

Sep 25, 2024

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column. If the water right is leased to the Water Supply Bank, check "Yes". If you are not sure if the water right is leased to the Water Supply Bank, see #7 of the instructions.

Water Right/Claim No.	Split?	Leased to Water Supply Bank?	Water Right/Claim No.	Split?	Leased to Water Supply Bank?
63-2937	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐

2. Previous Owner's Name: Key Bank of Idaho
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): Element Ridge LLC
New owner(s) as listed on the conveyance document Name connector ☐ and ☐ or
- 339 W 13490 S Draper UT 84020
Mailing address City State Zip
801-558-7378 Troy@westLdev.com
Telephone Email
4. If the water rights and/or adjudication claims were split, how did the division occur?
☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: June 6, 2022
6. Do you own the land identified as the water right place of use? Yes ☐ No ☐
o If no, attach evidence that written notice of the change of water right ownership has been delivered to the landowner of record.
7. This form must be signed and submitted with the following **REQUIRED** items:
☒ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
☒ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
☒ Filing fee (see instructions for further explanation):
o \$25 per *undivided* water right.
o \$100 per *split* water right.
o No fee is required for pending adjudication claims.
☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.
☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.
8. Signature: Troy Dana Manager, Westland Development, LLC- Manager Element Ridge, LLC
Signature of new owner/claimant Title, if applicable Date 9/16/2024
Print name
- Signature: _____
Signature of new owner/claimant Title, if applicable Date
Print name

Received by KM Date 9.26.24 For IDWR Office Use Only: Receipt No. 2118954 Receipt Amt. \$ 25.00
Active in the Water Supply Bank? Yes ☐ No ☐ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐
Name on W-9 _____ Approved by _____ Processed by [Signature] Date 9.26.24



PioneerTitleCo.
GOING BEYOND

5680 E. Franklin Rd., Ste. 150
Nampa, ID 83687

**ELECTRONICALLY RECORDED-DO NOT
REMOVE THE COUNTY STAMPED FIRST
PAGE AS IT IS NOW INCORPORATED AS
PART OF THE ORIGINAL DOCUMENT**

2022-029412

RECORDED

06/08/2022 09:21 AM

CHRIS YAMAMOTO
CANYON COUNTY RECORDER

Pgs=3 TYOUREN \$15.00

TYPE: DEED

PIONEER TITLE CANYON - CALDWELL
ELECTRONICALLY RECORDED

File No. 798994 CH/

WARRANTY DEED

For Value Received IFI Partners II, an Idaho general partnership
hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

Element Ridge, LLC, a Utah limited liability company
hereinafter referred to as Grantee, whose current address is 339 West 13490 S Draper, UT 84020
The following described premises, to-wit:

See Exhibit A attached hereto and made a part hereof.

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantees(s) heirs and assigns forever. And the said Grantor(s) does (do) hereby covenant to and with the said Grantee(s), the Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to U.S. Patent reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and current years taxes, levies, and assessments, includes irrigation and utility assessments, (if any) which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Dated: June 6, 2022

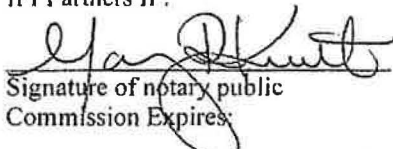
IFI Partners II

by:


John Evans, Partner

State of IDAHO, County of CANYON

This record was acknowledged before me on June 7, 2022 by John Evans, as Partner of IFI Partners II.


Signature of notary public
Commission Expires:

MARCEY R KIEBERT
COMMISSION #60131
NOTARY PUBLIC
STATE OF IDAHO

MARCEY R KIEBERT
Residing in: Middleton, ID
Commission Expires: 08/16/2024

EXHIBIT A

Parcel No. 1:

This parcel is in the Northeast Quarter of the Southeast Quarter and the Northwest Quarter of the Southeast Quarter of Section 9, Township 3 North, Range 3 West, Boise Meridian, Canyon County, Idaho, excepting therefrom the following described three parcels:

PARCEL I:

COMMENCING at the Southeast corner of said Northeast Quarter of the Southeast Quarter and bearing South 89° 01' 50" West 381.75 feet along the Southern boundary of said Northeast Quarter of the Southeast Quarter to the TRUE POINT OF BEGINNING;
Thence continuing South 89° 01' 50" West 615.05 feet along the Southern boundary of said Northeast Quarter of the Southeast Quarter;
Thence North 0° 58' 10" West 348.41 feet;
Thence South 65° 15' 00" East 201.80 feet;
Thence South 51° 46' 00" East 266.27 feet;
Thence South 68° 47' 00" East 245.05 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM

PARCEL II:

COMMENCING at the Northeast corner of said Northeast Quarter of the Southeast Quarter and bearing South 0° 00' 00" West 337.53 feet along the Eastern boundary of said Northeast Quarter of the Southeast Quarter;
Thence South 88° 49' 00" West 369.70 feet to the Eastern bank of Forest Lateral;
Thence North 18° 33' 16" East 80.06 feet to the approximate centerline of Forest Lateral;
Thence North 12° 7' 31" West 97.95 feet along the approximate centerline of said lateral;
Thence North 37° 48' 49" West 207.88 feet along the approximate centerline of said lateral to the Northern boundary of said Northeast Quarter of the Southeast Quarter;
Thence North 88° 55' 20" East 492.26 feet along the Northern boundary of said Northeast Quarter of the Southeast Quarter to the POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM

PARCEL III:

COMMENCING at the Southeast corner of said Northwest Quarter of the Southeast Quarter and bearing South 89° 01' 50" West 110.0 feet along the Southern boundary of said Northwest Quarter of the Southeast Quarter to the TRUE POINT OF BEGINNING;
Thence continuing South 89° 01' 50" West 225.00 feet;
Thence at right angle North 0° 59' 10" West (North 0° 58' 10" West Record) 150.00 feet;
Thence at right angle North 89° 01' 50" East 225.00 feet;
Thence at right angle South 0° 59' 10" East (South 0° 58' 10" East Record) 150.00 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM

PARCEL IV:

A parcel of land being a portion of the Northeast Quarter of the Southeast Quarter of Section 9, Township 3 North, Range 3 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

Beginning at the Section Corner common to Sections 9, 10, 15, and 16, T.3 N., R.3 W., B.M.;

Thence, along the section line common to said Sections 9 and 10, North 0° 06' 20" East 1323.87 feet to the South 1/16 Section Corner common to said Sections 9 and 10;

Thence, leaving said section line, and along the South 1/16 section line of said Section 9, South 89° 01' 50" West 996.80 feet to a point, said point also being the REAL POINT OF BEGINNING;

Thence, continuing along said South 1/16 section line, South 89° 01' 50" West 57.00 feet to a point;

Thence, leaving said South 1/16 section line, North 0° 58' 10" West 348.41 feet to a point;

Thence, North 89° 01' 50" East 57.00 feet to a point;

Thence, South 0° 58' 10" East 348.41 feet to the REAL POINT OF BEGINNING.

Parcel No. 2:

In the Northwest Quarter of the Southeast Quarter of Section 9, Township 3 North, Range 3 West of the Boise Meridian, Canyon County, Idaho, more particularly described as follows:

COMMENCING at the Southeast corner of said Northwest Quarter of the Southeast Quarter and bearing South 89° 01' 50" West 110.00 feet along the Southern boundary of said Northwest Quarter of the Southeast Quarter to the TRUE POINT OF BEGINNING;

Thence continuing South 89° 01' 50" West 225.00 feet;

Thence at a right angle North 0° 58' 10" West 150.00 feet;

Thence at a right angle North 89° 01' 50" East 225.00 feet;

Thence at a right angle South 0° 58' 10" East 150.00 feet to the TRUE POINT OF BEGINNING.

EXCEPT the following described property:

COMMENCING at the Southeast corner of said Northwest Quarter of the Southeast Quarter and bearing South 89° 01' 50" West a distance of 155.00 feet along the Southern boundary of said Northwest Quarter of the Southeast Quarter to the TRUE POINT OF BEGINNING;

Thence continuing South 89° 01' 50" West a distance of 180.00 feet;

Thence at a right angle North 0° 58' 10" West a distance of 140.00 feet;

Thence at a right angle North 89° 01' 50" East a distance of 180.00 feet;

Thence at a right angle South 0° 58' 10" East a distance of 140.00 feet to the TRUE POINT OF BEGINNING.

DS


Water Right Report : 63-2937(Decreed/Active)

Water Right Owners

Owner Type	Name	Address	City	State	Postal Code
Current Owner	KEY BANK OF IDAHO	TRUSTEE FOR IDAHO PATHOLOGY ASSN PA P/S PLAN FOR MALISON PO BOX 1788	POCATELLO	ID	83204
Original Owner	ERNEST, PAUL H		CALDWELL	ID	83605

Water Right Status

Priority Date : 4/14/1953
 Basis : Decreed
 Status : Active

Water Source

Source	Source Qualifier	Tributary	Tributary Qualifier
GROUND WATER			

Points Of Diversion (Location)

Source	Township	Range	Section	Govt. Lot	QQQ	QQ	Q	County	Diversion Type
GROUND WATER	03N	03W	9	0				NW SE CANYON	

Water Uses

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/01	11/15	1.40 CFS	315.00 AFA
TOTAL			1.40 CFS	315.00 CFS

Places of Use

Print/Show

Place of Use Legal Description : IRRIGATION (CANYON county)

Township	Range	Section	Lot	QQQ	QQ	Q	Acres
03N	03W	9			NE	SE	33
03N	03W	9			NW	SE	37

Irrigation Totals

Total Acres Acre Limit
 70.00

Conditions

Code Condtions

- C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
- R65 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
- W59 Use of this right is combined with water from Wilder Irrigation District.

Dates

Licensed Date :
 Decreed Date : 2/6/2009
 Permit Proof Due Date :
 Permit Proof Made Date :
 Permit Approved Date :

Other Information

State or Federal : S
 Water District Number : TBD
 Generic Max Rate Per Acre : 0
 Generic Max Volume Per Acre : 0
 Civil Case Number :

Permit Moratorium Expiration Date :
Enlargement Use Priority Date :
Enlargement Statute Priority Date :
Application Received Date:
Protest Deadline Date:

Decree Plaintiff :
Decree Defendant :
Swan Falls Trust or Nontrust :
Swan Falls Dismissed :
DLE Act Number :
Cary Act Number :
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

7/19/2024

Water Right

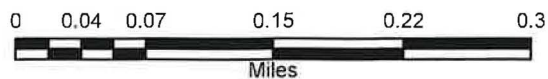
IRRIGATION

Map center is in T03N R03W

The USDA-FSA Aerial Photography Field office asks to be credited in derived products.



Date created: 7/19/2024



Legend

-  Quarter Quarters
-  PLS Sections
-  Townships
-  Place of Use Boundary
-  Point of Diversion



AUTHORIZATION TO SIGN

OPERATING AGREEMENT

of

ELEMENT RIDGE, LLC

THIS AGREEMENT memorializes that agreement made and effective June 2, 2022, by and among: Westland Development, LLC a Utah limited liability company of 339 W 13490 S Draper, UT 84020 as Manager and Member; Oswald Family Holdings, LLC, an Idaho limited Liability Company of 1673 W Shoreline Dr, Suite 140, Boise, ID 83702; Blue Ringer, LLC, an Idaho limited liability company of 1103 W Karluk River Drive Meridian, ID 83642; and each other person who shall hereafter be admitted as a member of this limited liability company. Each person holding a member interest is referred to herein in as "Member." For the sake of convenience, the term "Members" shall include a single Member if there is only one Member. The term "Managers" shall include a single Manager if only one Manager remains.

RECITALS

WHEREAS, the parties hereto have formed a limited liability company pursuant to the laws of the State of Utah for the purposes hereinafter set forth, and to establish their respective rights and obligations in connection with the limited liability company;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other valuable consideration, the receipt and sufficiency of which hereby is acknowledged, the parties agree as follows:

1. Formation

The parties hereby confirm that they have formed a limited liability company (the "Limited Liability Company" or "Company") pursuant to the provisions of Utah law, for the purposes and the period and upon the terms and conditions hereinafter set forth. The parties have caused to be filed the Certificate of Organization of the Company, and agree to execute, acknowledge, swear to and file any other documents required under applicable law to conform the Certificate of Organization to this Operating Agreement.

2. Name

The name of the Company shall be Element Ridge, LLC, and all business of the Company shall be conducted under said name, or such other name as the Members from time to time may determine.

3. Purposes

The Company is organized to invest in and develop real estate; and to engage in all other activities allowed to limited liability companies by law.

4. Place of Business

The principal place of business and specified office of the Company at which the records required to be maintained by the Company under the Utah law are to be kept shall be at 339 W 13490 S Draper, UT 84020, or at such other or additional places of business within or outside of the State of Utah as the Managers from time to time may designate. The Managers shall notify the Members of any change of the principal place of business and specified office.

The Company appoints Michael Huber of 339 W 13490 S Draper, UT 84020, as the Registered Agent of the Company for service of process. The registered office and Registered Agent may be changed from time to time by the Managers by filing the prescribed forms with the appropriate governmental authorities.

5. Term

The term of the Company shall commence on the filing of the Certificate of Organization of the Company, and duration of the Company is perpetual, unless the Company is sooner terminated in accordance with this Agreement or by operation of law.

6. Capital Contributions

The Members shall contribute to the capital of the Company:

The amount or assets set forth in Section
8. Allocations and Distributions below.

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The Members shall not be required to make any additional capital contributions. Except as specifically provided in this Agreement or required by law, no Member shall have the right to withdraw or reduce his contributions to the capital of the Company until the termination of the Company. No Member shall have the right to demand and receive any distribution from the Company in any form other than cash, regardless of the nature of such Member's capital contribution. No Member shall be paid interest on capital contributions to the Company. The liability of any Member for the losses, debts, liabilities and obligations of the Company shall be limited to paying: the capital contribution of such Member when due under this Agreement; such Member's share of any undistributed assets of the Company; and (only if and to the extent at any time required by applicable law) any amounts previously distributed to such Member by the Company.

7. Loans and Advances by Members

If any Member shall loan or advance any funds to the Company in excess of the capital contribution of such Member prescribed herein, such loan will be documented by a promissory note at a reasonable interest rate and terms acceptable to the Member and the Company. If a Member (or a principal of a Member on the Member's behalf) referred to herein as "Guaranteeing Member(s)," is required to guarantee any loan associated with the development of property of the Company, the Guaranteeing Member(s) will receive a reasonable fee to be negotiated between the Company and the Guaranteeing Member(s) which fee shall be deemed a capital contribution to the Company and shall increase the capital account of such Member but shall not increase the Member's Members' Percentage Interest in the Company. Unless otherwise agreed by the Guaranteeing Member(s), such guarantee fee-related capital contribution shall be paid out first upon liquidation of the assets of the company before any other distribution to any Member.

8. Allocations and Distributions

As used in this Agreement, the terms "net profits" and "net losses" shall mean the profits or losses of the Company from the conduct of the Company's business, after all expenses incurred in connection therewith have been paid or provided for.

The term "cash receipts" shall mean all cash receipts of the Company from whatever source derived, including without limitation capital contributions made by the Members; the proceeds of any sale, exchange, or other disposition of all or any part of the assets of the Company; the proceeds of any loan to the Company; the proceeds of any insurance policy payable to the Company; and the proceeds from the liquidation of the assets of the Company following a termination of the Company.

The "capital account" for each Member shall mean the account established, determined and maintained for such Member in accordance with Section 704(b) of the Internal Revenue Code and Treasury Regulation Section 1.704-1(b)(2)(iv). The capital account for each Member shall be **increased by** (1) the amount of money contributed by such Member to the Company, (2) the fair market value of property contributed by such Member to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Section 752 of the Internal Revenue Code), and (3) allocations to such Member of Company income and gain (or items thereof), including income and gain exempt from tax and income and gain described in Trea. Reg. Section 1.704-1(b)(2)(iv)(g), but excluding income and gain described in subsection (b)(4)(I) of said Regulation, and shall be **decreased by** (4) the amount of money distributed to such Member by the Company, (5) the fair market value of property distributed to such Member by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Section 752 of the Code), (6) allocations to such Member of expenditures of the Company described in Section 705(a)(2)(B) of the Code, and (7) allocations of Company loss and deduction (or items thereof) including loss and deduction described in Trea. Reg. Section 1.704-1(b)(2)(iv)(g), but excluding items described in (6) above and loss or deduction described in subsections (b)(4)(I) or (b)(4)(iii) of said Regulation. Net profits and net losses of the Company from other than capital transactions, as of the end of any fiscal year or other period, shall be credited or charged to the capital accounts of the Members prior to any charge or credit to said capital accounts for net profits and net losses of the Company from capital transactions as of the

end of such fiscal year or other period. The capital account for each Member shall be otherwise adjusted in accordance with the additional rules of Trea. Reg. Section 1.704-1(b)(2)(iv).

The term "Members' Percentage Interests" shall mean the percentages set forth opposite the name of each Member below or as otherwise agreed in accordance with this Agreement and confirmed by written decision in the future:

<u>Member</u>	<u>Percentage Interest & Contribution</u>	
Westland Development, LLC	<u>84.53%</u>	<u>AK</u>
For a capital contribution of	<u>\$4,989,537.46</u>	AK
Blue Ringer, LLC	<u>6.89 %</u>	<u>DP</u>
For a capital contribution of	<u>\$406,782.23</u>	DP
Oswald Family Holdings, LLC	<u>8.58%</u>	<u>JO</u>
For a capital contribution of	<u>\$506,782.22</u>	JO

During each fiscal year, the net profits and net losses of the Company (other than from capital transactions), and each item of income, gain, loss, deduction, or credit entering into the computation thereof, shall be credited or charged, as the case may be, to the capital accounts of each Member in proportion to the Members' Percentage Interests. The net profits of the Company from capital transactions shall be allocated in the following order of priority: (a) to offset any negative balance in the capital accounts of the Members in proportion to the amounts of the negative balance in their respective capital accounts, until all negative balances in the capital accounts have been eliminated; then (b) to the Members in proportion to the Members' Percentage Interests. The net losses of the Company from capital transactions shall be allocated in the following order of priority: (a) to the extent that the balances in the capital accounts of any Members are in excess of their original contributions, to such Members in proportion to such excess balances in the capital accounts until all such excess balances have been reduced to zero; then (b) to the Members in proportion to the Members' Percentage Interests.

The cash receipts of the Company shall be applied in the following order of priority: (a) to the payment by the Company of amounts due on debts and liabilities of the Company other than to any Member, and operating expenses of the Company; (b) to the payment of interest and amortization due on any loan made to the Company by any Member; (c) to the establishment of cash reserves determined by the Managers to be necessary or appropriate, including without limitation reserves for the operation of the Company's business, taxes and contingencies; and (d) to the repayment of any loans made to the Company by any Member. Thereafter, the cash receipts of the Company shall be distributed among the Members as hereafter provided. The cash receipts of the Company shall be distributed to the Members from time to time at such times as the Managers shall determine. It is contemplated that distributions will be made if the Managers shall deem such distributions to be prudent and feasible.

Except as otherwise provided in this Agreement or required by law, distributions of cash receipts of the Company, other than from capital transactions, shall be allocated among the Members in proportion to the Members' Percentage Interests.

Except as otherwise provided in this Agreement or required by law, distributions of cash receipts from capital transactions shall be allocated in the following order of priority: (a) to the Members in proportion to their respective capital accounts until each Member has received cash distributions equal to any positive balance in his capital account; then (b) to the Members in proportion to the Members' Percentage Interests.

Special Allocations -- Notwithstanding the preceding provisions of this Article 8, the following special allocations shall be made in the following order:

(1) **Minimum Gain Chargeback** -- Except as otherwise provided in Trea. Reg. Section 1.704-2(f), if there is a net decrease in partnership minimum gain (within the meaning of Trea. Reg. Sections 1.704-2(b)(2) and 1.704-2(d)) during any fiscal year, each Member shall be allocated items of the Company's income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to such member's share of the net decrease in partnership minimum gain, determined in accordance with Trea. Reg. Section 1.704-2(g). Allocations made pursuant to the preceding sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Trea. Reg. Sections 1.704-2(f)(6) and 1.704-2(j)(2). This provision is intended to comply with the minimum gain chargeback requirement in Trea. Reg. Section 1.704-2(f) and shall be interpreted consistently therewith.

(2) **Partner Minimum Gain Chargeback** -- Except as otherwise provided in Trea. Reg. Section 1.704-2(I)(4), if there is a net decrease in partner nonrecourse debt minimum gain attributable to a partner nonrecourse debt during any fiscal year, each Member who has a share of the partner nonrecourse debt minimum gain attributable to such partner nonrecourse debt, determined in accordance with Trea. Reg. Section 1.704-2(I)(5), shall be allocated items of the Company's income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to such Member's share of the net decrease in partner nonrecourse debt minimum gain attributable to such partner nonrecourse debt, determined in accordance with Trea. Reg. Section 1.704-2(I)(4). Allocations made pursuant to the preceding sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Trea. Reg. Sections 1.704-2(I)(4) and 1.704-2(j)(2). As used herein "partner nonrecourse debt" has the meaning set forth in Trea. Reg. Section 1.704-2(b)(4). As used herein, "partner nonrecourse debt minimum gain" shall mean an amount, with respect to each partner nonrecourse debt, equal to the partnership minimum gain (within the meaning of Trea. Reg. Sections 1.704-2(b)(2) and 1.704-2(d)) that would result if such partner nonrecourse debt were treated as a nonrecourse liability (within the meaning of Trea. Reg. Section 1.704-2(b)(3)) determined in accordance with Trea. Reg. Section 1.704-2(I)(3). This provision is intended to comply with the minimum gain chargeback requirement in Trea. Reg. Section 1.704-2(I)(4) and shall be interpreted consistently therewith.

(3) Qualified Income Offset -- In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Trea. Reg. Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of the Company's income and gain shall be allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, any adjusted capital account deficit in such Member's capital account, as quickly as possible, provided that an allocation pursuant to this provision shall be made only if and to the extent that such Member would have a adjusted capital account deficit in such Member's capital account after all other allocations provided for in this Article 8 have been tentatively made as if this provision were not in this Agreement. As used herein, "adjusted capital account deficit" shall mean the deficit balance, if any, in a Member's capital account at the end of the relevant fiscal year after the following adjustments: (i) credit to such capital account the minimum gain chargeback which the Member is obligated to restore pursuant to the penultimate sentences of Trea. Reg. Sections 1.704-2(g)(1) and 1.704-2(I)(5); and (ii) debit to such capital account the items described in Trea. Reg. Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6). This provision is intended to constitute a qualified income offset within the meaning of Trea. Reg. Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(4) Gross Income Allocation -- In the event any Member has a deficit capital account at the end of any fiscal year which is in excess of the sum of the amounts such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Trea. Reg. Sections 1.704-2(g)(1) and 1.704-2(I)(5), each such Member shall be allocated items of the Company's income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this provision shall be made only if and to the extent that such Member would have a deficit in such Member's capital account in excess of such sum after all other allocations provided for in this Article 8 have been tentatively made as if this provision and the provisions of clause (3) above were not in this Agreement.

(5) Nonrecourse Deductions -- Nonrecourse deductions (within the meaning of Trea. Reg. Section 1.704-2(b)(1)) for any fiscal year shall be allocated among the Members in proportion to the Members' Percentage Interests.

(6) Partner Nonrecourse Deductions -- Any partner nonrecourse deductions (within the meaning of Trea. Reg. Sections 1.704-2(b)(1) and 1.704-2(b)(2)) for any fiscal year shall be allocated to the Member who bears the economic risk of loss with respect to the partner nonrecourse debt (within the meaning of Trea. Reg. Section 1.704-2(b)(4)) to which such partner nonrecourse deductions are attributable in accordance with Trea. Reg. Section 1.704-2(I)(1).

(7) Other Mandatory Allocations -- In the event Section 704(c) of the Internal Revenue Code or the Regulations thereunder require allocations in a manner different than that set forth above in this Article 8, the provisions of Section 704(c) and the Regulations thereunder shall control such allocations among the Members.

It is the intention of the Members that the allocations hereunder shall be deemed to have "substantial economic effect" within the meaning of Section 704 of the Internal Revenue Code and Trea. Reg. Section 1.704-1. Should the provisions of this Agreement be inconsistent with or in conflict with Section 704 of the Code or the

Regulations thereunder, then Section 704 of the Code and the Regulations shall be deemed to override the contrary provisions hereof. If Section 704 or the Regulations at any time require that limited liability company operating agreements contain provisions which are not expressly set forth herein, such provisions shall be incorporated into this Agreement by reference and shall be deemed a part of this Agreement to the same extent as though they had been expressly set forth herein, and the Managers shall be authorized by an instrument in writing to amend the terms of this Agreement to add such provisions, and any such amendment shall be retroactive to whatever extent required to create allocations with a substantial economic effect.

Subchapter S -- Notwithstanding the preceding provisions of this Article 8, should the Company elect to be taxed as a Subchapter S corporation, the restrictions on ownership and other restrictions necessary to qualify for Subchapter S treatment are incorporated as part of the provisions of this document and the accounting provisions of the Company shall be conformed to the requirements of a subchapter S corporation.

9. Classes of Members

All Member interests shall be of the same common voting class.

10. Books, Records and Tax Returns

At all times during the continuance of the Company, the Managers shall keep or cause to be kept complete and accurate records and books of account in which shall be entered each transaction of the Company in accordance with generally accepted accounting principles.

The fiscal year of the Company for both accounting and income tax purposes shall be the calendar year. The Company shall report its operations, net income and net losses in accordance with the methods of accounting selected by the Managers.

The Managers may employ on behalf of the Company and at the expenses of the Company such firm of certified public accountants as the Managers shall deem appropriate to serve as the Company's accountants.

The Managers shall furnish to each Member, within seventy-five days after the end of each fiscal year, a statement of the balance in the capital account of such Member; the amount of such Member's share of the Company's income, gain, losses, and deductions; and other relevant items for Federal income tax purposes.

The Managers shall prepare or cause to be prepared all Federal, State and local income tax and information returns for the Company and shall cause such tax and information to be filed timely with the appropriate governmental authorities. Within seventy-five days after the end of each fiscal year, the Managers shall forward to each person who was a Member during the preceding fiscal year a true copy of the Company's information return filed with the Internal Revenue Service for the preceding fiscal year. The Managers shall not be liable to any Member if any taxing authority disallows or adjusts any deductions or credits in the Company's income tax or information returns.

All elections required or permitted to be made by the Company under the Internal Revenue Code, and the designation of a tax matters partner pursuant to Section 6231(a)(7) of the Internal Revenue Code for all purposes permitted or required by the Code, shall be made by the Managers. The tax matters partner shall take such action as may be necessary to cause each other Member to become a notice member within the meaning of Section 6223 of the Code. The tax matters partner may not take any action contemplated by Sections 6222 through 6232 of the Code without the consent of the Managers.

The Managers shall furnish to each Member, promptly upon request, a current list of the names and addresses all of the Managers and Members of the Company, and any other persons or entities having any financial interest in the Company.

11. Bank Accounts

All funds of the Company shall be deposited in the Company's name in such bank account or accounts as shall be designated by the Manager. Withdrawals from any such bank accounts shall be made only in the regular course of business of the Company and shall be made upon such signature or signatures as the Managers from time to time may designate.

12. Management of the Company

The Company shall be managed by one or more managers. A manager ("Manager") of the Company shall be appointed or removed at any time by a writing signed by Members holding a majority of the Members' Percentage Interests of the Company.

The Members hereby designate Westland Development, LLC, of 339 W 13490 S Draper, UT 84020, as the Manager for the Company.

The business and affairs of the Company shall be conducted and managed by the Manager of the Company in accordance with this Agreement and the laws of Utah.

At any time there is more than one Manager, any difference arising as to any matter within the authority of Manager shall be decided by a majority in number of the Managers.

The Managers shall have responsibility for the day-to-day management of the business and affairs of the Company and shall devote such time and attention as the Managers deem necessary to the conduct and management of the business and affairs of the Company.

The Managers shall have sole power and authority to execute instruments on behalf of the Company and to otherwise bind the Company.

No Member, other than a Manager or the designee of the Managers, shall have the authority, or shall take any action as a Member, to bind the Company.

Except as provided elsewhere in this Agreement, or by non-waivable provisions of applicable law, the Managers shall possess and enjoy all rights and powers necessary or appropriate for the conduct and management of the business and affairs of the Company and make all decisions relating to the business and affairs of the Company. The Managers may make decisions relating to: the purchase, sale, exchange, lease, transfer, encumbrance or other acquisition or disposition of any property, for cash, other property, or on terms; the borrowing of money and the obtaining of loans, secured and unsecured, for the Company and in connection therewith the issuance of notes, debentures and other debt securities and the securing of the same by assigning for security purposes, pledging or hypothecating all or part of assets of the Company; the expenditure of the capital and receipts of the Company in furtherance of the business of the Company; the sale of some or all of the assets of the Company; the purchase of equipment, supplies and services as the Managers shall deem appropriate; the purchase of hazard, liability and other insurance which the Managers may deem necessary or proper; the employment of attorneys, accountants, brokers, consultants and other persons, firms and corporations to render services to the Company as the Managers may deem necessary or proper; and the taking of all other actions and the execution and delivery of any and all other instruments and agreements as the Managers may deem appropriate to carry out the intents and purposes of this Agreement.

A Manager may execute a statement of authority and file same with the State of Utah provided the statement is not inconsistent with the powers granted in this operating agreement.

The Managers may employ on behalf of the Company, on such terms and for such compensation as the Managers may determine, any persons, firms, or corporations, including accountants and attorneys, as the Managers shall deem desirable for the business and affairs of the Company. Any such person, firm or corporation may also be employed by the Managers in connection with any other business of the Managers.

The Managers shall be reimbursed by the Company for all direct out-of-pocket expenses incurred by the Managers on behalf of the Company in connection with the performance of Manager duties hereunder, including without limitation amounts payable by the Managers for office, accounting, bookkeeping and other services, materials, facilities and professional and legal services rendered or furnished to the Company.

As compensation for the services of the Managers in arranging the transactions contemplated by the Company and the continuing management of the Company, the Company shall pay the Managers a limited liability company management fee which will be set by the affirmative vote or consent of Members holding a majority of the Members' Percentage Interests. The compensation for the services of the Managers to the Company may be modified from time to time by the affirmative vote or consent of Members holding a majority of the Members' Percentage Interests.

A Manager's duty of care in the discharge of the Manager's duties to the Company and the Members is limited to refraining from engaging in grossly negligent conduct, intentional misconduct, or a knowing violation of law. In discharging the duties of a Manager, the Manager shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements by other Managers, Members, agents or other persons as to matters the Manager reasonably believes

are within such person's professional or expert competence, including without limitation information, opinions, reports or statements as to the value or amount of the assets, liabilities, profits or losses of the Company or any other facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid.

To the extent of the Company's assets, and to the extent permitted by law, the Company shall indemnify and hold each Manager harmless from and against all liability, claim, loss, damage or expense, including reasonable attorneys' fees, incurred by the Manager by reason of any act or omission of the Manager made in good faith on behalf of the Company.

Except as expressly provided elsewhere in this Agreement, any decisions which are to be made by the Members, rather than the Managers, shall be made by the affirmative vote or consent of Members holding a majority of the Members' Percentage Interests.

13. Assignment of Interests

Except as otherwise provided in this Agreement, no Member or other person holding any interest in the Company may assign, pledge, hypothecate, transfer, or otherwise dispose of all or any part of his interest in the Company, including without limitation the capital, profits or distributions of the Company without the prior written consent of a majority of the Member's Percentage Interests in each instance.

A Member may assign all or any part of such Member's interest in the allocations and distributions of the Company to any of the following (collectively the "permitted assignees"): any person, corporation, partnership or other entity as to which the Company has given consent to the assignment of such interest in the allocations and distributions of the Company by the affirmative vote or consent of Members holding a majority of the Members' Percentage Interests. An assignment to a permitted assignee shall only entitle the permitted assignee to the allocations and distributions to which the assigned interest is entitled, unless such permitted assignee applies for admission to the Company and is admitted to the Company as a Member in accordance with this Agreement.

An assignment, pledge, hypothecation, transfer or other disposition of all or any part of the interest of a Member in the Company or other person holding any interest in the Company in violation of the provisions hereof shall be null and void for all purposes.

No assignment, transfer or other disposition of all or any part of the interest of any Member permitted under this Agreement shall be binding upon the Company unless and until a duly executed and acknowledged counterpart of such assignment or instrument of transfer, in form and substance satisfactory to the Managers, has been delivered to the Company.

No assignment or other disposition of any interest of any Member may be made if such assignment or disposition, alone or when combined with other transactions, would result in the termination of the Company within the meaning of Section 708 of the Internal Revenue Code or under any other relevant section of the Code or any successor statute. No assignment or other disposition of any interest of any Member may be made without an

opinion of counsel satisfactory to the Managers that such assignment or disposition is subject to an effective registration under, or exempt from the registration requirements of, the applicable State and Federal securities laws.

Anything herein contained to the contrary, the Managers and the Company shall be entitled to treat the record holder of the interest of a Member as the absolute owner thereof, and shall incur no liability by reason of distributions made in good faith to such record holder, unless and until there has been delivered to the Managers the assignment or other instrument of transfer and such other evidence as may be reasonably required by the Managers to establish to the satisfaction of the Managers that an interest has been assigned or transferred in accordance with this Agreement.

14. Admission of New Members

The Managers may admit new Members (or transferees of any interests of existing Members) into the Company with vote or consent of the Members holding a majority of the Members' Percentage Interests.

As a condition to the admission of a new Member, such Member shall execute and acknowledge such instruments, in form and substance the Managers shall deem necessary or desirable to effectuate such admission and to confirm the agreement of such Member to be bound by all of the terms, covenants and conditions of this Agreement, as the same may have been amended. Such new Member shall pay all reasonable expenses in connection with such admission, including without limitation reasonable attorneys' fees and the cost of the preparation, filing or publication of any amendment to this Agreement or the Certificate of Organization, which the Managers may deem necessary or desirable in connection with such admission.

No new Member shall be entitled to any retroactive allocation of income, losses, or expense deductions of the Company. The Managers may make pro rata allocations of income, losses or expense deductions to a new Member for that portion of the tax year in which the Member was admitted in accordance with Section 706(d) or the Internal Revenue Code and regulations thereunder.

In no event shall a new Member be admitted to the Company if such admission would be in violation of applicable Federal or State securities laws or would adversely effect the treatment of the Company as a partnership for income tax purposes.

15. Withdrawal Events Regarding Members and Election to Continue the Company

In the event of the death, retirement, withdrawal, expulsion, or dissolution of a Member, or an event of bankruptcy or insolvency, as hereinafter defined, with respect to a Member, or the occurrence of any other event which terminates the continued membership of a Member in the Company pursuant to the laws of Utah (each of the foregoing being hereinafter referred to as a "Withdrawal Event"), the Company shall continue unless no member is left. If the Withdrawal Event should involve a Member who is also a Manager, the remaining Membership Interest holders may appoint a new Manager. If they fail to do so

and no Manager remains, the Company shall be managed by the remaining Members and shall become a Member managed company.

In the event of a Withdrawal Event with respect to any Member, any successor in interest to such Member (including without limitation any executor, administrator, heir, committee, guardian, or other representative or successor) shall not become entitled to any rights or interest of such Member in the Company, other than the allocations and distributions to which such Member is entitled, unless such successor in interest is admitted as a Member in accordance with this Agreement. If there are no Members remaining the successor shall automatically become a Member with full Membership right.

An "event of bankruptcy or insolvency" with respect to a Member shall occur if such Member: applies for or consents to the appointment of a receiver, trustee or liquidator of all or a substantial part of his assets; or makes a general assignment for the benefit of creditors; or is adjudicated a bankrupt or an insolvent; or files a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or to take advantage of any bankruptcy, insolvency, readjustment of debt or similar law or statute, or an answer admitting the material allegations of a petition filed against him in any bankruptcy, insolvency, readjustment of debt or similar proceedings; or takes any action for the purpose of effecting any of the foregoing; or an order, judgment or decree shall be entered, with or without the application, approval or consent of such Member, by any court of competent jurisdiction, approving a petition for or appointing a receiver or trustee of all or a substantial part of the assets of such Member, and such order, judgment or decree shall continue unstayed and in effect for thirty days.

16. Dissolution and Liquidation

The Company shall terminate upon the occurrence of any of the following: the expiration of the period fixed for the duration of the Company pursuant to Article 5, as the same may be extended by the Members; the election by the Members to dissolve the Company made by the affirmative vote or consent of Members holding a majority of the Members' Percentage Interests; or any other event which pursuant to this Agreement shall cause a termination of the Company.

The liquidation of the Company shall be conducted and supervised by the Managers or if there be none then by a person designated for such purposes by the affirmative vote or consent of Members holding a majority of the Members' Percentage Interests (the "Liquidating Agent"). The Liquidating Agent hereby is authorized and empowered to execute any and all documents and to take any and all actions necessary or desirable to effectuate the dissolution and liquidation of the Company in accordance with this Agreement.

Promptly after the termination of the Company, the Liquidating Agent shall cause to be prepared and furnished to the Members a statement setting forth the assets and liabilities of the Company as of the date of termination. The Liquidating Agent, to the extent practicable, shall liquidate the assets of the Company as promptly as possible, but in an orderly and businesslike manner so as not to involve undue sacrifice.

The proceeds of sale and all other assets of the Company shall be applied and distributed in the following order of priority: (a) to the payment of the expenses of liquidation and the debts and liabilities of the Company, other than debts and liabilities to Members; (b) to the payment of debts and liabilities to Members; (c) to the setting up of any reserves which the Liquidating Agent may deem necessary or desirable for any contingent or unforeseen liabilities or obligations of the Company, which reserves shall be paid over to an attorney-at-law admitted to practice in the State of Utah as escrowee, to be held for a period of two years for the purpose of payment of the aforesaid liabilities and obligations, at the expiration of which period the balance of such reserves shall be distributed as hereinafter provided; (d) to the Members in proportion to their respective capital accounts until each Member has received cash distributions equal to any positive balance in his capital account, in accordance with the rules and requirements of Trea. Reg. Section 1.704-1(b)(2)(ii)(b); and (e) to the Members in proportion to the Members' Percentage Interests.

The liquidation shall be complete within the period required by Trea. Reg. Section 1.704-1(b)(2)(ii)(b). Upon compliance with the distribution plan, the Members shall cease to be such, and the Managers shall execute, acknowledge and cause to be filed such certificates and other instruments as may be necessary or appropriate to evidence the dissolution and termination of the Company.

17. Representations of Members

Each of the Members represents, warrants and agrees that the Member is acquiring the interest in the Company for the Member's own account as an investment and not with a view to the sale or distribution thereof; if the Member is an organization, such organization is duly organized, validly existing and in good standing under the laws of its State of organization and that it has full power and authority to execute and perform its obligations under this Agreement; and the Member shall not dispose of such interest or any part thereof in any manner which would constitute a violation of the Securities Act of 1933, the Rules and Regulations of the Securities and Exchange Commission, or any applicable laws, rules or regulations of any State or other governmental authorities, as the same may be amended.

18. Notices

All notices, demands, requests or other communications which any of the parties to this Agreement may desire or be required to give hereunder shall be in writing and shall be deemed to have been properly given if sent registered or certified mail, return receipt requested, addressed as follows: (a) if to the Company, to the Company c/o the Managers at the address first above written or to such other address or addresses as may be designated by the Company or the Managers by notice to the Members pursuant to this Article; (b) if to the Managers, to the Managers at the address of the principal place of business first above written or to such other address or addresses as may be designated by the Managers by notice to the Company and the Members pursuant to this Article; and (c) if to any Member, to the address of said Member first above written, or to such other address as may be designated by said Member by notice to the Company and the other Members pursuant to this Article.

19. Amendments

This Agreement may not be altered, amended, changed, supplemented, waived or modified in any respect or particular unless the same shall be in writing and agreed to by the affirmative vote or consent of Members holding a majority of the Members' Percentage Interests.

20. Miscellaneous

This Agreement and the rights and liabilities of the parties hereunder shall be governed by and determined in accordance with the laws of the State of Utah.

If any provision of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement, which shall remain in full force and effect.

The captions in this Agreement are for convenience only and are not to be considered in construing this Agreement.

All pronouns shall be deemed to the masculine, feminine, neuter, singular or plural as the identity of the person or persons may require. References to a person or persons shall include partnerships, corporations, limited liability companies, unincorporated associations, trusts, estates and other types of entities.

This Agreement, and any amendments hereto may be executed in counterparts all of which taken together shall constitute one agreement.

This Agreement sets forth the entire agreement of the parties hereto with respect to the subject matter hereof. It is the intention of the Members that this Agreement shall be the sole source of agreement of the parties, and, except to the extent a provision of this Agreement provides for the incorporation of Federal income tax rules or is expressly prohibited or ineffective under Utah law, this Agreement shall govern even when inconsistent with, or different from, the provisions of any applicable law or rule.

To the extent any provision of this Agreement is prohibited or ineffective under Utah law, this Agreement shall be considered to the smallest degree possible in order to make this Agreement effective under Utah law

If Utah statutory law is subsequently amended or interpreted in such a way to make any provision of this Agreement that was formerly invalid valid, such provision shall be considered to be valid from the effective date of such interpretation or amendment.

Subject to the limitations on transferability contained herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto and to their respective heirs, executors, administrators, successors, and assigns.

No provision of this Agreement is intended to be for the benefit of or enforceable by any third party.

IN WITNESS WHEREOF, the Members and Manager have executed this Agreement on the date shown below.

MANAGER:

Westland Development, LLC

By 
Adam Kessler (Jun 8, 2022 16:53 MDT) _____
Adam Kessler, Manager Dated _____

MEMBER:

Westland Development, LLC

By 
Adam Kessler (Jun 8, 2022 16:53 MDT) _____
Adam Kessler, Manager Dated _____

Oswald Family Holdings, LLC, an Idaho limited Liability

By Jason Oswald
Jason Oswald (Jun 13, 2022 21:44 MDT) _____
Jason Oswald, Manager Dated _____

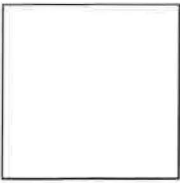
Blue Ringer, LLC, an Idaho limited liability company

By David Perry
David Perry (Jun 13, 2022 20:00 MDT) _____
David S. Perry, Manager Dated _____

ADDITIONAL MEMBERS

The following, having been admitted as Members of the Company, do agree to be bound by all of the terms and conditions of this Operating Agreement. The Member interests shall be agreed to in writing and shall be kept with this Operating Agreement in the Company record book, and signed and dated by the Managers and by the new Member.

_____ Signature of New Member	_____ Print Name of New Member	_____ Date
_____ Signature of New Member	_____ Print Name of New Member	_____ Date
_____ Signature of New Member	_____ Print Name of New Member	_____ Date
_____ Signature of New Member	_____ Print Name of New Member	_____ Date



SCHEDULE OF CAPITAL CONTRIBUTIONS

<u>Member</u>	<u>Percentage Interest/Capital Contribution</u>
Westland Development, LLC	<u>84.53%</u>
For a capital contribution of	<u>\$4,989,537.46</u> <u>AK</u> AK
Blue Ringer, LLC	<u>6.89%</u>
For a capital contribution of	<u>\$406,782.23</u> <u>DP</u> DP
Oswald Family Holdings	<u>8.58%</u>
For a capital contribution of	<u>\$506,782.22</u> <u>JO</u> JO

Element Ridge LLC Operating Agreement Adjusted-Final

Final Audit Report

2022-06-14

Created:	2022-06-08
By:	Alicia Romano (alicia.romano@academymortgage.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAvznH4y6PqHqnD7Xd1vtyqqKz-fdsRsTC

"Element Ridge LLC Operating Agreement Adjusted-Final" History

-  Document created by Alicia Romano (alicia.romano@academymortgage.com)
2022-06-08 - 8:27:29 PM GMT- IP address: 165.225.10.223
-  Document emailed to Adam Kessler (adam.kessler@academymortgage.com) for signature
2022-06-08 - 8:37:55 PM GMT
-  Email viewed by Adam Kessler (adam.kessler@academymortgage.com)
2022-06-08 - 10:52:52 PM GMT- IP address: 34.145.51.144
-  Adam Kessler (adam.kessler@academymortgage.com) has explicitly agreed to the terms of use and to do business electronically with Academy Mortgage Corp-Ent
2022-06-08 - 10:53:57 PM GMT- IP address: 34.145.51.144
-  Document e-signed by Adam Kessler (adam.kessler@academymortgage.com)
Signature Date: 2022-06-08 - 10:53:57 PM GMT - Time Source: server- IP address: 34.145.51.144
-  Document emailed to David Perry (dave.perry@academymortgage.com) for signature
2022-06-08 - 10:53:59 PM GMT
-  Email viewed by David Perry (dave.perry@academymortgage.com)
2022-06-14 - 1:59:43 AM GMT- IP address: 34.145.51.144
-  David Perry (dave.perry@academymortgage.com) has explicitly agreed to the terms of use and to do business electronically with Academy Mortgage Corp-Ent
2022-06-14 - 2:00:32 AM GMT- IP address: 34.145.51.144
-  Document e-signed by David Perry (dave.perry@academymortgage.com)
Signature Date: 2022-06-14 - 2:00:32 AM GMT - Time Source: server- IP address: 34.145.51.144



Adobe Acrobat Sign

 Document emailed to Jason Oswald (jason.oswald@academymortgage.com) for signature
2022-06-14 - 2:00:34 AM GMT

 Email viewed by Jason Oswald (jason.oswald@academymortgage.com)
2022-06-14 - 3:41:29 AM GMT- IP address: 69.9.57.42

 Jason Oswald (jason.oswald@academymortgage.com) has explicitly agreed to the terms of use and to do business electronically with Academy Mortgage Corp-Ent
2022-06-14 - 3:44:28 AM GMT- IP address: 69.9.57.42

 Document e-signed by Jason Oswald (jason.oswald@academymortgage.com)
Signature Date: 2022-06-14 - 3:44:28 AM GMT - Time Source: server- IP address: 69.9.57.42

 Agreement completed.
2022-06-14 - 3:44:28 AM GMT

OPERATING AGREEMENT OF
WESTLAND DEVELOPMENT, LLC

THIS AGREEMENT is made and effective January 1, 2022, by and among: JKML, LLC, a Utah limited liability company of 339 W. 13490 S., Draper, UT 84020 ("JKML"); Cherry Creek Properties LLC, Utah limited liability company of 1516 E Cherry Creek Lane, Draper, UT 84020 ("Cherry Creek") as members and each other person who shall hereafter be admitted as a member of this limited liability company ("Company"). JKML and Cherry Creek also execute this Agreement as the initial Managers of the Company. The members are collectively referred to herein as the "Members." Any one of the Members is referred to herein as a "Member." The term "Managers" shall include a single manager if no other Manager has been appointed.

RECITALS

WHEREAS, the parties hereto have formed a limited liability company pursuant to the laws of the State of Utah for the purposes hereinafter set forth, and execute this Agreement to establish their respective rights and obligations in connection with the limited liability company;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other valuable consideration, the receipt and sufficiency of which hereby is acknowledged, the parties agree as follows:

1. Formation

The parties hereby confirm that they have formed a limited liability company (the "Company") pursuant to the provisions of Utah law, for the purposes and the period and upon the terms and conditions hereinafter set forth. On October 27, 2021, the parties caused to be filed a Certificate of Organization of the Company, and the parties agree to execute, acknowledge, swear to and file any other documents required under applicable law.

2. Name

The name of the Company is Westland Development, LLC, and all business of the Company shall be conducted under said name, or such other name as the Members from time to time may determine.

3. Purposes

The Company is organized to engage in real estate investment and development and all other activities allowed to limited liability companies by law.

4. Place of Business

The principal place of business and specified office of the Company at which the records required to be maintained by the Company under the Utah law are to be kept shall be at 339 W. 13490 S., Draper, UT 84020, or at such other or additional places of business within or outside of

the State of Utah as the Managers from time to time may designate. The Managers shall notify the other Members of any change of the principal place of business and specified office.

The Company hereby appoints Adam M. Kessler at 339 W. 13490 S., Draper, UT 84020, as the Registered Agent of the Company for service of process.

The registered office and Registered Agent may be changed from time to time by the Managers by filing the prescribed forms with the appropriate governmental authorities.

5. Term

The term of the Company shall commence on the filing of the Certificate of Organization of the Company, and duration of the Company is perpetual, unless the Company is sooner terminated in accordance with this Agreement or by operation of law.

6. Capital Contributions

The Members shall contribute to the capital of the Company the amount or assets set forth on the attached **Schedule 1**.

The Members shall not be required to make any additional capital contributions.

Except as specifically provided in this Agreement or required by law, no Member shall have the right to withdraw or reduce his contributions to the capital of the Company until the termination of the Company. No Member shall have the right to demand and receive any distribution from the Company in any form other than cash, regardless of the nature of such Member's capital contribution. No Member shall be paid interest on capital contributions to the Company. The liability of any Member for the losses, debts, liabilities and obligations of the Company shall be limited to paying: the capital contribution of such Member when due under this Agreement; such Member's share of any undistributed assets of the Company; and (only if and to the extent at any time required by applicable law) any amounts previously distributed to such Member by the Company.

7. Loans and Advances by Members

If any Member shall loan or advance any funds to the Company in excess of the capital contribution of such Member prescribed herein, such loan or advance shall not be deemed a capital contribution to the Company and shall not in any respect increase such Member's interest in the Company.

8. Allocations and Distributions

As used in this Agreement, the terms "net profits" and "net losses" shall mean the profits or losses of the Company from the conduct of the Company's business, after all expenses incurred in connection therewith have been paid or provided for.

The term "cash receipts" shall mean all cash receipts of the Company from whatever source derived, including without limitation capital contributions made by the Members; the proceeds of any sale, exchange, or other disposition of all or any part of the assets of the Company; the proceeds

of any loan to the Company; the proceeds of any insurance policy payable to the Company; and the proceeds from the liquidation of the assets of the Company following a termination of the Company.

The "capital account" for each Member shall mean the account established, determined and maintained for such Member in accordance with Section 704(b) of the Internal Revenue Code and Treasury Regulation Section 1.704-1(b)(2)(iv). The capital account for each Member shall be increased by (1) the amount of money contributed by such Member to the Company, (2) the fair market value of property contributed by such Member to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Section 752 of the Internal Revenue Code), and (3) allocations to such Member of Company income and gain (or items thereof), including income and gain exempt from tax and income and gain described in Trea. Reg. Section 1.704-1(b)(2)(iv)(g), but excluding income and gain described in subsection (b)(4)(I) of said Regulation, and shall be decreased by (4) the amount of money distributed to such Member by the Company, (5) the fair market value of property distributed to such Member by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Section 752 of the Code), (6) allocations to such Member of expenditures of the Company described in Section 705(a)(2)(B) of the Code, and (7) allocations of Company loss and deduction (or items thereof) including loss and deduction described in Trea. Reg. Section 1.7041(b)(2)(iv)(g), but excluding items described in (6) above and loss or deduction described in subsections (b)(4)(I) or (b)(4)(iii) of said Regulation. Net profits and net losses of the Company from other than capital transactions, as of the end of any fiscal year or other period, shall be credited or charged to the capital accounts of the Members prior to any charge or credit to said capital accounts for net profits and net losses of the Company from capital transactions as of the end of such fiscal year or other period. The capital account for each Member shall be otherwise adjusted in accordance with the additional rules of Trea. Reg. Section 1.704-1(b)(2)(iv).

The term "Members' Percentage Interests" shall mean the ownership interest in the Company of the Members listed by percentage.

See percentages set forth opposite the name of each Member in Schedule 1

(Since it is expected that the ownership interests of the Members may change as the Company pursues each new project, the Managers will amend Schedule 1 as needed, will sign and date each change, and will retain a copy of previous versions of Schedule 1 as a Company record.)

During each fiscal year, the net profits and net losses of the Company (other than from capital transactions), and each item of income, gain, loss, deduction or credit entering into the computation thereof, shall be credited or charged, as the case may be, to the capital accounts of each Member in proportion to the Members' Percentage Interests. The net profits of the Company from capital transactions shall be allocated in the following order of priority: (a) to offset any negative balance in the capital accounts of the Members in proportion to the amounts of the negative balance in their respective capital accounts, until all negative balances in the capital accounts have been eliminated; then (b) to the Members in proportion to the Members' Percentage Interests. The net losses of the Company from capital transactions shall be allocated in the following order of priority: (a) to the extent that the balances in the capital accounts of any Members are in excess of their original contributions, to such Members in proportion to such excess balances in the capital accounts until all such excess balances have been reduced to zero; then (b) to the Members in proportion to the Members' Percentage Interests.

The cash receipts of the Company shall be applied in the following order of priority: (a) to the payment by the Company of amounts due on debts and liabilities of the Company other than to any Member, and operating expenses of the Company; (b) to the payment of interest and amortization due on any loan made to the Company by any Member; (c) to the establishment of cash reserves determined by the Managers to be necessary or appropriate, including without limitation reserves for the operation of the Company's business, taxes and contingencies; and (d) to the repayment of any loans made to the Company by any Member. Thereafter, the cash receipts of the Company shall be distributed among the Members as hereafter provided. The cash receipts of the Company shall be distributed to the Members from time to time at such times as the Managers shall determine. It is contemplated that distributions will be made if the Managers shall deem such distributions to be prudent and feasible.

Except as otherwise provided in this Agreement or required by law, distributions of cash receipts of the Company, other than from capital transactions, shall be allocated among the Members in proportion to the Members' Percentage Interests.

Except as otherwise provided in this Agreement or required by law, distributions of cash receipts from capital transactions shall be allocated in the following order of priority: (a) to the Members in proportion to their respective capital accounts until each Member has received cash distributions equal to any positive balance in his capital account; then (b) to the Members in proportion to the Members' Percentage Interests.

9. Classes of Members

All Member interests shall be of the same common voting class.

10. Books, Records and Tax Returns

At all times during the continuance of the Company, the Managers shall keep or cause to be kept complete and accurate records and books of account in which shall be entered each transaction of the Company in accordance with generally accepted accounting principles.

The fiscal year of the Company for both accounting and income tax purposes shall be the calendar year. The Company shall report its operations, net income and net losses in accordance with the methods of accounting selected by the Managers.

The Managers may employ on behalf of the Company and at the expenses of the Company such firm of certified public accountants as the Managers shall deem appropriate to serve as the Company's accountants.

The Managers shall furnish to each Member, within seventy-five days after the end of each fiscal year, a statement of the balance in the capital account of such Member; the amount of such Member's share of the Company's income, gain, losses, and deductions; and other relevant items for Federal income tax purposes.

The Managers shall prepare or cause to be prepared all Federal, State and local income tax and information returns for the Company, and shall cause such tax and information to be filed timely with the appropriate governmental authorities. Within seventy-five days after the end of each

fiscal year, the Managers shall forward to each person who was a Member during the preceding fiscal year a true copy of the Company's information return filed with the Internal Revenue Service for the preceding fiscal year. The Managers shall not be liable to any Member if any taxing authority disallows or adjusts any deductions or credits in the Company's income tax or information returns.

All elections required or permitted to be made by the Company under the Internal Revenue Code, and the designation of a tax matters partner pursuant to Section 6231(a)(7) of the Internal Revenue Code for all purposes permitted or required by the Code, shall be made by the Managers. The tax matters partner shall take such action as may be necessary to cause each other Member to become a notice member within the meaning of Section 6223 of the Code. The tax matters partner may not take any action contemplated by Sections 6222 through 6232 of the Code without the consent of the Managers.

The Managers shall furnish to each Member, promptly upon request, a current list of the names and addresses all of the Managers and Members of the Company, and any other persons or entities having any financial interest in the Company.

11. Bank Accounts

All funds of the Company shall be deposited in the Company's name in such bank account or accounts as shall be designated by the Managers. Withdrawals from any such bank accounts shall be made only in the regular course of business of the Company and shall be made upon such signature or signatures as the Managers from time to time may designate.

12. Management of the Company

A Manager of the Company may be appointed or removed at any time by a writing signed by Members holding a majority of the Members' Percentage Interests.

The Members hereby designate: JKML and Cherry Creek as Managers for the Company.

The business and affairs of the Company shall be conducted and managed by the Managers of the Company in accordance with this Agreement and the laws of Utah.

At any time there is more than one Manager, any difference arising as to any matter within the authority of Manager shall be decided by a majority in number of the Managers.

The Managers shall have responsibility for the day-to-day management of the business and affairs of the Company and shall devote such time and attention as the Manager deems necessary to the conduct and management of the business and affairs of the Company.

No Member, other than a Manager or the designee of the Managers, shall have the authority, or shall take any action as a Member, to bind the Company.

Except as provided elsewhere in this Agreement, or by non-waivable provisions of applicable law, the Manager shall possess and enjoy all rights and powers necessary or appropriate for the conduct and management of the business and affairs of the Company and make all decisions relating to the business and affairs of the Company. The Manager may make decisions relating to: (a)

the purchase, sale, exchange, lease, transfer, encumbrance or other acquisition or disposition of any property, for cash, other property, or on terms; (b) the borrowing of money and the obtaining of loans, secured and unsecured, for the Company and in connection therewith the issuance of notes, debentures and other debt securities and the securing of the same by assigning for security purposes, pledging or hypothecating all or part of assets of the Company; (c) the expenditure of the capital and receipts of the Company in furtherance of the business of the Company; (d) the sale of assets of the Company; (e) the purchase of equipment, supplies and services as the Manager shall deem appropriate; (f) the purchase of hazard, liability and other insurance which the Manager may deem necessary or proper; (g) the employment of attorneys, accountants, brokers, consultants and other persons, firms and corporations to render services to the Company as the Manager may deem necessary or proper; and (h) the taking of all other actions and the execution and delivery of any and all other instruments and agreements as the Manager may deem appropriate to carry out the intents and purposes of this Agreement.

A Manager may execute a statement of authority and file same with the State of Utah provided the statement is not inconsistent with the powers granted in this operating agreement.

The Managers may employ on behalf of the Company, on such terms and for such compensation as the Managers may determine, any persons, firms or corporations, including accountants and attorneys, as the Managers shall deem desirable for the business and affairs of the Company. Any such person, firm or corporation may also be employed by the Managers in connection with any other business of the Managers.

The Managers shall be reimbursed by the Company for all direct out-of-pocket expenses incurred by the Managers on behalf of the Company in connection with the performance of Manager duties hereunder, including without limitation amounts payable by the Managers for office, accounting, bookkeeping and other services, materials, facilities and professional and legal services rendered or furnished to the Company.

A Manager's duty of care in the discharge of the Manager's duties to the Company and the Members is limited to refraining from engaging in grossly negligent conduct, intentional misconduct, or a knowing violation of law. In discharging the duties of a Manager, the Manager shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements by other Managers, Members, agents or other persons as to matters the Manager reasonably believes are within such person's professional or expert competence, including without limitation information, opinions, reports or statements as to the value or amount of the assets, liabilities, profits or losses of the Company or any other facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid.

To the extent of the Company's assets, and to the extent permitted by law, the Company shall indemnify and hold each Manager harmless from and against all liability, claim, loss, damage or expense, including reasonable attorneys' fees, incurred by the Manager by reason of any act or omission of the Manager made in good faith on behalf of the Company.

Except as expressly provided elsewhere in this Agreement, any decisions which are to be made by the Members, rather than the Manager, shall be made by the affirmative vote or consent of Members holding a majority of the Members' Percentage Interests.

13. Assignment of Interests

Except as otherwise provided in this Agreement, no Member or other person holding any interest in the Company may assign, pledge, hypothecate, transfer, or otherwise dispose of all or any part of his interest in the Company, including without limitation the capital, profits or distributions of the Company without the written consent of a majority of the Members' Percentage Interests.

A Member may assign all or any part of such Member's interest in the allocations and distributions of the Company to any of the following (collectively the "permitted assignees"): any person, corporation, partnership or other entity as to which the Company has given consent to the assignment of such interest in the allocations and distributions of the Company by the affirmative vote or consent of Members holding a majority of the Members' Percentage Interests. An assignment to a permitted assignee shall only entitle the permitted assignee to the allocations and distributions to which the assigned interest is entitled, unless such permitted assignee applies for admission to the Company and is admitted to the Company as a Member in accordance with this Agreement.

An assignment, pledge, hypothecation, transfer or other disposition of all or any part of the interest of a Member in the Company or other person holding any interest in the Company in violation of the provisions hereof shall be null and void for all purposes.

No assignment, transfer or other disposition of all or any part of the interest of any Member permitted under this Agreement shall be binding upon the Company unless and until a duly executed and acknowledged counterpart of such assignment or instrument of transfer, in form and substance satisfactory to the Managers, has been delivered to the Company.

No assignment or other disposition of any interest of any Member may be made if such assignment or disposition, alone or when combined with other transactions, would result in the termination of the Company within the meaning of Section 708 of the Internal Revenue Code or under any other relevant section of the Code or any successor statute. No assignment or other disposition of any interest of any Member may be made without an opinion of counsel satisfactory to the Managers that such assignment or disposition is subject to an effective registration under, or exempt from the registration requirements of, the applicable State and Federal securities laws.

Anything herein contained to the contrary, the Managers and the Company shall be entitled to treat the record holder of the interest of a Member as the absolute owner thereof, and shall incur no liability by reason of distributions made in good faith to such record holder, unless and until there has been delivered to the Managers the assignment or other instrument of transfer and such other evidence as may be reasonably required by the Managers to establish to the satisfaction of the Managers that an interest has been assigned or transferred in accordance with this Agreement.

14. Admission of New Members

The Members may admit new Members (or transferees of any interests of existing Members) into the Company by the written consent of a majority of the Members' Percentage Interests.

As a condition to the admission of a new Member, such Member shall execute and acknowledge such instruments, in form and substance the Managers shall deem necessary or desirable to effectuate such admission and to confirm the agreement of such Member to be bound by all of the terms, covenants and conditions of this Agreement, as the same may have been amended. Such new Member

shall pay all reasonable expenses in connection with such admission, including without limitation reasonable attorneys' fees and the cost of the preparation, filing or publication of any amendment to this Agreement or the Certificate of Organization, which the Managers may deem necessary or desirable in connection with such admission.

No new Member shall be entitled to any retroactive allocation of income, losses, or expense deductions of the Company. The Managers may make pro rata allocations of income, losses or expense deductions to a new Member for that portion of the tax year in which the Member was admitted in accordance with Section 706(d) or the Internal Revenue Code and regulations thereunder.

In no event shall a new Member be admitted to the Company if such admission would be in violation of applicable Federal or State securities laws or would adversely affect the treatment of the Company as a partnership for income tax purposes.

15. Withdrawal Events Regarding Members and Election to Continue the Company

In the event of the death, retirement, withdrawal, expulsion, or dissolution of a Member, or an event of bankruptcy or insolvency, as hereinafter defined, with respect to a Member, or the occurrence of any other event which terminates the continued membership of a Member in the Company pursuant to the laws of Utah (each of the foregoing being hereinafter referred to as a "Withdrawal Event"), the Company shall continue unless no member is left. If the Withdrawal Event should involve a Member who is also a Manager, the remaining Membership Interest holders may appoint a new Manager. If they fail to do so and no Manager remains, the Company shall be managed by the remaining Members and shall become a Member managed company.

In the event of a Withdrawal Event with respect to any Member, any successor in interest to such Member (including without limitation any executor, administrator, heir, committee, guardian, or other representative or successor) shall not become entitled to any rights or interest of such Member in the Company, other than the allocations and distributions to which such Member is entitled, unless such successor in interest is admitted as a Member in accordance with this Agreement. If there are no Members remaining the successor shall automatically become a Member with full Membership right.

An "event of bankruptcy or insolvency" with respect to a Member shall occur if such Member: applies for or consents to the appointment of a receiver, trustee or liquidator of all or a substantial part of his assets; or makes a general assignment for the benefit of creditors; or is adjudicated a bankrupt or an insolvent; or files a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or to take advantage of any bankruptcy, insolvency, readjustment of debt or similar law or statute, or an answer admitting the material allegations of a petition filed against him in any bankruptcy, insolvency, readjustment of debt or similar proceedings; or takes any action for the purpose of effecting any of the foregoing; or an order, judgment or decree shall be entered, with or without the application, approval or consent of such Member, by any court of competent jurisdiction, approving a petition for or appointing a receiver or trustee of all or a substantial part of the assets of such Member, and such order, judgment or decree shall continue unstayed and in effect for thirty days.

16. Dissolution and Liquidation

The Company shall terminate upon the occurrence of any of the following: the expiration of the period fixed for the duration of the Company pursuant to Article 5, as the same may be extended by the Members; the election by the Members to dissolve the Company made by the affirmative vote or consent of Members holding a majority of the Members' Percentage Interests; or any other event which pursuant to this Agreement shall cause a termination of the Company.

The liquidation of the Company shall be conducted and supervised by the Managers or if there be none then by a person designated for such purposes by the affirmative vote or consent of Members holding a majority of the Members' Percentage Interests (the "Liquidating Agent"). The Liquidating Agent hereby is authorized and empowered to execute any and all documents and to take any and all actions necessary or desirable to effectuate the dissolution and liquidation of the Company in accordance with this Agreement.

Promptly after the termination of the Company, the Liquidating Agent shall cause to be prepared and furnished to the Members a statement setting forth the assets and liabilities of the Company as of the date of termination. The Liquidating Agent, to the extent practicable, shall liquidate the assets of the Company as promptly as possible, but in an orderly and businesslike manner so as not to involve undue sacrifice.

The proceeds of sale and all other assets of the Company shall be applied and distributed in the following order of priority: (a) to the payment of the expenses of liquidation and the debts and liabilities of the Company, other than debts and liabilities to Members; (b) to the payment of debts and liabilities to Members; (c) to the setting up of any reserves which the Liquidating Agent may deem necessary or desirable for any contingent or unforeseen liabilities or obligations of the Company, which reserves shall be paid over to an attorney-at-law admitted to practice in the State of Utah as escrowee, to be held for a period of two years for the purpose of payment of the aforesaid liabilities and obligations, at the expiration of which period the balance of such reserves shall be distributed as hereinafter provided; (d) to the Members in proportion to their respective capital accounts until each Member has received cash distributions equal to any positive balance in his capital account, in accordance with the rules and requirements of Trea. Reg. Section 1.704-1(b)(2)(ii)(b); and (e) to the Members in proportion to the Members' Percentage Interests.

The liquidation shall be completed within the period required by Trea. Reg. Section 1.704-1(b)(2)(ii)(b). Upon compliance with the distribution plan, the Members shall cease to be such, and the Managers shall execute, acknowledge and cause to be filed such certificates and other instruments as may be necessary or appropriate to evidence the dissolution and termination of the Company.

17. Representations of Members

Each of the Members represents, warrants and agrees that the Member is acquiring the interest in the Company for the Member's own account as an investment and not with a view to the sale or distribution thereof; if the Member is an organization, such organization is duly organized, validly existing and in good standing under the laws of its State of organization and that it has full power and authority to execute and perform its obligations under this Agreement; and the Member shall not dispose of such interest or any part thereof in any manner which would constitute a violation of the Securities Act of 1933, the Rules and Regulations of the Securities and Exchange Commission, or any applicable laws, rules or regulations of any State or other governmental authorities, as the same may be amended.

18. Notices

All notices, demands, requests or other communications which any of the parties to this Agreement may desire or be required to give hereunder shall be in writing and shall be deemed to have been properly given if sent registered or certified mail, return receipt requested, addressed as follows: (a) if to the Company, to the Company c/o the Managers at the address first above written or to such other address or addresses as may be designated by the Company or the Managers by notice to the Members pursuant to this Article; (b) if to the Managers, to the Managers at the address of the principal place of business first above written or to such other address or addresses as may be designated by the Managers by notice to the Company and the Members pursuant to this Article; and (c) if to any Member, to the address of said Member set forth on Schedule 1, or to such other address as may be designated by said Member by notice to the Company and the other Members pursuant to this Article.

19. Amendments

This Agreement may not be altered, amended, changed, supplemented, waived or modified in any respect or particular unless the same shall be in writing and agreed to by the affirmative vote or consent of Members holding a majority of the Members' Percentage Interests. No amendment may be made to Articles 6, 8, 13 and 16 hereof, insofar as said Articles apply to the financial interests of the Members, except by the vote or consent of the Members by unanimous writing. No amendment of any provision of this Agreement relating to the voting requirements of the Members on any specific subject shall be made without the affirmative vote or consent of at least the number or percentage of Members required to vote on such subject.

20. Miscellaneous

This Agreement and the rights and liabilities of the parties hereunder shall be governed by and determined in accordance with the laws of the State of Utah.

If any provision of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement, which shall remain in full force and effect.

The captions in this Agreement are for convenience only and are not to be considered in construing this Agreement.

All pronouns shall be deemed to the masculine, feminine, neuter, singular or plural as the identity of the person or persons may require. References to a person or persons shall include partnerships, corporations, limited liability companies, unincorporated associations, trusts, estates and other types of entities.

This Agreement, and any amendments hereto may be executed in counterparts all of which taken together shall constitute one agreement.

This Agreement sets forth the entire agreement of the parties hereto with respect to the subject matter hereof. It is the intention of the Members that this Agreement shall be the sole source of agreement of the parties, and, except to the extent a provision of this Agreement provides

for the incorporation of Federal income tax rules or is expressly prohibited or ineffective under Utah law, this Agreement shall govern even when inconsistent with, or different from, the provisions of any applicable law or rule.

To the extent any provision of this Agreement is prohibited or ineffective under Utah law, this Agreement shall be considered to the smallest degree possible in order to make this Agreement effective under Utah law

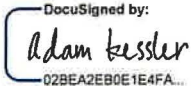
If Utah statutory law is subsequently amended or interpreted in such a way to make any provision of this Agreement that was formerly invalid valid, such provision shall be considered to be valid from the effective date of such interpretation or amendment.

Subject to the limitations on transferability contained herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto and to their respective heirs, executors, administrators, successors and assigns.

No provision of this Agreement is intended to be for the benefit of or enforceable by any third party.

IN WITNESS WHEREOF, the Members have executed this Agreement on the date first above written.

JKML, LLC

By  Adam M Kessler, Manager
02BEA2EB0E1E4FA...

Cherry Creek Properties LLC

By  Troy Dana, Manager
3016138D53C1485...

OTHER MEMBERS

The following, having been admitted as Members of the Company, do agree to be bound by all of the terms and conditions of this Operating Agreement. The Member interests shall be agreed to in writing and shall be kept with this Operating Agreement in the Company record book, and signed and dated by the Managers and by the new Member.

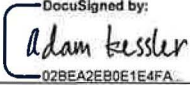
[NEW MEMBER]

Its: _____
Date: _____

SCHEDULE 1
MEMBERS, CAPITAL CONTRIBUTIONS AND
MEMBERSHIP INTERESTS

<u>MEMBER</u>	<u>MEMBERSHIP INTEREST</u>	<u>CAPITAL CONTRIBUTION</u>
JKML, LLC 330 W. 13490 S. Draper, UT 84020	90%	\$1,800,000
Cherry Creek Properties, LLC 1516 E. Cherry Creek Ln. Draper, UT 84020	10%	\$200,000

JKML, LLC

By 
02BEA2EB0E1E4FA
Adam M Kessler, Manager

April 1, 2022
Dated

Cherry Creek Properties LLC

By 
3016138D53C1465...
Troy Dana, Manager

April 1, 2022
Dated

**OPERATING AGREEMENT
OF
CHERRY CREEK PROPERTIES, LLC
September 1, 2020**

OPERATING AGREEMENT
OF
Cherry Creek Properties, LLC

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**OPERATING AGREEMENT
OF
Cherry Creek Properties, LLC**

THIS OPERATING AGREEMENT is made and entered into effective as of the 1ST day of SEPTEMBER, 2020, by and among Cherry Creek Properties, LLC a Utah limited liability company (CCP).

ARTICLE I

DEFINITIONS

1.1 Definitions. The following terms used in this Operating Agreement shall have the following meanings (unless otherwise expressly provided herein):

(a) "Additional Member" means any Person admitted to the Company with all the rights of a Member pursuant to Article XI of this Operating Agreement.

(b) "Capital Call Date" has the meaning ascribed to such term in Section 5.2 below.

(c) "Capital Call Grace Period" has the meaning ascribed to such term in Section 5.2 below.

(d) "Capital Contribution Return Date" has the meaning ascribed to such term in Section 5.2 below.

(e) "Member" Troy Dana

(f) "Equity" means 100% of the ownership interest in The Company.

(g) "The Company" means Cherry Creek Properties, LLC.

(h) "Divorce" means the legal divorce or separation of a Member who is a Person which has become final, but only if such Member's interest in the Company would be transferred to another Person under any settlement agreement or court order entered pursuant to such divorce or legal separation proceeding.

(i) "Entity" means any general partnership, limited partnership, limited liability company, limited liability partnership, for-profit corporation, non-profit corporation, joint venture, trust, business trust, estate, cooperative association or other entity.

(j) "Family" means spouse and descendants, including adopted persons of any generation and descendants of adopted persons of any generation, as well as blood descendants.

(k) "Financial Insolvency" of a Person means:

(i) the making of an assignment for the benefit of creditors by such Person;

(ii) the filing of a voluntary petition in bankruptcy by such Person;

(iii) the adjudication of such Person as bankrupt or insolvent;

(iv) the filing by such Person of a petition or answer seeking for such Person any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation;

(v) the filing of an answer or other pleading by such Person admitting or failing to contest the material allegations of a petition filed against such Person in any proceeding described in subsection (iv) above;

(vi) the seeking, consent to, or acquiescence in by such Person of the appointment of a trustee, receiver, or liquidator of such Person or of all or any substantial part of such Person's properties;

(vii) the failure of any proceeding against such Person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation to be dismissed within 120 days after its commencement; or the failure of any appointment, made without such Person's consent or acquiescence, of a trustee, receiver or liquidator of such Person or of all or any substantial part of such Person's properties to be vacated or stayed within 90 days after such appointment, or the failure of any such appointment to be vacated within 90 days after the expiration of any such stay; or

(viii) the imposition of a charging order against the interest of such Person.

(l) "Fiscal Year" means the Company's fiscal and taxable year.

(m) "IRC" means the Internal Revenue Code of 1986, as amended, and all references to specific sections thereof shall include any amended or successor provisions thereto.

(n) "Legal Incompetency" of an individual Person means a determination of such individual's incompetency, whether for insanity, age, disability or other reason. For this purpose, such determination shall be made by a duly licensed physician chosen by the Manager. If a Manager's competency is questioned, the other Member may select the determining physician. If such individual disputes such declaration, he may choose a second physician, and said two physicians shall choose a third physician, and the decision of the majority of said physicians as to the competency of such individual shall be

binding on all parties. Each party shall bear the cost of the physician chosen by it and the parties shall split the cost of the third physician.

(o) "Liquidation" means the liquidation of the Company or the liquidation of a Member's interest in the Company, as the context may require, and has the meaning set forth in Regulations Section 1.704-1(b)(2)(ii)(g).

(p) "Majority in Interest" refers to Member whose Percentage Interests aggregate in excess of fifty percent (50%) of the total Percentage Interests held by all of the Member.

(q) "Manager" means the Person or Persons, collectively, designated as Manager(s) in accordance with the provisions hereof.

(r) "Member" means each of the parties who executes a counterpart of this Operating Agreement as a Member and each of the parties who may hereafter become Additional or Substituted Member, including both the Class A Member and the Class B Member.

(s) "Member Governance Rights" means all voting, consensual and other rights of the Member of the Company, as set forth in this Operating Agreement. Both Class A Member and the Class B Member shall hold Member Governance Rights, to the extent of the Percentage Interests of such Member at the time a governance decision to be made by the Member pursuant to the terms of this Operating Agreement arises.

(t) "Net Cash Flow" of the Company shall be determined for each Fiscal Year in accordance with sound, cash basis accounting principles and means (i) all cash receipts of the Company during such period, from whatever source, whether or not taxable, including capital contributions, financing proceeds, proceeds arising from a sale of the Project, or otherwise, plus (ii) any cash that is released during such period from the cash reserves of the Company, referred to in (iv) below, less (iii) all cash expenditures and cash losses of the Company during such period, whether capital or current, tax deductible or nondeductible (including debt service payments but excluding distributions to Member), and less (iv) reasonable additions during such period to Company cash reserves deemed necessary by the Manager in their sole and absolute discretion for working capital, contingent liabilities, debt reserves, capital improvements and replacements, and investments.

(u) "Non-Contributing Member" has the meaning ascribed to such term in Section 5.2 below.

(v) "Operating Agreement" or "Agreement" shall mean this Operating Agreement as originally executed and as amended from time to time.

(w) "Percentage Interest" shall mean the following percentage interests in the Company, as assigned to the Member prior to any equity dilution:

Member

Percentage Interest

Troy Dana

____ 100 ____ %

(x) "Person" shall mean any individual or Entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such Person where the context so admits.

(y) "Profits" or "Losses" means, for each Fiscal Year or other period, an amount equal to the Company's taxable income or loss for such year or period, as the case may be, as determined under IRC Section 703(a) (except that for this purpose all items of income, gain, loss or deduction required to be separately stated pursuant to IRC Section 703(a)(1) shall be included in the computation of taxable income or loss, notwithstanding IRC Section 703(a)(2)), with the following adjustments:

(i) any income of the Company that is exempt from Federal income tax which would not otherwise be taken into account in computing Profits or Losses shall be added to such taxable income or loss;

(ii) any expenditures of the Company described in IRC Section 705(a)(2)(B), or treated as IRC Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(b), which would not otherwise be taken into account in computing Profits or Losses shall be subtracted from such taxable income or loss; and

(iii) any items of income, gain, loss or deduction which are specially allocated pursuant to Paragraphs C.1(d) and C.2 of the Capital Accounting and Tax Addendum attached hereto shall not be included in the computation of Profits or Losses.

(z) "Project" has the meaning given to such term in Section 9.3 below.

(aa) "Regulations" refers to the income tax regulations promulgated under the IRC, as amended from time to time (including corresponding revisions of successor regulations).

(bb) "Safe Harbor" means the method under which the fair market value of a Safe Harbor Partnership Interest is treated as being equal to the liquidation value of that interest, as defined in the Safe Harbor Regulation.

(cc) "Safe Harbor Election" means the election by the Company of the Safe Harbor, as described in the Safe Harbor Regulation and Internal Revenue Service Notice 2005-43, issued on May 19, 2005.

(dd) "Safe Harbor Partnership Interest" means an interest in the Company that is issued to a service provider in connection with services provided to the Company during such time as a Safe Harbor Election is in effect.

(ee) "Safe Harbor Regulation" means Proposed Treasury Regulations Section 1.83-3(l), issued on May 19, 2005.

(ff) "Substituted Member" means any Person admitted to the Company with all the rights of a Member pursuant to Article XI of this Operating Agreement.

(gg) "Super Majority in Interest" refers to Member whose Percentage Interests aggregate in excess of seventy-five percent (75%) of the total Percentage Interests held by all of the Member holding Member Governance Rights.

(hh) "Transfer," as a verb, means to sell, exchange, assign or otherwise transfer, mortgage, pledge, hypothecate or otherwise encumber property, whether voluntarily or involuntarily, by operation of law, order of any court, contract, gift, will, intestacy, Financial Insolvency, division of property in the context of a divorce or separation proceeding, or otherwise, and as a noun, the act of doing so.

(ii) "URULLCA" means the Utah Revised Uniform Limited Liability Company Act (Utah Code Ann. § 48-3a-101 *et seq.*), and all references to specific sections thereof shall include any amended or successor provisions thereto.

ARTICLE II

FORMATION AND NAME; PRINCIPAL PLACE OF BUSINESS; TERM

2.1 Formation and Name. The Member has previously formed a limited liability company under the name of Cherry Creek Properties, LLC, by the filing of a Certificate of Organization pursuant to the provisions of URULLCA. The Member desire to govern the affairs of the Company by entering into this Operating Agreement. The rights and liabilities of the Member shall be determined pursuant to URULLCA and this Agreement. To the extent that the rights or obligations of the Member or a Manager are different by reason of any provision of this Agreement than they would be in the absence of such provision, then this Agreement shall, to the extent permitted by the URULLCA, control. Any action taken prior to the execution of this Agreement in connection therewith by the Member is hereby ratified and confirmed.

2.2 Principal Office. The principal office of the Company is 1516 E. Cherry Creek Ln DRAPER, UT 84020 The Manager may at any time change the principal office of the Company.

2.3 Registered Office and Registered Agent. The Company's registered office shall be at 1516 E. Cherry Creek Ln Draper, UT 84092, and the name of its initial noncommercial registered agent appointed pursuant to the Utah Model Registered Agents Act, Title 16, Chapter 17 of the Utah Code Annotated, as amended, at such address shall be Troy Dana. The Manager may change the registered office and/or the registered agent from time to time.

2.4 Term of the Company. The term of the Company commenced on the filing of the Certificate of Organization and shall continue in existence in perpetuity, unless earlier terminated by law or as hereinafter provided.

ARTICLE III

PURPOSES AND POWERS OF THE COMPANY

The Company is organized for any and all lawful purposes for which companies may be organized pursuant to the URULLCA, including but not limited to the acquisition, ownership, development, construction, management, sale, lease, exchange, and all other modes of dealing with the Project and all other forms of real and personal property, tangible and intangible, wherever located. The Company shall have and may exercise all powers necessary to the accomplishment of its purposes without the necessity of their specific enumeration herein.

ARTICLE IV

TAX AND ACCOUNTING MATTERS

4.1 Characterization as a Partnership. It is the intent of the Member that the Company be classified as a partnership for Federal and state income tax purposes. Accordingly, this Operating Agreement is written and shall be construed in a manner consistent with such intent and the Manager shall take no action inconsistent with such intent.

4.2 Fiscal Year. The Fiscal Year of the Company shall end on the last day of December of each year.

4.3 Accounting Method. The Company books of account shall be maintained and its income, gains, losses, deductions and credits shall be reported, for both financial and tax accounting purposes, on the cash basis method of accounting, applied consistently and in accordance with sound cash basis accounting principles. The Manager may at any time change the financial and tax accounting method of the Company, subject to any applicable limitation of law or regulation.

4.4 Tax Information. As soon as reasonably practicable after the end of the Company Fiscal Year, the Manager shall cause each Member to be furnished with a

Schedule K-1 for such year and any other schedule or statement required by Federal income tax law.

4.5 Tax Elections; Safe Harbor Election. The Manager in its discretion may make any and all tax elections available to the Company, including without limitation the election provided for in IRC Section 754. Further, the Member agree that, in the event the Safe Harbor Regulation is finalized, the Company shall be authorized and directed to make the Safe Harbor Election and the Company and each Member (including any Member to whom an interest in the Company is issued in connection with the performance of services) agrees to comply with all requirements of the Safe Harbor with respect to all interests in the Company issued in connection with the performance of services during such time as a Safe Harbor Election is in effect. In the event the Safe Harbor Regulation is finalized, the Tax Matters Partner shall be authorized to and shall prepare, execute and file the Safe Harbor Election.

4.6 Tax Matters Partner. The Manager shall be the Tax Matters Partner ("TMP") of the Company as such term is defined in IRC Section 6231(a)(7).

ARTICLE V

CAPITAL STRUCTURE; CAPITAL CONTRIBUTIONS; LOANS

5.1 Capital Contributions. The Member acknowledge that the Class B Member shall make capital contributions to the Company of cash as follows:

<u>Name</u>	<u>Capital Contribution</u>
Troy Dana	\$ <u>100.00</u>

The Class A Member may make from time to time such capital contributions to the Company upon request of the Managers.

5.2 Additional Capital Needs.

(a) Except as otherwise set forth in subsection (b) below, no Member shall be obligated to make any additional contributions of capital or loans to the Company without such Member's consent. However, Member may make additional capital contributions to the Company with the approval of the Manager. Further, in the event the Company has insufficient capital for its needs, it may raise additional capital by borrowing from Member or third parties on such commercially reasonable terms and conditions as the Manager and Member

shall agree upon. If it is necessary to offer and issue additional equity interests in the Company to Member or third parties on such reasonable terms and conditions as the Manager and Member shall agree upon, then the Class B Equity will be diluted equally.

(b) Notwithstanding anything in subsection (a) above to the contrary, in the event the Company has insufficient capital for its needs, the Managers may issue a call for additional capital.

In the event that a Member or Member (each, a "Non-Contributing Member") fail to make such additional capital contributions to the Company pursuant to the capital call within ninety (90) days following the Capital Call Date (the "Capital Call Grace Period"), then in such event:

(i) any Member who has made a capital contribution in response to such capital call prior to the expiration of the Capital Call Grace Period in excess of such Member's pro rata share of additional capital shall be deemed to have made a loan to the Company which shall bear interest on such excess amount at the rate of six percent (6%) per annum and which shall be repaid prior to any distributions of Net Cash Flow under Section 8.1 below; and

(ii) such failure to make the required capital contribution shall be deemed to be a "Buy-Out Event" pursuant to Section 13.1 below.

In the event that the Non-Contributing Member desires to make the capital contribution following the expiration of the Capital Call Grace Period, such Member may do so upon the approval of the Manager, provided that such contribution also includes (without any associated capital account credit) an amount equal to the interest earned by any Member pursuant to subparagraph (i) above as a result of such Non-Contributing Member's failure to make a capital contribution on a timely basis. Furthermore, if a capital contribution is made pursuant to the previous sentence, then (1) the loan made by a Member pursuant to subparagraph (i) above shall be promptly repaid to such Member, and (2) the Buy-Out Event provided in subparagraph (iii) above shall be terminated.

5.3 Return of Capital. No Member shall be entitled to the return of its capital contribution to the Company except as specifically provided in this Agreement.

5.4 Interest on Contributions. No interest shall accrue or be paid to any Member on the balance in the Capital Account.

ARTICLE VI

CAPITAL ACCOUNTS

A separate Capital Account shall be maintained for each Member. In general, a Member's Capital Account shall be credited in the amount of such Member's

contributions to capital and such Member's share of the Profits of the Company and shall be debited in the amount of any distributions of capital to such Member and such Member's share of the Losses of the Company, in accordance with IRC Section 704(b) and the Regulations promulgated thereunder, as more particularly set forth in the Capital Accounting and Tax Addendum attached hereto and made a part hereof by this reference.

ARTICLE VII

ALLOCATION OF PROFITS AND LOSSES

7.1 Allocation of Profits. Subject to the special tax allocation rules set forth in the Capital Accounting and Tax Addendum attached hereto and made a part hereof by this reference, Profits for any Fiscal Year shall be allocated to the Member equally based on their ownership.

7.2 Allocation of Losses. Subject to the special tax allocation rules set forth in the Capital Accounting and Tax Addendum attached hereto, Losses for any Fiscal Year shall be allocated to the Member for both financial and tax accounting and reporting purposes as follows:

(a) First, to the Member in the same proportion as under Section 7.1(c) above until the aggregate Losses allocated to the Member for the current Fiscal Year and all previous Fiscal Years pursuant to this Section 7.2(a) is equal to the aggregate Profits allocated to the Member under Section 7.1(c) above for all previous Fiscal Years;

(b) Second, to the Member in proportion to their respective Capital Account balances as of the end of the current Fiscal Year until their Capital Account balances have been reduced to zero; and

(c) Third, to those Member who bear the risk of loss with respect to Company debt in proportion to the manner in which they share that risk.

7.3 Allocations in the Event of Transfer or Liquidation. In the event of the transfer or Liquidation of a Member's entire interest in the Company, such Member's allocable share of Profits, Losses and any specially allocated items pursuant to the Addendum for the current taxable year of the Company through the date of transfer or Liquidation shall be calculated on the basis of an interim closing of the Company books as of such date, unless the parties otherwise agree in writing to calculate the same on the basis of a daily proration through such date of Profits, Losses and any specially allocated items for the entire year.

ARTICLE VIII

NET CASH FLOW AND DISTRIBUTIONS

8.1 Distribution of Net Cash Flow. The Net Cash Flow of the Company shall be distributed to the Member, equally based on their ownership, at such times as the Manager may in its discretion deem advisable

Notwithstanding the above, to the extent not already distributed to a Member pursuant to Sections 8.1(a) or 8.1(b) above, there shall always be a minimum distribution for each Fiscal Year of the Company of cash in a sufficient amount to cover the Federal and state income tax liability of the Member attributable to their share of Profits under Section 7.1 above for such Fiscal Year, based on the highest combined Federal and state marginal tax bracket of any Member.

Furthermore, notwithstanding anything to the contrary in Article VII above, the Manager, with permission of the Member, shall have the right to make any allocations of Profits and Losses that Manager determines in its business judgment are fair and equitable to the Member, considering the distributions of Net Cash Flow to the Member under this Section 8.1, so long as such allocations made by the Manager have substantial economic effect under Section 704 of the IRC.

8.2 Distribution Upon Termination. Notwithstanding the foregoing, liquidating distributions in the event of Liquidation of the Company shall be made in accordance with the Member's respective final positive Capital Account balances, as set forth in Section 14.4, below.

8.3 Amounts Withheld. The Company is authorized to withhold from payments, distributions, or with respect to allocations, to the Member and to pay over to any federal, state, or local government any amounts required to be so withheld pursuant to the I.R.C. or any provisions of any other federal, state or local tax Law. All amounts so withheld with respect to any payment, distribution or allocation to the Member shall be treated as amounts paid or distributed to the Member pursuant to this Article 8 for all purposes under this Operating Agreement.

ARTICLE IX

RIGHTS AND DUTIES OF THE MANAGERS

9.1 Management. The management of the Company shall be vested in those Persons designated by the Member as Manager (the "Manager"). The Manager of the Company shall be Troy Dana. The Manager shall direct, manage and control the business of the Company and shall have full and complete authority, power and discretion to make any and all decisions and to do any and all things which the Managers shall deem to be reasonably required in light of the Company's business and objectives, without the necessity of their specific enumeration herein. The Manager will

have the authority to make the final decision as it pertains to capital, equity, and day to day management of the company. Notwithstanding the foregoing, the following actions relating to the Company shall not be taken by a single Manager rather a unanimous decision between the managers:

(a) To sell, transfer, exchange, convey or otherwise dispose of all or substantially all of the assets of the Company, other than in the ordinary course of the business of the Company;

(b) To purchase, acquire, or joint venture, or enter into any contract or similar instrument or document relating to the purchase, acquisition, or joint venture, of any rights in real property or appurtenances thereto, excluding the Project;

(c) To mortgage, pledge, hypothecate, or otherwise encumber in any manner, or permit any encumbrances with respect to all or a portion of real property owned by the Company, outside of the ordinary course of business;

(d) To approve any promissory notes, mortgages, deeds of trust, security agreements, financing statements, any guarantees of indebtedness, and other similar documents, on behalf of the Company, outside of the ordinary course of business;

(e) a transaction involving a conflict of interest between the Manager and the Company; and.

(f) To enter into a contract for the management of the project after completion of construction.

9.2 Tenure and Succession. The Managers shall serve as the Managers of the Company until its resignation, removal, or Financial Insolvency, in which event a Majority in Interest of the Member shall elect a successor Manager or Managers. Each Manager will act as if it were one individual. Majority vote as Managers will decide all final decisions.

9.3 Duties and Powers of the Managers. The Managers shall have all powers necessary to conduct the business of the Company without the need for specifically setting them forth herein. Unless authorized to do so by this Operating Agreement or by the Manager, no Member, agent or employee of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable peculiarly for any purpose.

9.4 Liability for Certain Acts. The Managers shall exercise business judgment in managing the business, operations and affairs of the Company. Unless fraud, gross negligence or willful misconduct shall be proven by a court order, judgment, decree or decision which has become final, the Managers shall not be liable or obligated to the

Company or the Member for any mistake of fact or judgment or for the doing or failure to do of any act in conducting the business, operations and affairs of the Company which causes or results in any loss or damage to the Company or its Member.

9.5 Time Devoted to Company; Conflicts. It is understood and agreed that the Managers are free to devote less than their full time to the business of the Company and may engage in any other business or activity whatsoever. Neither the Company nor any Member shall have any right, by virtue of this Operating Agreement, to share or participate in such other investments or activities of the Managers or in the income or proceeds derived therefrom.

9.6 Indemnification. The Company shall indemnify any Person who is made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that such Person is or was a Manager or Member, against costs and expenses, including attorneys' fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by the Manager or Member in connection with the action, suit or proceeding if such Person acted in good faith and in a manner such Person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that such Person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that such Manager or Member (a) did not act in good faith and in a manner which such Person reasonably believed to be in or not opposed to the best interests of the Company, and (b) with respect to any criminal action or proceeding, had reasonable cause to believe that such Person's conduct was unlawful.

9.7 Resignation. A Person serving as a Manager may resign at any time by giving written notice to the Member of the Company. The resignation of a Manager shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

9.8 Compensation. Any compensation to the Member will be decided by the Managers unanimously.

9.9 Dealings with Affiliates. The Company may enter in to a business and contractual relationships of any kind with affiliated entities, provided that the terms of such relationships are commercially reasonable and satisfy arm's length standards.

9.10 Removal. At a meeting called expressly for that purpose, the Managers may be removed by the affirmative vote of a Super Majority in Interest of the Member, provided that any such removal shall be restricted to removal "for cause". For purposes of this Section, "for cause" shall (a) be defined as (i) conviction of a felony as adjudicated by a court of competent jurisdiction by the Manager, (ii) an intentional and willful act of fraud, embezzlement, theft or any other material violation of law by the

Manager that occurs in the course of the performance of Manager's duties under this Agreement, (iii) intentional and willful damage to the Company's assets by the Manager, (iv) material breach of the Manager's obligations under this Agreement by the Manager following notice and a reasonable opportunity to cure such breach, (v) the death, Legal Incompetency, withdrawal, resignation, expulsion or dissolution of the two Managers or the sale or transfer of all of the membership interests held by the Managers or entities owned by the Managers; or (vi) the Transfer by the Manager of all or any portion of its membership interest except upon the admission of Additional Member as contemplated in Article XI below, and (b) specifically does not include a failure to meet any expected financial projections, profits estimates, or budgets.

ARTICLE X

RIGHTS AND OBLIGATIONS OF MEMBER

10.1 Limitation of Liability. No Member shall be personally liable for any debts, obligations, liabilities or losses of the Company, regardless of the particular nature or source thereof, except as otherwise provided in section 48-2c-603 of the URULLCA. For the avoidance of doubt, except to the extent required by section 48-2c-603 of the URULLCA, a Member has no liability to return to the Company any distribution to which the Member is legally entitled, regardless of the Company's inability to discharge its obligations to its creditors.

10.2 Company Books. The Managers shall maintain and preserve at the Company's principal place of business, during the term of the Company and for six (6) years thereafter, all accounts, books, and other documents and records, including those required to be maintained by the URULLCA. Upon reasonable request, each Member shall have the right, during ordinary business hours, to inspect and copy such Company documents at the Member's expense.

10.3 Priority and Return of Capital. Except as otherwise provided in this Agreement, no Member shall have priority over any other Member, either as to the return of capital contributions or as to distributions; provided that this Section shall not apply to loans (as distinguished from capital contributions) which a Member has made to the Company.

10.4 Withdrawal by a Member. No Member shall have the right under this Operating Agreement to unilaterally withdraw from the Company or to require that his or her interest in the Company be redeemed, in whole or in part.

10.5 Negation of Fiduciary Duty. A Member who is not also a Manager owes no fiduciary duties to the Company or to the other Member solely by reason of being a Member.

ARTICLE XI

ADMISSION OF NEW MEMBER

No Person shall be admitted to the Company as an Additional or Substituted Member without the express, written consent of the Managers and a Majority in Interest of the Member. An Additional or Substituted Member shall execute and deliver all documents necessary to reflect such Member's admission to the Company and such Member's agreement to be bound by the terms and conditions of this Operating Agreement. An Additional or Substituted Member shall thereupon be entitled to all of the rights and be subject to all of the duties and liabilities of membership in the Company. This Operating Agreement shall be amended as necessary to conform to the changed conditions of the Company.

ARTICLE XII

TRANSFER OF MEMBER'S INTEREST

12.1 Transferability of Interest. Subject to Section 13.1 below, a Member shall be free to Transfer all or any portion of such Member's interest in the Company at any time to any Person or Entity on any terms and conditions, except as follows:

(a) Certain Transfers are subject to the right of first refusal set forth in Section 12.2 below.

(b) Also, no Transfer otherwise permitted hereunder may be made if, in the opinion of counsel for the Company, such Transfer, when added to the total of all other interests in the Company transferred within the period of twelve (12) consecutive months prior to the proposed date of Transfer, would result in the termination of the Company for tax purposes under IRC Section 708, unless such Transfer is specifically consented to by the Manager and a Majority in Interest of the Class A Member (other than the transferring Member).

12.2 Right of First Refusal. In the event a Member receives a bona fide written offer to purchase all or any portion of such Member's interest in the Company from a third party which such Member desires to accept, he may do so, provided that such Member first offers to sell such Member's interest, or portion thereof, to the Company in the manner set forth below on the same terms and conditions as offered by the third party by delivering a copy of said third party offer to the Manager (with a cash equivalent value being substituted for any non-cash consideration contained in said third party offer). If the Member proposes to gift all or any portion of such Member's interest in the Company to a person outside such Member's Family, such Member shall give notice of same to the Manager, which notice shall be treated as the equivalent of an offer to sell such interest to the Company for the value and on the terms determined under Sections 13.2 and 13.3 below.

The Manager shall then have sixty (60) days in which to accept said offer in full on behalf of the Company on the terms and conditions set forth in said offer. If the Manager declines to accept said offer, the Manager shall assign the offer to those Member who desire to accept it, pro rata in proportion to such Member's Percentage Interests as of the date of the notice received by the Manager, or as such Member may otherwise agree among themselves, but such assignment shall not extend the sixty (60) day period for acceptance. Acceptance shall be in writing delivered to the transferring Member.

If the Manager and Member decline to accept said offer or otherwise waive their rights hereunder, the transferring Member shall be free to accept the offer of purchase from said third party, provided he does so within thirty (30) days after the earlier of the end of the sixty (60) day period or receipt of such waiver and provided he consummates the sale of his interest, or portion thereof, without any material variation in the terms and conditions stated in said offer. If the thirty (30) day period for acceptance expires or if such Member desires to materially vary any of the terms and conditions of the offer, he must follow the procedure set forth above as if he were receiving a new offer of purchase.

Notwithstanding the foregoing, the following Transfers shall not be subject to the above right of first refusal:

(a) A lifetime or testamentary Transfer, whether by sale or by gift, by any Member of all or any portion of such Member's interest in the Company to or for the benefit of such Member's Family, or trust or other Entity for the benefit of such Family (an "Intrafamily Transfer").

(b) A distribution, termination, merger, consolidation or transfer of substantially all the assets of said Member, or other reorganization of said Member constituting a mere change in the form of doing business or of holding property, provided said Member or the persons formerly in control of said Member own the transferred interest in the Company directly or own the controlling interest in the new or surviving Entity. By "control" is meant in excess of 50% of the voting interests.

12.3 Effect of Transfer; Status of Transferee. The Transfer of any interest in the Company, voluntary or involuntary, permissible or impermissible, if effective at all, shall be effective only to Transfer the transferring Member's economic rights in such interest and not to Transfer such Member's voting, management and other rights of ownership with respect to such interest; provided, that with respect to any Intrafamily Transfer, the transferor may confer the status of Member on such transferee upon written notice to the Manager. Accordingly, any transferee of such interest shall have the status of a mere assignee under the URULLCA and shall not be entitled to become, nor to exercise any of the rights of, a Member in the Company unless and until such transferee is admitted as a Substituted Member in accordance with Article XI above. In any event, the transferee shall be subject to all the obligations of Member hereunder

and the transferring Member shall cease to have any rights at all with respect to the transferred interest.

12.4 Transferring Member's Capital Account Balance. Subject to Section 7.3 above, that portion of the Capital Account balance of a Member who Transfers all or any portion of such Member's interest in the Company, as permitted hereunder, which is attributable to such transferred interest, shall carry over to the transferee as set forth in Regulations Section 1.704-1(b)(2)(iv)(I).

12.5 Internal Revenue Service Reporting Requirements. In the event of a sale or exchange of an interest in the Company, the Member shall comply with the reporting requirements of IRC Section 6050K.

ARTICLE XIII

BUY-OUT OF MEMBER'S INTEREST

13.1 Buy-Out Upon Certain Events. Upon receiving notice of the occurrence of a Buy-Out Event (defined below), the Company shall have one hundred twenty (120) days in which it may exercise an option to purchase the entire interest in the Company of the Member to whom or by whom the Buy-Out Event has occurred (the "Liquidating Member"). The Manager in its sole discretion shall determine whether or not to exercise such option.

A "Buy-Out Event" shall consist of any of the following events or circumstances:

- (a) the Legal Incompetency or Divorce of a Member;
- (b) the Financial Insolvency of a Member;
- (c) the breach by a Member of any material term or provision of this Agreement, which breach remains uncured after reasonable notice and opportunity to cure; or
- (d) as further set forth in Section 5.2(b)(ii) above, the failure of a Member to make a capital contribution pursuant to a capital call as provided herein.

For purposes of this Article XIII, the Buy-Out Events described in subsections (b), (c) or (d) above shall be referred to herein collectively as "For Cause Buy-Out Events." Exercise of said option by the Company shall be made by giving written notice thereof to the Liquidating Member or the personal representative, trustee or other successor-in-interest of the Liquidating Member, effective as of the date of notice of such election. Valuation of the interest in the Company of the Liquidating Member shall then take place pursuant to Section 13.2, below and payment for such interest shall take place pursuant to Section 13.3 below.

13.2 Valuation of Liquidating Member's Interest. The interest in the Company of a Liquidating Member shall be valued as follows:

(a) Negotiation to Determine Valuation. The Manager and the Liquidating Member or the personal representative, trustee or other successor-in-interest of the Liquidating Member shall promptly commence negotiations to establish the fair market value of the Liquidating Member's interest in the Company. Value shall be determined as of the date of the election to buy out the interest of the Liquidating Member. Negotiations shall continue as long as required, provided that if an agreement is not reached within ninety (90) days after the date of the election to buy out the interest of the Liquidating Member or if negotiations break down prior to such time, either party may terminate the negotiations and require the valuation to be submitted to appraisal, as provided in the following subsection.

(b) Appraisal to Determine Valuation. If the parties are unable to reach agreement through negotiations between themselves, they shall submit the valuation to appraisal. In that event, unless the parties agree on a different appraisal procedure, the fair market value of the Liquidating Member's interest in the Company shall be determined as follows. The parties shall promptly select a mutually agreed upon appraiser qualified by appropriate licensure or certification to conduct appraisals of interests in a limited liability company, taking into consideration the nature of the assets owned and business conducted by the Company, and such appraiser shall then determine the fair market value using the calculations set forth above. In the event the parties cannot agree upon a mutually acceptable appraiser, each of the parties shall then select an appraiser, and these two appraisers shall select a third appraiser and this third appraiser shall determine the fair market value of the Liquidating Member's interest in the Company by taking into consideration the calculations set forth above. Each party shall bear the cost of the appraiser chosen by it and the parties shall split the cost of the third appraiser.

(c) Method of Valuation and Discounts. The value of the Liquidating Member's interest in the Company, whether determined by negotiation or appraisal, shall be arrived at by first determining the value of the Company as a whole by reference to such financial data and the use of such valuation methods as are appropriate and then, in the case of For Cause Buy-Out Events only, applying appropriate discounts with respect to the interest of the Liquidating Member to take into account, to the extent applicable, minority interest, nonmarket ability of interest and other similar factors which would affect the value of the Liquidating Member's interest.

(d) No Payment for Good Will. With respect to For Cause Buy-Out Events only, no portion of the value of the Liquidating Member's interest in the Company, as determined under Section 13.2(a) or (b) above, shall be allocated to good will.

13.3 Payment Schedule. Payment for the interest in the Company of a Liquidating Member, as valued under Section 13.2 above, may be made by the Company over a period of up to two (2) years in equal monthly, quarterly or annual installments of principal, together with accrued interest from the effective date of the buy-out or redemption. The unpaid balance of the purchase price shall bear interest at the Prime Rate as quoted by the Wall Street Journal at the time of the exercise of the option (except that no interest shall be payable to a Liquidating Member in the event of a For Cause Buy-Out Event). The unpaid balance of the purchase price shall be secured by a pledge of the Liquidating Member's interest in the Company being purchased. The Company shall have the right to prepay all or any portion of such obligation at any time without notice or penalty. In the event the Company terminates under Article XIV, below, prior to the payment in full by the Company of the foregoing obligation, the entire remaining balance of principal and accrued interest shall be immediately due and payable by the Company, as set forth in Section 14.3 below.

ARTICLE XIV

DISSOLUTION AND TERMINATION

14.1 Dissolution and Continuation. The Company may be dissolved upon the Managers approval.

14.2 Winding Up the Company. Upon dissolution of the Company, the Manager shall immediately commence to wind up the affairs of the Company and shall engage in an orderly disposition of its assets, if any, where such can be done at a fair value (except to the extent the Manager may determine to distribute any assets to the Member in kind). The items comprising the Profits or Losses of the Company, as the case may be, as well as any specially allocated items for the Fiscal Year in which the Company is terminated, shall continue to be allocated to the Member or their representatives and be credited or charged to their respective Capital Accounts in accordance with Articles VI and VII, above. Further, the Capital Accounts of the Member or their representatives shall be adjusted as required by Paragraph B.2(c) of the Addendum attached hereto.

14.3 Distribution of Liquidation Proceeds. Pursuant to the winding up of the Company's affairs, the Company assets and the proceeds from the disposition of Company assets shall be applied in order of priority as follows:

- (a) First, to creditors of the Company;
- (b) Second, to Member up to an amount equal to the final positive balances in their respective Capital Accounts (after the allocation of all Profits, Losses and specially allocated items); and
- (c) Third, to Member in proportion to their Percentage Interests, to the extent of any remaining proceeds.

Each Member shall look solely to the assets of the Company for the return of such Member's investment in the Company, and if such assets or the proceeds from the liquidation of such assets are insufficient to return said investment, such Member shall have no recourse against any other Member. Liquidating distributions to Member shall be made by the later of (i) the end of the Company taxable year in which Liquidation occurs, or (ii) ninety (90) days after Liquidation.

14.4 Return of Capital Contributions. A Member shall not be entitled to the return of specific property contributed to the Company nor to any payments in liquidation of such Member's interest in the Company other than in cash.

14.5 Negative Capital Account Balance. A negative balance in any Member's Capital Account which exists upon termination of the Company (after the allocation of all Profits and Losses through termination) shall not constitute a debt or liability of such Member to the Company, to any creditor of the Company, to any other Member, or to any other Person for any purpose whatsoever, and such Member shall have no obligation to make any additional capital contribution to the Company by reason of such negative balance.

14.6 State Law Compliance. The Manager shall take all steps which are required by the URULLCA to complete the dissolution of the Company.

ARTICLE XV

MEMBER REPRESENTATIONS

15.1 Representations. Each Member represents to the Company, the Managers and the other Member that:

(a) The Member has received and read or reviewed and is familiar with and understands this Agreement and the other information delivered to the Member, and the Member confirms that all documents, records and books pertaining to the investment and participation in the Company and requested by them have been made available or delivered to them. The Member is experienced in ownership and investment in real estate and is sophisticated in analyzing such endeavors or has obtained the assistance of an advisor or advisors who possess such expertise.

(b) The Member has had an opportunity to ask questions of and receive answers from the Company, or a person or persons acting on the Company's behalf, concerning the terms and conditions of their participation and investment in the Company, and to obtain any additional information necessary to verify the accuracy of the information delivered to the Member. The Company has responded to all questions and inquiries that the Member has made.

(c) The Member understands that the membership interests in the Company have not been and will not be registered under the Securities Act or any state securities laws, but, if deemed to be securities, are being sold and acquired in reliance on exemptions for private offerings under the Securities Act and such state laws and the Member further understands that the Member is purchasing its interests in the Company without being furnished any offering literature or prospectus other than the information delivered by the Company.

(d) The Member's interest in the Company is being acquired solely for the Member's own account; for investment and is not being purchased with a view to or for the resale or distribution of such interests within the meaning of the Securities Act, or subdivision or fractionalization thereof; and the Member has not entered into and has no present plans to enter into any contract, undertaking, agreement or arrangement for the sale or further distribution of the interests. The Member did not receive an offer to acquire its interest by any form of general solicitation or advertising. The Member agrees that the Company will have no obligation to recognize the ownership, beneficial or otherwise, of such interests by anyone other than the Member.

15.2 Project Risks. Member acknowledges and understands the following with respect its interest in the Company:

(a) The Company is a newly organized entity and faces all of the risks of a start-up business. The Company has no history of operations or earnings. There is no assurance that the operations of the Company will be profitable or that any investment in the Company will be recouped. The Member understands that there are substantial risks associated with purchase of a membership interest in the Company, including, without limitation, the risk of loss of its investment and/or return thereon, adverse effects on its investment resulting from cost overruns, market changes, natural disasters, shortages of materials or contractors, failures of subcontractors, adverse weather conditions, changes in market demand, fluctuations in interest rates, increased competition, outcome of any pending litigation, inability to obtain desired zoning changes and/or governmental approvals of the Project, and other matters. The Member has evaluated and accepted such risks.

(b) Unless otherwise agreed by the Member, the Company will have no assets other than its property and will be totally dependent upon such property's successful operation.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

16.1 Amendments. This Operating Agreement may be amended, or amended and restated, at any time upon the affirmative vote of the Manager and a Super Majority

in Interest of the Member; provided, however, the Manager may make technical amendments to the Operating Agreement at any time which do not affect the economic interests of the Member as necessary in order to maintain the Operating Agreement in compliance with applicable tax and limited liability company law.

16.2 Notices. Except as otherwise provided herein, any notice, election, or communication required or permitted to be given by any provision of this Operating Agreement shall be in writing and shall be deemed to have been sufficiently given or served for all purposes if delivered personally to the party or to an executive officer of the party to whom the same is directed or three (3) days after being sent by United States mail, certified or registered mail, postage prepaid, addressed to such party's address set forth in the records of the Company. Any such address may be changed by notice given in the above manner.

16.3 Governing Law. This Operating Agreement is entered into under and shall be governed by the laws of the State of Utah.

16.4 Construction. Whenever the singular number is used in this Operating Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa.

16.5 Headings. The headings in this Operating Agreement are inserted for convenience only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Operating Agreement or any provision hereof.

16.6 Binding Effect. Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Operating Agreement, their respective heirs, legal representatives, successors and assigns.

16.7 Counterparts. This Operating Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

16.8 Enforcement. In the event of a breach or dispute arising under this Operating Agreement, the nonbreaching party or the party prevailing in such dispute shall be entitled to recover its costs, including without limitation reasonable attorneys' fees and court costs, from the breaching or nonprevailing party.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, this Operating Agreement has been executed as of the date hereinabove first written by the following Member, whose respective mailing addresses are set forth opposite their signatures, and acknowledged and consented to by the Manager. By their signatures below said Member and Manager do hereby affirm that they have read the foregoing Operating Agreement and are familiar with its contents and they do hereby verify the truthfulness thereof.

Mailing Addresses:

MEMBER:

Troy Dana

, an Individual

DocuSigned by:

Troy Dana

By: _____

Name: _____

Its: _____

Manager

CONSENT BY MANAGERS:

Troy Dana

DocuSigned by:

Troy Dana

By: _____

Name: _____

Its: Manager

1516 E. Cherry Creek Ln
Draper, UT 84020

CAPITAL ACCOUNTING AND TAX ADDENDUM

A. DEFINITIONS

The following additional definitions are supplied for purposes of this Addendum:

(a) "Adjusted Capital Account" means a Member's Capital Account as of the end of any fiscal year, increased by the amount of any deficit balance in such Member's Capital Account which such Member is unconditionally obligated to restore to such Member's Capital Account, or is deemed obligated to restore pursuant to the penultimate sentence of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), and decreased by the items described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6). The foregoing definition of Adjusted Capital Account is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(b) "Adjusted Tax Basis" means the adjusted tax basis of property for Federal income tax accounting purposes.

(c) "Book Depreciation" means for each Company Fiscal Year or other period, an amount equal to the Tax Depreciation for such year or other period, except that if the Book Value of an asset differs from its adjusted tax basis at the beginning of such year or other period, Book Depreciation shall be an amount which bears the same relationship to such beginning Book Value as the Tax Depreciation for such year or other period bears to such beginning Adjusted Tax Basis; provided, however, that if the Tax Depreciation for such year is zero, Book Depreciation shall be determined with reference to such beginning Book Value using any reasonable method selected by the Manager. The foregoing definition of Book Depreciation is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(iv)(g)(3) and shall be interpreted consistently herewith.

(d) "Book Value" means the value of property as reflected on the books of the Company in accordance with Paragraph B.2 of this Addendum.

(e) "Fair Market Value" means the fair market value of property, unreduced by any liabilities secured by such property. For the purpose of applying the capital accounting rules set forth in Paragraphs B.1(b) and B.1(g) of this Addendum and for purposes of Paragraph B.2(a) of this Addendum, such fair market value shall be determined without regard to the amount of any nonrecourse indebtedness secured by such property, in accordance with IRC Section 752(c). For all other purposes and provisions of this Operating Agreement, such fair market value shall be deemed to be no less than the amount of any nonrecourse indebtedness secured by such property, in accordance with IRC Section 7701(g) and Regulations Section 1.704-1(b)(2)(iv)(e)(1).

(f) "Partner Nonrecourse Liability" means any liability to the extent such liability is nonrecourse to the Company and a Member (or related person) bears the economic risk of loss as set forth in Regulations Section 1.704-2(b)(4).

(g) "Partner Nonrecourse Debt Minimum Gain" means the aggregate amount by which Partner Nonrecourse Liabilities, if any, exceed the adjusted tax bases of the Company properties which they encumber, as set forth in Regulations Sections 1.704-2(b)(2) and 1.704-2(i)(2).

(h) "Partner Nonrecourse Deductions" means items of loss, deduction or IRC Section 705(a)(2)(B) expenditures that are attributable to a Partner Nonrecourse Liability, as set forth in Regulations Section 1.704-2(i)(1). The amount of Partner Nonrecourse Deductions for a Company fiscal year equals the net increase, if any, in the amount of Partner Nonrecourse Debt Minimum Gain during such fiscal year, reduced (but not below zero) by the distribution of proceeds of any Partner Nonrecourse Liability made during such fiscal year to the Member (or Member) bearing the economic risk of loss for such liability which are both attributable to such liability and allocable to an increase in Partner Nonrecourse Debt Minimum Gain, as set forth in Regulations Section 1.704-2(i)(2).

(i) "Partnership Minimum Gain" means the aggregate amount by which Partnership Nonrecourse Liabilities, if any, exceed the adjusted tax bases of the Company properties which they encumber, as set forth in Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

(j) "Partnership Nonrecourse Deductions" means items of loss, deduction or IRC Section 705(a)(2)(B) expenditures that are attributable to Partnership Nonrecourse Liabilities, as set forth in Regulations Section 1.704-2(b)(1). The amount of Partnership Nonrecourse Deductions for a Company fiscal year equals the net increase, if any, in the amount of Partnership Minimum Gain during such fiscal year, reduced (but not below zero) by the aggregate distributions made during such fiscal year of proceeds of any Partnership Nonrecourse Liability which are allocable to an increase in Partnership Minimum Gain, as set forth in Regulations Section 1.704-2(c).

(k) "Partnership Nonrecourse Liability" means any liability that is nonrecourse to the Company as to which no Member (or related person) bears any economic risk of loss as set forth in Regulations Section 1.704-2(b)(3).

(l) "Section 704(c) Property" has the meaning set forth in Paragraph C.1 of this Addendum.

(m) "Tax Depreciation" means for each Company Fiscal Year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period for Federal income tax purposes.

B. CAPITAL ACCOUNT MAINTENANCE RULES

1. Basic Capital Accounting Rules. The Member' Capital Accounts shall be kept in accordance with the following rules. A Member's Capital Account shall be increased by:

(a) the amount of money contributed by such Member to the Company (including the amount of Company liabilities assumed by such Member other than liabilities described in subparagraph (g));

(b) the Fair Market Value of property other than money contributed (or deemed contributed) by such Member to the Company, net of liabilities secured by such property that the Company is considered to assume or take subject to under IRC Section 752;

(c) the amount of Company liabilities which are assumed by such Member (other than liabilities described in subsection (g) below which are assumed by a distributee Member);

(d) such Member's allocable share of the Profits of the Company under Section 7.1 above and of any items of income or gain which are specially allocated pursuant to Paragraph C.2 of this Addendum; and

(e) such Member's allocable share under Paragraph C.1(c) of this Addendum of any gain attributable to Section 704(c) Property, as computed for book purposes;

and shall be decreased by:

(f) the amount of money distributed by the Company to such Member (including the amount of such Member's individual liabilities assumed by the Company other than liabilities described in subparagraph (b));

(g) the Fair Market Value of property other than money distributed (or deemed distributed) by the Company to such Member, net of liabilities secured by such property that such Member is considered to assume or take subject to under IRC Section 752;

(h) the amount of such Member's individual liabilities which are assumed by the Company (other than liabilities described in subsection (b) above which are assumed by the Company);

(i) such Member's allocable share of the Losses of the Company under Section 7.2 above and of any items of loss or deduction which are specially allocated pursuant to Paragraph C.2 of this Addendum; and

(j) such Member's allocable share under Paragraph C.1(c) of this Addendum of any Book Depreciation or loss attributable to Section 704(c) Property, as computed for book purposes.

The Member' Capital Accounts shall also be debited or credited as provided in Paragraphs B.2(c) and B.2(d) of this Addendum. Also, in determining the amount of any liability for purposes of this provision, there shall be taken into account IRC Section 752(c) and any other applicable provisions of the IRC and Regulations.

2. Valuation of Company Property; Capital Account Adjustments. The Book Value of Company property shall be its Adjusted Tax Basis except in the following instances:

(a) Contributed Property. The Book Value of property contributed (or deemed contributed) to the Company by any Member shall be equal to its Fair Market Value on the date of contribution (or deemed contribution).

(b) Distributed Property. The Book Value of property distributed (or deemed distributed) by the Company to any Member, whether in connection with the Liquidation of the Company or otherwise, shall be increased or decreased, as the case may be, to equal its Fair Market Value on the date of distribution (or deemed distribution), and the Capital Accounts of the Member shall be debited or credited, as the case may be, to reflect the manner in which gain or loss, as computed for book purposes, would be allocated among the Member if there were a taxable disposition of such property for such Fair Market Value.

(c) Other Property at Time of Contribution or Distribution. In connection with either

(i) a contribution (or deemed contribution) of money or other property, including services, to the Company by a new or existing Member in exchange for a new or increased interest in the Company, or

(ii) a distribution (or deemed distribution) of money or other property by the Company to a withdrawing or continuing Member in exchange for all or a portion of such Member's interest in the Company, or

(iii) the Liquidation of the Company,

the Book Values of all Company assets, including good will if applicable, shall be increased or decreased, as the case may be, to equal their respective Fair Market Values on the date of such contribution or distribution (or deemed contribution or distribution), and the Capital Accounts of the Member shall be debited or credited, as the case may be, to reflect the manner in which gain or loss, as computed for book purposes, would be allocated among the Member if there were a taxable disposition of all such assets for such Fair Market Values; provided, however, in the case of Subparagraphs (i) and (ii) hereof, such adjustment need not be made if such contribution or distribution is of a *de*

minimis amount or if the Member reasonably determine that such adjustment is not necessary or appropriate in view of the cost to the Company of making such adjustment as compared with the distortion in the relative economic interests of the Member which would result from not making such adjustment. Paragraphs (a), (b) and (c) hereof are intended to comply with Regulations Section 1.704-1(b)(2)(iv)(d), (e) and (f) and shall be interpreted consistently therewith.

(d) Section 754 Adjustments. The Book Value of an item of Company property shall be increased or decreased, as the case may be, to equal its Adjusted Tax Basis whenever an adjustment to the Adjusted Tax Basis of such item of Company property arises under IRC Sections 732(d), 734 or 743 and such adjustment exceeds the difference between the Book Value of such item of Company property and its Adjusted Tax Basis prior to making such adjustment. Such increase or decrease in Book Value shall then be allocated to the Capital Accounts of the Member in accordance with Regulations Section 1.704-1(b)(2)(iv)(m). This Paragraph shall be applied only after the application of Paragraphs B.2(a), (b) and (c), above.

C. SPECIAL TAX ALLOCATION RULES

1. Special Allocation Rules Where Book Value and Adjusted Tax Basis Are Unequal. Notwithstanding the general allocation rules set forth in Sections 7.1 and 7.2 above, as to property the Book Value of which is different from its Adjusted Tax Basis ("Section 704(c) Property"), the following rules and definitions shall apply:

(a) If the Book Value of property exceeds its Adjusted Tax Basis, such excess shall be referred to as "Built-in Gain." Conversely, if the Adjusted Tax Basis of property exceeds its Book Value, such excess shall be referred to as "Built-in Loss."

(b) Built-in Gain or Built-in Loss may arise as the result of the contribution or deemed contribution of property to the Company by one or more Member (the "Contributing Member") or as the result of the revaluation of existing Company property under Paragraph B.2 of this Addendum. If existing Company property is revalued, the existing Member shall be considered the Contributing Member as to such property. The term Contributing Member shall include successors-in-interest thereto.

(c) Book Depreciation, and gain or loss with respect to Section 704(c) Property as computed for book purposes, shall be allocated to the Member in accordance with the general profit and loss sharing percentages specified in Sections 7.1 and 7.2, above, and the Member's Capital Accounts shall be adjusted accordingly, as set forth in Paragraph B.1 of this Addendum.

(d) Tax Depreciation, and gain or loss with respect to Section 704(c) Property as computed for tax purposes, shall be allocated to the Member in a manner that takes into account the Built-in Gain or Built-in Loss with respect to

such property, in accordance with Section 704(c) of the IRC and equivalent principles, as follows, and such allocations shall not be independently reflected by further adjustments to the Member' Capital Accounts:

(i) With respect to Built-in Gain property, 100% of any tax gain shall be allocated to the Contributing Member in the same proportion as such Built-in Gain has been credited to their respective Capital Accounts; Tax Depreciation shall be allocated to the Member other than the Contributing Member (the "Noncontributing Member") in the same proportion as, but in an amount not to exceed, the Book Depreciation with respect to such property which has been allocated to them under Paragraph C.1(c) of this Addendum; and any excess of such Tax Depreciation over the amount allocated to the Noncontributing Member shall be allocated to the Contributing Member in the same proportion that the Book Depreciation with respect to such property has been allocated to the Contributing Member under Paragraph C.1(c) of this Addendum. These allocations shall continue until the Built-in Gain has been eliminated. Thereafter any Tax Depreciation and gain or loss with respect to such property shall be allocated to the Member pursuant to the general profit and loss allocation provisions of Sections 7.1 and 7.2, above.

(ii) With respect to Built-in Loss property, 100% of any tax loss shall be allocated to the Contributing Member in the same proportion as such Built-in Loss has been charged to their respective Capital Accounts; Tax Depreciation shall be allocated to the Noncontributing Member in the same proportion as, but in an amount not to exceed, the Book Depreciation with respect to such property which has been allocated to them under Paragraph C.1(c) of this Addendum; and any excess of such Tax Depreciation over the amount allocated to the Noncontributing Member shall be allocated to the Contributing Member in the same proportion that the Book Depreciation with respect to such property has been allocated to the Contributing Member under Paragraph C.1(c) of this Addendum. These allocations shall continue until the Built-in Loss has been eliminated. Thereafter any Tax Depreciation and gain or loss with respect to such property shall be allocated to the Member pursuant to the general profit and loss allocation provisions of Sections 7.1 and 7.2, above.

(iii) In the event that the allocation of tax gain, tax loss or Tax Depreciation to the Noncontributing Member under Paragraph C.1(d)(i) or C.1(d)(ii) of this Addendum is limited by application of the "ceiling rule" set forth in Regulations Section 1.704-3(b)(1), the Company may do any of the following:

(A) make reasonable curative allocations of income, gain, loss or deduction with respect to the tax item limited by the ceiling rule, including income from the disposition of contributed or

revalued property, in accordance with the rules set forth in Regulations Section 1.704-3(c); or

(B) make remedial allocations of income, gain, loss or deduction with respect to the tax item limited by the ceiling rule in accordance with the rules set forth in Regulations Section 1.704-3(d); or

(C) if applicable, apply the "small disparity" rules of Regulations Section 1.704-3(e).

The foregoing provision is intended to comply with Regulations Section 1.704-1(b)(2)(iv)(g) and Section 1.704-3(e) and shall be interpreted consistently therewith.

2. Special and Regulatory Allocations.

(a) Partnership Nonrecourse Deductions. Partnership Nonrecourse Deductions for any Company fiscal year shall be allocated among the Member in accordance with the Member's percentage interests in Losses, as set forth in Section 7.2 above. This Paragraph C.2(a) is intended to comply with Regulations Section 1.704-2(e)(2) and shall be interpreted consistently therewith.

(b) Partner Nonrecourse Deductions. Partner Nonrecourse Deductions for any Company fiscal year shall be allocated to the Member who bears the economic risk of loss for the Partner Nonrecourse Liability to which such deductions are attributable, or among all the Member who bear the economic risk of loss for such liability according to the ratio in which they bear such economic risk of loss. This Paragraph C.2(b) is intended to comply with Regulations Section 1.704-2(i)(1) and shall be interpreted consistently therewith.

(c) Partnership Minimum Gain Chargeback. If there is a net decrease in Partnership Minimum Gain during any Company fiscal year, then in that event, prior to the making of any other allocation under either Article VII above or this Addendum, there shall be specially allocated to all Member items of income and gain for such year (and, if necessary, subsequent years) equal to their share of such net decrease in Partnership Minimum Gain within the meaning of Regulations Sections 1.704-2(f)(1) and 1.704-2(g)(2).

(d) Partner Nonrecourse Debt Minimum Gain Chargeback. If there is a net decrease in Partner Nonrecourse Debt Minimum Gain during any Company fiscal year, then in that event, prior to the making of any other allocation under either Article VII above or this Addendum, there shall be specially allocated to all Member with a share of that Partner Nonrecourse Debt Minimum Gain items of income and gain for such year (and, if necessary, subsequent years) equal to their share of such net decrease in Partner Nonrecourse Debt Minimum Gain within the meaning of Regulations Sections 1.704-2(i)(4) and 1.704-2(i)(5).

(e) Qualified Income Offset. Subject to the provisions of Paragraph C.2(a) of this Addendum, in the event a Member unexpectedly receives an adjustment, allocation, or distribution described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) which creates a deficit in such Member's Adjusted Capital Account, items of income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate such deficit as quickly as possible. This Paragraph C.2(b) is intended to comply with the qualified income offset requirement set forth in Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(f) Curative Allocations. The special allocations set forth in Paragraphs C.2(a) through C.2(e) of this Addendum (the "Regulatory Allocations") are intended to comply with certain requirements of Regulations Sections 1.704-1(b) and 1.704-2(b). The Regulatory Allocations shall be taken into account in determining the allocation of Profits and Losses pursuant to Sections 7.1 and 7.2 above so that, to the extent possible without nullifying the Regulatory Allocations, the amount of the allocations of Profits and Losses under Sections 7.1 and 7.2, as adjusted pursuant to this Paragraph C.2(f), and of the Regulatory Allocations, when taken together, shall be equal to the amount of such allocations of Profits and Losses that would have been allocated to the Member under Sections 7.1 and 7.2 if the Regulatory Allocations had not occurred.

3. Allocations to Nonvested Interests. Under Regulations Section 1.83-1(a), the Company is required to treat as unissued any substantially nonvested interest in the Company transferred in connection with the performance of services for which an election under IRC Section 83(b) has not been made. Under Regulations Section 1.704-1(b)(4)(xii)(b), as proposed, allocations of Profits and Losses to the holder of a substantially nonvested interest in the Company with respect to which an election under IRC Section 83(b) has been made will be deemed to be in accordance with the Member's interests in the Company provided that, in the event the interest for which the Section 83(b) election is made is later forfeited, the Company shall make forfeiture allocations to the holder of such interest in the year of forfeiture as provided in Regulations Section 1.704-1(b)(4)(xii)(c), as proposed.

Idaho Department of Water Resources Receipt

Receipt ID: C118954

Payment Amount \$25.00 Date Received 9/26/2024 Region STATE

Payment Type Charge Card

Payer JENSEN, CRYSTAL

Comments CHANGE OF OWNERSHIP
WR # 63-2937
PREVIOUS OWNER'S: KEY BANK OF IDAHO
NEW OWNERS: ELEMENT RIDGE LLC
ORDERID: 67423560
LOCAL REFID: t42sfDwMs0+CHXhi6tl5vw==
TOTAL PAID: \$26.63(FEEs: \$1.63)
AUTH_CODE: 657254
REC DATE: 9/26/2024 08:54:52 AM MDT

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$25.00	OWNERSHIP CHANGES/SECURITY INTERESTS	56140	0229	21		1155

km

Signature Line (Department Representative)



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

September 26, 2024

ELEMENT RIDGE LLC
339 W 13490 S
DRAPER UT 84020-7201

Re: Change in Ownership for Water Right No(s): 63-2937

Dear Water Right Holder(s):

The Department of Water Resources (Department) acknowledges the receipt of correspondence changing ownership of the above referenced water right(s) to you. The Department has modified its records and has enclosed a computer-generated report for you.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing a Notice of Change in Water Right Ownership, the Department does not review the history of water use to determine if the right has been forfeited or deliberately abandoned through five years or more of non-use. To read more about water right forfeiture, including how to protect a water right from forfeiture, please see Idaho Code §§ 42-222 and 42-223.

Please note, water right owners are required to report any change of water right ownership and any change of mailing address to the Department within 120 days of the change. Reporting forms are available from any office of the Department, or from the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 287-4942.

Sincerely,

Jean Hersley
Technical Records Specialist 2

Enclosure(s)

c: HDR Inc



RECEIVED

Sep 25, 2024

DEPARTMENT OF
WATER RESOURCES

September 23, 2024

Scott Storms
IDWR Western Region Office
2735 Airport Way
Boise, ID 83705

Subject: *Notice of Change in Water Right Ownership*

Dear Scott,

Enclosed on behalf of Element Ridge LLC is a *Notice of Change in Water Right Ownership* for water right 63-2937 appurtenant to property Element Ridge now owns. The \$25 filing fee is being paid with credit card upon submittal.

Thank you very much for your consideration and assistance in this matter. Please call me if you have any questions.

Sincerely,

HDR Engineering, Inc.

Lori Graves

Lori Graves
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