earlier of (i) when actually received; (ii) five business days after delivered to and accepted by the U.S. Postal Service if sent by certified or registered mail; or (iii) two business days after having been submitted for delivery by reputable overnight courier. Failure to provide copies of additional notices as set forth herein does not affect the validity of notices.

**§7.05            *Limitations on Liability; Hold Harmless and Indemnification.***

a. Limitations on liability. City does not waive, and intends to assert, any and all immunity defenses available under NRS chapter 41, in all cases.

b. Hold harmless and indemnification.

(i) To the extent permitted by law, including, but not limited to, the provisions of NRS Chapter 41, each Party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other Party (including the Parties' agents, employees, representatives, appointed boards, commissions, and officers) from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying Party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any Party or person described in this Section. However, in no event shall the City indemnify Owner or Occupier or hold it harmless, in a dispute arising under a contract or sub-contract for the Project.

(ii) Except as otherwise provided in Subsection (b)(iv) below, the indemnifying Party shall not be obligated to provide a legal defense to the indemnified Party, nor reimburse the indemnified Party for the same, for any period occurring before the indemnified Party provides

written notice of the pending claim(s) or cause(s) of action to the indemnifying Party, along with: (1) a written request for a legal defense for such pending claim(s) or cause(s) of action; and (2) a detailed explanation of the basis upon which the indemnified Party believes that the claim or cause of action asserted against the indemnified Party implicates the culpable conduct of the indemnifying Party, its officers, employees, and/or agents.

(iii) After the indemnifying Party has begun to provide a legal defense for the indemnified Party, the indemnifying Party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified Party, including counsel through which the indemnified Party might voluntarily choose to participate in its defense of the same matter.

(iv) After the indemnifying Party has begun to provide a legal defense for the indemnified Party, the indemnifying Party shall be obligated to reimburse the reasonable attorneys' fees and costs incurred by the indemnified Party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

**§7.06           *Severability.***

In the event that any word, clause, or provision herein is declared by a court of competent jurisdiction to be invalid, unenforceable, or contrary to public policy, then such offending portion shall be deemed, from the very beginning, to have been modified to the extent necessary to bring it within the limits of validity or enforceability. If, however, such offending provision cannot be so modified, then it shall be severed from this Declaration. In either event (modification or severance), all remaining words, phrases, clauses, and provisions herein remain fully enforceable.

**§7.07           *Applicable Law; Jurisdiction.***

The Parties' rights and obligations concerning the Land, the Project, and the interpretation and enforcement of this Declaration shall be governed by the laws of Nevada. The Parties consent to the jurisdiction of—and agree that disputes concerning the Parties' rights and obligations in connection with the Land, the Project, and the interpretation and enforcement of this Declaration will be resolved by—the courts of the First Judicial District Court of the State of Nevada in Carson City.

**§7.08           *Interpretation of This Agreement.***

Titles and headlines of this Declaration are intended for editorial convenience and are not to be construed as a part of this Declaration. The word “include” or “including” is not intended as a limitation and shall be construed to include the words “but not limited to.” Unless otherwise

specified, the word “herein” means anywhere in this Declaration or the attachments. Any term in the singular includes, where appropriate in the context, the plural. The Parties hereto were each advised by counsel in drafting and negotiating this agreement, and each Party contributed to its contents. No presumptions against or in favor of any Party are appropriate based on who drafted this Declaration or any provision herein. The Development Agreement, even if released and reconveyed, may be used to help ascertain the Parties’ intent regarding the Declaration.

**§7.09            Warranties of Authority.**

Each Party representative who signs this Declaration represents and warrants that he or she has obtained all necessary approvals and has actual authority to execute this Declaration with the effect of binding his or her principal.

**§7.10            Modifications; Authority to Administer and Approve Changes.**

a. Unless otherwise expressly authorized by the terms of this Declaration, no modification or amendment to this Declaration is binding upon the Parties unless the same is in writing, signed by the Parties, and approved by the Carson City Board of Supervisors

b. Each Authorized Representative, acting alone on behalf of his or her principal only, shall have the authority to:

- 1. Execute all deeds, escrow instructions, settlement statements, title insurance instructions, agreements, notices and other instruments necessary to effectuate the purposes of this Declaration;
- 2. Accept all performances, and waive or negotiate remedies for defaults and implement this Declaration *provided, however that* Authorized Representatives *do not* have authority to take any such action that materially or substantially changes the uses or development permitted on the Land, affects the Affordability Period, subordinates this Declaration, or reduces an amount owed or adds to the cost incurred by a Party.

For example, each Authorized Representative, acting alone on behalf of his or her principal, *shall* have the authority to (i) issue interpretations and/or grant waivers regarding this Declaration on behalf of his or her principal; (ii) agree to loan assumptions, contract assignments, or substitution of Parties impacting only the interests of the Authorized Representative’s principal; (iii) execute other documents as reasonably requested by any tax credit investor or senior financing

lender in order to effect a closing of the financing of the Project on behalf of his or her principal; (iv) waive or modify any insurance requirements set forth herein on behalf of his or her principal; and (v) extend times of performance under this Declaration on behalf of his or her principal.

**§7.11 *Entire Agreement; Conflict with Development Agreement; Counterparts.***

a. This Declaration shall be effective on the date it is duly executed by all of the Parties. The Parties agree that this Declaration, together with its attachments, including the Development Agreement, contains the entire agreement of the Parties and supersedes any written or oral representations, promises, warranties, or other undertakings made during the negotiation of this Declaration.

b. In the event a conflict exists between the rights and obligations set forth in this Declaration and the Development Agreement, the conflicting provisions must be interpreted harmoniously to give the fullest effect possible to both provisions. If no such harmonious interpretation is possible, the interpretation which better protects the City’s interest in seeing the Land used for affordable housing during the full Affordability Period shall govern. This rule of construction applies even if the Development Agreement has been released and reconveyed.

c. This Declaration may be executed in counterparts and is effective when each Party receives a complete set of counterpart signature pages.

//counterpart signature pages follow//



Declaration of Restrictive Covenants  
(Sierra Flats 9% Project)

**Counterpart Signature Page**

**DEVELOPER:**

SIERRA FLATS SENIOR, LP, a Nevada limited partnership

By: Sierra Flats Senior LLC, a Nevada limited liability company, its General Partner

By: Oikos Development Corporation, a Missouri nonprofit corporation, its Manager

By: \_\_\_\_\_  
Michael Snodgrass, its Executive Director

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2021 before me, \_\_\_\_\_, Notary Public, personally appeared Michael Snodgrass, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_ (seal)

Declaration of Restrictive Covenants  
(Sierra Flats 9% Project)

**Counterpart Signature Page**

**CITY:**

CARSON CITY, a consolidated municipality

APPROVED:

CARSON CITY, a consolidated municipality

APPROVED AS TO FORM:

Carson City District Attorney

By: \_\_\_\_\_  
Lori Bagwell, Mayor

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

Carson City Clerk-Recorder

By: \_\_\_\_\_  
Aubrey Rowlett

Date: \_\_\_\_\_



EXHIBIT A & A-1  
LAND LEGAL DESCRIPTION & MAP

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Declaration of Restrictive Covenants

**EXHIBIT A**  
**DESCRIPTION OF SIERRA FLATS – PHASE 1**

A portion of Parcel 1 shown on that Record of Survey supporting a Boundary Line Adjustment for Carson City, recorded as File No. 278817 on May 30, 2002, in Book 9, Page 2454 (Map No. 2454), in the Carson City Recorder's Office, Carson City, Nevada, situate within the Southwest 1/4 of the Northwest 1/4 of Section 15, Township 15 North, Range 20 East, Mount Diablo Base & Meridian, more particularly described as follows:

**BEGINNING** at the Northwest corner of said Parcel 1, described as the N1/16 Cor Sec 15-16, as shown on said Record of Survey point on the southerly line of said Parcel 1;

**THENCE**, leaving the **POINT OF BEGINNING**, and along the North line of said Parcel 1, departing said line, South 88°59'25" East, 410.00 feet;

**THENCE**, leaving said North line South 00°38'21" West, 189.75 feet, to the northerly right-of-way line of Butti Way, as described in Document Number 276885 as file in the Official Records of Carson City, Nevada on April 19, 2002, to the beginning of a non-tangent curve to the left from which the radius point bears South 21°45'16" East;

**THENCE**, southwesterly, along the northerly right-of-way line of said Butti Way, 33.93 feet along the arc of a curve having a radius of 426.66 feet and through a central angle of 04°33'25";

**THENCE**, continuing along said northerly right-of-way line, South 63°41'20" West, 50.52 feet;

**THENCE**, continuing along said northerly right-of-way line South 55°11'12" West, 187.18 feet;

**THENCE**, continuing along said northerly right-of-way line South 50°08'29" West, 81.25 feet, to the easterly right-of-way line of Airport Road;

**THENCE**, along the easterly right-of-way line of Airport Road, North 67°54'48" West, 134.59 feet to the beginning of a tangent curve to the right;

**THENCE**, continuing along the easterly right-of-way line of Airport Road, 65.14 feet along the arc of a curve having a radius of 370.00 feet and through a central angle of 10°05'06", to the most westerly corner of the above-mentioned Parcel 1;

**THENCE**, leaving the easterly right-of-way line of said Airport Road, and along the westerly line of said Parcel 1, North 79°28'19" East, 64.85 feet;

**THENCE**, continuing along the westerly line of said Parcel 1, North 00°38'21" East, 300.00 feet, **POINT OF BEGINNING**.

Containing 2.91 Acres, more or less.

See Exhibit "A-1" attached hereto and made a part hereof

**Basis of Bearings:** South 10°30'31" East between Carson City Control Monuments CC013 and CC087 shown on Record of Survey Map number 2749 recorded August 11, 2010 in the Official Records of Carson City, Nevada, as File Number 403425.

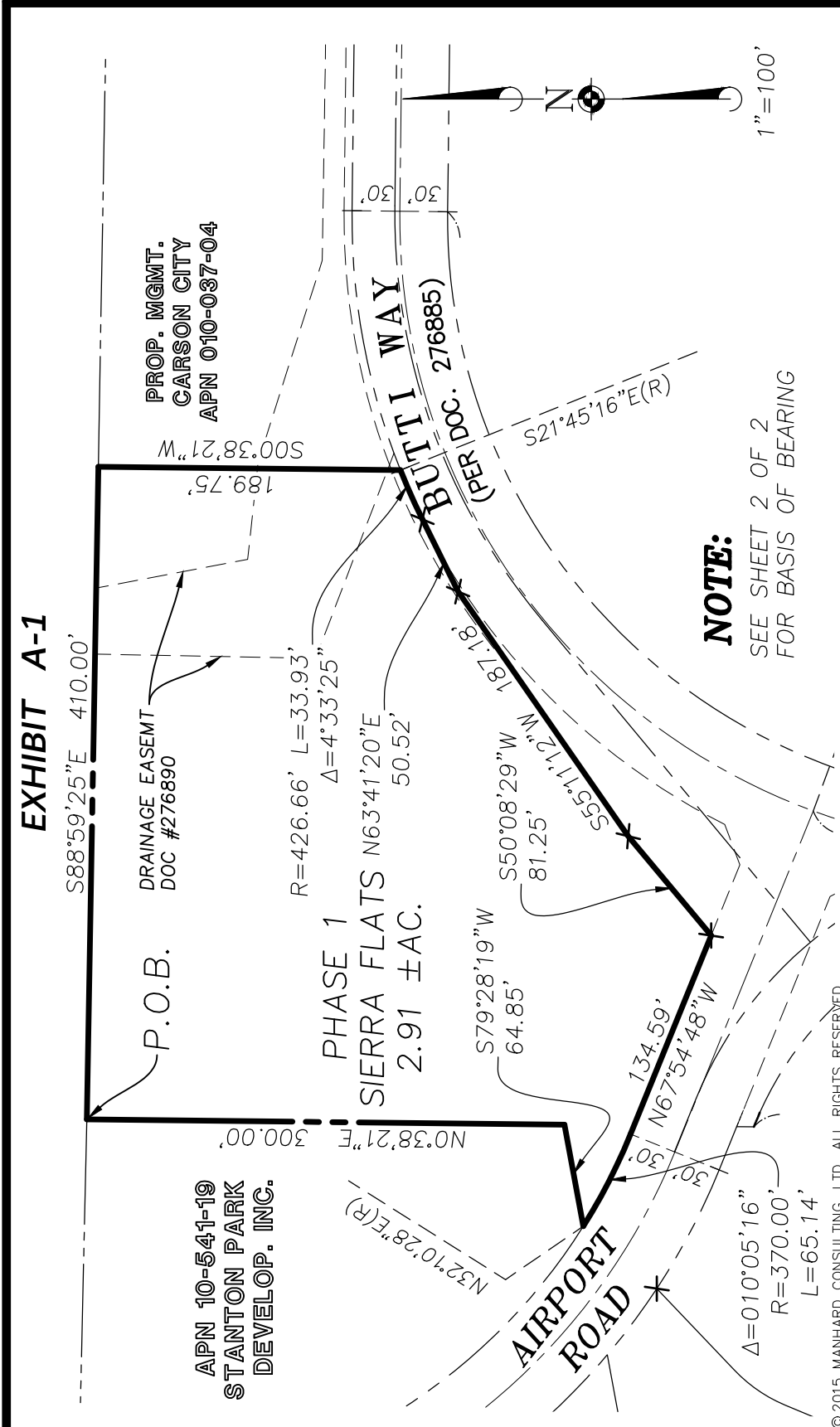
**Surveyor's Certificate:** I hereby certify that the attached description was prepared by me or under my direct supervision and is accurate to the best of my knowledge and belief.

Lee H. Smithson  
Nevada PLS 5097  
For and on behalf of

 **Manhard**  
CONSULTING  
241 Ridge Street, Suite 400  
Reno, Nevada 89501  
(775) 321-6525



**EXHIBIT A-1**



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241 Ridge Street, Suite 400, Reno, NV 89501  
 ph: 775.746.3500  
 Civil Engineers | Surveyors | Water Resource Engineers | Water & Waste Water Engineers  
 Construction Managers | Environmental Scientists | Landscape Architects | Planners

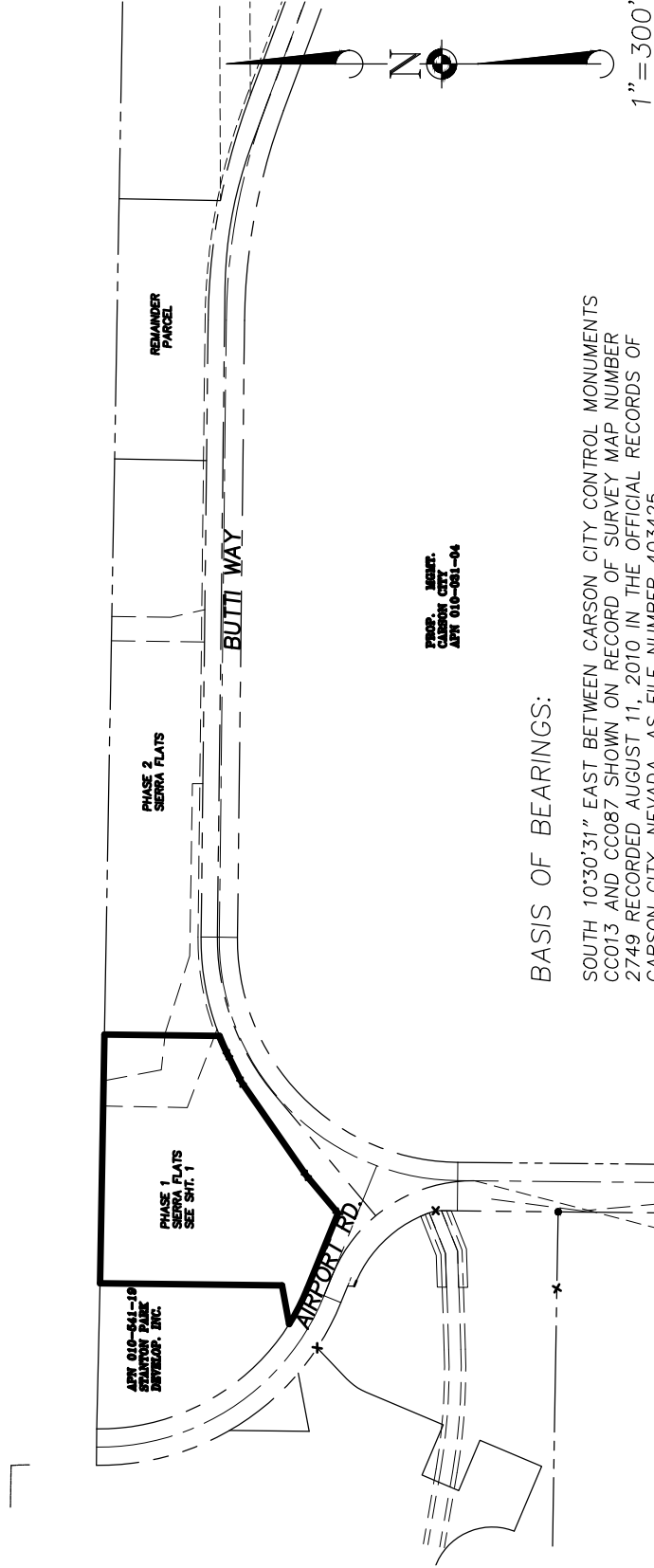
fx: 775.746.3520  
 manhard.com

SIERRA FLATS  
 CARSON CITY, NEVADA

TO ACCOMPANY LEGAL DESCRIPTION

PROJ. MGR.: LHS	PROJECT CODE CAACCNV01
DRAWN BY:	SHEET 1 OF 2
DATE: NOV. 2021	
SCALE: 1" = 100'	

**EXHIBIT A-1**



**BASIS OF BEARINGS:**

SOUTH 10°30'31" EAST BETWEEN CARSON CITY CONTROL MONUMENTS CC013 AND CC087 SHOWN ON RECORD OF SURVEY MAP NUMBER 2749 RECORDED AUGUST 11, 2010 IN THE OFFICIAL RECORDS OF CARSON CITY, NEVADA, AS FILE NUMBER 403425.

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241 Ridge Street, Suite 400, Reno, NV 89501  
 Civil Engineers | Surveyors | Water Resource Engineers | Water & Waste Water Engineers  
 Construction Managers | Environmental Scientists | Landscape Architects | Planners

ph: 775.746.3500  
 fx: 775.746.3520  
 manhard.com

**SIERRA FLATS - A.P.N. 010-037-04**

**CARSON CITY, NEVADA**

**TO ACCOMPANY LEGAL DESCRIPTION**

PROJ. MGR.:	LHS	PROJECT CODE	CAACCNV01
DRAWN BY:		SHEET	2
DATE:	NOV. 2021	OF	2
SCALE:	1" = 60'		

EXHIBIT B  
DEVELOPMENT AGREEMENT

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Declaration of Restrictive Covenants

**EXHIBIT F**

**DEVELOPMENT TEAM ORGANIZATION CHART**

Sierra Flats Senior Apartments  
Carson City, NV

Organizational Chart  
(rev. 9.13.21)

