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WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
SEP 26 2025
DEPARTMENT OF
WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

GENERAL INFORMATION AND INSTRUCTIONS

Pursuant to Section 42-222(1), *Idaho Code*, a transfer application may be filed to change the point of diversion, place of use, period of use, or nature of use of all or part of an established water right. Any person proposing to make such a change is required to file a transfer application with the Department. "Such application shall be upon forms furnished by the department and shall describe the [water right] to be changed and the changes which are proposed and shall be accompanied by the statutory filing fee." *Idaho Code* § 42-222(1).

The Department has developed this application form to assist applicants in satisfying the requirements of Section 42-222(1). This application form requests information about the applicant's authority to file (Part 1), information about the current elements of the water right(s) to be changed (Part 2), information about the proposed changes (Part 3), information about the validity of the water right(s) and the effects of the proposed changes (Part 4), and confirmation that the information provided is truthful (Part 5).

The applicant or their representative must provide a response for all applicable questions, any additional information required, and the proper filing fee before this application will be considered complete. If an application is incomplete or more information is required, the Department will notify the applicant or representative and allow time for the application to be completed. An application that remains incomplete will be returned to the applicant and the filing fee will be refunded.

An application for transfer is limited to the changes proposed for a single water distribution system. A proposal to change two or more separate water distribution systems, that will remain separate after the transfer, must be filed as separate applications. Applicants may provide additional pages to supplement their responses to the questions posed on this application form. Supplemental forms for listing additional water rights, points of diversion, or places of use can be found on the Department's website (idwr.idaho.gov). If you need assistance understanding the questions on this form, generating current water right reports, determining legal descriptions, or accessing water measurement records feel free to contact the nearest regional office of the Department.

PART 1 – CONTACT INFORMATION, OWNERSHIP RECORDS, AUTHORITY TO FILE

Name(s) of Applicant(s) City of Caldwell

Mailing Address PO Box 1179

Email* rmacdonald@cityofcaldwell.org

Phone 208-455-3000

Name of Representative (if any) HDR

Mailing Address 412 E Parkcenter Blvd, Ste 100, Boise, ID 83706

Email* lori.graves@hdrinc.com

Phone 208-387-7000

*If an email address is provided, Department staff will use email as the primary method for corresponding with the applicant and representative about the application.

A. Representative. If the representative is authorized to sign or amend the application on behalf of the applicant, attach documents confirming that authority. Label documents as Attachment 1A.

B. Current Owner. If the applicant is not the current owner of record for all water rights included in this application, attach documents showing that the applicant has the authority to make the proposed changes. Label documents as Attachment 1B.

C. Updating Ownership Records. Applicants needing to update the ownership records for any of the water rights included in this application must attach documents supporting the ownership change. Such documents must trace ownership of the subject water rights or the current place of use for the subject water rights from the current owner of record for the water rights to the applicant. Label documents as Attachment 1C.

D. Business Entities. If the applicant is a business entity (corporation, LLC, partnership, trust, etc.), is the entity currently registered with the Idaho Secretary of State?

☐ Yes. If this application is signed by someone other than a person listed on the most recent annual report filed with the Idaho Secretary of State, attach documents confirming the authority of the signer to sign on behalf of the business entity. Label documents as Attachment 1D.

☒ No. Attach documents confirming the authority of the signer to sign on behalf of the business entity. Label documents as Attachment 1D.

E. Approval of Irrigation Delivery Entity. Section 42-108, *Idaho Code*, states that a transfer application proposing to change water rights held by an irrigation company or district requires the consent of the irrigation entity. If this application proposes to change water rights held by an irrigation entity, attach a letter of consent from the entity (labeled as Attachment 1E) or have an authorized representative of the entity co-sign the application.

F. Encumbered Properties. If the current place of use for the water rights included in this application is subject to a lien, deed of trust, mortgage, or contract and the application proposes to change the nature of use of the water rights or to move water rights off the current place of use, attach a statement of consent for the change signed by the lien holder, trustee, mortgagor or contract holder. Label documents as Attachment 1F.

G. Legal Access. If the applicant is not the current owner of the proposed point(s) of diversion, conveyance system, or place(s) of use, provide evidence of legal access to the land or infrastructure not owned by the applicant. Label documents as Attachment 1G. For example, an applicant may provide a letter of consent from the owner of the land or conveyance system or may have the owner co-sign the application. For applications proposing to divert water on or convey water across federal land, an applicant is not required to demonstrate legal access to the federal land prior to approval. Instead, if the transfer application is approved, the applicant must obtain access authorization from the relevant federal agency prior to diverting water under the subject water rights.

PART 2 – WATER RIGHTS BEFORE PROPOSED CHANGES

A. Current Water Rights. For each water right proposed to be changed, attach a current water right report obtained from any Department office or from the Department's website (idwr.idaho.gov). Label water right reports as Attachment 2A.

B. Map of Current System. Attach a map of the current point(s) of diversion and place(s) of use for the water rights to be changed. The map should clearly depict the elements of the water rights to be changed. For example, if the application proposes to change the point of diversion for a water right, the map should display the current location of the point of diversion. For irrigation water rights, the map should also identify the location of the irrigated acres to be changed. Label map as Attachment 2B.

C. Current Location of Irrigated Acres. If this application proposes to change the place of use or nature of use for only a portion of an irrigation water right, use the following table to identify the current location of the irrigated acres to be changed. If additional pages are required, label additional pages as Attachment 2C. If this application proposes to change or rearrange the entire place of use for irrigation water right(s), skip to Part 3.

☒ **N/A.** This application does not propose to change the place of use or nature of use of an irrigation water right or this application proposes to change the place of use or nature of use for an entire irrigation right.

Current Location of Irrigated Acres to be Changed

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Irrigated Acres to be Changed: _____

PART 3 – DESCRIPTION OF PROPOSED CHANGES

A. Purpose of Transfer. Section 42-222(1), *Idaho Code*, states that transfer applications may only be filed to change the point of diversion, place of use, period of use, or nature of use of an established water right. Section 42-248(3), *Idaho Code*, authorizes water right ownership changes to be described on a transfer application. Identify the changes proposed in this application:

- | | |
|---|---|
| ☐ Change point(s) of diversion | ☐ Change place of use |
| ☒ Add point(s) of diversion | ☐ Change period of use |
| ☐ Change nature of use | ☐ Update water right ownership records |

B. Proposed Changes. Describe the proposed changes in narrative form:

The City has water rights that authorize total diversion of 45.56 cfs. Based on recent information provided by the the City in pending Transfer Application 89462 proposing the addition of Well 22 to the City municipal system, the City currently has the ability to pump 33.16 cfs of ground water for municipal use. This transfer proposes the addition of Wells 23 & 24 to the City municipal system. Assuming Well 22 proposed in pending transfer 89462 and wells 23 & 24 proposed in this transfer each contribute 1500 to 2000 gpm to the City's municipal system, the City will have the ability to divert their authorized diversion rate for municipal use.

C. Summary of Proposed Changes.

1. Water Rights. Use the following table to list all water rights, or portions thereof, that are proposed to be changed as they would appear after the proposed changes. In the Amount column, list the volume in acre-feet (af) for storage uses or the rate in cubic feet per second (cfs) for all other uses.

All or Part	Right Number	Amount (cfs/af)	Nature of Use	Period of Use	Source
☐ ☐	*			_____ to _____	_____
☐ ☐				_____ to _____	_____
☐ ☐				_____ to _____	_____
☐ ☐				_____ to _____	_____
☐ ☐				_____ to _____	_____
☐ ☐				_____ to _____	_____
☐ ☐				_____ to _____	_____
☐ ☐				_____ to _____	_____
☐ ☐				_____ to _____	_____
☐ ☐				_____ to _____	_____
☐ ☐				_____ to _____	_____

2. Total Amounts. Calculate the total quantity, in cfs or af, of water rights that are proposed to be changed through this application. For an application proposing to only change the place of use for irrigation rights, the total quantity of water is calculated by comparing the current place of use to the proposed place of use, summing the number of acres increased in each legal subdivision, and quantifying the proportional amount of diversion rate for the increased acres. For an application proposing to change or add points of diversion for irrigation or any other beneficial use, the total amount is the total diversion rate for the changed portion of the right.

Total Amount of Water Rights Proposed to be Changed: *8.91 cfs and/or _____ af.

3. Point(s) of Diversion. Use the following table to list all the proposed points of diversion for the water rights to be changed, including any current points of diversion that will continue to be used as part of the proposed water distribution system.

The legal description for the proposed point(s) of diversion must be to the nearest 40-acre subdivision (QQ) or U.S. Government Lot of the Public Land Survey System (PLSS). PLSS information is typically available from USGS topo maps, property deeds, tax bills or various mapping tools on the Department's website.

For points of diversion within platted subdivisions, list the lot and block number in the "Diversion Name/Number" column. An application proposing an injection into a stream and a re-diversion from that stream must list the source for the original diversion as the source for the injection and re-diversion points. If this application proposes construction of a new diversion structure (for example, a new ground water well or a new pump station on a creek), please indicate the status in the appropriate column.

☐ N/A. This application does not propose to add or change any points of diversion.

Proposed Points of Diversion Wells proposed in addition to the City's current municipal wells listed in Attachment 3C3

New?	Twp	Rge	Sec	Lot	1/4	1/4	1/4	County	Source	Diversion Name/Number
Y	3N	3W	9			NW	NE	Canyon	Ground Water	Well 23
Y	3N	3W	11			SE	SW	Canyon	Ground Water	Well 24

4. Place of Use. The proposed place of use must be described to the nearest 40-acre subdivision (QQ) or U.S. Government Lot of the Public Land Survey System. Government lot numbers can be noted in parenthesis below the approximate quarter-quarter location of the government lot. For water rights held by irrigation districts, municipal providers or irrigation companies, the proposed place of use may be generally described as authorized by Sections 42-202B, 42-219 and 42-222B, *Idaho Code*.

☒ N/A. This application does not propose to change the place of use.

Proposed Place of Use

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Irrigated Acres: _____

5. Map of Proposed System. Attach a map showing the location of the points of diversion, reservoirs, dams, canals, ditches, pipelines and other works proposed to divert and convey water. Also show the location of the place of use, including any lands to be irrigated. The map should delineate the legal subdivisions including townships, ranges, sections, quarter-quarters and government lots. Label map as Attachment 3C.

PART 4 – ADDITIONAL INFORMATION

Section 42-222(1), *Idaho Code*, establishes the criteria used to evaluate transfer applications. An applicant bears the burden of demonstrating that the water right to be changed is a valid right, that the proposed use is a beneficial use, and that the proposed changes will not injure other water rights, will not enlarge the use of the original rights, are in the local public interest, and are consistent with the conservation of water resources within the state of Idaho. To satisfy this burden, an applicant must provide sufficient data and information for the

Department to evaluate the effects of the proposed change. The Department may deny an application if the applicant fails to provide sufficient data and information to determine whether the criteria from Section 42-222(1) are satisfied. In addition to the information requested in Parts 1-3 of this application, the following information must be provided for an application to be considered complete. Department staff may request additional information or clarification as the application is processed.

A. Validity of Water Rights

1. If one or more of the water rights proposed to be changed is a statutory claim, established pursuant to Section 42-248, *Idaho Code*, attach evidence supporting the priority date claimed. Label documents as Attachment 4A-1. For statutory claims, the Department may conduct a field inspection as part of the application review process to evaluate the water right elements listed on the statutory claim.

2. Has any portion of the water right(s) proposed to be changed undergone a period of five or more consecutive years of non-use?

☐ Yes. Attach a statement describing the portion of the right(s) that were not used and the length of time of the non-use. In addition, identify any exception or defense to forfeiture and provide a detailed description as to why the water rights have not been lost and forfeited for non-use. Label documents as Attachment 4A-2. Statutory exceptions or defenses to forfeiture are set forth in Section 42-223, *Idaho Code*.

☒ No.

B. Injury to Other Water Rights

1. Identify any other water right(s) diverted at the current point(s) of diversion.

None

2. Identify any other water right(s) diverted at the proposed point(s) of diversion.

City municipal water rights identified in Attachment 2A.

3. Is the proposed point of diversion within a state water district? ☐ Yes. Water District # _____. ☒ No.

4. If already constructed and in use, are the proposed points of diversion equipped with Department-approved measuring devices? ☐ Yes. ☐ No.

5. If this application proposes to divert a surface water right from a ground water well, attach a technical analysis evaluating the hydraulic connection between the proposed ground water point of diversion and the source of water listed on the right to be changed. Label technical analysis as Attachment 4B-5.

6. If this application proposes changing the point of diversion for a ground water right in the Eastern Snake Plain Aquifer (ESPA), attach a technical analysis of the anticipated depletions to reaches of the Snake River that are hydraulically connected to the ESPA using the Department's current ground water model for the ESPA. The technical analysis must evaluate depletion impacts in a time-series format at transient and steady state time steps. To assist applicants in preparing the required technical analysis, the Department has developed a transfer tool interface for the ESPA model. The transfer tool and user instructions can be downloaded from the Department's website (idwr.idaho.gov). If the proposed and current points of diversion are in the same or adjacent model cells, no technical analysis is required, unless specifically requested by the Department. Label technical analysis as Attachment 4B-6.

C. Enlargement in Use

1. Identify any other water rights used at the current place of use, including the number of shares in a canal company or acres assessed by an irrigation district.

N/A - no change in place of use proposed

2. Identify any other water rights used at the proposed place of use, including the number of shares in a canal company or acres assessed by an irrigation district.

N/A - no change in place of use proposed

3. If this application proposes changing the place of use or nature of use for irrigation water rights, will the current place of use, for the portion of the right to be changed, continue to be irrigated?

☐ Yes. Identify the water right(s) to be used for the continued irrigation.

☐ No. The place of use for the portion to be changed will no longer be irrigated.

☒ N/A. The application does not propose to change the place of use for irrigation rights.

4. Unstacking Water Rights for Irrigation. If this application proposes to change the place of use for an irrigation water right that is combined with other irrigation rights at the current place of use but does not propose to change the place of use for all the stacked irrigation rights, attach evidence of the historical consumptive use occurring under all water rights at the current place of use. For irrigation rights, this should include at least five years of diversion data and/or crop data and estimates of evapotranspiration. Label the information as Attachment 4C-4. Evapotranspiration data may be available on the Department's website (<http://et-idwr.idaho.gov>)

5. If the application proposes to change the nature of use for a water right, attach evidence of the historical consumptive use occurring under the portion of the water right to be changed. For irrigation rights, this should include diversion data, crop data and estimates of evapotranspiration. Label the information as Attachment 4C-5. Evapotranspiration data may be available on the Department's website (<http://et-idwr.idaho.gov>)

6. If the application proposes to change the nature of use of a water right to municipal use for reasonably anticipated future needs, complete the form titled "Municipal Water Right Application Checklist" found on the Department's website (idwr.idaho.gov). Label the form as Attachment 4C-6.

7. To your knowledge, are any portions of the water rights proposed to be changed:

Yes No

☐
☒

currently leased to the Water Supply Bank?

If yes, complete the form titled "Application for Transfer of Water Right Attachment WSB" found on the Department's website (idwr.idaho.gov).

Label the Form as Attachment 4C-7.

☐
☒

currently used in a mitigation plan limiting the use of water under the right?

☐
☒

subject to an agreement not to divert (CREP)?

☐
☒

currently enrolled in a federal set-aside program (CRP)?

D. Local Public Interest

The department must consider whether the proposed changes are in the local public interest as defined in Section 42-202B(3), *Idaho Code*. Some of the local public interest factors that may be considered in conjunction with a transfer application are (1) Recreation, fish, and wildlife impacts, (2) Water quality or contamination concerns, (3) Local and state ordinances, regulations, or policies related to water use, (4) Goals, requirements and limits set forth in the State Water Plan. If you choose to provide information about local public interest factors, label the information as Attachment 4D.

E. Conservation of Water Resources

Describe the diversion works and water delivery system. This may include sizes and dimensions of pumps, pipelines, headgates, ditches, dams, impoundments and irrigation equipment.

Wells, pumps, municipal PI system

PART 5 – FILING FEE AND SIGNATURE

A. Filing Fee. Filing fees for transfer applications are set forth in Section 42-221.O, *Idaho Code*. A table summarizing the filing fees for transfer applications is also found on the Department's website (idwr.idaho.gov). Any application proposing to change the nature of use for one or more rights requires an additional filing fee of \$250. Applications proposing to update the ownership records for water rights must also include the appropriate filing fee to update the ownership records. For any application relying on the filing fee set forth in Section 42-221.O.8, *Idaho Code*, attach a statement describing how the application qualifies under Section 42-221.O.8. Label documents as Attachment 5A.

B. Affidavit of Applicant or Representative:

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Ashley Newbry
Signature of Applicant or Representative*

Deputy Public
Ashley Newbry, Works Director
Print Name and Title, if applicable

9/24/2025
Date

Robb MacDonald
Signature of Applicant or Representative*

ROBB MACDONALD PUBLIC WORKS DIR
Print Name and Title, if applicable

9/24/2025
Date

*If water rights included in this application are owned by multiple people or entities, each owner must sign the application form.

FOR DEPARTMENT USE ONLY

Fee Paid: \$ 1140.00 Receipt #: C123280 Date: 9/26/25 Received by: KW
Add'l Paid: \$ _____ Receipt #: _____ Date: _____ Received by: _____

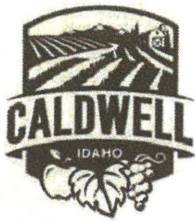
90127

RECEIVED

SEP 26 2025

DEPARTMENT OF
WATER RESOURCES

ATTACHMENT 1D
AUTHORITY TO SIGN



CITY OF
Caldwell, Idaho

* Attachment 1 ^D~~A~~

March 11, 2024

JAROM WAGONER
Mayor

208.455.3011
(f) 208.455.3003

City Hall
411 Blaine Street
Caldwell, Idaho 83605

Post Office Box
P.O. Box 1179
Caldwell, Idaho 83606

For a list of the City
Council members, visit:
Website
www.cityofcaldwell.org

Idaho Department of Environmental Quality
1410 N Hilton
Boise, ID 83706

RE: Certifying Official and Duly Authorized Representatives for the City of Caldwell

To Whom It May Concern:

The Idaho Department of Environmental Quality requires the Mayor of a City to act as the Certifying Official on POTW IPDES permits. **As the Mayor of the City of Caldwell, I confirm that I meet the requirements at IDAPA 58.01.25.090.01.c. as a principal executive officer of the City of Caldwell.**

In addition, City Council and I have appointed Robb MacDonald to serve in the capacity of Public Works Director for the City of Caldwell. He also meets the requirements at IDAPA 58.01.25.090.01.c. as a principal executive officer of the City of Caldwell.

With regard to the City's IPDES Wastewater permit ID0021504, I am qualified to be a Certifying Official, which is a principal executive officer with the authority to sign and submit a permit application or a notice of intent on the City's behalf. I authorize the following individuals to serve as duly authorized representatives on the City's wastewater discharge permit(s):

Tony Harmon – Wastewater Division Superintendent
Gustav Betterley – Wastewater Division Assistant Superintendent
Ashley Newbry, PE – Deputy Public Works Director (Water)
Robb MacDonald, PE, MSCE – Public Works Director

I recognize that a duly authorized representative has responsibility for the overall operation of the regulated facility or activity or over responsibility for environmental matters for the City or Facility. A duly authorized representative can submit any report or information required by an IPDES permit, notice of intent, monitoring and reporting provisions, and any other information requested by the Department.

This letter shall act as my authorization in writing, from a Certifying Official to DEQ.

Thank you,

Jarom Wagoner, AICP
Mayor
City of Caldwell

090127

ATTACHMENT 1G

CONSENTS FROM OWNERS OF PROPOSED WELL PROPERTIES

IDWR Western Region Office
Attn: Marcelina Williams
2735 Airport Way
Boise, ID 83705

RE: City of Caldwell Application for Transfer

To Whom It May Concern,

Florida-Karcher LLC acknowledges and agrees that the City of Caldwell is filing an *Application for Transfer*, in their own name, to add a new point of diversion in preparation for the construction of a municipal supply well located within Florida-Karcher LLC's property in the SE ¼ of SW ¼ of Section 11 within Township 3 North, Range 3 West. Florida-Karcher LLC agrees that the application has been prepared and filed in good faith, and that Florida-Karcher LLC has committed to transferring ownership of the municipal supply well and its respective well lot to the City of Caldwell following construction and approval of the relevant permits and functionality.

Sincerely,



Troy Dada, Managing Partner

9/23/2025

Date

90127

**OPERATING AGREEMENT
OF
FLORIDA-KARCHER, LLC
Dated as of July 28, 2022**

90127

OPERATING AGREEMENT
OF
FLORIDA-KARCHER, LLC

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS.....	1
1.1 Definitions.....	1
ARTICLE II FORMATION AND NAME, PRINCIPAL PLACE OF BUSINESS, TERM.....	5
2.1 Formation and Name.....	5
2.2 Principal Office	5
2.3 Registered Office and Registered Agent	5
2.4 Term of the Company.....	5
ARTICLE III PURPOSES AND POWERS OF THE COMPANY	6
ARTICLE IV TAX AND ACCOUNTING MATTERS.....	6
4.1 Characterization as a Partnership.....	6
4.2 Fiscal Year	6
4.3 Accounting Method.....	6
4.4 Tax Information	6
4.5 Tax Elections.....	6
4.6 Partnership Representative	6
ARTICLE V CAPITAL STRUCTURE, CAPITAL CONTRIBUTIONS, LOANS	8
5.1 Capital Contributions	8
5.2 Additional Capital Needs	8
5.3 Return of Capital	8
5.4 Interest on Contributions	8
ARTICLE VI CAPITAL ACCOUNTS	8
ARTICLE VII ALLOCATION OF PROFITS AND LOSSES	9
7.1 Allocation of Profits.....	9
7.2 Allocation of Losses	9
7.3 Allocations in the Event of Transfer or Liquidation.....	9
ARTICLE VIII NET CASH FLOW AND DISTRIBUTIONS	10
8.1 Distribution of Net Cash Flow	10
8.2 Distribution Upon Termination	10
8.3 Amounts Withheld	11
ARTICLE IX RIGHTS AND DUTIES OF THE MANAGER.....	11
9.1 Management	11
9.2 Tenure and Succession.....	12

9.3	Duties and Powers of the Manager	12
9.4	Liability for Certain Acts.....	13
9.5	Time Devoted to Company; Conflicts	13
9.6	Indemnification	13
9.7	Resignation	13
9.8	Compensation	13
9.9	Dealings with Affiliates.....	14
9.10	Removal	14
ARTICLE X	RIGHTS AND OBLIGATIONS OF MEMBERS	14
10.1	Limitation of Liability	14
10.2	Company Books.....	14
10.3	Priority and Return of Capital	14
10.4	Withdrawal by a Member.....	14
10.5	Negation of Fiduciary Duty	14
ARTICLE XI	ADMISSION OF NEW MEMBERS.....	15
ARTICLE XII	TRANSFER OF MEMBER'S INTEREST.....	15
12.1	Transferability of Interest.....	15
12.2	Right of First Refusal.....	15
12.3	Effect of Transfer; Status of Transferee.....	16
12.4	Transferring Member's Capital Account Balance.....	17
12.5	Internal Revenue Service Reporting Requirements.....	17
ARTICLE XIII	BUY-OUT OF MEMBER'S INTEREST	17
13.1	Buy-Out Upon Certain Events	17
13.2	Valuation of Liquidating Member's Interest.....	17
13.3	Payment Schedule	18
ARTICLE XIV	DISSOLUTION AND TERMINATION	19
14.1	Dissolution and Continuation	19
14.2	Winding Up the Company	19
14.3	Distribution of Liquidation Proceeds	19
14.4	Return of Capital Contributions.....	20
14.5	Negative Capital Account Balance	20
14.6	State Law Compliance	20
ARTICLE XV	MEMBER REPRESENTATIONS	20
15.1	Representations	20
15.2	Project Risks	21
ARTICLE XVI	MISCELLANEOUS PROVISIONS	22
16.1	Amendments	22
16.2	Notices	22
16.3	Governing Law	22
16.4	Construction	22
16.5	Headings	22
16.6	Binding Effect	22

16.7	Counterparts.....	22
16.8	Enforcement.....	22
SIGNATURE PAGE.....		24
SIGNATURE PAGE.....		24
CAPITAL ACCOUNTING AND TAX ADDENDUM.....		28

**OPERATING AGREEMENT
OF
FLORIDA-KARCHER, LLC**

THIS OPERATING AGREEMENT is made and entered into effective as of the 21st day of June, 2022, by and among the undersigned "Class A Member" and "Class B Members", as the members of Florida-Karcher, LLC, a Utah limited liability company.

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) "Class A Member" means all of the Members (from time to time) of the Company listed on Schedule One as Class A Members. A Person may be both a Class A Member and a Class B Member.

(c) "Class B Members" means all of the Members (from time to time) of the Company listed on Schedule One as Class B Members. A Person may be both a Class B Member and a Class A Member.

(d) "Company" means Florida-Karcher, LLC.

(e) "Westland" means Westland Development, LLC, of 339 West 13490 South Draper, UT 84020 a Utah limited liability company.

(f) "Ravello" means Ravello Development, LLC, of 2476 E Lagrasse Circle St George, UT 84790 a Utah limited liability company.

(g) "Myers" means Myers Properties, LLC of 11463 S Polo Club Ct., South Jordan, UT 84095, a Utah limited liability company.

(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) "Land Owner" has the meaning given to such term in Section 5.1 below.

(o) "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 Members 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.

(p) "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).

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

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

(s) "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 Members, including both the Class A Member and the Class B Members.

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

(u) "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 Members), 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.

(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 percentage interests in the Company, as assigned to both the Class A Member and the Class B Members in Schedule One attached hereto and incorporated herein.

(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).

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

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

(cc) "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.

(dd) "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 Members have previously formed a limited liability company under the name of Florida-Karcher, LLC, by the filing of a Certificate of Organization pursuant to the provisions of URULLCA. The Members desire to govern the affairs of the Company by entering into this Operating Agreement. The rights and liabilities of the Members shall be determined pursuant to URULLCA and this Agreement. To the extent that the rights or obligations of the Members 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 Members is hereby ratified and confirmed.

2.2 Principal Office. The principal office of the Company is 13490 S. 339 W, Draper, Utah 84020. The Managers 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 13490 S. 339 W, Draper, Utah 84020, 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 Bryan Flamm. The Managers 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 Members 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 Managers 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 Managers 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 Managers 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. The Managers in their discretion may make any and all tax elections available to the Company, including without limitation the election provided for in IRC Section 754.

4.6 Partnership Representative.

(a) The Managers shall be the Company's "partnership representative" (as such term is defined in Code Section 6223(a) and in any other similar capacity under applicable state or local tax law) (the "Partnership Representative"). If the Partnership Representative so determines with the consent of all Members, the

Partnership Representative may cause the Company to make an election out of the New Audit Rules pursuant to Section 6221(b) or to elect under Section 6226(a) of the Code to have any underpayment taken into account at the Member level, provided that the Company is eligible to make such elections.

(b) Each Member shall provide to the Partnership Representative such information (or, if applicable, certify as to filing of initial or amended tax returns) as is reasonably requested by the Partnership Representative to enable the Company (A) to reduce any Company level assessment under Code Section 6225 as set forth in the New Audit Rules, (B) to attribute under section 6226(a) to the Members and former Members their shares of the adjustment to income, gain, loss, deduction, or credit, (C) to determine the apportionment responsibility of any Company level assessment among the Members (such allocation, the "Apportionment"), as reasonably determined by the Partnership Representative, (D) to elect out of the New Audit Rules or (E) to comply with or be eligible to invoke any aspect of the New Audit Rules in any other respect.

(c) Any payment by the Company of a liability arising as a result of the New Audit Rules (a "Company Audit Payment") shall be treated as a deemed distribution to the Members in the same ratios as the Apportionment of such liability is made, and any deduction for book Capital Account purposes (the "Audit Liability Book Deduction") will be a reduction to the applicable Members' Capital Account balances (with no double counting of the reduction to Capital Accounts being intended). Alternatively, and notwithstanding anything herein to the contrary, any Member shall have authority to call additional capital from each of the Members and former Members to pay (or to require former Members to indemnify the Company for) any liability imposed by the New Audit Rules, in an amount not to exceed each such Member's or former Member's respective shares (if any), of such Company liability, and any such contribution shall not be treated as a Capital Contribution (i) except for purposes of maintaining Capital Accounts and only to the extent of such Member's share of Audit Liability Book Deduction, and (ii) except for purposes of applying the distribution provisions of this Operating Agreement to the extent the Company Audit Payment is treated as a distribution to such Member in the first sentence of this clause (c).

(d) The obligations of each Member (or former Member) under this Section 4.6 shall survive the transfer by such Member of its interests in the Company or the dissolution of the Company. In the event a Member transfers an interest in the Company, the transferee and transferor shall be jointly and severally liable for any liability with respect to the obligations of the transferor Member under this Section 4.6.

ARTICLE V

CAPITAL STRUCTURE; CAPITAL CONTRIBUTIONS; LOANS

5.1 **Capital Contributions.** The Members acknowledge that the Class A Member shall make capital contributions to the Company of cash as set forth on Schedule One attached hereto and incorporated herein. The Class A Member shall make such capital contributions to the Company upon request of the Managers and in connection with the closing by the Company of its interest in the Project. The Members acknowledge and agree that the Company intends to develop the Project as a residential and commercial development project.

5.2 **Additional Capital Needs.** In the event that additional capital is required to complete the Project, the Managers shall notify the Class A Members and Class B Members, who shall make such additional capital contributions as are necessary to complete the Project within thirty (30) days following delivery of notice by Managers, based on such Member's Percentage Interests. Except as otherwise provided in the previous sentence, no Member shall be obligated to make any additional contributions of capital or loans to the Company without such Member's consent. If a Member is unwilling or unable to make their required proportional capital contribution, the Managers may allow other Members or Third parties to make the contribution and the Members' Percentage interests of the parties will be adjusted. The non-participating Member's Percentage interest shall be diluted appropriately. However, Members may make additional capital contributions to the Company with the approval of the Managers. Further, in the event the Company has insufficient capital for its needs, it may raise additional capital by borrowing from Members or third parties on such commercially reasonable terms and conditions as the Managers and such Member or third party are able to agree upon, and/or by issuing additional equity interests in the Company to Members or third parties on such reasonable terms and conditions as the Managers in their discretion shall deem advisable.

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 on the balance in the Capital Account of any Member.

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 Members for both financial and tax accounting and reporting purposes as follows:

(a) First, to the Members in an aggregate amount equal to the cumulative Losses that have previously been allocated pursuant to Section 7.2(a), such chargeback allocations to be made pro rata in accordance with the Members' respective share of such Losses;

(b) Next, to the Class A Member and Class B Members in an amount equal to the amounts distributed to the Class A Member and Class B Members pursuant to Section 8.1(b) for such taxable year and all prior fiscal years to the extent (i) that the cumulative prior allocations of profits pursuant to this Section 7.1(b) have not equaled such cumulative amounts distributed to the Class A Member and Class B Members pursuant to Section 8.1(a) for the current taxable and all prior taxable years, or (ii) if so allocated, such allocation of Profits has been previously offset by a Loss chargeback allocation pursuant to Section 7.2(a) with respect to Profits previously allocated pursuant to this Section 7.1(b);

(c) The balance, if any, to the Members in proportion to their Percentage Interests.

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 Members for both financial and tax accounting and reporting purposes as follows:

(a) First, to the Members in the same proportion as under Section 7.1(c) above until the aggregate Losses allocated to the Members 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 Members under Section 7.1(c) above for all previous Fiscal Years;

(b) Second, to the Members 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 Members 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 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 Members at such times as the Managers may in their discretion deem advisable, as follows:

(a) Until the Class A Member has received distributions of Net Cash Flow from the Company equal to the Class A Member's capital contributions described in Section 5.1 and the first sentence of Section 5.2 above, (i) ninety percent (90%) of the Net Cash Flow shall be distributed to the Class A Member, in accordance with such Class A Member's Percentage Interests, and (ii) ten percent (10%) of the Net Cash Flow shall be distributed to the Class B Members (relative to the other Class B Members' Percentage Interests); and

(b) Upon return of the Class A Member's initial capital contributions pursuant to Section 8.1(a) above, the Net Cash Flow shall be distributed in accordance with both the Class A Member's and the Class B Members' respective Percentage Interests.

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 Members 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 Managers shall have the right to make any allocations of Profits and Losses that Managers determine in their business judgment are fair and equitable to the Members, considering the distributions of Net Cash Flow to the Members under this Section 8.1, so long as such allocations made by the Managers 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 Members' 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 Members 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 Members shall be treated as amounts paid or distributed to the Members pursuant to this Article 8 for all purposes under this Operating Agreement.

ARTICLE IX

RIGHTS AND DUTIES OF THE MANAGER

9.1 Management. The management of the Company shall be vested in those Persons designated by the Members as Co-Managers (collectively, the "Managers"). The Managers of the Company shall be Adam Kessler, Troy Dana and Brent Thompson. The Managers 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. Whenever there is more than one person serving as Manager, except as otherwise provided herein, a simple majority of such persons must agree on any action to be taken by the Managers. The remaining Members of the Company shall have no right or authority to act for or on behalf of the Company and shall not interfere or participate in the management of the Company except as expressly provided herein. Notwithstanding the foregoing, the following actions relating to the Company shall not be taken by the Managers prior to obtaining the consent of a Majority in Interest of the Class A Member:

- (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; and

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

9.2 Tenure and Succession. Adam Kessler, Troy Dana, and Brent Thompson shall serve as the Co-Managers of the Company until their resignation, removal, or Financial Insolvency, in which event a Majority in Interest of the Class A Member shall elect a successor Manager or Managers. Notwithstanding any other provision in this Agreement, If Adam Kessler or Troy Dana are unable to serve as Manager for any reason, their replacement Manager shall be appointed by Westland. Notwithstanding any other provision in this Agreement Westland has the right to appoint two thirds of the Managers.

9.3 Duties and Powers of the Manager. 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 Managers, 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 pecuniarily for any purpose. Additionally, and without limiting the generality of the foregoing, the Members hereby authorize the Manager to oversee the development and construction of project to be undertaken by the Company, which specifically includes the acquisition, development, ownership, management, leasing and ultimate sale of certain properties located in the Karcher development project located in the City of Caldwell, ID. (the "Project"). Without limiting the foregoing, the Managers will provide the following services:

(a) Prepare, submit, and seek approval of necessary governmental approvals and entitlements for the Project;

(b) Prepare land use plans, site plans, plats, and perform other site planning and design of the Project;

(c) Coordinate and supervise construction of the Project;

(d) Negotiate and contract for labor, materials, services, and other items relative to the construction of the improvements, including without limitation, entering into a construction contract with respect to the construction of all improvements relating to the Project, which contract shall include terms customarily agreed upon for similar projects located within the Washington County metropolitan area;

(e) Coordinate, supervise and conduct the preparation and maintenance of books and records, showing all items of income and expenses for the Project, pertaining to the development of the Project and the construction and marketing of the same;

(f) Coordinate, supervise, and/or contract for the marketing, operation, and ongoing management for the Project;

(g) Coordinate and supervise the appointment of a property manager for the Project; and

(h) Such other services as may be mutually agreed by the Company and the Managers from time to time, which may be reasonably necessary to carry out the purposes and intents of the Company pertaining to the Project.

Notwithstanding the foregoing, Brent Thompson, under the direction and help of the Managers, shall be responsible to finish the design and planning layouts for the overall site plan with City officials, to attend all city meetings, and to finish zoning and density approvals at the City for the entire 63 acres. The costs associated with the planning and development of the Project shall be born by the Company.

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 Members 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 Members.

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 Members 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. The Company may pay reasonable compensation to the

Managers for such Person's services hereunder.

9.9 Dealings with Affiliates. The Company may enter into 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, a Manager may be removed at any time for any reason, with or without cause, by the affirmative vote of one hundred percent (100%) of the Members, and may be removed by reason of Legal Incompetency or willful misconduct or conviction of a felony as adjudicated by a court of competent jurisdiction by the affirmative vote of a Majority in Interest of the Members. The Manager whose removal is being voted on shall not participate in such vote if such Manager is also a Member or a principal of such Member.

ARTICLE X

RIGHTS AND OBLIGATIONS OF MEMBERS

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 Members solely by reason of being a Member.

ARTICLE XI

ADMISSION OF NEW MEMBERS

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 Members. 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 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 Members (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 Managers (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 Managers, 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 Managers 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 Managers decline to accept said offer, the Managers may assign the offer to those Members who desire to accept it, pro rata in proportion to such Members' Percentage Interests as of the date of the notice received by the Managers, or as such Members 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 Managers and Members 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 Managers. 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 Members 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 Members 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 Managers in their 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; or
- (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

For purposes of this Article XIII, the Buy-Out Events described in subsections (b) or (c) 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 Managers 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, nonmarketability 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 shall be dissolved upon the vote of the Managers and a Super Majority in Interest of the Members in favor of dissolution. The death, Financial Insolvency, Legal Incompetency, withdrawal, retirement, resignation, expulsion or dissolution of any Member shall not of itself cause the dissolution of the Company.

14.2 Winding Up the Company. Upon dissolution of the Company, the Managers shall immediately commence to wind up the affairs of the Company and shall engage in an orderly disposition of its assets where such can be done at a fair value (except to the extent the Managers may determine to distribute any assets to the Members 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 Members 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 Members 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 Members 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 Members 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 Members 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 Managers 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 Members 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 Members, the Company will have no assets other than its property and will be totally dependent upon such property's successful operation.

(c) The real estate market is very competitive. There are numerous other apartment project developers and/or other builders or developers of real estate who have greater financial resources than the Company. There neither is nor can be any guarantee that the Project will be successful.

(d) Any budgets and projections that have been provided to the Member are provided are for illustrative purposes only, are forward looking, and while the Company believes the projections and the assumptions underlying the projections are made in good faith, there is no assurance that the projections will reflect the actual operations of the Project or the Company.

(e) Neither the Managers nor the Company have made any representations regarding the tax treatment of the Company or the tax consequences of an investment to any Member. Each Member should consult his own tax advisor.

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 Managers and a Super Majority in Interest of the Members; provided, however, the Managers may make technical amendments to the Operating Agreement at any time which do not affect the economic interests of the Members as necessary in order to maintain the Operating Agreement in compliance with applicable tax and limited liability company law or to reflect actions authorized by this Agreement (even where economic interests of Members are affected, such as where a Member fails to make a capital call) .

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 Members, whose respective mailing addresses are set forth opposite their signatures, and acknowledged and consented to by the Managers. By their signatures below said Members and Managers 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.

[Signatures Begin on Next Page.]

Mailing Addresses:

MEMBERS:

Class A Members:

Myers Properties, LLC, a Utah limited liability company

By: DocuSigned by:
Lane Myers
0C0EEFB46D04455...
Name: Lane Myers
Its: Partner

Westland Development, LLC, a Utah limited liability company

By: DocuSigned by:
Adam Kessler
02BEA2EB0E1E4FA...
Name: Adam Kessler
Its: Manager

Class B Members:

13940 S 339 W, Draper, Utah 84020

WESTLAND DEVELOPMENT, LLC, a Utah limited liability company

By: WESTLAND DEVELOPMENT, LLC,
its manager

By: DocuSigned by:
Adam Kessler
02BEA2EB0E1E4FA...
Name: Adam Kessler
Its: Manager

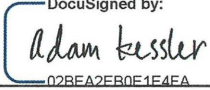
Ravello Development, LLC, a Utah limited liability company

By: DocuSigned by:
Brent Thompson
8657D2ZC31804FD...
Name: Brent Thompson
Its: Manager

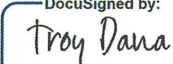
CONSENT BY CO-MANAGERS:

WESTLAND:

WESTLAND DEVELOPMENT, LLC, a Utah limited liability company

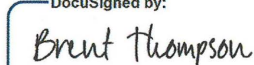
By:  Adam Kessler
Adam Kessler, Manager

WESTLAND DEVELOPMENT, LLC, a Utah limited liability company

By: 
Troy Dana, Manager

RAVELLO:

RAVELLO DEVELOPMENT, LLC , a Utah limited liability company

By: 
Brent Thompson, Manager

1569208

SCHEDULE ONE

<u>Member</u>	<u>Percentage Interests</u>	<u>Capital Contribution</u>
Class A Member		
Westland Development, LLC	25.5%	\$2,422,500
Myers Properties, LLC	24.5%	\$2,327,500
Class B Members		
Westland Development, LLC	20%[40%]	\$0.00
Ravello Development, LLC	30%[60%]	\$0.00
TOTALS:	100.00%	\$4,750,000

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 Managers. 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 Members) 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 Members' 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 Members' 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 Members 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 Members 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 Members 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 Members 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 Members 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 Members 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 Members 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 Members (the "Contributing Members") 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 Members shall be considered the Contributing Members as to such property. The term Contributing Members 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 Members in accordance with the general profit and loss sharing percentages specified in Sections 7.1 and 7.2, above, and the Members' 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 Members 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 Members' Capital Accounts:

(i) With respect to Built-in Gain property, 100% of any tax gain shall be allocated to the Contributing Members in the same proportion as such Built-in Gain has been credited to their respective Capital Accounts; Tax Depreciation shall be allocated to the Members other than the Contributing Members (the "Noncontributing Members") 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 Members shall be allocated to the Contributing Members in the same proportion that the Book Depreciation with respect to such property has been allocated to the Contributing Members 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 Members 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 Members 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 Members 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 Members shall be allocated to the Contributing Members in the same proportion that the Book Depreciation with respect to such property has been allocated to the Contributing Members 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 Members 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 Members 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 Members in accordance with the Members' 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 Members 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 Members 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 Members 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 Members 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 Members' 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.

1569208

IDWR Western Region Office
Attn: Marcelina Williams
2735 Airport Way
Boise, ID 83705

RE: Landowner Consent for City of Caldwell's Application for Transfer of POD

To Whom It May Concern,

Toll West, Inc., provides this landowner consent in connection with the City of Caldwell's *Application for Transfer*, in the City's own name, to add a new point of diversion in preparation for the construction of municipal supply well #23 located on Toll West, Inc's property in the NW ¼ NE ¼ of Section 9 within Township 3 North, Range 3 West. Toll West Inc. hereby consents to the City of Caldwell's POD transfer application.

Toll West Inc. has committed to transferring ownership of Well #23 and underlying real property to the City of Caldwell following construction and approval of the relevant permits and functionality.

Sincerely,

By: Denise Bourne, Denise Bourne

Its: Vice President

8/11/2025
Date

ATTACHMENT 2A
CITY OF CALDWELL MUNICIPAL WATER RIGHTS

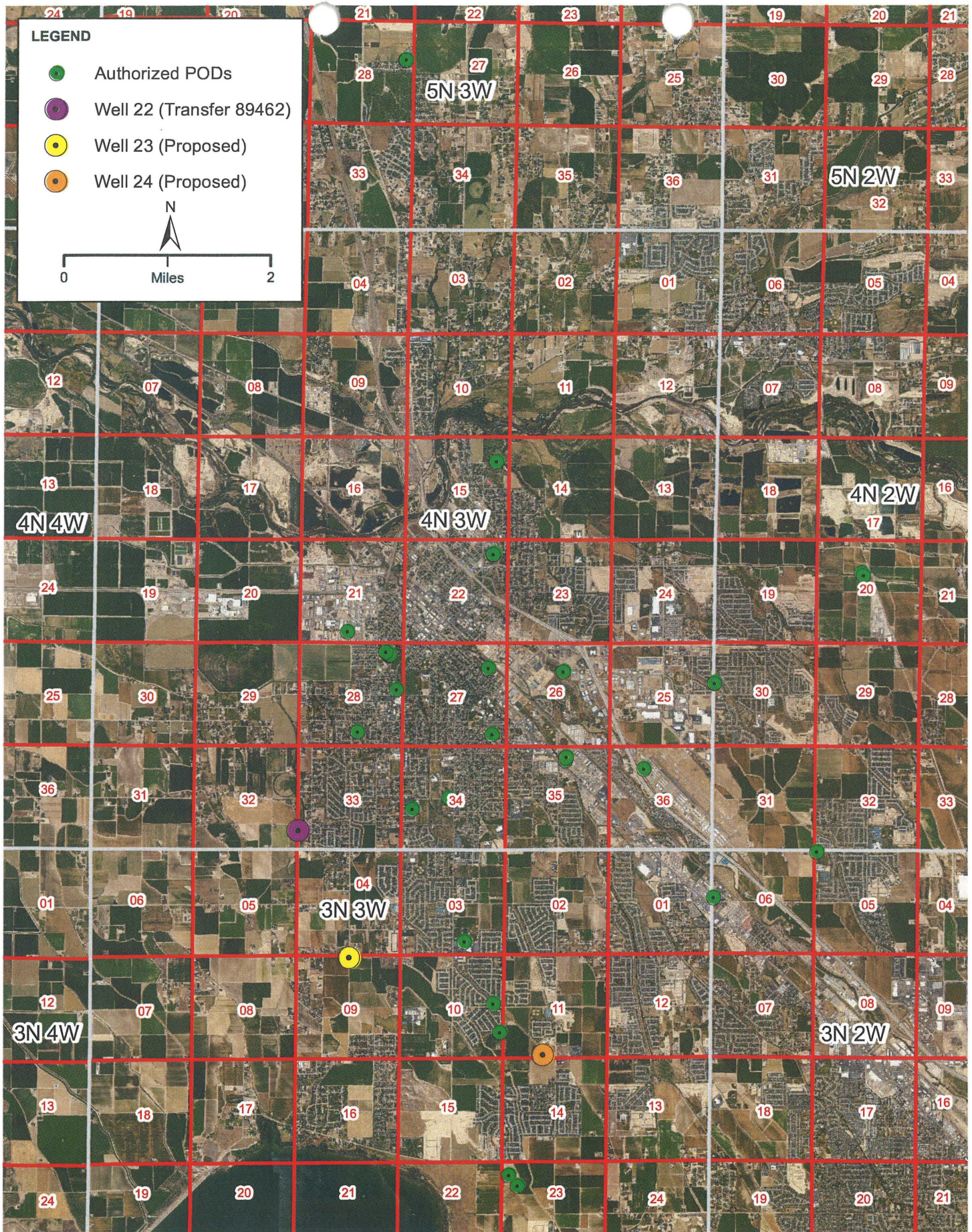
City of Caldwell Municipal Water Rights

Basin	Sequence	Basis	Status	Priority Date	Div. Rate (cfs)	Source	Water Use	Owner
63	3441	Decreed	Active	4/12/1965	2.03	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	3484	Decreed	Active	1/5/1966	1	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	5051	Decreed	Active	8/5/1901	0.02	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	5053	Decreed	Active	5/12/1930	1.11	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	5054	Decreed	Active	7/1/1955	1.34	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	5055	Decreed	Active	6/1/1945	0.89	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	7158	Decreed	Active	10/18/1968	2.45	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	7900	Decreed	Active	12/4/1973	0.74	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	7910	Decreed	Active	1/11/1974	2.23	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	8008	Decreed	Active	7/15/1974	2.45	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	8299	Decreed	Active	4/1/1976	1.76	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	8986	Decreed	Active	7/19/1977	1.56	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	8987	Decreed	Active	7/19/1977	1.45	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	9358	Decreed	Active	3/14/1980	2	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	10316	Decreed	Active	8/21/1985	1.78	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	10317	Decreed	Active	8/21/1985	1.47	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	10674	Decreed	Active	7/27/1988	0.07	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	12144	License	Active	9/2/1994	2.2	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	31283	License	Active	8/17/2001	3	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	31550	License	Active	9/20/2002	4.9	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	32024	Decreed	Active	10/6/1902	5.2	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	32025	Decreed	Active	12/31/1908	2.6	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	32026	Decreed	Active	6/1/1909	0.53	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	32027	Decreed	Active	6/30/1911	0.67	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	32028	Decreed	Active	5/31/1921	0.11	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	32029	Decreed	Active	3/1/1937	0.45	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	32030	Decreed	Active	7/31/1949	0.16	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	32031	Decreed	Active	7/31/1949	0.05	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	32032	Decreed	Active	7/1/1955	0.45	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	32033	Decreed	Active	7/1/1955	0.53	GROUND WATER	MUNICIPAL	CITY OF CALDWELL
63	32038	Decreed	Active	7/31/1949	0.36	GROUND WATER	MUNICIPAL	CITY OF CALDWELL

TOTAL 45.56

ATTACHMENT 2B & 3C
MAP OF CURRENT & PROPOSED WELLS

B90127



DATA SOURCE: NAIP 2023

190127

ATTACHMENTS 2B & 3C

CITY OF CALDWELL

KARCHER COMMONS & VERBENA RANCH WELLS

ATTACHMENT 3C3
CURRENT CITY MUNICIPAL WELLS

City of Caldwell Municipal Wells

TWP	RGE	SEC	GOV LT	QTR-QTR	SOURCE	WELL #	DESCRIPTION
3N	2W	5	4	NWNW	GROUND WATER	18	Production Well
3N	2W	6	5	SWNW	GROUND WATER	13	Production Well
3N	3W	3		SWSE	GROUND WATER	16	Production Well
3N	3W	10		SENE	GROUND WATER	17	Production Well
3N	3W	10		NESE	GROUND WATER	17C	Test Well
3N	3W	23		NWNW	GROUND WATER	21	Production Well
3N	3W	23		NWNW	GROUND WATER	21	Test Well
4N	2W	20		SENE	GROUND WATER	20	Production Well
4N	2W	20		SENE	GROUND WATER	20	Test Well
4N	2W	30	2	SWNW	GROUND WATER	19	Production Well
4N	2W	30	2	SWNW	GROUND WATER	19	Test Well
4N	3W	15		NENE	GROUND WATER	4A	Original Well
4N	3W	15		NENE	GROUND WATER	4B	Production Well
4N	3W	21		SESW	GROUND WATER	8	Production Well
4N	3W	22		NENE	GROUND WATER	1A	Production Well
4N	3W	22		NENE	GROUND WATER	1A	Production Well
4N	3W	22		NENE	GROUND WATER	RG1	Rose Garden Artesian Well Field
4N	3W	22		NENE	GROUND WATER	RG2	Rose Garden Artesian Well Field
4N	3W	22		NENE	GROUND WATER	RG3	Rose Garden Artesian Well Field
4N	3W	22		NENE	GROUND WATER	RG4	Rose Garden Artesian Well Field
4N	3W	26		SWNE	GROUND WATER	9	Production Well
4N	3W	27		NENE	GROUND WATER	6	Production Well
4N	3W	27		SESE	GROUND WATER	3	Production Well
4N	3W	28		NENE	GROUND WATER	2	Production Well
4N	3W	28		NENE	GROUND WATER	2	Production Well
4N	3W	28		NENE	GROUND WATER	2	Production Well
4N	3W	28		NENE	GROUND WATER	2	Production Well
4N	3W	28		NENE	GROUND WATER	2	Production Well
4N	3W	28		NENE	GROUND WATER	Pool Well	Production Well
4N	3W	20		SENE	GROUND WATER	10	Production Well
4N	3W	28		SWSE	GROUND WATER	14	Production Well
4N	3W	34		SENE	GROUND WATER	12	Production Well
4N	3W	34		NWSW	GROUND WATER	15	Production Well
4N	3W	35		NWNE	GROUND WATER	7B	Production Well
4N	3W	35		NWNE	GROUND WATER	7	Test Well
4N	3W	36		NENW	GROUND WATER	11	Production Well
5N	3W	28		SENE	GROUND WATER	PSS1	Purple Sage School Well 1
5N	3W	28		SENE	GROUND WATER	PSS2	Purple Sage School Well 2
4N	3W	33		SWSW	GROUND WATER	22	Transfer 89462 Proposed Well



IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

December 23, 2025

CITY OF CALDWELL
PO BOX 1179
CALDWELL ID 83606-1179

RE: Transfer No. 90127
Water Right Nos. 63-3441 and 30 others

Dear Applicant:

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the PRESS TRIBUNE on 12/18/2025 and 12/25/2025. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Lynne Evans
Administrative Assistant

CC: LORI GRAVES, HDR INC

SCANNED

JAN 12 2026

Evans, Lynne

From: Evans, Lynne
Sent: Friday, December 12, 2025 4:45 PM
To: Idaho Press
Subject: Legal Notice: Application for Permit No. 63-35740 +8 others; Transfer No. 90127
Attachments: Legal Notice.docx

Please publish the enclosed legal notice in the Idaho Press Tribune on the dates indicated (12/18 & 12/25, once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

****The 12/25 publication date can be moved to 12/24 or 12/26 if the Press Tribune will not be publishing that day. Please respond to let me know if that date is changed.****

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 1/5/2026. Your cooperation is appreciated.

Thank you,



Lynne Evans (she/her)
Administrative Assistant I
IDWR – Western Region
2735 W Airport Way, Boise ID 83705
lynne.evans@idwr.idaho.gov | (208) 605-4622

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-35740

JONATHAN STOSICH
6579 BLUE OX LN
MELBA, ID 83641-5302
Point of Diversion NWSW S3 T01S R02W CANYON County
Source WASTE WATER Tributary SNAKE RIVER
Use: IRRIGATION
03/01 to 11/15; 1.42 CFS
Total Diversion: 1.42 CFS
Date Filed: 08-01-2025
Place Of Use: IRRIGATION
T01S R02W S3 NWSW, SWSW
Total Acres: 70

63-35744

CITY OF CALDWELL
CALDWELL MUNICIPAL IRRIGATION DISTRICT
621 CLEVELAND BLVD
CALDWELL, ID 83605-4052
Point of Diversion SENW S4 T03N R03W CANYON County
Point of Diversion SENW S4 T03N R03W CANYON County
Point of Diversion SWNW S4 T03N R03W CANYON County
Source GROUND WATER
Use: IRRIGATION
03/01 to 11/15; 3.85 CFS
Total Diversion: 3.85 CFS
Date Filed: 08-15-2025
Place Of Use: IRRIGATION
T03N R03W S4 SWNE, SENE, SWNW, SENW, NESW, NWSW, SWSW, SESW
Total Acres: 192.2
Water bearing zone to be appropriated is from 150 to 500 feet.

63-35752

KEN HOOKER, SANDY HOOKER
1600B SW DASH POINT RD PMB 309
FEDERAL WAY, WA 98023-4530
Point of Diversion SENW S10 T04N R02W CANYON County
Source GROUND WATER
Use: IRRIGATION
03/01 to 11/15; 0.09 CFS
Use: DOMESTIC
01/01 to 12/31; 0.06 CFS
Use: COMMERCIAL
01/01 to 12/31; 0.7 CFS
Total Diversion: 0.7 CFS
Date Filed: 09-23-2025
Place Of Use: COMMERCIAL, DOMESTIC, IRRIGATION
T04N R02W S10 SENW
Total Acres: 3
Water bearing zone to be appropriated is from 61 to 158 feet.

63-35755

EDGAR GONZALEZ, JESSICA GONZALEZ
28141 HAPPY HILL LN
CALDWELL, ID 83607-7544
Point of Diversion SWSE S10 T05N R03W CANYON County
Source GROUND WATER
Use: IRRIGATION
03/01 to 11/15; 0.16 CFS
Total Diversion: 0.16 CFS
Date Filed: 09-18-2025
Place Of Use: IRRIGATION
T05N R03W S10 SWSE
Total Acres: 8
Water bearing zone to be appropriated is from 100 to 375 feet.

63-35758

DENNIS RUTAN, REBECCA RUTAN
1747 CAN ADA RD S

MELBA, ID 83641-5250
Point of Diversion SESE S12 T01S R02W CANYON County
Source GROUND WATER
Use: STOCKWATER
01/01 to 12/31; 0.02 CFS
Total Diversion: 0.02 CFS
Date Filed: 09-04-2025
Place Of Use: STOCKWATER
T01S R02W S12 SWSE, SESE

63-35759
DAVID REYNOLDS, KARLA REYNOLDS
4649 W KING RD
KUNA, ID 83634-1611
Point of Diversion SESE S29 T02N R01W CANYON County
Point of Diversion SESE S29 T02N R01W CANYON County
Point of Diversion SESE S29 T02N R01W CANYON County
Source GROUND WATER
Use: STOCKWATER
01/01 to 12/31; 0.85 CFS
Use: COMMERCIAL
01/01 to 12/31; 0.02 CFS
Total Diversion: 0.87 CFS
Date Filed: 09-26-2025
Place Of Use: COMMERCIAL, STOCKWATER
T02N R01W S29 SESE
Water bearing zone to be appropriated is from 88 to 192 feet.

63-35761
CITY OF CALDWELL
ATTN: JOHN PREBONICK
205 S 6TH AVE
CALDWELL, ID 83605-1283
Point of Diversion NENW S22 T04N R03W CANYON County
Source GROUND WATER
Use: IRRIGATION
03/01 to 11/15; 0.11 CFS
Total Diversion: 0.11 CFS
Date Filed: 10-10-2025
Place Of Use: IRRIGATION
T04N R03W S22 NENW
Total Acres: 3.4
Water bearing zone to be appropriated is from 100 to 350 feet.

63-35763
CODY BROCK
17905 SW BELTON RD
SHERWOOD, OR 97140-8705
Point of Diversion NWNW S20 T05N R03W CANYON County
Source GROUND WATER
Use: IRRIGATION
03/01 to 11/15; 0.16 CFS
Use: DOMESTIC
01/01 to 12/31; 0.08 CFS
Total Diversion: 0.24 CFS
Date Filed: 10-16-2025
Place Of Use: DOMESTIC, IRRIGATION
T05N R03W S20 NWNW
Total Acres: 8
Water bearing zone to be appropriated is from 100 to 200 feet.

63-35764
CITY OF CALDWELL
PO BOX 1179
CALDWELL, ID 83606-1179
Point of Diversion L4 (NWNW) S4 T03N R03W CANYON County
Source GROUND WATER
Use: IRRIGATION
03/01 to 11/15; 1.72 CFS
Total Diversion: 1.72 CFS

Date Filed: 10-23-2025
Place Of Use: IRRIGATION
T03N R03W S4 L4 (NWNW)
T03N R03W S5 L1 (NENE)
Total Acres: 86

Water bearing zone to be appropriated is from 100 to 350 feet.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 90127

CITY OF CALDWELL, PO BOX 1179, CALDWELL, ID 83606-1179 has filed Application No. 90127 for changes to the following water rights within CANYON County: Right Nos. 63-3441, 63-3484, 63-5051, 63-5053, 63-5054, 63-5055, 63-7158, 63-7900, 63-7910, 63-8008, 63-8299, 63-8986, 63-8987, 63-9358, 63-10316, 63-10317, 63-10674, 63-12144, 63-31283, 63-31550, 63-32024, 63-32025, 63-32026, 63-32027, 63-32028, 63-32029, 63-32030, 63-32031, 63-32032, 63-32033, 63-32038. The purpose of the transfer is to change a portion of the above rights as follows:

to add two points of diversion to multiple municipal water rights. Proposed well no. 23 will be constructed in T03N R03W S9 NWNE (parcel R3267801100), which Canyon County tax parcel data lists as currently owned by Toll West Inc. Proposed well no. 24 will be constructed in T03N R03W S11 SESW (parcel R3274300000), which Canyon County tax parcel data lists as currently owned by Florida-Karcher LLC. Water will be used within the current municipal place of use for the City of Caldwell.

Permits will be subject to all prior water rights. For additional information concerning the property locations, contact the Western Region office at (208)334-2190; or for a full description of the rights and proposed changes, please see <https://idwr.idaho.gov/water-rights/research/>. Protests may be submitted based on the criteria of Idaho Code §§ 42-203A and 42-222. Any protest against the approval of the above applications must be filed with the Director, Dept. of Water Resources, Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 1/5/2026. The protestant must also send a copy of the protest to the applicant.

MATHEW WEAVER, Director

Published on 12/18/2025 and 12/25/2025

Bradbury, Allen

From: Bradbury, Allen
Sent: Wednesday, November 19, 2025 2:32 PM
To: Ashley Newbry; Robb MacDonald
Cc: Graves, Lori
Subject: RE: City of Caldwell Transfer 90127

Thanks Ashley, I will proceed accordingly and get this into advertising.

Allen



Allen Bradbury | Water Resource Agent, Sr.
IDWR-Western Region | 208.334.2190
allen.bradbury@idwr.idaho.gov

From: Ashley Newbry <anewbry@cityofcaldwell.org>
Sent: Tuesday, November 18, 2025 9:06 AM
To: Bradbury, Allen <Allen.Bradbury@idwr.idaho.gov>; Robb MacDonald <rmacdonald@cityofcaldwell.org>
Cc: Graves, Lori <lori.graves@hdrinc.com>
Subject: RE: City of Caldwell Transfer 90127

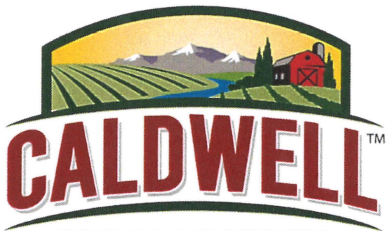
CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Allen,

I don't think we would have any issue with excluding the noted Golf Course wells from the pending Transfer application 90127. Our ultimate goal is that the new POD's are added to the Municipal PWS system.

Let me know if I have misunderstood or need to provide more clarity.

Thanks,



Ashley Newbry, PE, CFM
Deputy Director (Water)

621 Cleveland Blvd • Caldwell, Idaho 83605
www.cityofcaldwell.org • (208) 455-4672

From: Bradbury, Allen <Allen.Bradbury@idwr.idaho.gov>
Sent: Monday, November 17, 2025 1:40 PM
To: Robb MacDonald <rmacdonald@cityofcaldwell.org>; Ashley Newbry <anewbry@cityofcaldwell.org>

Cc: Graves, Lori <lori.graves@hdmcc.com>
Subject: City of Caldwell Transfer 90127

Good Afternoon,

I am reviewing the City of Caldwell transfer which adds two new wells to the municipal water system. Looking back at transfer 89462, I noticed an email chain between Cody Parker and Ashley Newbry concerning water rights 63-7900, 63-3484, and 63-10674 (see attached). Those emails describe enlargement concerns the Department had about adding well 22 as a point of diversion to these water rights. Which appears to be the same concern we would have for adding wells 23 and 24. These rights were included on the water right list for the current transfer application.

Please review the attached email for further detail, then let me know how you would like to proceed.

Regards,

Allen Bradbury



Allen Bradbury | Water Resource Agent, Sr.
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September 26, 2025

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

Subject: *Application for Transfer*

Dear Scott,

Enclosed on behalf of the City of Caldwell, is an *Application for Transfer* proposing to add two new wells to the City's municipal water rights. Please see Transfer Part 3B for additional information. Check #188689 is enclosed for the \$1,140 application filing fee.

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

Sincerely,

HDR Engineering, Inc.

Lori Graves

Lori Graves
Sr. Water Right Specialist

Cc via email: Ashley Newbry, John Carpenter, Mohammad Khan

Project #10425198 (Westland Dev), 10420180 (Toll Bros)

hdrinc.com

HDR, 412 E Parkcenter Blvd, Suite 100, Boise, ID 83706
(208) 387-7000

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