

Entry 2008004520
Book 1089 Page 698-720 \$174.00
09-MAY-08 10:58
RANDY SIMMONS
RECORDER, UINTAH COUNTY, UTAH
THE TITLE INSURANCE AGENCY INC
7390 S CREEK ROAD SANDY UTAH 84093
Rec By: CONNIE SIMPER , DEPUTY

WHEN RECORDED, MAIL TO:
J. Martin Tate
HARBOR REAL ASSET FUND, LP
7659 South 700 West (Main Street)
Midvale, UT 84047
Parcel # _____

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Space Above for Recorder's Use
Tax Serial No. _____

NOTICE OF INTEREST

This Notice of Interest is made this 1st day of May, 2008 in relation to that certain Operating Agreement ("Agreement") made as of the 22nd day of May, 2007 by and among THE ELVA GROUP, L.L.C., a Utah limited liability company ("Elva"), D&M DEVELOPMENT SERVICES, LLC, a Utah limited liability company ("D&M"), TRUE NORTH FUNDING, LLC, a Delaware limited liability company ("True North") and HAVEN VERNAL, LLC, a Utah limited liability company ("Haven"). A copy of the Agreement is attached hereto as Exhibit A. The Elva Group and/or D&M is the vested owner of the real property and improvements located in Iron County, Utah, which is more fully described in Exhibit B attached hereto (the "Property").

IN WITNESS WHEREOF, True North has caused these presents to be executed as of the day and year first above written.

TRUE NORTH FUNDING, LLC,
a Delaware limited liability company

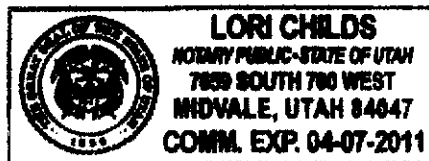
By: _____
Name: J. Martin Tate
Title: General Counsel

STATE OF UTAH)
):ss.
COUNTY OF Salt Lake)

On the 5th day of May, 2008, personally appeared before me J. Martin Tate of True North Funding, LLC, who duly acknowledged before me that he signed the foregoing instrument.

Lori Childs
Notary Public

COURTESY RECORDING
This document is being recorded solely as a courtesy and an accommodation to the parties named therein. THE TITLE INSURANCE AGENCY, INC., hereby expressly disclaims any responsibility or liability for the accuracy of the content thereof.



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EXHIBIT A

**OPERATING AGREEMENT
OF
HAVEN VERNAL, LLC**

This Operating Agreement of THE ELVA GROUP, LLC (the "Agreement") is executed and effective as of the 22nd day of May, 2007, by and among the Elva Group, LLC, a Utah limited liability company ("Elva"), True North Funding, LLC, a Utah limited liability company ("True North") and D&M Development Services, LLC, a Utah limited liability company ("D&M" and each of Elva, True North and D&M severally, a "Member" and collectively, the "Members") and Haven Vernal, LLC, a Utah limited liability company (the "Company").

Background:

On or about January 3, 2006, Elva was formed for the purpose of purchasing and developing certain real property in Vernal, Utah (the "Property") and elsewhere. The Property was purchased in January 2006 from D&M using financing provided by the Harbor Real Asset Fund, LP pursuant to one or more Secured Promissory Notes ("Harbor Notes") and a Loan Agreement ("Loan Agreement"), each dated January 6, 2006. The obligations under the Harbor Notes were secured by the recording of a Deed of Trust ("Harbor Deed") creating a security interest in the Property. D&M also agreed to do a seller-carry back of a portion of the purchase price ("D&M Carryback") and subordinate that amount to the Harbor Notes and Harbor Deed.

At the time of the purchase of the Property, the Company and D&M had an understanding whereby D&M would complete the entitlement work, infrastructure and other development requirements for the Property and construct single family residences ("Homes") on the Property and the Company would provide buyers and financing for the purchase of the Homes.

As of the date of this Agreement, the Company is in default under the terms of the Harbor Notes and Harbor has filed a Notice of Default ("NOD") commenced foreclosure proceedings. In consideration for Harbor withdrawing the NOD and forbearing from continuing its foreclosure proceedings, Elva and D&M have agreed to enter into this Agreement whereby they will (a) memorialize the understanding between the Members relating to the completion of the development and sale of the Property, (b) define the Members roles as such relate to the completion of the development and seal of the Property, (c) establish default provisions and provide remedial actions in case of default and (d) provide for the efficient and effective management and operation of the Company, and to establish the rights, duties and responsibilities of its Members and such other persons or entities as shall from time to time join in the execution hereof and become Members in the Company. Concurrent with this Agreement, Elva and D&M agree to transfer the Property, via Quitclaim Deed, to the Company. The parties desire to establish this arrangement in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the Background which is incorporated herein by reference and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Filing.

The Manager (as defined below) has caused or shall cause articles of organization to be filed with the Utah Division of Corporations and Commercial Code. The Members and the Manager shall execute any additional documents, agreements and instruments (including, without limitation, amendments to the Articles) and take such further action as may be necessary or appropriate at any time and from time to time to comply with the requirements of law for the formation of a limited liability company in Utah and operation of a limited liability company in all other states and other jurisdictions where the Company may conduct its business.

1.1 Defined Terms. Unless the context otherwise requires, capitalized terms shall have the meaning set forth in Section 16 below.

2. Members.

The members of the Company shall be Elva, True North and D&M.

3. Term.

The Company's existence began upon the filing of the Company's Articles of Organization with the Division of Corporations and Commercial Code of the Utah Department of Commerce ("Effective Date") and shall continue until December 31, 2105, unless sooner dissolved by:

- (a) the unanimous vote or written agreement of all Members;
- (b) any event which makes it unlawful for the business of the Company to be carried on by the Members; or
- (c) any other event causing a dissolution of a limited liability company under the Act.

4. Purpose.

The business and purpose of the Company shall be:

- (a) To engage solely in the activity of acquiring, owning, managing, holding, developing, selling, assigning, transferring, mortgaging, pledging, and otherwise dealing with real property, including, but not limited to, the Property; and
- (b) The Company, in order to attain the business purposes set forth herein, may exercise all rights, powers and privileges, express or implied, now or

hereafter conferred upon limited liability companies organized under the laws of the State of Utah, including, § 48-2c-105, Utah Code Annotated, as amended and supplemented.

5. Capital Contribution, Membership Interests and Voting Interests.

(a) Membership Interest and Voting Interests. The name, initial capital contribution, Voting Interest and the Membership Interest of the initial Members are as follows:

Name	Initial Capital Contribution	Membership Interest	Voting Interest	Profit/Loss Interest
Elva Group, LLC	See Exhibit A	33 1/3%	24%	50%
True North Funding, LLC	See Exhibit A	33 1/3%	52%	0%
D&M Development, LLC	See Exhibit A	33 1/3%	24%	50%

(b) No Interest on Capital Accounts. No interest shall be paid by the Company on any capital accounts or capital contributions of the Members.

(c) Return of Capital Contributions. The capital contributions of the Members may be returned to them to the extent provided in Section 15 at the end of the term of the Company or upon earlier dissolution and termination of the Company. No Member shall have the right to demand the return of his capital contribution at an earlier date and no Member shall have the right to demand and receive property other than cash in return for its capital contribution.

(d) Additional Contributions. The Company may authorize additional contributions at such times and on such terms and conditions as it determines to be in its best interest. Absent the Company's authorization, no Member is permitted to make additional contributions to the Company.

6. Meeting of Members.

(a) Annual Meeting. No annual meeting of the members shall be required.

(b) Special Meetings. Special meetings of the Members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the Manager and shall be called by the Manager at the request of any Member holding and entitled to vote not less than ten percent (10%) of the Voting Interests of the Company.

(c) Place of Meeting. The Manager may designate any place, either within or without the State of Utah, as the place of meeting for any annual meeting or for any special meeting, provided that no such meeting shall be held outside of Salt Lake County without the consent of all Members.

(d) Notice of Meeting. Written notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall, unless otherwise prescribed by statute, be delivered not less than five nor more than fifteen days before the date of the meeting, either personally or by mail, by or at the direction of the Manager or officer or other persons calling the meeting, to each Member. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his or her place of residence or principal place of business, with postage thereon prepared.

(e) Quorum. A majority of the Members holding Voting Interests in the Company entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of Members. If less than a majority of the Members holding Voting Interests of the Company are represented at a meeting, a majority of the Members holding Voting Interests of the Company so represented may adjourn the meeting without further notice.

(f) Proxies. At all meetings of the Members, a Member may vote in person or by proxy executed in writing by the Member or by his or her duly authorized attorney-in-fact.

(g) Voting. Except with respect to matters for which a greater minimum vote is required by this Agreement, the vote of Members present whose aggregate Voting Interests exceed 50 percent of all Voting Interests of the Company present will constitute the act of the Members at a meeting of Members.

(h) Informal Action by Members. Any action permitted or required by law, the Articles of Organization or this Agreement to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of Voting Interests having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Members entitled to vote thereon were present and voted. Prompt notice of the taking of the action without a meeting by less than a unanimous written consent shall be given by the Manager to those Members who have not consented in writing. Such a consent may be received by the Company by any electronically transmitted or other form of communication that provides the Member with a complete copy thereof, including the signature thereto. This consent shall have the same force and effect as a decision of the Members as provided above.

7. Special Duties of the Members. Except as specifically set forth otherwise in this Agreement, the Members hereby agree to take the following actions:

(a) D&M. D&M shall be responsible for the completion of the development of the property, all improvements to the Property and the construction of the Homes (the "Project"). Specifically, D&M, at its sole cost and expense, agrees to provide the services set forth on the Gant chart set forth on Exhibit B attached hereto in accordance with the budget and time frame set forth below:

Action	Start Date	Completion Date	Budgeted Cost
Completion of Phase 1a Sewer	On the first day the D&M is able and has all necessary approvals to begin the Project (the "Start Date")	Sixteen (16) days following commencement	
Completion of Phase 1a Water	On the 17 th day following the Start Date	Seventeen (17) days after commencement	
Completion of Phase 1a Electric Lines	On the 20 th day following the Start Date	Twenty (20) days after commencement	
Completion of Phase 1a Gas Lines	On the 42 nd day following the Start Date	Seven (7) days after commencement	
Completion of Phase 1a Sub Grade	On the 41 st day following the Start Date	Nine (9) days after commencement	
Completion of Phase 1a Base	On the 42 nd day following the Start Date	Eight (8) days after commencement	
Completion of Phase 1a Curb and Gutter	On the 41 st day following the Start Date	Seven (7) days after commencement	
Completion of Phase 1a Paving	On the 50 th day following the Start Date	Six (6) days after commencement	
Completion of Phase 1a Surface Work	On the 55 th day following the Start Date	Five (5) days after commencement	
Completion of Phase 1a Sidewalk	On the 56 th day following the Start Date	Two (2) days after commencement	
Completion of Phase 1a Finish Grade	On the 58 th day following the Start Date	Three (3) days after commencement	
Completion of Phase 2a Sewer	On the 61 st day following the Start Date	Sixteen (16) days following commencement	
Completion of Phase 2a Water	On the 77 th day following the Start Date	Seventeen (17) days after commencement	
Completion of Phase 2a Electric Lines	On the 80 th day following the Start Date	Twenty (20) days after commencement	
Completion of Phase 2a Gas	On the 102 nd day	Seven (7) days after	

Lines	following the Start Date	the commencement	
Completion of Phase 2a Sub Grade	On the 101 st day following the Start Date	Nine (9) days after commencement	
Completion of Phase 2a Base	On the 102 nd day following the Start Date	Eight (8) days after commencement	
Completion of Phase 2a Curb and Gutter	On the 101 st day following the Start Date	Seven (7) days after commencement	
Completion of Phase 2a Paving	On the 110 th day following the Start Date	Six (6) days after commencement	
Completion of Phase 2a Surface Work	On the 115 th day following the Start Date	Five (5) days after commencement	
Completion of Phase 2a Sidewalk	On the 116 th day following the Start Date	Four (4) days after commencement	
Completion of Phase 2a Finish Grade	On the 118 th day following the Start Date	Two (2) days after commencement	

D&M agrees to complete such items within the budget set forth above. All construction costs and expenses incurred in connection with the Project shall be at Cost (as defined herein) and shall be approved by the Manager prior to such cost or expense being incurred. Any modification of the dates or amounts set forth in the foregoing table shall require the approval of the Manager. In addition, any additional items shall also require the prior written approval of the Manager.

In addition, with respect to the construction of the Homes, D&M agrees that a Home will be completed to "four way" and ready for inspection within 90 days of the closing of the construction loan for such Home and will have a certificate of occupancy within 180 days of the closing of such construction loan.

(b) Elva. Elva shall be responsible for all of the retail sales of the Homes and the Property and shall work with the purchasers on the financing of such purchases. Elva shall, through his network of real estate investors, identify purchasers and take all steps necessary, including arranging financing ("Construction Loans") for such purchasers, to complete the purchase of the Homes as set forth below. Elva agrees to complete the following actions within the time frame set forth in the following table:

Action	Completion Date
Closing and funding of Construction Loan of first 30 homes	Within sixty (60) days of the Closing of this Agreement
Closing and funding of the Construction Loans remaining 90 homes (120 total)	Within one hundred and eighty (180) days of the Closing of this Agreement

(c) Management Oversight. True North, as the Manager, shall oversee all actions taken by D&M and Elva as set forth in this Section 7. All draws and draw requests upon Construction Loans shall be approved by True North and in no case shall draws be made by D&M without such approval. Further, with respect to the Construction Loans, draws shall be used exclusively for the completion of the Project and the construction of the Homes. The Construction Loan shall name the Company as the contractor for purposes of draws. Any profit above and beyond the Cost which has been factored into the construction loans shall be used (i) first as payments towards the obligations of the Harbor Note until all amounts due thereunder have been paid in full, (ii) next to D&M in satisfaction of the D&M carryback and (iii) finally, any remaining amounts, to the Members.

(d) Definition of Cost. For the purposes of this Agreement, with respect to the Project, "Cost" shall mean actual, incurred expenses for all labor, equipment and material required to complete the Property specific work referenced herein including, but not limited to, fees for permits, plan checks and special reviews, consideration for subcontractor's overhead, but shall not include profit based on contracted work. Cost shall also include actual expenses incurred by D&M for Project related job site costs, including temporary services and utilities, safety and security measures, field supervision, quality control and administrative submittals. Cost shall not include D&M's office or general overhead, insurance, bonds, and profit.

(e) Default. The following events shall constitute an event of default and shall give rise to the remedies set forth in Section 7(f) below (each an "Event of Default"):

(i) D&M or Elva file a voluntary petition in bankruptcy, becomes insolvent, suspends business or makes an assignment for the benefit of creditors; or

(ii) involuntary proceedings in bankruptcy are instituted against D&M or Elva and are not dismissed or stayed for a period of sixty consecutive days; or

(iii) a court takes and retains jurisdiction of the assets of D&M or Elva or a receiver is appointed with respect to the property of D&M or Elva and such appointment is not discharged within thirty days; or

(iv) to the extent applicable, D&M is no longer authorized by the applicable governmental authority to perform all of the Services contemplated hereunder; or

(v) either D&M or Elva fails to timely perform the items set forth in Section 7(a) hereof and such failure continues for more than fifteen consecutive days; or

(vi) any Member fails to perform or observe (or cause to be performed or observed) any covenant or agreement to be performed or observed by it under this Agreement and such failure continues unremedied for a period of 10 days after written notice thereof from another Member or the Manager.

(f) Remedies Upon Default. Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing (except for a Default by True North under Section 7(e)(vi)), True North may, at its option, declare by written notice to such defaulting party this Agreement to be in default and at any time thereafter, True North may do one or more of the following in its sole discretion:

(i) cause the Member in default to forfeit their membership interests in the company and assign, transfer and convey such membership interests to True North, whereupon, True North shall proceed to complete the Project as it sees fit and the defaulting Member shall lose any and all right, claim or interest it may have in the Company, the Profits of the Company and the Project; or

(ii) terminate or cancel this Agreement or proceed by appropriate court action to enforce the terms hereof or to recover damages for breach hereof; and

(ii) exercise any other right or remedy which may be available to it under applicable law.

8. Management and Officers.

(a) Manager and Other Officers. The Company shall be managed by a manager elected by the Members ("Manager"). The Manager may elect such other officers and assistant officers as may be deemed necessary or desirable. By virtue of this Agreement, the Members agree that the Manager shall be True North, unless and until removed or replaced pursuant to the provisions of subparagraph (b) below. Except for matters on which the Members' approval is required by this Agreement, the Manager shall have full, exclusive and complete discretion in the day-to-day management of the Company and the Company's business for the purposes stated in this Agreement and the Manager shall have full and complete power and authority on behalf of the Company to take any action which the Manager deems necessary or advisable for the business of the Company, including the execution of documents, instruments and agreements. In addition to any other rights and powers that a Manager may possess, except for matters on which the Members' approval is required by this Agreement, the Manager shall have all specific rights and powers required for or appropriate to the Manager's management

and control of the Company business, including, without limitation, the powers set forth in § 48-2c-110 of the Act.

(b) Removal of Manager. The Manager may be removed by consent of Members whose Voting Interests equals more than fifty percent (50%) of the total Voting Interests in the Company whenever in their judgment the best interest of the Company will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of the Manager or officer or agent shall not of itself create contract rights. In the event of the removal, death, incapacity or inability to act of the Manager, or in the event that a Manager notifies the Company of his, her or its election to resign as the Manager, and as a result, no Manager remains, those Members whose Voting Interests equals more than fifty percent (50%) of the total Voting Interests in the Company shall designate a successor Manager. The Company shall not become a Member-managed limited liability company unless no successor Manager is appointed by the Members for more than ninety (90) days after there is no acting Manager for the Company.

(c) Time Devoted to Business. The Manager shall devote such time to the business of the Company as it, in good faith judgment, deem necessary or appropriate for the efficient and productive conduct of the Company's business. The Manager and Members shall at all times be free to engage generally in all aspects of the real estate business or any other business or investment for its own account, without any obligation to include the Company or any other Member in such activity or to otherwise disclose such opportunity to the Company or any other Member.

(d) Delegation of Duties. The Manager may delegate duties to such persons as the Manager deems appropriate including any affiliate of any Manager or Member. The terms of the specific delegations contemplated by this Section and any future delegations made pursuant to this Section shall be memorialized in written agreements executed by the Manager and delivered to the Members within thirty (30) days of the effective date of such agreement.

(e) Other Items. In addition to such other rights as more particularly described in this Agreement, the Manager may take action with respect to the following only with the approval of the all of Members:

(i) the sale, lease, exchange, mortgage, pledge or other disposition of any of the Company's assets, including the Property (provided, however, that the Manager may direct the sale of the Property as set forth in Section 7(f) of this Agreement, without the approval of the Members);

(ii) the Company's creation of; investment in, merger with or conversion or consolidation into another Entity;

(iii) an undertaking involving a debt or obligation in excess of \$50,000.00;

(iv) the compromise of a dispute involving an amount in controversy in excess of \$50,000.00;

(v) entering into any contract, lease, purchase agreement, sale agreement, or other agreement or series of related agreements, relating to the purchase, lease or sale of real property or equipment (whether directly or indirectly), licensing agreement, management contract, or any series of related contracts, or maintenance contract, or any series of related contracts, covering or affecting the Company's assets, or its operations or commitments, where the aggregate amount payable by the Company under such agreement or for which the Company is obligated to perform under such agreement or series of related agreements, exceeds \$100,000.00;

(vi) acceptance of an additional contribution voluntarily tendered by any Member or contribution by any other person;

(vii) redemption of a Membership Interest and Voting Interest;

(viii) Distributions not specifically required by this Agreement;

(ix) the filing of any bankruptcy, insolvency or reorganization case or proceeding; the institution of any proceedings under any applicable insolvency law or otherwise seeking any relief under any laws relating to the relief from debts or the protection of debtors generally; seeking or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Company or a substantial portion of its assets; making any assignment for the benefit of the Company's creditors; or taking any action in furtherance of any of the foregoing;

(x) any transaction (other than pursuant to existing contractual obligations which have already been approved or ratified by the Company's Members holding more than fifty percent (50%) of the Voting Interests), with Manager, any Member, officer, or director (or former manager, member, or officer) or with any person controlled by, in control of or under common control with (or a member of the immediate family of) any such member, manager, or officer.

(xi) the release of any escrow funds placed in escrow with a title company and used as a deposit on a contract to purchase the Property.

9. Transfer of Ownership Interest

Transfer of any Membership Interest of the Company shall be made only on the membership transfer books of the Company with written consent of the Members holding more than fifty percent (50%) of the total Voting Interests of the Company. The person whose name is entered on the books of the Company shall be deemed by the Company to be the owner thereof for all purposes and shall have all the rights, privileges and obligations of a Member. For purposes hereof, any transfer of a Membership Interest as provided herein shall include the transfer of such Member's Voting Interest.

10. Accounts.

(a) Books and Records. There shall be kept, at all times during the existence of the Company, accounting records of all transactions, assets, liabilities, profits and losses of the Company, together with all records required to be kept pursuant to §48-2c-112 of the Act. All such records are to be kept at the principal place of business of the Company and are to be open for inspection by any Member at all reasonable times and upon reasonable prior written demand during customary business hours.

(b) Accounting Method and Fiscal Year. The Company shall keep its accounting records and shall report for income tax purposes on an accrual basis and with a fiscal year (the "Fiscal Year") ending on December 31 of each year and, subject to applicable provisions of the Internal Revenue Code (the "Code") and applicable Federal Income Tax Regulations, shall report all income tax items in the same manner as a partnership.

(c) Income Tax Returns and Information. The Company shall be a partnership for purposes of the Code and Federal Income Tax Regulations and under all applicable state and local income tax statutes. The Manager shall cause to be prepared and timely filed all necessary income tax returns, reports, and elections of the Company. The Company shall provide to each Member information on the Company's taxable income or loss and each class of income, gain, loss, deduction or credit that is relevant to reporting Company affairs. The information shall also show each Member's share of each class of income, gain, loss or deduction. This information shall be furnished to the Members as soon as possible after the close of the Company's taxable year.

(d) Maintenance of Company Status. The Manager shall take and the Members shall cooperate in taking such action as the Manager deems reasonable and appropriate, consistent with the advice of qualified counsel, to obtain and maintain the status of the Company as a partnership" in accordance with applicable provisions of the Code.

(e) Tax Controversies. Subject to the provisions hereof, True North is designated the "Tax Matters Partner" (as defined in § 6231 of the Code), and is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including resulting administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. Each Member agrees to cooperate with True North and to do or refrain from doing any or all things reasonably required by True North to conduct such proceedings.

11. Profits and Losses

(a) Allocation.

(1) Except as provided below, Net Profits and Net Losses of the Company shall be allocated for both financial and tax accounting purposes in accordance with the respective Profit/Loss Interests of the Members as set forth in Section 5(a).

(2) Such allocations shall be made among the holders of the Interests on a monthly or other convenient basis or, in the alternative (and to the extent permitted by law), the Company's accounting period may be separated into segments and the apportionment made ratably among the Members during such segments. The allocation of Net Profits or Net Losses with regard to any Profit/Loss Interests in the Company which may have been transferred during any accounting period will be accomplished in a similar manner.

(b) Special Allocations.

(1) If a Member unexpectedly receives an adjustment, allocation, or distribution described in sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations that creates or increases a deficit in the Member's Capital Account as of the end of a Fiscal Year, a pro rata portion of each item of the Company's income, including gross income and gain for the Fiscal Year and, if necessary, for subsequent years will be allocated to the Member in an amount and manner sufficient to eliminate the deficit in the Member's Capital Account as quickly as possible.

(2) If a Member would have a deficit in his or her Capital Account at the end of a Fiscal Year that exceeds the sum of (i) the amount the Member is required to pay the Company pursuant to an obligation described in section 1.704-1(b)(2)(ii)(c) of the Regulations and (ii) the Member's share of Minimum Gain, a pro rata portion of each item of the Company's income, including gross income and gain, for the Fiscal Year will be allocated to the Member in an amount and manner sufficient to eliminate the deficit in the Member's Capital Account as quickly as possible.

(3) If there is a net decrease in the Company's Minimum Gain during a Fiscal Year, the items of the Company's income, including gross income and gain, for the Fiscal Year and, if necessary, for subsequent Fiscal Years will be allocated to the Members in proportion to their shares of the net decrease in Minimum Gain. If the allocation made by this paragraph would cause a distortion in the economic arrangement among the Members and it is expected that the Company will not have sufficient income to correct that distortion, the Company may seek to have the Internal Revenue Service waive the requirement for the allocation in accordance with section 1.704-2(f)(4) of the Regulations.

(4) Items of the Company's loss, deductions and expenditures described in section 705(a)(2)(B) of the Code that are characterized as "partner nonrecourse deductions" under Section 1.704-2(i) of the Regulations will be allocated to the Members according to the ratio in which the Members bear the economic risk of loss with respect to the nonrecourse liabilities to which such items are attributable.

(5) Items of income, gain, loss and deduction with respect to property contributed to the Company's capital will be allocated between the Members so as to take into account any variation between book value and basis, to the extent and in the manner prescribed by section 704(c) of the Code and related Regulations.

(6) If the special allocations required by this Section 11(b) result in Capital Account balances that are different from the Capital Account balances the

Members would have had if the special allocations were not required, the Company will allocate other items of income, gain, loss and deduction in any manner it considers appropriate to offset the effects of the special allocations on the Members' Capital Account balances. Any offsetting allocation required by this paragraph is subject to and must be consistent with the special allocations.

(c) Recapture of Depreciation and Investment Tax Credit. The Members agree that any amounts of depreciation, amortization or investment tax credit which are required to be recaptured as a result of the disposition of any of the property of the Company with respect to which any depreciation, amortization or investment tax credit was claimed, shall be allocated and taken into account with respect to each Member in the same proportion as the amounts of such depreciation, amortization or investment tax credit were allocated to each Member.

(d) Effect of Transfers During Year. The Company will prorate items attributable to a Membership Interest that is the subject of a transfer during a Fiscal Year between the transferor and the transferee based on the portion of the Fiscal Year that elapsed prior to the transfer.

11.1 Tax Allocations. For federal income tax purposes, unless the Code or Regulations otherwise requires, each item of the Company's income, gain, loss or deduction will be allocated to the Members in proportion to their allocations of the Company's Profit or Loss.

11.2 Distributions.

(a) Available Funds. The Company will distribute to the Members, at such times as the Members so elect, but no more than quarterly, any Available Funds; provided, however, that there shall be no distributions of Profits to the Members unless and until all debt relating to the Project and the Property is paid in full, including, but not limited to, debt owed pursuant to the Harbor Note, first, and debt owed to D&M, second, for the D&M Carryback.

(b) Allocation. The Company will make all Distributions to the Members in proportion to their Profits/Loss Interests as set forth in Section 5(a) hereof.

(c) Negation of Right to Distribution in Kind. Except as provided in this Agreement, a Member has no right to demand and receive a Distribution in a form other than cash.

(d) Waiver of Obligation to Return Rightful Distribution. Except to the extent required by section 48-2c-603 of the Act, a Member has no liability to return to the Company a Distribution to which the Member is legally entitled, regardless of the Company's inability to discharge its obligations to its Creditors.

11.3 Capital Accounts.

(a) General Maintenance. The Company will establish and maintain a Capital Account for each Member. A Member's Capital Account will be:

(1) increased by: (i) the amount of any money the Member contributes to the Company's capital; (ii) the fair market value of any property the Member contributes to the Company's capital, net of any liabilities the Company assumes or to which the property is subject; and (iii) the Member's share of Profits; and

(2) decreased by: (i) the amount of any money the Company distributes to the Member; (ii) the fair market value of any property the Company distributes to the Member, net of any liabilities the Member assumes or to which the property is subject; and (iii) the Member's share of Losses.

(b) Adjustments.

(1) Distributions in Kind. If at any time the Company distributes property in kind, it will adjust the Members' Capital Accounts to account for their shares of any Profit or Loss the Company would have realized had it sold the property at fair market value and distributed the sale proceeds.

(2) Acquisitions and Redemptions. If at any time a Person acquires a Membership Interest from the Company or the Company redeems a Membership Interest, the Company will adjust the Members' Capital Accounts to account for their shares of any Profit or Loss the Company would have realized had it sold all of its assets at fair market value on the date of the acquisition or redemption.

(c) Transfer of Capital Account. A transferee of a Membership Interest succeeds to the portion of the transferor's Capital Account that corresponds to the portion of the Membership Interest that is the subject of the transfer.

(d) Compliance with Code. The requirements of this Section 11 are intended and will be construed to ensure that the allocations of the Company's income, gain, losses, deductions and credits have substantial economic effect under the Regulations promulgated under section 704(b) of the Code.

Notwithstanding the foregoing allocation of losses, no Member, Manager or other officer or employee of the Company shall be personally liable under a judgment, decree, or order of a court, or in any other manner, for a debt, obligation, or liability of the Company.

12. Amendments.

This Agreement may be altered, amended or repealed and a new Agreement may be adopted by the unanimous written consent of the Members.

13. Indemnification.

To the full extent permitted by law, the Company shall indemnify any Member, Manager, or officer or former Member, manager, or officer of the Company, in connection with the defense of any action, suit or proceeding, civil or criminal, in which he or she is made a party by reason of being or having been such Member, Manager or

officer, except in relation to matters as to which he or she shall be adjudged in such action, suit or proceeding to be liable for gross negligence, intentional actions or intentional inactions or for misconduct in the performance of duty. The Company shall be entitled to make such other indemnification as shall be authorized by the Members of the Company.

14. General Records.

(a) Records at Designated Business. The Manager shall keep the following at the Company's Designated Business address:

(1) List of Members. A current list in alphabetical order of the full name and last known business street address of each Member.

(2) Articles. A copy of the file stamped Articles of Organization, and all certificates of amendment to them, together with executed copies of any powers of attorney pursuant to which any certificate of amendment has been executed.

(b) Information Relating to Company. The records maintained under this Section are subject to inspection and copying at the reasonable request and at the expense of any Member during ordinary business hours.

(c) Annual Report. During the month of the Company's anniversary date of formation, the Manager shall sign an annual report and file it with the Corporation Division as required by the Act.

15. Miscellaneous Provisions.

(a) Successors and Assigns. The terms and provisions contained herein shall inure to the benefit of and shall be binding upon the parties hereto and their successors and assigns.

(b) Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties and any and all prior agreements, understandings or representations are hereby terminated and superseded in their entirety and are of no force and effect.

(c) Judgment Creditor. A judgment creditor shall not have the ability to satisfy a judgment out of the judgment debtor's interest in the Company.

(d) Captions. The captions appearing in this Agreement are for convenience in reference only. Should there be any conflict between any caption and the section over which it appears, the section and not the caption shall control.

(e) Governing Law. This Agreement and the rights of the parties hereunder shall be interpreted, construed and enforced in accordance with the laws of the State of Utah.

16. Dissolution.

(a) Appointment of Liquidator. Upon the Company's dissolution, the Manager will appoint a liquidator, who may but need not be a Member. The liquidator will wind up and liquidate the Company in an orderly, prudent and expeditious manner in accordance with the following provisions of this Section 16.

(b) Final Accounting. The liquidator will make proper accountings (1) to the end of the month in which the event of dissolution occurred and (2) to the date on which the Company is finally and completely liquidated.

(c) Duties and Authority of Liquidator. The liquidator will make adequate provision for the discharge of all of the Company's debts, obligations and liabilities. The liquidator may sell, encumber or retain for distribution in kind any of the Company's assets. Any gain or loss recognized on the sale of assets will be allocated to the Members' Capital Accounts in accordance with the provisions of Section 11. With respect to any asset the liquidator determines to retain for distribution in kind, the liquidator will allocate to the Members' Capital Accounts the amount of gain or loss that would have been recognized had the asset been sold at its fair market value.

(d) Final Distribution. The liquidator will distribute any assets remaining after the discharge or accommodation of the Company's debts, obligations and liabilities to the Members in proportion to their Capital Accounts; provided that, to the fullest extent possible and notwithstanding the general allocation provisions set forth in Section 11(a), Profit and/or Loss shall be allocated in the year of dissolution in such a manner such that the Capital Accounts of the Members shall be in such proportions as to permit the final Distribution to be made to the Members in accordance with the Distributions required pursuant to Section 11.2 hereof. The liquidator will distribute any assets distributable in kind to the Members in undivided interests as tenants in common. A Member whose Capital Account is negative will have no liability to the Company, the Company's creditors or any other Member with respect to the negative balance.

(e) Required Filings. The liquidator will file articles of dissolution with the Division and take such other actions as are reasonably necessary or appropriate to effectuate and confirm the cessation of the Company's existence.

17. Defined Terms

"Available Funds," for a Fiscal Year, means the Company's gross cash receipts from any source, less the sum of: (1) reimbursement of to the members for unreimbursed Costs; (2) payments of all principal, interest, charges and fees due pertaining to the Company's indebtedness to Harbor Real Asset Fund, LP pursuant to the Harbor Note; (2) payments of principal, interest, charges and fees due pertaining to the Company's indebtedness to D&M; (3) expenditures incurred incident to the usual conduct of the Company's business; and (4) amounts reasonably necessary to meet the current and anticipated needs of the Company's business.

"Capital Account" of a Member means the capital account maintained for the Member in accordance with Section 11.3.

"Code" means the Internal Revenue Code of 1986, as amended.

"Designated Business" means the Company's office in Utah where the Company's records are required to be maintained.

"Distribution" means the Company's direct or indirect transfer of money or other property with respect to a Membership Interest.

"Entity" means an association, relationship or artificial person through or by means of which an enterprise or activity may be lawfully conducted, including, without limitation, a domestic or foreign corporation, nonprofit corporation, limited liability company, general partnership, limited partnership, business trust, association, trust, estate, joint venture, cooperative or governmental unit.

"Membership Interest" means a Member's economic interest in the Company, represented as a percentage interest in the Company, consisting of the Member's right to share in Profits and receive distributions from the Company. The Membership Interests of the initial Members are set forth in Section 5(a) hereof. Changes in Membership Interests after the Effective Date will be reflected in the Company's records. The allocation of Membership Interests reflected in the Company's records from time to time is presumed to be correct for all purposes of this Agreement and the Act.

"Minimum Gain" means minimum gain as defined in sections 1.704-2(b)(2) and 1.704-2(d) of the Regulations.

"Net Profit," as to a positive amount, or "Net Loss," as to a negative amount, means, for a Fiscal Year, the Profit or Loss after payment of all of the following in the order set forth below:

- 1) First to repay all amounts due to Harbor Real Asset Fund, LP under the Harbor Notes; and
- 2) Second to repay all amounts due to D&M pursuant to the D&M Carryback in the amount of One Million Five Hundred Sixty Thousand and no/100 dollars (\$1,560,000.00).

"Profit," as to a positive amount, or "Loss," as to a negative amount, means, for a Fiscal Year, the Company's net taxable income or loss for the Fiscal Year, as determined in accordance with section 703(a) of the Code, with the following adjustments: (1) all items required to be separately stated pursuant to section 703(a)(1) of the Code will be accounted for in the aggregate, (2) any income that is exempt for federal income tax purposes will be included; and (3) any item that is specially allocated pursuant to Section 11(b) will be disregarded.

"Regulations" means proposed, temporary or final regulations promulgated under the Code by the Department of the Treasury, as amended.

"Voting Interest" means a Member's percentage interest in the governing rights of the Company, consisting of the Member's right to participate in the Company's governance, approve the Company's acts, participate in the designation and removal of a

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Manager and receive information pertaining to the Company's affairs. The Voting Interests of the initial Members are set forth in Section 5(a) hereof. Changes in Voting Interests after the Effective Date will be reflected in the Company's records. The allocation of Voting Interests reflected in the Company's records from time to time is presumed to be correct for all purposes of this Agreement and the Act.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the day and year set forth above.

COMPANY:
Haven Vernal, LLC

By: True North Funding, LLC
Its: Manager

By: [Signature]
Name: J. Martin Tate
Its: General Counsel

MEMBERS:
D&M Development Services, LLC

By: [Signature]
Name: Mark Dalton
Its: managing member

True North Funding, LLC,
a Utah limited liability company

By: [Signature]
Name: J. Martin Tate
Its: General Counsel

The Elva Group, LLC
a Utah limited liability company

By: [Signature]
Name: Martin Pool
Its: Member

[Signature]
Memorand Fraynnele
member

Exhibit A

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Capital Contributions

Name	
The Elva Group, LLC	\$ 300,000.00
D&M Development Services, LLC	\$ 1,560,000.00
True North Funding, LLC	\$ 8,520,977.25

Total

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EXHIBIT B
(Property Description)

The following real property is located in Uintah County, State of Utah:

Lots 1-15 and 17-121, Haven Estates Subdivision, according to the official plat thereof recorded in the office of the Uintah County Recorder.

Subject to an unrecorded easement over the North section of Lot 10.

Tax Serial Nos. 05-054-0101-05-054-0015; 05-054-0017 - 05-054-00226; 05-055-0227-05-055-0242