

OPERATING AGREEMENT
OF
Valdez Senior Housing Associates, LLC

WE, THE UNDERSIGNED, effective this ____ day of _____ 2023 being desirous of entering into an operating agreement for a limited liability company named Valdez Senior Housing Associates, LLC, do hereby agree as follows

I. NAME AND CONTINUATION OF COMPANY

The name of the limited liability company is Valdez Senior Housing Associates, LLC, (the "Company").

II. CHARACTER OF BUSINESS

The business of the Company shall be to acquire real property and to hold such property for economic gain; to construct, and to operate, manage, mortgage, lease Valdez Senior Housing located in Valdez, AK (the "Project") financed by some combination of (1) HOME or State Housing Funds funds; (2) Low Income Housing Tax Credit Equity; (3) a construction loan through one or more of the government agencies and/or through a commercial lender; (4) any other public or private financing, grants or donations available to the Project or its sponsors; and/or (5) any combination of the above, and to do all other acts which may be necessary, incidental, or convenient to the foregoing.

III. LOCATION OF THE PRINCIPAL PLACE OF BUSINESS AND AGENT FOR SERVICE OF PROCESS

The principal place of business of the Company shall be 22701 E Briarwood Place, Aurora, CO 80016 or such other location as may be determined by the Manager upon notice to the Members. The Company's agent for services of process shall be Faith Cozadd, 4047 Main St, Unit 105, Homer, AK 99603.

IV. POWERS

(a) The Company through its Manager is authorized to do all acts permitted by the laws of Alaska in order to conduct its business.

(b) With reference to the Project, the Company through its Manager and with written consent of all Members is authorized:

(1) To acquire the real property and to hold such property for economic gain;

(2) To construct and rehabilitate upon such property and then to operate and manage an apartment project and related facilities;

(3) To mortgage, sell, transfer and exchange or otherwise convey and encumber such property and the improvements to be built thereon in furtherance of any and all of the objectives of its business in connection with the Project;

(4) To enter into, perform and carry out contracts of any kind necessary to, or in connection with or incidental to, the development of the Project, including but not by way of limitation, any contracts with the agencies that administer the Low Income Housing Tax Credit and HOME or State Housing Fund programs, which may be desirable or necessary to comply with the requirements of the National Housing Act, as amended (42 U.S. Code 1471 et seq.), Internal Revenue Code Section 42, and/or the rules or regulations of any other agency providing funding to the project, relating to the regulation or restriction on mortgagors and grant recipients as to rents, sales, charges, capital structure, rate of return and methods of operations;

(5) To rent dwelling units in the Project from time to time for periods of not less than one year, in accordance with applicable federal, state and local regulations, collecting rents, paying expenses, distributing proceeds, subject to any requirements which may be imposed by any of the funding agencies or institutions;

(6) To execute a non-recourse note, mortgage or deed of trust and loan agreement under a state or quasi-state agency ("state agency") funding program and any other documents required by such state agency in connection with the loan. So long as any of the state agency agreements (note, deed of trust, loan agreement) are in effect: (a) each of the provisions of this Operating Agreement shall be subject to and the Members covenant to act in accordance with such state agency agreements; (b) the state agency agreements shall govern the rights and obligations of the Members, their heirs, executors, administrators, successors and assigns to the extent expressly provided therein; (c) upon any dissolution of the Company or any transfer of the Project, no title or right to the possession and control of the Project and no right to collect the rent therefrom shall pass to any person who is not, or does not become, bound by the state agency agreements in a manner satisfactory to such state agency; (d) no amendment to any provision of the state agency agreements shall become effective without the prior written consent of the state agency; and (e) the affairs of the Company shall be subject to the state agency regulations and no action shall be taken which would require the consent or approval of the state agency unless the same is first obtained. No new Managing Member shall be admitted to the Company and no Managing Members shall withdraw from the Company or be substituted for without the consent of the state agency (if such consent is then required).

Any conveyance or transfer of title to all or any portion of the Project required or permitted under this Operating Agreement shall in all respects be subject to all conditions, approvals and other requirements of the state agency rules and regulations applicable thereto.

(7) To execute a non-recourse note, mortgage or deed of trust and loan agreement required by any other permanent mortgage lender and any other documents required by such lender in connection with the loan.

V. NAME AND ADDRESS OF MEMBERS AND OWNERSHIP INTEREST

The name, address, position and interest in all items of Company profits, losses, cash flow and capital of each member are as follows:

MANAGING MEMBER:

CM Valdez Sr Housing, LLC	00.01%
22701 E Briarwood Place	
Aurora, CO 80016	

MEMBER:

City of Valdez	00.01%
Box 307	
Valdez, AK 99686	

<u>INITIAL MEMBER:</u>	99.98%
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Shawne Mastronardi
22701 E Briarwood Place
Aurora, CO 80016

All actions of the Company shall be through its Manager

VI. TERM

The term of the Company shall continue in perpetuity until terminated subject to approval of any funding agency, if required, by one of the following events: (a) the sale of the Project; or (b) the written consent of all Members.

VII. INITIAL CONTRIBUTION OF MEMBERS

(a) Each Member shall contribute \$10.00 to the capital of the Company.

(b) The liability of the Members shall be limited to the amount of the capital contribution required to be made under this Article VII, and the Members shall

not have any further obligation to contribute money to, or in respect of the liabilities and the obligations of the Company, nor shall they be personally liable for any obligations of the Company.

(c) The City of Valdez's (the "City") participation in the Company and its capital contribution to the Company shall be conditioned upon:

(1) the allocation of Low Income Housing Tax Credits ("LIHTCs") to the Company on or before December 31, 2024; and

(2) the receipt by the City of grant funds from AHFC with respect to the Project; and

(3) the simultaneous or promptly subsequent closing with respect to equity and other debt financing with respect to the Project.

VIII. RETURN OF MEMBER'S CAPITAL CONTRIBUTION

After payment of, or provisions for all liabilities of the Company, the contribution of the Members shall be returned upon dissolution of the Company.

IX. THE RIGHT OF A MEMBER TO SUBSTITUTE AN ASSIGNEE

The right of a Member to substitute an assignee in his place and the terms and conditions of such substitution, are as follows:

(a) A Member may not assign his interest in the Company without the consent of the Manager and all other Members. An assignee shall not become a substituted Member without the consent of the Manager and all other Members.

(b) No sale, transfer, exchange or other disposition of an interest in the Company may be made except in compliance with the then applicable rules and regulations of any of the other funding agencies.

(c) The admission of an assignee as a substituted Member shall be conditioned upon the assignee's written acceptance and adoption of an Amended Operating Agreement governing the Company and his agreement to be bound by all notes, mortgages, loan agreements, grant agreements, Land Use Restriction Agreements, and any other documents which any lending agencies or institutions may require.

X. THE RIGHT OF THE MANAGER TO ADMIT ADDITIONAL MEMBERS

The Manager shall have the right to admit additional Members subject to any applicable rules and regulations of any other funding agency or institution upon written consent of all Members.

XI. THE RIGHT OF THE REMAINING MEMBERS TO CONTINUE THE COMPANY

In the event of the death, dissolution, insanity, incapacity, resignation, removal, assignment for the benefit of creditors, filing of a petition for reorganization, or adjudication of bankruptcy, of the sole remaining Manager, the Company shall be dissolved unless all remaining Members agree within ninety (90) days in writing, to continue the Company.

XIII. CERTAIN PROVISIONS

If the operation of any provision of this Agreement would contravene the provisions of the laws of the State governing limited liability companies, or would result in the imposition of general liability on the Member, that provision is void and without effect.

XIV. BINDING AGREEMENT

Except as otherwise provided, each and every covenant, term, and provision of this Agreement is binding upon and inures to the benefit of the heirs, personal representatives, successors, and assigns of the parties.

XV. SEVERABILITY

Every term and provision of this Agreement is severable. If any term or provision of this Agreement is lawfully held to be illegal or invalid for any reason whatsoever, the illegality or invalidity will not affect the validity of the remainder of this Agreement.

XVI. CAPTIONS

Captions contained in this Agreement are for reference purposes only, and do not describe, interpret, define, or limit the scope, extent, or intent of this Agreement.

XVII. COUNTERPART EXECUTION

This Agreement may be executed in any number of counterparts with the same effect as if all parties had signed the same document. All counterparts are to be construed together and constitute one Agreement.

XVIII. AMENDMENT

This Operating Agreement may be amended upon written consent of all Members. The Operating Agreement shall be amended and restated to replace the Initial Member with an Investor Member in exchange for payment of LIHTC equity at closing on terms mutually agreed upon by the Members and the Investor Member. The Amended and Restated Operating Agreement shall comport with the terms of the Multi Party Participation Agreement.

XIX. LIMITATION ON CITY OF VALDEZ RESPONSIBILITIES AND LIABILITY

(a) The City shall have no administrative or operational responsibilities with respect to the Company or the Project, and shall not have liability for debts, obligations and liabilities of the Company arising from the Project or otherwise. The City shall not be a guarantor of any obligations with respect to the Company or the Project.

(b) The Company's Managing Member shall indemnify, defend, and hold the City harmless for all liabilities that may arise from the City's participation in the Company and the Project, except to the extent such liabilities and costs are the result of the City's negligence, willful misconduct or knowing violation of law.

XX. OTHER NECESSARY DOCUMENTS

Each of the parties shall execute, acknowledge, and deliver all instruments necessary to carry out the purposes of this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto effective on the day and year set forth at the beginning of this Agreement.

VALDEZ SENIOR HOUSING ASSOCIATES, LLC

MANAGING MANAGER:

CM Valdez Sr Housing, LLC

By: _____
Shawne Mastronardi, Managing Member

MEMBER:

City of Valdez, Alaska

By: _____
Mark Detter, City Manager

INITIAL MEMBER:

By: _____
Shawne Mastronardi

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto effective on the day and year set forth at the beginning of this Agreement.

VALDEZ SENIOR HOUSING ASSOCIATES, LLC

MANAGING MANAGER:

CM Valdez Sr Housing, LLC

By: Shawne Mastronardi
Shawne Mastronardi, Managing Member

MEMBER:

City of Valdez, Alaska

By: _____
Mark Detter, City Manager

INITIAL MEMBER:

By: Shawne Mastronardi
Shawne Mastronardi