

**LIMITED LIABILITY COMPANY
OPERATING AGREEMENT**

FOR

EAST PARK, LLC

Date: October 3, 2018

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**LIMITED LIABILITY COMPANY OPERATING AGREEMENT
FOR
EAST PARK, LLC**

THIS LIMITED LIABILITY COMPANY OPERATING AGREEMENT is made this ____ day of October, 2018, by and among **Kiril Ivanov** (“Kiril”), **RANDALL C. MYERS** (“Myers”) and **EAST PARK, LLC**, an Oregon limited liability company (the “Company”).

RECITALS:

A. On September 14, 2018, the Company was formed by filing its Articles of Organization (the “Articles of Organization”) pursuant to the Oregon Limited Liability Company Act (the “Act”); and

B. The Members of the Company desire to express and memorialize their Operating Agreement for the Company in this document;

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth in this Agreement, the Members agree as follows:

ARTICLE 1. ORGANIZATION

1.1 **Formation.** The Company has been organized as a limited liability company pursuant to the Act. Except as otherwise expressly stated, the Act shall govern the rights and liabilities of the Company and the Members.

1.2 **Nature of Business.** Unless approved by Unanimous Vote, the Company shall only engage in the business of (i) the acquisition of the real property comprised of approximately 120.26 acres of undeveloped land in Salem, Marion County, Oregon including the Tax Lots listed on Exhibit A attached hereto (the “Property”) and incorporated herein by this reference, (ii) obtaining Preliminary Plat (the “Plat”) approval issued by the City of Salem, Oregon, to develop a portion of the Property into single family lots (the “Single-Family Property”), with approximately 11.4 acres to be partitioned and zoned as commercial and/or multifamily (the “Multifamily Parcel”) and approximately 7.5 acres to be partitioned to be sold to the City of Salem as a park (the Park Parcel”), as depicted on the East Park Plan attached as Exhibit D, and (iii) construction on the Single-Family Property of the subdivision infrastructure and improvements (the “Subdivision Improvements”), in accordance with the Plat (collectively, the “Project”). In connection therewith, the Company will enter into a Construction Management Agreement for the Subdivision Improvements with I&E CONSTRUCTION, INC. (“I&E”), an Oregon corporation, contemporaneous herewith in the form of attached Exhibit B, and an Entitlements Consulting Agreement with Brownstone Development, Inc. (“Brownstone”), an Oregon corporation, under which Brownstone will be responsible for securing the required permits and entitlements to develop the Single-Family Property and partition the Park Parcel in accordance with this Agreement in the form of attached Exhibit C. In addition, the Company anticipates that it will enter into a Purchase and Sale Agreement with D.R. Horton - Portland, Inc. under which

the Company will sell eight hundred sixty-nine (869) of the finished single-family lots in the Project to Horton in five (5) phases over a period of five (5) years from the dates the lots are fully permitted and entitled and no longer subject to any appeals. In addition, the Company anticipates it will enter into a purchase and sale agreement with the City of Salem under which the City of Salem will purchase the Park Parcel. The Company shall have the authority to do all things necessary or convenient to accomplish its purpose and operate its business.

1.3 **Name.** The name of the Company shall be **EAST PARK, LLC**.

1.4 **Principal Office.** The principal office of the Company shall be 9550 SE Clackamas Rd., Clackamas, Oregon 97015.

1.5 **Term.** The Company shall continue until dissolved or terminated in accordance with this Agreement.

1.6 **Registered Office, Registered Agent.** The location of the registered office of the Company shall be 9550 SE Clackamas Rd., Clackamas, Oregon 97015 and thereafter at such other location as the Members may designate. The registered agent for the Company at such address shall be Kiril Ivanov.

ARTICLE 2. MEMBERS AND CAPITAL CONTRIBUTIONS

2.1 **Maintenance of Capital Accounts.** The Company shall establish and maintain Capital Accounts with respect to each Member in accordance with the following provisions:

(a) Each Member's Capital Account shall be increased by such Member's Contributions, such Member's distributive share of Profits and any items in the nature of income or gain which are specially allocated pursuant to paragraphs 5.3 or 5.5 hereof, and the amount of any Company liabilities assumed by such Member or which are secured by any Property distributed to such Member.

(b) Each Member's Capital Account shall be decreased by the amount of cash and the Gross Asset Value of any Property (other than cash) distributed to such Person pursuant to any provision of this Agreement, such Person's distributive share of Losses and any items in paragraphs 5.3, 5.6, or 5.7 hereof, and the amount of any liabilities of such Person assumed by the Company or which are secured by any Property contributed by such Member to the Company.

(c) If the Company at any time distributes any of its assets in-kind to any Member, the Capital Accounts shall be adjusted to account for that Member's allocable share (as determined under Article 5 and this paragraph 2.1) of the Profits or Losses that would have been realized by the Company had it sold the assets that were distributed at their respective fair market values immediately prior to their distribution.

(d) Upon a Transfer of all or a portion of a Member's Economic Rights in accordance with the terms of this Agreement, the Assignee shall succeed to the Capital Account of that Member to the extent such Capital Account relates to the Transferred interest.

(e) In determining the amount of any liability for purposes of paragraphs 2.1(a) and 2.1(b) hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Section 1.704-1(b) of the Regulations, and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Members shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by Contributions or distributed Property or to liabilities which are assumed by the Company or Members), are computed in order to comply with such Regulations, such Members may make such modification, provided that it is not likely to have a material effect on the amounts distributed to any Person pursuant to Article 9 hereof upon the dissolution of the Company. A Majority of the Members shall (1) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Section 1.704-1(b)(2)(iv)(q) of the Regulations, and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Section 1.704-1(b) of the Regulations. Notwithstanding anything to the contrary, this Agreement shall not be construed as creating a deficit restoration obligation or as otherwise personally obligating any Member to make a Contribution in excess of the Contributions referred to in paragraphs 2.2 and 2.4 of this Article 2.

2.2 **Initial Contributions.** The Members have made or will make the Initial Contributions to the Company set forth for each Member in Schedule A.

2.3 **Capitalization of Additional Sums.** At the end of the Fiscal Year of the Company, upon the Unanimous Vote (as defined hereinafter) of the Members, the Company may capitalize an equal portion of each Member's profits. Loans to the Company made pursuant to paragraph 2.5 of this Agreement shall not be capitalized unless all of the Members contribute in the proportions in which they share in the Profits and Losses of the Company and unless all of the Members agree thereto. In addition, sums required to be paid under paragraph 2.4 of this Agreement shall be capitalized.

2.4 **Additional Contributions.** Additional capital contributions will be made in the amounts and at the times as the Members agree by Unanimous Vote.

2.5 **Loans by Members.** If any Member shall, upon approval by a Majority of the Members, advance any sum of money to the Company over and above such Member's Contribution to capital, the same shall be a debt due from the Company to such Member. Unless otherwise agreed, any such advance of money to the Company shall carry interest at the rate of eight percent (8%) per annum. A loan to the Company from any Member shall not be deemed an increase in the Capital Account of the Member advancing the same or entitle such Member to any increased share of the profits of the Company. Such loans may be capitalized, however, only under the terms

of paragraph 2.3 of this Agreement. The term of the loan shall be determined in each case by All of the Members.

2.6 **Drawing Accounts.** An individual drawing account shall be maintained for each Member. All withdrawals by a Member shall be charged to such Member's drawing account. Withdrawals during the year shall be limited to such amounts as the Members shall determine in accordance with this Agreement.

2.7 **Ownership Interests.** The Ownership Interest of each Initial Member, consisting of each such Member's Voting Rights, Profit Sharing Ratio, and Membership Units shall be as set forth in Schedule A.

2.8 **Compensation.** Except as determined by Unanimous Vote of the Members, no Member shall receive a salary for services rendered to or for the Company. I & E will be compensated for its services under the Construction Management Agreement attached hereto as Exhibit B, and Brownstone shall be compensated for its services under the Entitlements Consulting Agreement attached hereto as Exhibits C.

2.9 **Title to Property.** All Property owned by the Company shall be owned by the Company as an entity and no Member shall have any ownership interest in such Property in the Member's individual name, and each Member's interest in the Company shall be personal property for all purposes. Except as otherwise provided in this Agreement, the Company shall hold Property owned by the Company in the name of the Company, and not in the name or names of any Member or Members. Brownstone shall, contemporaneous with the execution of this Agreement and Closing of the A&D Loan (as defined in paragraph 4.1 hereinafter), assign all of its rights, title and interest under its purchase agreements for the Property to the Company.

2.10 **Payments of Individual Obligations.** The Company's credit and assets shall be used solely for the benefit of the Company, and no asset of the Company shall be transferred or encumbered for or in payment of any individual obligation of any Member unless otherwise provided for herein.

ARTICLE 3. MEETING OF MEMBERS

3.1 **Meetings.** A meeting of Members shall be held if Members holding at least twenty-five percent (25%) of the Ownership Interests of the Company, sign, date and deliver to the Company's principal office a written demand for the meeting, describing the purpose or purposes for which it is to be held. The meeting of Members shall be held at the principal office of the Company or any other place specified in the notice of meeting.

3.2 **Notice of Meeting.** Notice of the date, time and place of each Member's meeting shall be given to each Member in writing either by delivery or in person, not more than sixty (60) days nor less than seven (7) days before the meeting date. The notice shall include a description of the purpose or purposes for which the meeting is called.

3.2.1 **Delivery by Mail.** If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, postage prepaid, addressed to the Member at such Member's address shown on the records of the Company.

3.2.2 **Delivery by Electronic Transmission.** Delivery by Electronic Mail. If notice is delivered by electronic mail, the notice shall be deemed effective if the content thereof is transmitted to the address of the Member at the email address shown on the records of the Company, and receipt is confirmed by electronic transmission.

3.2.3 **Address and Electronic Transmission.** Each Member shall furnish the Company with an electronic Mail address at which notices may be delivered to such Member.

3.3 **Waiver of Notice.** A Member may waive notice of any meeting, before or after the date of the meeting, by delivering a signed waiver to the Company for inclusion in the minutes of the Company. A Member's attendance at any meeting, in person or by proxy (i) waives objection to lack of notice or defective notice of the meeting, unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting, and (ii) waives objection to consideration of a particular matter at the meeting, unless the Member objects to considering the matter when it is presented.

3.4 **Record Date.** The Members entitled to notice of and to vote at a meeting of the Members, and each such Member's respective Ownership Interest, shall be determined as of the record date for the meeting. The record date shall be a date, not more than seventy (70) days or less than ten (10) days before the meeting, described in the notice. If the notice of meeting does not specify a record date, the record date shall be the date on which the notice of the meeting was first mailed or otherwise delivered.

3.5 **Quorum.** The presence, in person or by proxy, of Members holding at least sixty percent (60%) of the Voting Rights shall constitute a quorum.

3.6 **Proxies.** A Member may appoint a proxy to vote or otherwise act for the Member pursuant to a written appointment form executed by the Member or the Member's duly authorized attorney-in-fact. A true copy of any power of attorney appointing an attorney-in-fact of a Member shall be placed on file with the Company prior to any vote or other action being taken by such attorney-in-fact. An appointment of a proxy is effective when received by the Company. The general proxy of a fiduciary is given the same effect as the general proxy of any other Member. A proxy appointment is valid for eleven (11) months unless otherwise expressly stated in the appointment form. A revocation of any proxy shall be effective only when written notice of such revocation is actually received by the Company.

3.7 **Voting.** On each matter requiring action, vote, approval, consent or determination by the Members, each Member shall be entitled to exercise such Member's Voting Rights. Except as otherwise expressly stated in the Articles of Organization, this Agreement (including but not limited to the Unanimous Vote required under paragraph 6.2 hereinafter), the Act or other applicable law, a matter submitted to a vote or for the approval or determination of the Members

shall be deemed approved if it receives the affirmative vote of more than fifty percent (50%) of the Voting Rights.

3.8 **Meeting by Telephone.** Meetings of the Members may be held by conference telephone or by any other means of communication by which all participants can hear each other simultaneously during the meeting, and such participation shall constitute presence in person at the meeting.

3.9 **Action by Members Without a Meeting.** Action required or permitted to be taken at a meeting of the Members may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by all of the Members entitled to vote on the action. Action taken under this paragraph is effective when the necessary Members have signed the consent, unless the consent specifies a different effective date.

ARTICLE 4. PROJECT FINANCING

4.1 **Initial Funding and Financing.** Contemporaneous with the execution of this Agreement, the Company shall close the acquisition of the Property, and in connection therewith, will enter into an Acquisition and Development loan with a bank selected by Kiril (the "Bank") to provide loan funds to develop the Project (the "A&D Loan"). Kiril will provide the required funds to satisfy the cash equity requirements of the lender in connection with the A&D Loan, which funds, except as provided below, shall be treated as a capital contribution by Kiril to the Company which shall be repaid to Kiril preferentially with interest at eight percent (8%) per annum (the "Equity Contribution"). Kiril agrees to personally and unconditionally guarantee the A&D Loan, and in addition thereto, provide additional guarantees from certain affiliates as required by the Bank as a condition to making the A&D Loan. All costs incurred in connection with the A&D Loan and payments thereon (in accordance with the Construction Loan Agreement to be entered into between the Bank and the Company) shall be made by the Company. In addition, Kiril agrees to fund the cost of all entitlements and permits for the Project as a capital contribution to the Company which shall also be repaid preferentially with interest at eight percent (8%) per annum (the "Entitlements Contribution"). The Members agree that \$1,092,496.00 of the acquisition price of the Property is allocable to the Multifamily Parcel and that portion of Kiril's funds attributable to the acquisition price for the Multifamily Parcel (the "Multifamily Contributions") are Equity Contributions but will not be repaid with interest.

4.2 **Construction Management Agreement.** Under the terms of the Construction Management Agreement ("CMA"), attached Exhibit B, the Company will contract with I&E to complete the Work described in the CMA. The Company will pay to I&E a construction management fee of ten percent (10%) of the cost of the Work, as the disbursements are approved by the Bank. The cost of the Work to be paid or reimbursed to I&E by the Company under the CMA does not include any of I&E's general and administrative overhead or the service of Kiril, both of which are being compensated for in the ten percent (10%) construction management fee.

4.3 **Entitlements Consulting Agreement.** Under the Terms of the Entitlements Consulting Agreement, attached Exhibit C, the Company will contract with Brownstone to provide the services contained therein.

ARTICLE 5. ALLOCATIONS AND DISTRIBUTIONS

5.1 **Profits and Losses.** After giving effect to the special allocations set forth in paragraphs 5.3 and 5.5, including without limitation paragraph 5.5.2, all Profits and Losses and each item of income, gain, loss, deduction and/or credit shall be allocated in the following manner:

5.1.1 First, net Profits (if any) shall be allocated among the Members in proportion to the difference between each Member's Additional Contributions and allocations made to each Member pursuant to this paragraph 5.1.1 until such time as allocations to each Member pursuant to this paragraph equal each Member's Additional Contributions;

5.1.2 Second, net Profits (if any) shall be allocated among the Members in proportion to the difference between each Member's Initial Contributions and allocations made to each Member pursuant to this paragraph 5.1.2 until such time as allocations to each Member pursuant to this paragraph equal each Member's Initial Contributions; and

5.1.3 All remaining Profits and Losses and each item of income, gain, loss, deduction and/or credit shall be allocated to the Members in proportion to their respective Profit Sharing Ratios (i.e., with respect to Membership Units). For purposes of determining Capital Account balances, Profits shall be allocated prior to reducing Capital Accounts by the distributions of Net Cash from Operations and Net Cash from Sales or Refinancing.

5.2 **Limitation on Allocation of Losses.** The Losses allocated pursuant to paragraph 5.1 shall not exceed the maximum amount of Losses that can be so allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any Fiscal Year. If some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses pursuant to paragraph 5.1 hereof, the limitation set forth in this Article 5.2 shall be applied on a Member by Member basis so as to allocate the maximum permissible Losses to each Member under Section 1.704-1(b)(2)(ii)(d) of the Regulations.

5.3 **Special Allocations.**

5.3.1 **Minimum Gain Chargeback.** Except as otherwise provided in Section 1.704-2(f) of the Regulations, notwithstanding any other provision of Article 5, if there is a net decrease in Company Minimum Gain during any Fiscal Year, each Member shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(f) and 1.704-2(i) of the Regulations. This paragraph 5.3.1 is intended to comply with the Minimum Gain Chargeback requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith.

5.3.2 Member Minimum Gain Chargeback. Except as otherwise provided in Section 1.704-2(i)(4) of the Regulations, notwithstanding any other provision of this Article 5, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to Member Nonrecourse Debt during any Fiscal Year, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(5) of the Regulations, shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(i)(4) and 1.704-2(j) of the Regulations. This paragraph 5.3.2 is intended to comply with the Minimum Gain Chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

5.3.3 Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Section 1.704-1 (b)(2)(ii)(d)(4), Section 1.704-1(b)(2)(ii)(d)(5) or Section 1.704-1(b)(2)(ii)(d)(6) of the Regulations, items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible, provided that an allocation pursuant to paragraph 5.3.3 shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article 5 have been tentatively made as if this paragraph 5.3.3 were not in this Agreement.

5.3.4 Gross Income Allocation. If any Member has a deficit Capital Account at the end of any Fiscal Year which is in excess of the sum of:

(a) the amount such Member is obligated to restore pursuant to any provision of this Agreement; and

(b) the amount such Member is deemed to be obligated to restore pursuant to the next to the last sentences of Regulation Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this paragraph 5.3.4 shall be made only if and to the extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in Article 5 have been made as if paragraph 5.3.3 hereof and this paragraph 5.3.4 were not in the Agreement.

5.3.5 Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

5.3.6 Nonrecourse Deductions. Nonrecourse Deductions for any Fiscal Year shall be specially allocated among the Members in proportion to their respective Ownership Interests.

5.3.7 Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743 (b) is required, pursuant to Regulation Section 1.704-1(b)(2)(iv)(m)(2) or Regulation Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of the Member's Ownership Interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their interests in the Company if Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Member to whom such distribution was made if that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

5.3.8 Allocations Relating to Taxable Issuance of Company Interests. Any income, gain, loss or deduction realized as a direct or indirect result of the issuance of an interest by the Company to a Member (the "Issuance Items") shall be allocated among the Members so that, to the extent possible, the net amount of such Issuance Items, together with all other allocations under this Agreement to each Member, shall be equal to the net amount that would have been allocated to each such Member if the Issuance Items had not been realized.

5.4 Tax Consequences. The Members are aware of the income tax consequences of the allocations made by this Article 5 and hereby agree to be bound by the provisions of this Article 5 in reporting their shares of Company income and loss for income tax purposes.

5.5 Curative Allocations.

5.5.1 The allocations set forth in paragraphs 5.2 and 5.3 (the "Regulatory Allocations") are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deduction pursuant to paragraph 5.5. Therefore, notwithstanding any other provision of this Article 5 (other than the Regulatory Allocations), the Members shall approve of such offsetting special allocations of Company income, gain, loss or deduction in whatever manner they determine appropriate so that, after such offsetting allocations are made, each Member's Capital Account is, to the extent possible, equal to the Capital Account such Member would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to paragraph 5.1. In exercising discretion under this paragraph 5.5, the Members shall take into account future Regulatory Allocations under paragraphs 5.3.1 and 5.3.2 that, although not yet made, are likely to offset other Regulatory Allocations previously made under paragraphs 5.3.5 and 5.3.6.

5.5.2 The tax allocation provisions of this Agreement are intended to produce final Capital Account balances that are at levels ("Target Final Balances") which permit liquidating distributions pursuant to paragraph 9.9 to be made strictly in accordance with the priority described

in paragraph 5.6. To the extent the tax allocation provisions of this Agreement do not or would not produce such Target Final Balances, the Members agree to take such actions as are necessary to produce such Target Final Balances. Notwithstanding the other provisions of this Agreement, allocations to Company gross income and deductions shall be made prospectively as necessary to produce such Target Final Balances (and, to the extent such prospective allocations would not reach such result, the prior tax returns of the Members were incorrect and shall be amended to reallocate Member gross income and deductions to produce such Target Final Balances).

5.6 Distributions.

Except as provided in paragraph 5.13, the Members shall distribute Net Cash from Operations and Net Cash from Sales or Refinancings in the following order and priority:

5.6.1 First, Fifty Thousand Dollars (\$50,000) shall be distributed to Myers as an advance against future distributions contemporaneous with the execution of this Agreement.

5.6.2 Second, Two-Hundred Thousand Dollars (\$200,000) shall be distributed to Myers as an advance against future distributions contemporaneous with the closing of the acquisition of the Property.

5.6.3 Third, such distributions shall be made to the Members pro rata in proportion and to the extent of their respective Unreturned Additional Contributions, plus an amount equal to an annual internal rate of return of eight percent (8%) on such Unreturned Additional Contribution (the "Additional Contribution Preferred Return"), in such amounts and at such times as the Members by Majority Vote shall determine appropriate. Provided, however, if a Majority of the Members are unable to agree upon a method pursuant to which such amounts shall be distributed, then the Company shall, on the 15th day following each calendar quarter, distribute all Net Cash from Operations and Net Cash from Sales or Refinancings to the Members pro rata in proportion and to the extent of their respective Unreturned Additional Contributions, with such distributions occurring prior to any distributions to the Members pursuant to Paragraph 5.6.4 and 5.6.5 below.

5.6.4 Fourth, such distributions shall be made to Kiril to the extent of his Equity Contribution and his Entitlements Contribution, plus an internal rate of return of eight percent (8%) on such Equity Contribution and Entitlements Contribution prior to any distributions to the Members pursuant to paragraph 5.6.5 below.

5.6.5 Fifth, the Members shall, no less frequently than quarterly, review the financial operations and cash position of the Company and distribute to the Members, in proportion to their Profit Sharing Ratios, any Net Cash from Operations and Net Cash from Sales or Refinancings.

Notwithstanding anything to the contrary in this paragraph 5.6, at such time as elected by Kiril, the Multifamily Parcel will be distributed in kind to Kiril in repayment of his Multifamily Contributions.

Notwithstanding anything to the contrary in this paragraph 5.6, except the prior sentence, any amounts available for distribution by the Company under this paragraph 5.6 shall first be used to repay any loans then outstanding which have been made by any Member to the Company, unless otherwise agreed by the lending Member.

5.7 Distribution to Pay Tax Liabilities. Within ninety (90) days after the end of each fiscal year to the extent of available cash and after all Member loans have been repaid, the Company will make a distribution (in the order of priority provided for in paragraphs 5.6.1 through 5.6.5) in an amount equal to at least (a) the Company's net taxable income during the fiscal year multiplied by (b) forty-five percent (45%), less (c) the amount of any distributions made by the Company during the fiscal year (other than distributions made during the fiscal year that were required to be made under the provisions of this Section with respect to a prior fiscal year). For purposes of this Section, the Company's net taxable income will be the net excess of items of recognized income and gain over the items of recognized loss and deduction reported on the Company's federal income tax return for the taxable year with respect to which the distribution is being made.

5.8 Other Allocation Rules.

5.8.1 For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Members using any permissible method under Code Section 706 and the Regulations thereunder.

5.8.2 All allocations to the Members shall, except as otherwise provided, be divided among them in proportion to their Ownership Interests.

5.8.3 To the extent permitted by Section 1.704-2(h)(3) of the Regulations, the Company shall endeavor to treat distributions of Net Cash From Operations or Net Cash From Sales or Refinancings as having been made from the proceeds of a Nonrecourse Liability or a Member Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Member.

5.9 Section 704(c) Allocations. In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any Property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such Property to the Company for federal income tax purposes and its initial Gross Asset Value (computed in accordance with paragraph 12.26).

If the Gross Asset Value of any Company asset is adjusted pursuant to paragraph 12.26, subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Members in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this paragraph 5.8 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

5.10 Allocation of Income, Loss and Distributions in Respect of Transferred Interests.

5.10.1 If any interest of a Member in the Company is Transferred in accordance with this Agreement, or is increased or decreased by reason of the admission of an Additional Member or otherwise, during any Fiscal Year of the Company, each item of income, gain, loss, deduction, or credit of the Company for such Fiscal Year shall be allocated between the transferor, transferee, and the other Members by taking into account their varying interests during the Fiscal Year in accordance with Section 706(d) of the Code, using any conventions permitted by law and selected by the Members.

5.10.2 Distributions of Company assets in respect of an interest in the Company shall be made only to the Members who, according to the books and records of the Company, are the holders of record of the interests in respect of which such distributions are made on the actual date of distribution. Neither the Company nor any Member shall incur any liability for making distributions in accordance with the provisions of the preceding sentence, whether or not the Company or the Member has knowledge or notice of any Transfer or purported Transfer of ownership of any interest in the Company. Notwithstanding any provision above to the contrary, gain or loss of the Company realized in connection with a sale or other disposition of any of the assets of the Company shall be allocated solely to the Persons reflected on the books and records of the Company as owning interests in the Company as of the date such sale or other disposition occurs.

5.11 **Adjustments to Capital Accounts.** The manner in which Capital Accounts are to be maintained pursuant to this Agreement is intended to comply with the requirements of Section 704(b) of the Code and the Regulations promulgated thereunder. If in the opinion of the Company's accountant or tax advisor, the manner in which Capital Accounts are to be maintained pursuant to the provisions of this Agreement should be modified in order to comply with Section 704(b) of the Code and the Regulations thereunder, then notwithstanding anything to the contrary contained in this Agreement, the method in which Capital Accounts are maintained shall be so modified; provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.

5.12 **Rights to Distributions.** No Member shall have the right or power to demand or receive a distribution in a form other than cash, and no Member shall be required or compelled to accept a distribution of any asset in kind to the extent that the interest distributed would exceed the Member's pro rata share of operating or liquidating distributions, as the case may be. Except as specifically provided in this Agreement, no Member shall have the right to receive any interest on any distribution or other amount payable to the Member by the Company.

5.13 **Distribution in Compliance with the Act.** Notwithstanding anything contained in this Agreement, the Company's obligations to make distributions hereunder are subject to the restrictions governing distributions under the Act, specifically those restrictions imposed by ORS 63.229.

5.14 **Liquidating Distributions.** If the Company is dissolved and its business and affairs are wound up, distributions shall be made pursuant to Section 9.

5.15 **Amounts Withheld.** All amounts withheld pursuant to the Code or any provision of any state or local tax law with respect to any payment, distribution or allocation to the Members shall be treated as amounts distributed to the Members pursuant to this Article 5 for all purposes under this Agreement. The Company is authorized to withhold from distributions, or with respect to allocations, and to pay over to any federal, state or local government any amounts required to be so withheld pursuant to the Code or any provisions of any other federal, state, or local law and shall allocate any such amounts to the Members with respect to which such amount was withheld.

ARTICLE 6. MANAGEMENT

6.1 **Management.** The business and affairs of the Company shall be managed by the Members as provided in this Agreement and the Act.

6.2 **Unanimous Vote or Written Consent of Members.** The following actions by the Company or the Members shall require the Unanimous Vote, at a meeting of Members, of all Members then entitled to vote or, in lieu of a meeting of Members, the written consent of All of the Members then entitled to vote:

- (a) The issuance of any additional Membership Units in the Company;
- (b) The admission of an Additional Member pursuant to paragraph 8.4 or of a Substitute Member pursuant to paragraph 8.5;
- (c) Any Transfer by a Member of an interest in the Company if such Transfer is not otherwise permitted under Article 8;
- (d) The payment to any Member of a salary or other compensation for any services rendered to the Company, except as provided in the Construction Management Agreement and Entitlement Consulting Agreement;
- (e) The extension of the credit of the Company in any way except in the ordinary course of business of the Company;
- (f) The possession of Company Property or assignment of rights in specific Company Property other than for a Company purpose;
- (g) Any action by the Company or any Member in contravention of this Agreement;

(i) The amendment of this Agreement, as provided in paragraph 10.5, or the amendment of the Articles;

(j) Other than the initial acquisition of the Property and entering into the A&D Loan, both of which are authorized by the Members, the purchase, sale, lease exchange, mortgage, pledge, refinance, or other transfer or disposition of any Company real property, other than in the ordinary course of business, including, without limitations, any beneficial interest therein;

(k) Any material revision of the Plat; or

(l) Any amendment of the CMA, attached Exhibit B, or the Entitlements Consulting Agreement, attached as Exhibit C.

6.3 **Indemnification.** To the fullest extent provided or allowed by the laws of Oregon, the Company shall indemnify the Members from and against all costs, losses, liabilities, damages, claims and expenses (including, without limitation, attorneys' fees and costs as incurred on trial and on appeal) incurred in their capacity as Members, including, without limitation, claims arising from any such Member's actions or inactions taken or omitted as a Member in furtherance of the business or affairs of the Company; provided that the foregoing shall not eliminate or limit a Member's liability for:

(a) Any breach of a Member's duty of loyalty to the Company or the other Members as described in this Agreement;

(b) Acts or omissions not in good faith which involve intentional misconduct or a knowing violation of law;

(c) Any unlawful distribution under the Act, as provided in ORS 63.235; or

(d) Any transaction not expressly approved or ratified by the Members involving an actual or potential conflict of interest between a Member and the Company from which the Member derives an improper personal benefit.

6.4 **Contribution.** If any Member is required by law to pay more than his or her proportionate share (based on such Member's Ownership Interest) of any debt, liability or other obligation of the Company, such Member shall be entitled to contribution from the other Members proportionate to their Ownership Interests. If liability is imposed upon any of the Members in connection with the execution of any instrument on behalf of the Company or in connection with any liabilities of the Company, in addition to any other right under this Agreement to which such Member may be entitled, the Members, and each of them, jointly and severally, agree to indemnify and hold any of the Members against whom liability is so imposed harmless from any liability, including attorney fees, in excess of that Member's proportionate share (based on relative Ownership Interests) of such liability.

6.5 **Limitation of Liability.** Each Member's liability shall be limited as set forth in this Agreement, the Act and other applicable law. A Member will not be personally liable, merely as a Member, for any debts or losses of the Company beyond the Member's respective Contributions, except as otherwise provided by law. A failure to observe any formalities or requirements of this Agreement, the Articles of Organization or the Act shall not be grounds for imposing personal liability on the Members for liabilities of the Company.

6.6 **Execution of Instruments.** Whenever it may be necessary or desirable for the Members to join in the execution of instruments, each Member shall cooperate in executing all such instruments authorized hereunder when requested to personally sign the same, but in the event a Member neglects or refuses to sign any such instruments, such Member shall be bound thereby to the same extent as if such Member had signed the same.

6.7 **Duties of Members.** None of the Members are expected to devote their full time and effort to the conduct of the business of the Company. Each Member shall be required to devote any required reasonable time, effort and activity to insure the efficient operation and management of the Company affairs.

6.8 **Duty of Loyalty.** Each Member shall be entitled to enter into transactions that may be considered to be competitive with, or a business opportunity that may be beneficial to, the Company, it being expressly understood that some of the Members may enter into transactions that are similar to the transactions into which the Company may enter, and the Company and each Member waive the right or claim to participate therein. Notwithstanding the foregoing, Members shall account to the Company and shall hold as trustee for it, any Property, profit or benefit derived by the Member, without the consent of the Members, in the formation, conduct and winding up of the Company business or for a use or appropriation by the Member of Company assets, including information developed exclusively for the Company and opportunities expressly offered to the Company.

6.9 **Other Self-Interest.** A Member does not violate a duty or obligation to the Company merely because the Member's conduct furthers the interests of the Member. Upon the approval or ratification of the Members, Members may lend money to and transact other business with the Company. The rights and obligations of a Member who lends money to or transacts business with the Company are the same as those of a Person who is not a Member, subject to other applicable law. No transaction with the Company shall be voidable solely because a Member has a direct or indirect interest in the transaction, if the transaction is approved or ratified as provided in paragraph 3.7.

ARTICLE 7. ACCOUNTING AND RECORDS

7.1 **Banking.** All funds of the Company shall be deposited in its name in such checking accounts or accounts of savings as shall be designated by the Members. Checks may be drawn on the Company bank account for the Company purposes only. Checks drawn on the Company bank account may be signed by such Person or Persons as the Members may, from time to time, designate in writing.

7.2 **Tax Returns.** The Members shall cause all required federal and state income tax returns for the Company to be prepared and timely filed with the appropriate authorities. Within sixty (60) days after the end of each Fiscal Year, each Member shall be furnished a statement suitable for use in the preparation of the Member's income tax return, showing the amounts of any distributions, Contributions, gains, losses, profits or credits allocated to the Member during the Fiscal Year pursuant to the terms of this Agreement.

7.3 **Books and Records.** Full and complete books and records shall be maintained by the Company at all times. The Members shall select an accountant to assist in maintaining the books and records and to render services as provided herein, and the accountant's fee shall be paid by the Company. The books and records shall be under the general supervision of the accountant, but shall be in the custody of the Company. The books and records shall be available for examination by any Member, the Member's attorneys, accountants, or other agents or representatives, at reasonable times upon reasonable notice; provided, that any expense incurred for such examination shall be borne by such Member. The Company shall provide to each Member, upon request, a copy of the monthly reports supplied to the Bank in connection with draw requests under the A&D Loan.

7.4 **Tax Matters Member.** Kiril Ivanov shall act as the "Partnership Representative" of the Company pursuant to Section 6223 of the Code. Unless all of the Members elect otherwise, the LLC will elect out of the application of §6221 of the Code for each tax year. The Partnership Representative shall be entitled to reimbursement from the Company for reasonable expenses necessarily incurred in the performance of its responsibilities, upon providing the Company with reasonable documentation describing the amount and business purpose of each such expense.

ARTICLE 8. TRANSFERS OF OWNERSHIP INTERESTS

8.1 **Restriction on Transfers.** Myers shall not Transfer all or any portion of his interest in the Company without the written consent of Kiril. The pledge or other encumbrance of any Myers' interest in the Company as security for the payment of any debt of Myers shall constitute a Transfer. Any purported Transfer not permitted under paragraph 8.2 shall be null and void and of no force or effect whatsoever against the Company, any other Member, any creditor of the Company or any claimant against the Company; provided that, if the Company is required to recognize a Transfer not permitted under paragraph 8.2 (or if the Company, in its sole discretion, elects to recognize a Transfer that is not so permitted), the interest Transferred shall be strictly limited to the Assignor's Economic Rights. Any subsequent distributions with respect to such interest shall be first applied (without limiting any other legal or equitable rights of the Company) to satisfy any debts, obligations or liabilities for damages that the Assignor or Assignee may have to the Company. In the case of a Transfer or attempted Transfer not permitted under paragraph 8.2, the parties engaging or attempting to engage in such Transfer shall indemnify and hold harmless the Company and all non-participating Members from all cost, liability, and damage that any of such indemnified Persons may incur (including, without limitation, incremental tax liability and attorneys' fees and costs) as a result of such Transfer or attempted Transfer and enforcement of the foregoing indemnity.

8.2 **Permitted Transfers.** Myers may at any time Transfer all or any portion of his interest in the Company (a) to any other Member; (b) to Myers' administrator, trustee or representative or in any other involuntary Transfer by operation of law (each, an "Involuntary Transfer"); (c) upon the Unanimous Vote of the Members; or (d) in accordance with the provisions of paragraph 8.3. Kiril may at any time Transfer all or any portion of his interest in the Company to a trust for estate planning purposes, to any lineal descendant on death, or to any entity that is controlled by Kiril.

8.3 **Rights and Obligations of Assignees and Assignors.**

(a) A Transfer by Myers shall not dissolve the Company or entitle the Assignee to become a Member or exercise any rights of a Member, including, without limitation, any Management Rights.

(b) Notwithstanding anything in paragraph 8.3(a) to the contrary, if a court of competent jurisdiction charges an interest in the Company with the payment of an unsatisfied amount of a judgment with interest, to the extent so charged the judgment creditor shall be treated as an Assignee.

(c) Except as otherwise provided in paragraph 8.3(a), a Transfer by Myers, including, without limitation, any Involuntary Transfer, shall eliminate Myers' Management Rights with respect to the interest Transferred and, for voting purposes, such interest shall not be counted as outstanding in proportion to the extent of the interest Transferred. The Transfer shall not cause Myers to be released from any liability to the Company solely as a result of the Transfer.

(d) An Assignee that is not admitted as a Substitute Member pursuant to paragraph 8.4 shall be entitled only to the Economic Rights with respect to the interest Transferred and shall have no Management Rights (including, without limitation, rights to any information or accounting of the affairs of the Company or to inspect the books or records of the Company) with respect to the interest Transferred. If the Assignee becomes a Substitute Member, the Voting Rights associated with the interest Transferred shall be restored and be held by the Substitute Member along with all other Management Rights with respect to the interest Transferred. The Assignee shall have no liability as a Member solely as a result of the Transfer.

(e) Notwithstanding any other provision of the Act or this Agreement apparently to the contrary, if an Assignee is a Member as of the date of any Transfer to such Assignee, such Assignee shall have all the rights and obligations of a Member with respect to such transferred interest, including, without limitation, all Management Rights with respect to such interest.

8.4 **Admission of Assignee as Substitute Member.** Subject to the other provisions of this Article 8, an Assignee may be admitted to the Company as a Substitute Member, with all of the Management Rights of a Member, but only upon satisfaction of all of the following conditions, upon which satisfaction the Substitute Member shall have, to the extent assigned, the rights and powers, and be subject to the restrictions and liabilities, of a Member under the Act, the Articles and this Agreement, shall be liable for any obligations of the Assignor to make Contributions but

shall not be obligated for liabilities reasonably unknown to the Assignee at the time the Assignee becomes a Member:

(a) The Members then entitled to vote unanimously consent to such admission, which consent may be given or withheld in the sole and absolute discretion of each Member, except that consent will not be required for any Transfer by Kiril permitted under Section 8.2;

(b) The Assignee becomes a party to this Agreement as a Member by executing a counterpart signature page to this Agreement and executing such documents and instruments as a Majority of the Members may reasonably request as necessary or appropriate to confirm such Assignee as a Member in the Company and such Assignee's agreement to be bound by the terms and conditions of this Agreement;

(c) The Assignee pays or reimburses the Company for all reasonable legal, filing, and publication costs that the Company incurs in connection with the admission of the Assignee as a Member with respect to the interest Transferred; and

(d) If the Assignee is not a natural person of legal majority, the Assignee provides the Company with evidence reasonably satisfactory to counsel for the Company of the authority of the Assignee to become a Member and to be bound by the terms and conditions of this Agreement.

8.5 Effect of Admission of Substitute Member on Myers and Company.
Notwithstanding the admission of an Assignee as a Substitute Member, Myers shall not be released from the Myers' liability to the Company but such admission shall cause Myers to cease to be a Member with respect to the interest Transferred when the Assignee becomes a Substitute Member.

8.6 Distributions and Allocations Regarding Transferred Member Interests.
Upon any Transfer during any Fiscal Year made in compliance with the provisions of this Article 8, Profits, Losses, each item thereof and all other items attributable to such interest for such Fiscal Year shall be divided and allocated between the Assignor and the Assignee by taking into account their varying interests during such Fiscal Year in accordance with Section 706(d) of the Code, using any conventions permitted by law and selected by a Majority of the Members. All distributions on or before the date of such Transfer shall be made to the Assignor and all distributions thereafter shall be made to the Assignee. Solely for purposes of making such allocations and distributions, the Company shall recognize such Transfer not later than the end of the calendar month during which it is given notice of such Transfer; provided that, if the Company is given notice of a Transfer at least ten (10) Business Days prior to the Transfer, the Company shall recognize such Transfer as the date of such Transfer, and provided, further, that, if the Company does not receive a notice stating the date such interest was Transferred and such other information as a Majority of the Members may reasonably require within thirty (30) days after the end of the Fiscal Year during which the Transfer occurs, then all such items shall be allocated, and all distributions shall be made, to the Member that, according to the books and records of the Company, was the owner of the interest on the last day of the Fiscal Year during which the Transfer occurs. Neither the Company nor any Member shall incur any liability for making allocations and

distributions in accordance with the provisions of this paragraph 8.6, whether or not any Member or the Company has knowledge of any Transfer of any interest.

8.7 **Withdrawal.** No Member shall have the right or power to withdraw from the Company without the consent of a Majority of the Members.

ARTICLE 9. DISSOLUTION

9.1 **Dissolution.** Except as otherwise expressly provided in this Agreement, the occurrence of any of the following events, hereinafter referred to as a "Dissolution Event," shall dissolve the Company:

- (a) The latest to occur of sale of the last Lot, the Park Parcel or the Multifamily Parcel;
- (b) The Unanimous Vote of the Members to dissolve the Company; or
- (b) The dissolution of the Company by operation of law.

In the event of dissolution of the Company, whether voluntary or involuntary, no further business shall be done in the Company name and no further business shall be transacted for the Company except for actions necessary to the winding up of its affairs and the liquidation of its assets and the distribution of the proceeds of the liquidation. The maintenance of offices to effectuate or facilitate the winding up of the Company affairs shall not be construed to involve a continuation of the Company.

9.2 **Winding Up.** Upon the dissolution of the Company under this Agreement or applicable law, except as otherwise provided under this Agreement, the Company shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors and the Members. The Members shall take no action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Company's business and affairs. To the extent not inconsistent with the foregoing, all covenants and obligations in this Agreement shall continue in full force and effect until such time as the Property of the Company has been distributed pursuant to this paragraph 9.2 and Articles of Dissolution have been filed in accordance with the Act. The Members, or, an agent appointed by the Members, shall be responsible for overseeing the winding up and dissolution of the Company, shall take full account of the Company's liabilities and Property, shall cause the Property of the Company to be liquidated as promptly as is consistent with obtaining the fair value thereof, and shall cause the proceeds therefrom, to the extent sufficient therefor, to be applied and distributed in the following order:

- (a) First, to the payment and discharge of all of the Company's debts and liabilities to creditors other than the Members;
- (b) Second, to the payment and discharge of all of the Company's debts and liabilities to the Members;

(c) Third, to payment of the Members of their unreturned Additional Contributions and Additional Preferred Return.

(d) Fourth, to payment of Kiril's Equity Contribution, Entitlements Contributions and related preferential returns;

(d) Fifth, to payment of the Additional Contributions and the Initial Contributions;

(d) Sixth, to the Members in proportion to their positive Capital Account balances until each Member's entire Capital Account has been reduced to zero; and

(g) The balance, if any, to the Members in proportion to their Ownership Interests.

No Member shall receive any additional compensation for any services performed pursuant to this paragraph 9.2. Each Member understands and agrees that by accepting the provisions of this paragraph 9.2 setting forth the priority of the distribution of the assets of the Company to be made upon its liquidation, such Member expressly waives any right which it, as a creditor of the Company, might otherwise have under the Act to receive distributions of assets *pari passu* with the other creditors of the Company in connection with a distribution of assets of the Company in satisfaction of any liability of the Company, and hereby subordinates to said creditors any such right.

9.3 No Obligation to Restore Deficit Capital Account. Notwithstanding anything to the contrary in this Agreement, upon a liquidation within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations under Section 704 of the Code, if any Member has a deficit balance in such Member's Capital Account (after giving effect to all Contributions, distributions, allocations and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), such Member shall have no obligation to make any Contribution to the capital of the Company, and the deficit balance of such Member's Capital Account shall not be considered a debt owed by such Member to the Company or to any other person for any purpose whatsoever.

9.4 Deemed Distribution and Recontribution. Notwithstanding any other provision of this Section 9, if the Company is liquidated within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g) but no Dissolution Event has occurred, the Company Property shall not be liquidated, the Company's liabilities shall not be paid or discharged, and the Company's affairs shall not be wound up. Instead, solely for federal income tax purposes, the Company shall be deemed to have distributed the Company Property in kind to the Members, who shall be determined to have assumed and taken subject to all Company liabilities. Immediately thereafter, the Members shall be deemed to have recontributed the Property in kind to the Company, which shall be deemed to have assumed and taken subject to all such liabilities.

ARTICLE 10. GENERAL PROVISIONS

10.1 **Rights of Creditors and Third Parties.** This Agreement is entered into among the Company and the Members for the exclusive benefit of the Company, its Members, and their successors and assigns. The Agreement is expressly not intended for the benefit of any creditor of any Member or the Company or any other person. Except and only to the extent provided by the Act, no such creditor or third party shall have any rights under this Agreement or any agreement between the Company and any Member with respect to any Contribution by such Member or otherwise.

10.2 **Waiver.** No waiver of any right arising out of a breach of any covenant, term or condition of this Agreement shall be a waiver of any right arising out of any other or subsequent breach of the same or any other covenant, term or condition or a waiver of the covenant, term or condition itself.

10.3 **Benefit.** Except as otherwise provided in this Agreement, the covenants, conditions and terms of this Agreement shall extend to and be binding upon and inure to the benefit of the heirs, personal representatives, assigns and successors of the parties hereto.

10.4 **Attorney's Fees.** If any arbitration, mediation, or other proceeding is brought in lieu of litigation, or if suit or action is instituted to enforce or interpret any of the terms of this Agreement, or if suit or action is instituted in a Bankruptcy Court for a United States District Court to enforce or interpret any of the terms of this agreement, to seek relief from an automatic stay, to obtain adequate protection, or to otherwise assert the interests of the Company or a Member in a bankruptcy proceeding, the party not prevailing shall pay the prevailing party's costs and disbursements, the fees and expenses of expert witnesses in determining reasonable attorney fees pursuant to ORCP 68, the actual cost of a litigation or foreclosure report, and such sums as the court may determine to be reasonable for the prevailing party's attorney fees connected with the trial and any appeal and by petition for review thereof. The prevailing party shall be entitled to request post-judgment attorney's fees and costs from the court after such fees are incurred without filing a different action or suit.

10.5 **Modification and Amendment.** This Agreement and its terms may be modified and added to by agreement of all of the Members. Such a modification shall be in writing and become a part of this Agreement. No Member shall have any vested rights in this Agreement which may not be modified through any such amendment to this Agreement.

10.6 **Gender and Name.** Whenever appropriate, words used in the singular may include the plural, and the plural may include the singular, and the masculine may include the feminine.

10.7 **No Partnership Intended for Nontax Purposes.** The Members have formed the Company under the Act, and expressly do not intend hereby to form a partnership under either the Oregon Uniform Partnership Act or the Oregon Uniform Limited Partnership Act or a Corporation under the Oregon Business Corporation Act. The Members in their capacities as Members of the Company do not intend thereby to be partners of or among each other, or partners as to any third per. To the extent any Member, by word or action, represents to another person that any other Member is a partner or that the Company is a partnership, the Member making such wrongful

representation shall be liable to any other Member that incurs personal liability by reason of such wrongful representation. Notwithstanding the foregoing, the Members acknowledge that it is their intent to be treated as partners solely for federal and state tax purposes, and the Company and the Members will file tax returns consistent with that treatment. The Members agree to make any amendments to this Agreement and the Articles as may be reasonably necessary to ensure that the Members will be treated as partners for federal and state tax purposes.

10.8 **Representation.** The law firm of Holland Knight LLP represents Myers in connection with this Agreement and the organization of the Company. Bittner & Hahs, P.C. represents Kiril Ivanov in connection with this Agreement and the organization of the Company.

ARTICLE 11. DEADLOCK & DISPUTE RESOLUTION

11.1 **Arbitration.** Any controversy or claim arising out of or relating to this Agreement including any claimed breach thereof, or in the event of a deadlock in voting which results in a material adverse impact on the Company's business (including specifically the development of the Project or the sale of the Units) shall be settled first by mediation, and if mediation is unsuccessful by binding arbitration in Portland, Oregon.

11.2 **Procedure.** Any Party to this Agreement can initiate mediation or arbitration pursuant to this Agreement by serving notice on the other Parties of intent to mediate or arbitrate. The notice shall specify with particularity the claims or issues that are to be mediated or arbitrated. The dispute shall first be submitted to mediation under the rules of the Arbitration Service of Portland ("ASP"), which mediation must take place within ten (10) days from agreement upon or appointment of a mediator, subject to the schedule and availability of the mediator. In the event the Members are unable to resolve the deadlock or dispute in mediation, the deadlock or dispute shall be submitted to binding arbitration in accordance with the rules of the ASP, which arbitration will be held in Portland, Oregon, with the appointment of an arbitrator occurring within 30 days after filing of the Statement of Claim by either Member, and, subject to the availability of the arbitrator, the arbitration occurring within 60 days thereafter. The Arbitrator shall be empowered to cast a deciding vote on the matter in dispute which resulted in the voting deadlock, or otherwise enter an award in favor of either party. In no event may the arbitrator award consequential or punitive damages. The arbitrator's final decision shall be rendered within ten days of the final hearing day. Judgment upon the arbitrator's final award may be entered in any court having jurisdiction thereof.

11.3 **Costs and Fees.** The Parties shall bear their respective costs and fees as provided by paragraph 10.4 hereof.

ARTICLE 12. DEFINITIONS

For purposes of this Agreement, the following terms shall have the following meanings:

12.1 "Act" shall have the meaning set forth in Recital "A".

12.2 "Additional Contribution(s)" shall have the meaning set forth in paragraph 2.4.

12.3 “Adjusted Capital Account Deficit” means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(a) The Capital Account shall be increased by any amounts which such Member is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Regulations; and

(b) The Capital Account shall be decreased by the items described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) and 1.704-1(b)(2)(ii)(d)(6) of the Regulations.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

12.4 “Agreement” means this Operating Agreement, as amended or restated from time to time.

12.5 “All of the Members” shall mean at any time, the Member or Members holding one hundred percent (100%) or more of the Voting Rights then entitled to vote, consent to, or otherwise decide any matters submitted to the Members.

12.6 “Articles of Organization” shall have the meaning set forth in Recital “A”.

12.7 “Assignee” shall mean the owner of Economic Rights who is not a Member and as such has no Management Rights.

12.8 “Assignor” shall mean a Person that either voluntarily or involuntarily Transfers an interest in the Company.

12.9 “Bankruptcy” shall mean, with respect to any Person, if such Person: (1) files a voluntary petition in bankruptcy; (ii) is adjudicated bankrupt or insolvent; (iii) makes an assignment for the benefit of creditors; (iv) files a petition or answer on behalf of such Person which seeks any reorganization, composition, liquidation, adjustment, dissolution, or other similar relief relating to bankruptcy, insolvency, or relief from creditors; or (v) seeks, consents, or acquiesces in the appointment of a trustee, receiver, or liquidator for such Person or of all or any substantial part of such Person's assets.

12.10 “Business Day” shall mean any day other than Saturday, Sunday, or any legal holiday on which banks in Portland, Oregon are closed.

12.11 “Capital Account” or “Capital Accounts” shall mean the individual accounts established and maintained pursuant to paragraph 2.1 of this Agreement.

12.12 “Code” shall mean the Internal Revenue Code of 1986, as amended, or corresponding provisions of subsequent superseding Federal Revenue laws.

12.13 “Company” shall mean East Park LLC, an Oregon limited liability company, as referenced in the caption paragraph of this Agreement.

12.14 “Company Minimum Gain” shall mean the same as “partnership minimum gain” as set for in Sections 1.704-2(b)(2) and 1.704-2(d) of the Regulations.

12.15 “Contributions” means, with respect to any Member, the amount of money and the initial Gross Asset Value of any Property (other than money) contributed by such Member to the capital of the Company pursuant to Article 2, net of liabilities secured by such contributed Property that the Company is considered to assume or take subject to pursuant the Section 752 of the Code. The principal amount of a promissory note which is not readily traded on an established securities market and which is contributed to the Company by the maker of the note (or a Member related to the maker of the note within the meaning of Section 1.704-1(b)(2)(ii)(c)) of the Regulations shall not be included in the Capital Account of any Member until the Company makes a taxable disposition of the note or until (and to the extent) principal payments are made on the note, all in accordance with Section 1.704-1(b)(2)(iv)(d)(2) of the Regulations.

12.16 “Depreciation” means, for each Fiscal Year, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such Fiscal Year, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis; provided, however, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Members.

12.17 “Dissolution Event” shall have the meaning set forth in paragraph 9.9.

12.18 “Economic Rights” shall mean a Member's or Assignee's share of the Profits (including the Profit Sharing Ratio of each Member), Losses, capital, or any other items applicable to any period and distributions of Company Property pursuant to the Act, the Articles of Organization, and this Agreement, but shall not include any Management Rights.

12.19 “Entitlements Contribution” shall have the meaning set forth in paragraph 5.6.

12.20 “Entity” shall mean any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association or any foreign trust or foreign business organization.

12.21 “Equity Contribution” shall have the meaning set forth in paragraph 5.6.

12.22 "Fiscal Year" means the Company's fiscal year as set forth in paragraph 8.1.

12.23 "Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as determined by the contributing Members;

(b) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Members, as of the following times: (a) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis Contribution; (b) the distribution by the Company to a Member of more than a de minimis amount of Property as consideration for an interest in the Company; and (c) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); provided, however, that adjustments pursuant to clauses (a) and (b) above shall be made only if the Members reasonably determine that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(c) The Gross Asset Value of any Company asset distributed to any Member shall be adjusted to equal the gross fair market value of such asset on the date of distribution as determined by the Members; and

(d) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Section 1.704-1(b)(2)(iv)(m) of the Regulations, clause (f) of the definition of Profits and Losses, and paragraph 6.3.7 hereof; provided, however, that Gross Asset Values shall not be adjusted pursuant to this clause (d) to the extent the Members determine that an adjustment pursuant to clause (b) of this definition is not necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this clause (d).

If the Gross Asset Value of an asset has been determined or adjusted pursuant to any of clauses (a), (b), (d) of this definition, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

12.24 "Initial Contributions" shall mean the initial capital contributions by the Members to the Company set forth in paragraph 2.2.

12.25 "Initial Member" shall mean each of the parties identified in paragraph 2.8 that execute a counterpart of this Agreement.

12.26 "Involuntary Transfer" shall have the meaning set forth in paragraph 8.2.

12.27 “Issuance Items” shall have the meaning set forth in paragraph 5.3.8.

12.28 “Majority” or “Majority of the Members” shall mean, at any time, the Member or Members holding more than fifty (50%) percent of the Voting Rights held by Members then entitled to vote, consent to, or otherwise decide any matters submitted to the Members.

12.29 “Management Rights” shall mean the right of a Member to participate in the management of the Company, including each Member's Voting Rights, rights to information and rights to consent or approve actions of the Members.

12.30 “Member” shall mean each Initial Member and any Person that may hereafter become an Additional Member or a Substitute Member.

12.31 “Member Nonrecourse Debt” shall have the meaning set forth in Section 1.704-2(b)(4) of the Regulations for “partner nonrecourse debt”.

12.32 “Member Nonrecourse Debt Minimum Gain” shall mean an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i)(3) of the Regulations.

12.33 “Member Nonrecourse Deductions” shall have the meaning set forth in Sections 1.701-2(1)(1) and 1.704-2(i)(2) of the Regulations for “partner nonrecourse deductions”.

12.34 “Membership Units” means the units of ownership in the Company. The initial Membership Units owned by the Members are shown on Schedule A.

12.35 “Net Cash From Operations” means the gross cash proceeds from Company operations (including sales and dispositions of Property in the ordinary course of business) less the portion thereof used to pay or establish minimum reserves for all Company expenses, debt payments, capital improvements, replacements, and contingencies in the ordinary course of business, all as determined by the Members. “Net Cash From Operations” shall not be reduced by depreciation, amortization, cost recovery deductions, or similar allowances, but shall be increased by any reductions of reserves previously established pursuant to the first sentence of this definition and the definition of Net Cash From Sales or Refinancings.

12.36 “Net Cash From Sales or Refinancings” means the net cash proceeds from all sales and other dispositions (other than in the ordinary course of business) and all refinancings of Property, less any portion thereof used to make debt payments (including without limitation any indebtedness which encumbers a Unit) or establish reserves, all as determined by the Members. “Net Cash From Sales or Refinancings” shall include all principal and interest payments with respect to any note or other obligation received by the Company in connection with sales and other dispositions (other than in the ordinary course of business) of Property.

12.37 “Nonrecourse Deductions” shall have the meaning set forth in Section 1.704-2(b)(1) of the Regulations.

12.38 “Nonrecourse Liability” shall have the meaning set forth in Section 1.704-2(b)(3) of the Regulations.

12.39 “Ownership Interest” shall be equal to that percentage determined by dividing the number of Membership Units owned by a Member divided by the total number of Membership Units owned by all Members.

12.40 “Person” shall mean any natural person or Entity, and the heirs, executors, administrators, legal representatives, and assigns of each such Person where the context so permits.

12.41 “Profits” and “Losses” means, for each Fiscal Year, an amount equal to the Company's taxable income or loss for such Fiscal Year, determined in accordance with Code Section 703 (a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses shall be added to such taxable income or loss;

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

(c) In the event the Gross Asset Value of any Company asset is adjusted pursuant to clause (b) or (c) of the definition of Gross Asset Value, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Profits or Losses;

(d) Gain or loss resulting from any disposition of Property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the Property disposed of, notwithstanding that the adjusted tax basis of such Property differs from its Gross Asset Value;

(e) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year, computed in accordance with the definition of Depreciation;

(f) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Section 1.704-1(b)(2)(iv)(m)(4) of the Regulations to be taken into account in determining Capital Accounts as a result of a distribution other than in complete liquidation of a Member's Economic Rights, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis

of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Profits or Losses; and

(g) Notwithstanding any other provision of any clause of this definition, any items which are specially allocated pursuant to paragraphs 5.3 or 5.5 hereof shall not be taken into account in computing Profits or Losses.

The amounts of the items of Company income, gain, loss or deduction available to be specially allocated pursuant to paragraphs 5.3 or 5.5 hereof shall be determined by applying rules analogous to those set forth in clauses (a) through (f) of this definition. The initial interest of each Member in the Profits of the Company is set forth in Schedule A.

12.42 “Profit Sharing Ratios” will initially be equal to seventy-five percent (75%) owned by Kiril Ivanov, twenty-five percent (25%) owned by Myers.

12.43 “Project” shall have the meaning set forth in paragraph 1.2.

12.44 “Property” shall mean any property, real or personal, tangible or intangible, including cash and any legal or equitable interest in such property, but excluding services and promises to perform services in the future.

12.45 “Qualified Appraiser” shall have the meaning set forth in paragraph 9.5.4.

12.46 “Regulations” means, except where the context indicates otherwise, the permanent, temporary or proposed regulations of the Department of the Treasury under the Code as such regulations may be lawfully changed from time to time.

12.47 “Regulatory Allocations” shall have the meaning set forth in paragraph 5.5.

12.48 “Substitute Member” shall mean an owner of Economic Rights admitted to all rights of membership in the Company and thereby the holder of all Management Rights of a Member.

12.49 “Tax Matters Member” shall have the meaning set forth in paragraph 7.4.

12.50 “Transfer” shall mean with respect to any interest in the Company, as a noun, any voluntary or involuntary assignment, sale or other transfer disposition of such interest and, as a verb or adjective, voluntarily or involuntarily to assign, sell or otherwise transfer or dispose of such interest.

12.51 “Unanimous Vote” means a vote of one hundred percent (100%) or more of the Members then entitled to vote, consent to, or otherwise decide any matters submitted to the Members.

12.52 “Unreturned Additional Contribution(s)” shall mean the sum of the Member's Additional Contributions (if any) less the sum of all amounts that have been distributed to such Member pursuant to paragraph 5.6(b).

12.53 “Unreturned Initial Contribution(s)” shall mean the Member's initial Contribution (if any) pursuant to paragraph 2.2 of this Agreement, less the sum of all amounts that have been distributed to such Member pursuant to paragraphs 5.6(c) and 5.6(d).

12.54 “Voting Rights” means the percentage derived by dividing the number of Membership Units owned by each Member by the total number of Membership Units owned by all Members. The Voting Rights of each Member are listed in Schedule A.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.



Randall C. Myers

Karl Ivanov

EAST PARK, LLC,
an Oregon limited liability company


By: _____
Karl Ivanov, Member
By: _____
Randall C. Myers, Member

SCHEDULE

Members

Name; TIN & Address of Member	Capital Contribution & Gross Asset Value	Initial Profit Sharing Ratio, Voting Rights	Voting Rights	Initial Membership Units
Randall C. Myers	\$0.00	25%	25%	250
Kiril Ivanov	\$ _____	75%	75%	750

19.3 Attorney Fees. If suit, action, or arbitration is instituted to enforce any right provided for in this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees to be fixed by the arbitrator, or court at trial or on appeal plus its costs and disbursements and expenses actually incurred in such suit, action or arbitration.

19.4 Waiver. No waiver of any provision of this Agreement shall be deemed or constitutes a waiver of any other provision contained within this Agreement. Nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

I & E CONSTRUCTION, INC.,
an Oregon corporation

By: _____

Name: Kiril Ivanov

Its: President

EAST PARK, LLC,
an Oregon limited liability company

By: _____

Name: Randy Myers

Its: Member

EXHIBIT B

CONSTRUCTION MANAGEMENT AGREEMENT

This Construction Management Agreement (this "Agreement") is made effective Oct 3, 2018, between I&E CONSTRUCTION, INC., an Oregon corporation (the "Contractor"), whose address is 9550 SE Clackamas Rd., Clackamas, OR 97018 (CCB Number 185061) and EAST PARK, LLC, an Oregon limited liability company (the "Owner").

1. PROPERTY ADDRESS: Approximately 120.26 acres located in Salem, Marion County, OR, comprised of the Tax Lots listed on Exhibit A attached hereto.

2. GENERAL SCOPE OF WORK. The term "Work" means the construction and services required by the Contract Documents (as defined hereinafter), to be performed by the Contractor, specifically the construction of the subdivision infrastructure and improvements ("Subdivision Improvements"), according to the Contract Documents (the "Project"). This Agreement refers to the labor, materials, equipment, rentals, and anything else to complete the Work. There are no exclusions. The Work shall be completed by Contractor in strict accordance with the Preliminary Plat Approval in Subdivision Case No. _____, City of Salem, Oregon (the "Plat Approval").

3. CONTRACT DOCUMENTS. The Contract Documents are as follows:

The Agreement.

The final permitted drawings and specifications for the Subdivision Improvements.

Lender's inspection and draw procedures.

Any additions or modifications to the foregoing agreed to by the parties.

All financing records relating to the Work and the performance of the Work.

4. LABOR AND MATERIALS. The Contractor will provide, at Owner's expense, all materials, supplies, equipment, services, and subcontract labor necessary for the performance of this Agreement, and will in addition, through its own employees provide all construction management and supervision necessary to complete the Work in a timely manner. The Contractor shall contract for, and Owner shall pay for, all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated into the Work.

5. CONTRACTOR'S OBLIGATIONS. Contractor shall be responsible for all construction activity in connection with the Work, and in connection therewith, Contractor and its employees shall supervise and coordinate the work of all subcontractors, and shall be responsible to bring the site from its current condition through completion of the Work. The Contractor shall supervise and

EXHIBIT C

ENTITLEMENTS CONSULTING AGREEMENT

This ENTITLEMENTS CONSULTING AGREEMENT (the "Agreement") dated ~~September~~ ^{October} 3, 2018 (the "Effective Date"), is made by and among BROWNSTONE DEVELOPMENT, INC., an Oregon corporation ("Brownstone"), and EAST PARK, LLC, an Oregon limited liability company (the "Company"). Brownstone, and the Company are hereinafter collectively referred to as the "Parties" and individually as a "Party".

RECITALS

A. Brownstone is engaged in the residential development business in the Portland metropolitan area. In connection therewith, Brownstone acquires undeveloped land that it entitles and markets to developers and homebuilders.

B. Brownstone is the buyer under purchase contracts for two parcels of real property, the Michael Souza property (3.26 acres) and the Pictsweet Company property (117 acres), in Salem, Marion County, Oregon. The properties will be partitioned into single-family lots, an approximately 7.5 acre parcel to be purchased by the City of Salem as a park (the "Park Parcel"), and an approximately 11.4 acre parcel to be zoned as commercial/multifamily (the "Multifamily Parcel"). The single-family lots and creation of the Park Parcel are each individually a "Project" and collectively the "Projects". Brownstone will, contemporaneous with the execution of this Agreement, assign all of its rights, title and interest in the two purchase agreements to the Company in the form of Exhibits A and B attached hereto.

C. Brownstone has substantial experience and expertise in the residential development business and has agreed to provide Project management and consulting services in connection with securing entitlements and permits for the Projects. Brownstone will have no responsibility for obtaining entitlements for the Multifamily Parcel.

NOW, THEREFORE, in consideration of their mutual promises, the Parties agree as follows:

1. **Entitlements Consulting Services.** The Company hereby retains Brownstone as its Project Entitlements Consultant (hereinafter, the "Consultant") to permit and entitle the Projects. Brownstone assumes the responsibility to manage the entitlements process for the Projects with the ongoing assistance and input from the Company, it being understood that Brownstone will have primary responsibility to secure preliminary plat approval for the Projects. All work product generated or produced by Brownstone, or any contracts in connection with the Projects, shall be in the name of the Company. The Parties each agree to use their respective best efforts to cause Brownstone to perform each and every obligation of Brownstone contained in this Agreement.

2. **Costs.** The Company will pay all third-party costs related to obtaining the entitlements, including but not limited to engineers, architects, other consultants, and fees charged by governmental agencies. Brownstone is responsible for all costs related to its own employees.

3. Irrevocable Power of Attorney. The Company hereby grants to Brownstone a revocable power of attorney to act in its stead to entitle the Projects, including the filing of any required land use applications.

4. Compensation. In consideration of the consulting services to be performed by Brownstone hereunder, the Company shall issue to Randall C. Myers ("Myers"), a twenty-five percent (25%) membership interest in the Company under the terms and conditions of the Operating Agreement of the Company entered into between Myers and Kiril Ivanov contemporaneous herewith.

5. Term. The term of this Agreement shall begin on the Effective Date first written above and shall continue until the Projects are fully entitled and permitted and all appeal periods applicable thereto have expired.

6. Independent Contractor's Declaration.

a. It is understood and agreed that Brownstone is acting as an independent contractor in the performance of its services hereunder, and nothing herein contained shall be deemed to create an employment or agency relationship between the Company and Brownstone.

b. Neither Party shall be entitled to participate in, or to receive any benefits from, any of the other Party's benefit or welfare plans, specifically including, but not limited to, coverage under the other Party's workers' compensation program. Neither Party shall have any obligation whatsoever to compensate the other on account of any damages or injuries which either may sustain as a result of or in the course of the performance of the services hereunder.

c. Each Party shall be solely responsible for the payment of all federal and state income taxes, social security taxes, federal and state unemployment insurance and similar taxes and all other assessments, taxes, contributions or sums payable with respect to their employees and subcontractors as a result of or in connection with the services performed by either hereunder, and both shall file all returns and reports with respect to any of the foregoing.

7. Qualifications and Performance by Brownstone. Brownstone hereby represents and warrants to the Company that it has the experience and skill to perform the services required to be performed by it hereunder; it shall comply with all applicable federal, state and local laws in effect at the time services are performed, including all professional registration requirements; and it shall perform said services in accordance with generally accepted professional standards and in an expeditious and economical manner consistent with sound professional practices.

8. Miscellaneous.

a. Assignment. This Agreement is for the services of Brownstone and may not be assigned by it, voluntarily or involuntarily or by operation of law, without the prior written consent of the Company, which consent may be withheld by the Company in its sole discretion.

b. Notices. Any notice or other communication required or permitted to be given hereunder shall be given in writing and delivered in person, mailed or delivered by recognized courier service, properly addressed and stamped with the required postage, to the

intended recipient at its address specified below and shall be deemed effective upon receipt. Any Party may from time to time change its address by giving the other Parties notice of the change in accordance with this section.

If to Brownstone:

Brownstone Development, Inc.
PO Box 2201
Lake Oswego, OR 97035
(503) 358-4460

If to the Company:

East Park, LLC
9550 SE Clackamas Rd.
Clackamas, OR 97015
(503) 388-3611

c. Governing Law; Waiver of Jury Trial; Determination of Disputes. This Agreement shall be governed by, and construed, interpreted and enforced in accordance with, the laws of the State of Oregon, without giving effect to any principles of conflicts of law.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR JUDICIAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT BETWEEN THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY AND THAT ANY LAWSUIT OR JUDICIAL PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

Any dispute between the Parties arising out of, or in connection with, this Agreement which cannot be amicably resolved by the Parties through good faith negotiations shall be submitted to the Circuit Court in and for the County of Multnomah, State of Oregon (or if the Circuit Court shall not have jurisdiction over the subject matter thereof, then to such other court sitting in said county and having subject matter jurisdiction) for trial and determination by the court. Said Parties hereby consent to the exclusive jurisdiction of such court and to the service of process by mail outside the State of Oregon pursuant to the requirements of such court in any matter so to be submitted to it.

d. Entire Agreement. This Agreement may not be modified or amended in any respect, except by a writing signed by the authorized representatives of the Parties. This Agreement constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof, supersedes any and all prior agreements or understandings between the Parties with respect to the subject matter hereof, whether written or oral, and any representation, premise or condition not specifically incorporated herein shall not be binding upon any Party.

e. Waiver of Breach. No failure by any Party to insist upon the strict performance of any term or condition herein or to exercise any right or remedy available to it will constitute a waiver. Any waiver by any Party of any breach of this Agreement by another Party shall not be construed to be a continuing waiver or consent to any subsequent breach on the part of such breaching Party.

f. Severability. To the extent any provision of this Agreement or portion thereof shall be invalid or unenforceable, it shall be considered deleted therefrom and the remainder of such provision and of this Agreement shall be unaffected and shall continue in full force and effect.

g. Attorneys' Fees. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing Party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

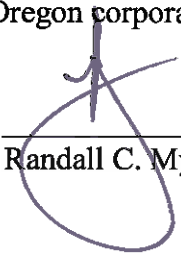
h. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to constitute one and the same instrument.

i. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of each of the Parties, their respective heirs, successors and assigns.

[Signatures on Next Page]

IN WITNESS WHEREOF, the Parties have executed this Project Management and Consulting Agreement to be effective on the date first above written.

BROWNSTONE DEVELOPMENT, INC.,
an Oregon corporation

By: 
Randall C. Myers, President

EAST PARK, LLC,
an Oregon limited liability company

By: 
Kiril Ivanov, Member

EXHIBIT D
EAST PARK PLAN

EXHIBIT A

Real Property Description

direct the Work, using the Contractor's best skill and attention and in conformance with the requirements of _____ Bank (the "Bank"), the construction lender, as provided for in the Construction Loan Agreement (the "Construction Loan") entered into between Owner and Bank. The Contractor shall be responsible for and, in consultation with Owner, shall control construction means, methods, techniques, sequences and procedures, and shall coordinate all portions of the Work under this Agreement unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, then the Contractor shall be responsible for the job site safety thereof, unless the Contractor gives timely notice to the Owner that such means, methods, techniques, sequences or procedures may not be safe. In connection therewith, Contractor will comply with all applicable federal, state and local laws regarding the Work, materials, and the safety of persons or property, and the terms and conditions of Plat Approval. The Owner will not be responsible for any loss or damage to the Work or any property of the Contractor resulting from the Contractor's negligence, or breach of this Agreement. Subject to and as limited by Section 16, the Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees and other persons or entities performing portions of the Work for or on behalf of the Contractor. The Contractor shall keep the premises and surrounding area from accumulation of waste, materials, or rubbish caused by its operations under this Agreement. At the completion of the Work, the Contractor shall remove from and about the site waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

6. DATE OF COMMENCEMENT AND TIME FOR PERFORMANCE. The date of commencement of the Work shall be as determined by the parties. The Contractor shall begin construction of the Subdivision Improvements on a schedule determined jointly by Owner and Contractor taking into consideration all relevant factors, including but not limited to market conditions. Before beginning the Work, Contractor shall create a critical path schedule for the Work and shall update it from time to time. Such schedule may be modified in writing by Owner and Contractor. Once construction has commenced, the Contractor shall diligently and continuously pursue construction of the Subdivision Improvements until completion.

7. CONTRACT PRICE AND PAYMENT TERMS. The Contractor will provide, at Owner's sole cost and expense, all materials essential for the Work and the construction and completion of the Subdivision Infrastructure, so as to not delay the completion thereof, and will make all payments to subcontractors performing labor or supplying material to the site pursuant to subcontracts entered into between the Contractor and the respective subcontractors. Owner shall reimburse Contractor for its actual out-of-pocket costs incurred in connection with the Work including (i) the allocated cost of Contractor's employees (excluding Karl Ivanov) providing direct services in connection with the Work, and (ii) the Contractor's general and administrative overhead expenses, for which Contractor shall receive ten percent (10%) of the cost of the Work, which sum shall be billed and paid monthly, from the Construction Loan on the Project.

8. SUBCONTRACTORS. A subcontractor is a person or entity who contracts to perform a portion of the Work at the site, pursuant to a written subcontract negotiated by Contractor. All subcontractors will supply labor or material under the supervision of the Contractor. Each subcontractor, to the extent of the Work to be performed by the subcontractor, shall be bound by

the terms of the Contract Documents, and assume toward the Owner and the Contractor all obligations and responsibilities, including the responsibility for safety of the subcontractor's work. Contractor shall furnish to Owner all information regarding the subcontractor's bonds, insurance and license or registration status. Not less than once a month, Owner shall pay Contractor for all subcontractor expenses presented to Owner by Contractor, including but not limited to, performance payments and other related subcontractor expenses.

9. WARRANTY. Contractor warrants to the Owner that the materials and equipment furnished under this Agreement and to be incorporated into the Work will be of good quality and new unless otherwise required by the Contract Documents, and that the Work will be done in a good and workmanlike manner, free from defects, in conformity to the requirements of the Contract Documents. Any claims of defective workmanship asserted against Owner shall be performed by Contractor, with the actual cost of any such warranty repair work to be paid by the Contractor.

10. RIGHTS AND OBLIGATIONS OF OWNER.

10.1 The Contractor shall secure and Owner shall promptly pay for all necessary approvals, easements, assessments, permits, fees and charges required for the construction, use or occupancy of the Subdivision Improvements.

10.2 If Contractor persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated. If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of this Agreement, the Owner may, after ten days' written notice to the Contractor and without prejudice to any other remedy the Owner may have, make good such deficiencies and assert a claim against Contractor in connection therewith.

10.3 So long as Contractor is not in default under this Agreement, Owner shall provide Contractor complete and continuous access to the site during the progress of the Work and shall not interfere with Contractor's on premises activities, shall direct all communications regarding the Work to Contractor and shall not interfere with or instruct Contractor's employees during the progress of the Work, and shall promptly furnish Contractor with all details and decisions about unspecified construction finishes or proposed or requested changes in the Work that may arise so as not to delay the progress of the Work.

11. CHANGES IN THE WORK. The Owner, without invalidating this Agreement, may order changes in the Work within the general scope of the Agreement consisting of additions, deletions or revisions, which shall result in an adjustment for the time of Contractor's performance. Such changes in the Work shall be authorized by written Change Orders signed by the Owner and Contractor, including an agreement with respect to the adjustment in the time for performance. If concealed or unknown physical conditions are encountered at the site that differ materially from the Contract Documents or from those conditions ordinarily found to exist, time for performance shall be equitably adjusted. Any increase in the Work required by plan checkers or field inspectors with the city or county building/planning department will be treated as additional Work for which the Contractor will be entitled to adjust the time of performance.

12. TIME. The time limits set forth in this Agreement are of the essence. By executing this Agreement, the Contractor confirms the time stated herein and in the critical path schedule agreed to by the parties and updated from time to time is a reasonable period for performing the Work. If the Contractor is delayed at any time in the commencement or progress of the Work by changes ordered in the Work by labor disputes, fire, unusual delays in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties or any causes beyond the Contractor's control, then the time shall be extended by a Change Order for such reasonable time as the parties agree.

13. PROTECTION OF PERSONS AND PROPERTY. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of this Agreement. The Contractor shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- 13.1 employees on the Work and other persons who may be affected thereby;
- 13.2 the Work and materials and equipment to be incorporated therein; and
- 13.3 other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or anyone directly or indirectly employed by it, or by anyone whose acts for which the Contractor is responsible hereunder except for damage or loss attributable to acts or omissions of the Owner.

14. INSURANCE. The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in Oregon, insurance for course of construction, and protection from claims under workers' compensation acts, claims for damages because of bodily injury, including death, and claims for damages, other than to the Work itself, to property which may arise out of or result from the Contractor's operations under the Agreement. This insurance shall be written for not less than \$1,000,000 or limits of liability specified in the Contract Documents or required by law, whichever coverage is greater, and shall include contractual liability insurance applicable to the Contractor's obligations. Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least 30 days' prior written notice has been given the Owner. The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance. Optionally, the Owner may require the contractor to purchase and maintain Project Management Protective Liability insurance as primary coverage for the Owner and Contractor's vicarious liability for construction operations under the Contract. The Owner shall reimburse the Contractor for any insurance purchased by Contractor pursuant to this Agreement.

Owner and Contractor waive all rights against each other and any of their subcontractors, agents and employees of the other, for damages caused by fire or other causes of loss to the extent covered by insurance maintained herein under.

15. **RECORD KEEPING.** Contractor shall keep records relating to Contractor's Work on the Project. All records as to costs and expenses of the Work shall be kept in a manner reasonably acceptable to Owner and shall be available for review by Owner on reasonable notice.

16. **INDEMNIFICATION.** Contractor shall indemnify and hold harmless the Owner and the Owner's agents and employees from and against claims, damages, losses and expenses, including but not limited to death, bodily injury, property damage, monies due, liens, and attorney's fees, arising out of or resulting from performance of the Work, to the extent caused solely by the acts or omissions of the Contractor, its subcontractors, anyone directly or indirectly employed by them, or any of them, or anyone else for whose acts Contractor or its subcontractors is liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. The indemnification obligation set forth herein is limited to claims and losses covered by insurance and survives completion of the Work.

17. **HAZARDOUS MATERIALS.** Contractor is responsible for the removal of hazardous materials such as asbestos or other hazardous substance (as defined under any Federal, State or local law, ordinance, regulation, administrative rule or order, or judicial order, decree or judgment dealing with or affecting air, water, the environment, public health or public safety) which has not previously been rendered harmless. Should Contractor encounter what it reasonably believes is hazardous materials, Contractor shall immediately stop work and report the condition to the Owner and thereafter immediately proceed with remediation as authorized, approved or directed by the appropriate public regulatory entity.

18. **CORRECTION OF WORK.** Contractor shall promptly correct Work reasonably rejected by the Owner or failing to conform to the requirements of the Contract Documents, whether discovered before or after completion of the Work and whether or not fabricated, installed or completed, with the cost of any such correction to be paid by Owner, unless the Work reasonably rejected was caused by the negligence of the Contractor, failure to supervise the Work by the Contractor, breach of this Agreement by the Contractor, or other nonfeasance or malfeasance by the Contractor, in which event the Contractor shall be responsible for the cost of correction.

19. **MISCELLANEOUS PROVISIONS.**

19.1 **Governing Law.** This Agreement shall be governed by the law of the State of Oregon.

19.2 **Termination by Owner.** Owner may terminate the Construction Contract if the Contractor refuses or fails to supply enough properly skilled workers or proper materials; fails to manage and supervise performance of the Work hereunder, including the performance of the subcontractors providing labor or material in accordance with the respective agreements with the subcontractors; persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or otherwise is in breach of a provision of the Contract Documents.