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LINCOLN COUNTY, NV 2023-166331

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OFFICIAL RECORD
AMY ELMER, RECORDER

Ordinance - Repealing Ord 2008-07 - Lincoln Highlands D.A.
Title of Document

Affirmation Statement

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

_____ I, the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording does contain the social security number of a person or persons as required by law: _____
(State specific law)

[Signature] _____
Signature Title

Lisa Lloyd _____
Print

12/5/23 _____
Date

Grantees address and mail tax statement:

SUMMARY: An ordinance to repeal Lincoln County Ordinance No. 2008-07 which approved a Development Agreement with Lincoln Highlands Development Corporation in the Toquop Planning Area.

ORDINANCE NO. 2023- 02

TITLE: AN ORDINANCE REPEALING LINCOLN COUNTY ORDINANCE 2008-07 AND APPROVING THE CANCELLATION OF THE DEVELOPMENT AGREEMENT WITH LINCOLN HIGHLANDS DEVELOPMENT CORPORATION AND CANCELLATION OF THE CONCEPTUAL PLAN WITHIN THE TOQUOP PLANNING AREA.

WHEREAS, on or about October 29, 2008, Lincoln County, Lincoln Highlands Development Corporation (“Lincoln Highlands”) as developer, and C & O Holdings, L.L.C. (“C&O”) as owner entered into the Lincoln Highlands Development Corporation Development Agreement (the “Development Agreement”); and

WHEREAS, Board of County Commissioners approved the Development Agreement by Ordinance No. 2008-07 and later recorded that ordinance in the Office of the Lincoln County Recorder as Document # 0132673 and corrected by Document # 0132870; and

WHEREAS, the Development Agreement was recorded in the Office of the Lincoln County recorder as Document # 0132674; and

WHEREAS, Lincoln Highlands was dissolved in perpetuity in or around 2014 or 2015 without identifying a specific successor in interest; and

WHEREAS, the rights and obligations within the Development Agreement run with the land, and C & O continues to own the real property which is the subject of the Development Agreement; and

WHEREAS, pursuant to NRS 278.0205, the parties to a development agreement or their successors in interest are entitled to cancel the agreement in whole by mutual consent; and

WHEREAS, pursuant to § 13.05 of the Development Agreement, the Development Agreement may be canceled by mutual consent of the Parties; and

WHEREAS, the County and C & O desire to enter into a Mutual Termination Agreement, a copy of which is attached hereto as “Exhibit A”; and

WHEREAS, the Board of County Commissioners deems it in the best interest of the County to cancel the Development Agreement;

THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF LINCOLN, STATE OF NEVADA, DO ORDAIN:

That the Lincoln County Ordinance 2008-07, which states:

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF LINCOLN DO HEREBY ORDAIN A DEVELOPMENT AGREEMENT AND CONCEPTUAL PLAN WITH CONDITIONS BETWEEN LINCOLN COUNTY AND THE LINCOLN HIGHLANDS DEVELOPMENT CORPORATION FOR THE LINCOLN HIGHLANDS PLANNED COMMUNITY.

is **HEREBY REPEALED**.

IT IS HEREBY FURTHER ORDAINED that the Chairperson, or other person designated by the Board, shall be authorized to execute the Mutual Termination Agreement Attached as Exhibit A.

IT IS HEREBY FURTHER ORDAINED that County staff shall record this Ordinance and the Mutual Termination Agreement when executed with the Lincoln County Recorder's Office.

UPON ADOPTION, the County Clerk of Lincoln County shall have this Ordinance published, by title only, together with an adequate summary including any amendments, once per week for two weeks in a newspaper published in the County, if any, otherwise in a newspaper published in the County, and having a general circulation in the County. The County Clerk shall post this Ordinance in full at the Lincoln County Courthouse and make it available for inspection. This Ordinance shall take effect twenty (20) days after its publication.

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PASSED AND ADOPTED this 16th day of October, 2023, by the following vote of the County Board of Commissioners.

AYES:

<u>Varlin Higbee</u>	<u>Diane Path</u>
<u>Miki Reese</u>	<u>Keith Pearson</u>
<u>Jamnie Woodworth</u>	

NAYS:


None

ABSENT:

None

APPROVED this 16th day of October, 2023.

By: 
VARLIN HIGBEE, *Chairperson*

ATTEST: 
LISA LLOYD, *County Clerk*

MUTUAL TERMINATION AGREEMENT

This Mutual Termination Agreement is made by and between the County of Lincoln, State of Nevada ("County"), and C & O Holdings, L.L.C. ("C & O" and with County, the "Parties") as of the date below. This Mutual Termination Agreement is based on the following recitals and is made pursuant NRS 278.0205(1)(a).

Recitals

WHEREAS, in 2008 and pursuant to NRS 278.0201 the Parties together with Lincoln Highlands Development Corporation ("Lincoln Highlands") entered into the Lincoln Highlands Development Corporation Development Agreement ("Development Agreement") for the purpose of developing the Lincoln Highlands Master Planned Community within the Toquop Township Planned Unit Development; and

WHEREAS, Board of County Commissioners approved the Development Agreement by Ordinance No. 2008-07 and later recorded that ordinance in the Office of the Lincoln County Recorder as Document # 0132673 and corrected by Document # 0132870; and

WHEREAS, the Development Agreement was recorded in the Office of the Lincoln County recorder as Document # 0132674; and

WHEREAS, Lincoln Highlands was dissolved in perpetuity in or around 2014 or 2015 without identifying a specific successor in interest; and

WHEREAS, the rights and obligations within the Development Agreement run with the land, and C & O continues to own the real property which is the subject of the Development Agreement and by operation of law, C & O or any subsequent purchaser of the property subject to the Development Agreement is therefore bound by and to the rights and obligations contained in the Development Agreement; and

WHEREAS, pursuant to NRS 278.0205, the parties to a development agreement or their successors in interest are entitled to cancel the agreement in whole by mutual consent; and

WHEREAS, pursuant to § 13.05 of the Development Agreement, the Development Agreement may be canceled by mutual consent of the Parties; and

WHEREAS, the Parties desire to fully and finally terminate the Development Agreement and release the other Party from any and all further liability thereunder,

NOW THEREFORE, the Parties agree as follows:

1. Recitals. The Recitals set forth above are acknowledged by each of the Parties to be true and correct and are incorporated herein by reference.

2. Effective Date. This Mutual Termination Agreement shall be effective on the date the Board of County Commissioners for the County approves the Agreement.

3. Termination. By mutual consent of the parties to the Development Agreement or their successors in interest, the Development Agreement is hereby terminated and canceled. The Parties agree the Development Agreement is terminated and cancelled as provided herein as of the Effective Date and pursuant to any further adoption of ordinances if required by law. The Board of County Commissioners anticipates adopting and recording an Ordinance repealing Ordinance No. 2008-07.

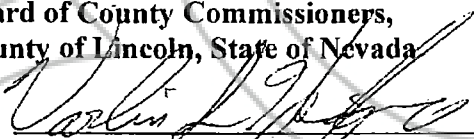
4. Binding Effect, Authority, and Counterparts. The provisions of this Mutual Termination Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, administrators, successors, personal representatives, and assigns. Each Party hereto represents and warrants that that its undersigned representative has full authority and capacity to execute this Agreement on that Party's behalf. This Mutual Termination Agreement may be executed in counterparts, which counterparts together shall constitute the agreement of the Parties.

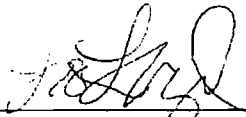
5. Interpretation of Mutual Termination Agreement. In the event of any conflict between the Development Agreement and this Mutual Termination Agreement, the terms of this Agreement shall control.

6. Recording and Filing. County shall cause the Ordinance approving the termination of the Development Agreement to be recorded in the Office of the Lincoln County Recorder.

IN WITNESS WHEREOF, this Mutual Termination Agreement has been executed by the Parties as authorized by Ordinance No. 2023-04, to be effective of the Effective Date shown below.


COUNTY:
Board of County Commissioners,
County of Lincoln, State of Nevada

By: 
Varlin Higbee, Chairman

Attest: 
Lisa Lloyd, County Clerk

THE EFFECTIVE DATE HEREOF IS OCTOBER 26, 2023.

C & O HOLDINGS, L.L.C.,
a Nevada limited liability company

By: 

Name: Robert M Evans

Title: SR VICE PRESIDENT,
INVESTMENT MANAGER, INC.,
MANAGER