

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
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www.dec.ny.gov

February 25, 2022

UR-ban Villages PFA, LLC
Vittorio Pascarella
925 7th North Street
Liverpool, NY 13088

RE: Site Name: Urban Villages
Site No.: C734154
Location of Site: 100 Buckley Road, Onondaga County, Salina, NY 13088

Dear Vittorio Pascarella:

To complete your file, attached is a fully executed copy of the Brownfield Cleanup Agreement for the Urban Villages site.

If you have any further questions relating to this matter, please contact the project attorney for this site, Margaret Sheen, Esq., NYS Department of Environmental Conservation, Office of General Counsel, 615 Erie Blvd., West Syracuse, NY 13204 or by email at margaret.sheen@dec.ny.gov.

Sincerely,

Susan Edwards

Susan Edwards, P.E.
Acting Director
Division of Environmental Remediation

Enclosure

ec: Gary Priscott, Project Manager

cc: Margaret Sheen, Esq.
Jennifer Andaloro, Esq./Dale Thiel



Department of
Environmental
Conservation

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BROWNFIELD CLEANUP PROGRAM
ECL §27-1401 *et seq.*

In the Matter of a Remedial Program for

**BROWNFIELD SITE
CLEANUP AGREEMENT
Index No. C734154-01-22**

Urban Villages

DEC Site No: C734154

Located at: 100 Buckley Road
Onondaga County
Salina, NY 13088

Hereinafter referred to as "Site"

by:

UR-ban Villages PFA, LLC
925 7th North Street, Liverpool, NY 13088

Hereinafter referred to as "Applicant"

WHEREAS, the Department of Environmental Conservation ("Department") is authorized to administer the Brownfield Cleanup Program ("BCP") set forth in Article 27, Title 14 of the Environmental Conservation Law ("ECL"); and

WHEREAS, the Applicant submitted an application received by the Department on August 19, 2021; and

WHEREAS, the Department has determined that the Site and Applicant are eligible to participate in the BCP.

NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

I. Applicant Status

The Applicant, UR-ban Villages PFA, LLC, is participating in the BCP as a Volunteer as defined in ECL 27-1405(1)(b).

II. Tangible Property Tax Credit Status

The Site is not located in a City having a population of one million or more. It is therefore presumed that the Site is eligible for tangible property tax credits.

III. Real Property

The Site subject to this Brownfield Cleanup Agreement (the "BCA" or "Agreement") consists of approximately 11.680 acres, a Map of which is attached as Exhibit "A", and is described as follows:

Tax Map/Parcel No.: 086-01-15.2
Street Number: 100 Buckley Road, Salina
Owner: UR-ban Villages PFA, LLC

IV. Communications

A. All written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, by hand delivery, or by electronic mail.

1. Communication from Applicant shall be sent to:

Gary Priscott
New York State Department of Environmental Conservation
Division of Environmental Remediation
615 Erie Blvd W
Syracuse, NY 13204
gary.priscott@dec.ny.gov

Note: one hard copy (unbound) of work plans and reports is required, as well as one electronic copy.

Christine Vooris (electronic copy only)
New York State Department of Health
Bureau of Environmental Exposure Investigation
Empire State Plaza
Corning Tower Room 1787
Albany, NY 12237
christine.vooris@health.ny.gov

Margaret Sheen, Esq. (correspondence only)
New York State Department of Environmental Conservation
Office of General Counsel
615 Erie Blvd W
Syracuse, NY 13204
margaret.sheen@dec.ny.gov

2. Communication from the Department to Applicant shall be sent to:

UR-ban Villages PFA, LLC
Attn: Vittorio Pascarella
925 7th North Street
Liverpool, NY 13088
vittorio@pdm-llc.com

B. The Department and Applicant reserve the right to designate additional or different addressees for communication on written notice to the other. Additionally, the Department reserves the right to request that the Applicant provide more than one paper copy of any work plan or report.

C. Each party shall notify the other within ninety (90) days after any change in the addresses listed in this paragraph or in Paragraph III.

V. Miscellaneous

A. Applicant acknowledges that it has read, understands, and agrees to abide by all the terms set forth in Appendix A - "Standard Clauses for All New York State Brownfield Site Cleanup Agreements" which is attached to and hereby made a part of this Agreement as if set forth fully herein.

B. In the event of a conflict between the terms of this BCA (including any and all attachments thereto and amendments thereof) and the terms of Appendix A, the terms of this BCA shall control.

C. The effective date of this Agreement is the date it is signed by the Commissioner or the Commissioner's designee.

DATED: 2/25/2022

THIS BROWNFIELD CLEANUP AGREEMENT IS
HEREBY APPROVED, Acting by and Through the
Department of Environmental Conservation as Designee
of the Commissioner,

By: *Susan Edwards*

Susan Edwards, P.E., Acting Director
Division of Environmental Remediation

CONSENT BY APPLICANT

Applicant hereby consents to the issuing and entering of this Agreement, and agrees to be bound by this Agreement.

UR-ban Villages PFA, LLC

By: [Signature]

Title: MANAGER

Date: February 1, 2022

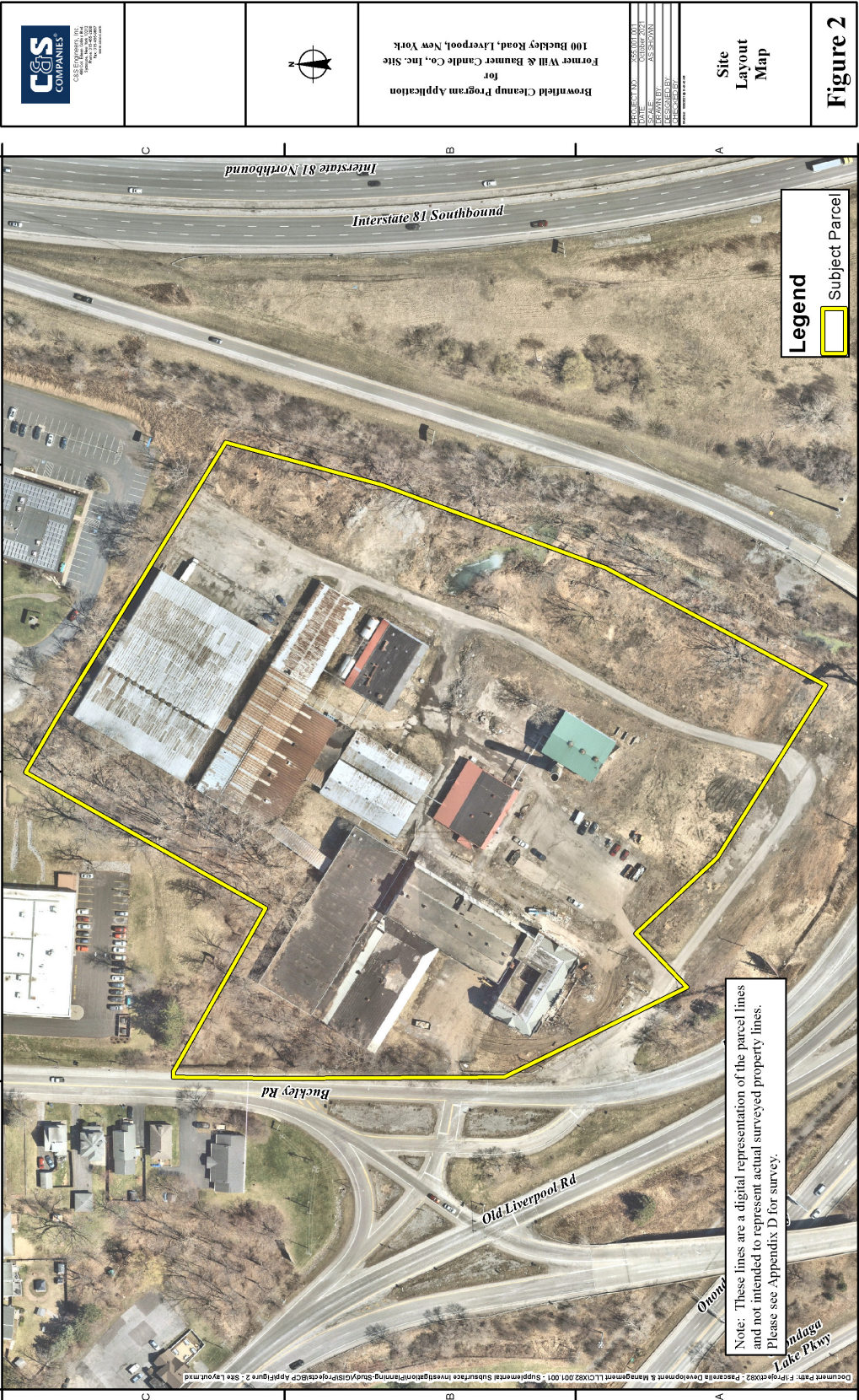
STATE OF NEW YORK)
COUNTY OF Onondaga) ss:

On the 1st day of February in the year 2022, before me, the undersigned, personally appeared Vittorio Pascarella, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

[Signature]
Signature and Office of individual
taking acknowledgment

WENDY L. CONTOS
Notary Public, State of New York
Qual. in Onondaga Co. No. 01CO6197098
Commission Expires 11-24-2024

EXHIBIT A
SITE MAP



APPENDIX A

STANDARD CLAUSES FOR ALL NEW YORK STATE BROWNFIELD SITE CLEANUP AGREEMENTS

The parties to the Brownfield Site Cleanup Agreement (hereinafter "BCA" or "Agreement") agree to be bound by the following clauses which are hereby made a part of the BCA. The word "Applicant" herein refers to any party to the Agreement, other than the New York State Department of Environmental Conservation (herein after "Department").

I. Citizen Participation Plan

Within twenty (20) days after the effective date of this Agreement, Applicant shall submit for review and approval a written citizen participation plan prepared in accordance with the requirements of Environmental Conservation Law (ECL) § 27-1417 and 6 NYCRR §§ 375-1.10 and 375-3.10. Upon approval, the Citizen Participation Plan shall be deemed to be incorporated into and made a part of this Agreement.

II. Development, Performance, and Reporting of Work Plans

A. Work Plan Requirements

The work plans ("Work Plan" or "Work Plans") under this Agreement shall be prepared and implemented in accordance with the requirements of ECL Article 27, Title 14, 6 NYCRR §§ 375-1.6(a) and 375-3.6, and all applicable laws, rules, regulations, and guidance documents. The Work Plans shall be captioned as follows:

1. "Remedial Investigation Work Plan" if the Work Plan provides for the investigation of the nature and extent of contamination within the boundaries of the Site and, if the Applicant is a "Participant", the extent of contamination emanating from such Site. If the Applicant is a "Volunteer" it shall perform a qualitative exposure assessment of the contamination emanating from the Site in accordance with ECL § 27-1415(2)(b) and Department guidance;

2. "Remedial Work Plan" if the Work Plan provides for the development and implementation of a Remedial Program for contamination within the boundaries of the Site and, if the Applicant is a "Participant", the contamination that has emanated from such Site;

3. "IRM Work Plan" if the Work Plan provides for an interim remedial measure; or

4. "Site Management Plan" if the Work Plan provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy.

5. "Supplemental" if additional work plans other than those set forth in II.A.1-4 are required to be prepared and implemented.

B. Submission/Implementation of Work Plans

1. The first proposed Work Plan to be submitted under this Agreement shall be submitted no later than thirty (30) days after the effective date of this Agreement. Thereafter, the Applicant shall submit such other and additional work plans as determined in a schedule to be approved by the Department.

2. Any proposed Work Plan shall be submitted for the Department's review and approval and shall include, at a minimum, a chronological description of the anticipated activities to be conducted in accordance with current guidance, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan. The Department shall use best efforts in accordance with 6 NYCRR § 375-3.6(b) to approve, modify, or reject a proposed Work Plan within forty-five (45) days from its receipt or within fifteen (15) days from the close of the comment period, if applicable, whichever is later.

i. Upon the Department's written approval of a Work Plan, such Department-approved Work Plan shall be deemed to be incorporated into and made a part of this Agreement and shall be implemented in accordance with the schedule contained therein. All work undertaken as part of a remedial program for a Site must be detailed in a department-approved Work Plan or a submittal approved in form and content by the Department.

ii. If the Department requires modification of a Work Plan, the reason for such modification shall be provided in writing and the

provisions of 6 NYCRR § 375-1.6(d)(3) shall apply.

iii. If the Department disapproves a Work Plan, the reason for such disapproval shall be provided in writing and the provisions of 6 NYCRR § 375-1.6(d)(4) shall apply.

3. A Site Management Plan, if necessary, shall be submitted in accordance with the schedule set forth in the IRM Work Plan or Remedial Work Plan.

C. Submission of Final Reports

1. In accordance with the schedule contained in an approved Work Plan, Applicant shall submit a Final Report for an Investigation Work Plan prepared in accordance with ECL § 27-1411(1) and 6 NYCRR § 375-1.6. If such Final Report concludes that no remediation is necessary, and the Site does not meet the requirements for Track 1, Applicant shall submit an Alternatives Analysis prepared in accordance with ECL § 27-1413 and 6 NYCRR § 375-3.8(f) that supports such determination.

2. In accordance with the schedule contained in an approved Work Plan, Applicant shall submit a Final Engineering Report certifying that remediation of the Site has been performed in accordance with the requirements of ECL §§ 27-1419(1) and (2) and 6 NYCRR § 375-1.6. The Department shall review such Report, the submittals made pursuant to this Agreement, and any other relevant information regarding the Site and make a determination as to whether the goals of the remedial program have been or will be achieved in accordance with established timeframes; if so, a written Certificate of Completion will be issued in accordance with ECL § 27-1419, 6 NYCRR §§ 375-1.9 and 375-3.9.

3. Within sixty (60) days of the Department's approval of a Final Report, Applicant shall submit such additional Work Plans as it proposes to implement. In addition, Applicant shall include with every report submitted to the Department a schedule for the submission of any subsequent work plan required to meet the requirements of ECL Article 27 Title 14. Failure to submit any additional Work Plans within such period shall, unless other Work Plans are under review by the Department or being implemented by Applicant, result in the termination of this Agreement pursuant to Paragraph XII.

D. Review of Submittals other than Work Plans

1. The Department shall timely notify Applicant in writing of its approval or disapproval of each submittal other than a Work Plan in accordance with 6 NYCRR § 375-1.6. All Department-approved submittals shall be incorporated into and become an enforceable part of this Agreement.

2. If the Department disapproves a submittal covered by this Subparagraph, it shall specify the reason for its disapproval and may request Applicant to modify or expand the submittal. Within fifteen (15) days after receiving written notice that Applicant's submittal has been disapproved, Applicant shall elect in writing to either (i) modify or expand it within thirty (30) days of receipt of the written notice of disapproval; (ii) complete any other Department-approved Work Plan(s); (iii) invoke dispute resolution pursuant to Paragraph XIII; or (iv) terminate this Agreement pursuant to Paragraph XII. If Applicant submits a revised submittal and it is disapproved, the Department and Applicant may pursue whatever remedies may be available under this Agreement or under law. All work undertaken as part of a remedial program, including work undertaken pursuant to submittals other than Work Plans, must be approved by the department prior to implementation by the Applicant.

E. Department's Determination of Need for Remediation

The Department shall determine upon its approval of each Final Report dealing with the investigation of the Site whether remediation, or additional remediation as the case may be, is needed for protection of public health and the environment.

1. If the Department makes a preliminary determination that remediation, or additional remediation, is not needed for protection of public health and the environment, the Department shall notify the public of such determination and seek public comment in accordance with ECL § 27-1417(3)(f). The Department shall provide timely notification to the Applicant of its final determination following the close of the public comment period.

2. If the Department determines that additional remediation is not needed and such determination is based upon use restrictions, Applicant shall cause to be recorded an Environmental Easement in accordance with 6 NYCRR § 375-1.8(h).

3. If the Department determines that remediation, or additional remediation, is needed, Applicant may elect to submit for review and approval a proposed Remedial Work Plan (or modify an existing Work Plan for the Site) for a remedy selected upon due consideration of the factors set forth in ECL § 27-1415(3) and 6 NYCRR § 375-1.8(f). A proposed Remedial Work Plan addressing the Site's remediation will be noticed for public comment in accordance with ECL § 27-1417(3)(f) and the Citizen Participation Plan developed pursuant to this Agreement. If the Department determines following the close of the public comment period that modifications to the proposed Remedial Work Plan are needed, Applicant agrees to negotiate appropriate modifications to such Work Plan. If Applicant elects not to develop a Work Plan under this Subparagraph then this Agreement shall terminate in accordance with Paragraph XII. If the Applicant elects to develop a Work Plan, then it will be reviewed in accordance with Paragraph II.D above.

F. Institutional/Engineering Control Certification

In the event that the remedy for the Site, if any, or any Work Plan for the Site, requires institutional or engineering controls, Applicant shall submit a written certification in accordance with 6 NYCRR §§ 375-1.8(h)(3) and 375-3.8(h)(2).

III. Enforcement

Except as provided in Paragraph V, this Agreement shall be enforceable as a contractual agreement under the laws of the State of New York. Applicant shall not suffer any penalty except as provided in Paragraph V, or be subject to any proceeding or action if it cannot comply with any requirement of this Agreement as a result of a Force Majeure Event as described at 6 NYCRR § 375-1.5(b)(4) provided Applicant complies with the requirements set forth therein.

IV. Entry upon Site

A. Applicant hereby agrees to provide access to the Site and to all relevant information regarding activities at the Site in accordance with the provisions of ECL § 27-1431. Applicant agrees to provide the Department upon request with proof of access if it is not the owner of the Site.

B. The Department shall have the right to periodically inspect the Site to ensure that the use of the property complies with the terms and conditions of this Agreement. The Department will generally conduct such inspections during business hours, but retains the right to inspect at any time.

C. Failure to provide access as provided for under this Paragraph may result in termination of this Agreement pursuant to Paragraph XII.

V. Payment of State Costs (Applicable only to Applicants with Participant Status)

A. Within forty-five (45) days after receipt of an itemized invoice from the Department, Applicant shall pay to the Department a sum of money which shall represent reimbursement for State Costs as provided by 6 NYCRR § 375-1.5(b)(3)(i).

B. Costs shall be documented as provided by 6 NYCRR § 375-1.5(b)(3)(ii). The Department shall not be required to provide any other documentation of costs, provided however, that the Department's records shall be available consistent with, and in accordance with, Article 6 of the Public Officers Law.

C. Each such payment shall be made payable to the "Commissioner of NYSDEC" and shall be sent to:

Division of Management and Budget
New York State Department of Environmental
Conservation
625 Broadway, 10th Floor
Albany, New York 12233-4900

D. Each party shall provide written notification to the other within ninety (90) days of any change in the foregoing addresses.

E. If Applicant objects to any invoiced costs under this Agreement, the provisions of 6 NYCRR

§§ 375-1.5 (b)(3)(v) and (vi) shall apply. Objections shall be sent to the Department as provided under subparagraph V.C above.

F. In the event of non-payment of any invoice within the 45 days provided herein, the Department may seek enforcement of this provision pursuant to Paragraph III or the Department may commence an enforcement action for non-compliance with ECL § 27-1409(2) and ECL § 71-4003.

VI. Liability Limitation

Subsequent to the issuance of a Certificate of Completion pursuant to this Agreement, Applicant shall be entitled to the Liability Limitation set forth at ECL § 27-1421, subject to the terms and conditions stated therein and to the provisions of 6 NYCRR §§ 375-1.9 and 375-3.9.

VII. Reservation of Rights

A. Except as provided in Subparagraph VII.B, Applicant reserves all rights and defenses under applicable law to contest, defend against, dispute, or disprove any action, proceeding, allegation, assertion, determination, or order of the Department, including any assertion of remedial liability by the Department against Applicant, and further reserves all rights including the rights to notice, to be heard, to appeal, and to any other due process respecting any action or proceeding by the Department, including the enforcement of this Agreement. The existence of this Agreement or Applicant's compliance with it shall not be construed as an admission of any liability, fault, wrongdoing, or violation of law by Applicant, and shall not give rise to any presumption of law or finding of fact which shall inure to the benefit of any third party.

B. Notwithstanding the foregoing, Applicant hereby waives any right it may have to make a claim pursuant to Article 12 of the Navigation Law with respect to the Site and releases the State and the New York Environmental Protection and Spill Compensation Fund from any and all legal or equitable claims, suits, causes of action, or demands whatsoever with respect to the Site that Applicant may have as a result of Applicant's entering into or fulfilling the terms of this Agreement.

VIII. Indemnification

Applicant shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless from any claim, suit, action, and cost of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Agreement by Applicant prior to the Termination Date except for those claims, suits, actions, and costs arising from the State's gross negligence or willful or intentional misconduct by the Department, the State of New York, and/or their representatives and employees during the course of any activities conducted pursuant to this Agreement. In the event that the Applicant is a Participant, this provision shall also include the Trustee of the State's Natural Resources. The Department shall provide Applicant with written notice no less than thirty (30) days prior to commencing a lawsuit seeking indemnification pursuant to this Paragraph.

IX. Change of Use

Applicant shall notify the Department at least sixty (60) days in advance of any change of use, as defined in ECL § 27-1425, which is proposed for the Site, in accordance with the provisions of 6 NYCRR § 375-1.11(d). In the event the Department determines that the proposed change of use is prohibited, the Department shall notify Applicant of such determination within forty-five (45) days of receipt of such notice.

X. Environmental Easement

A. Within thirty (30) days after the Department's approval of a Remedial Work Plan which relies upon one or more institutional and/or engineering controls, or within sixty (60) days after the Department's determination pursuant to Subparagraph II.E.2 that additional remediation is not needed based upon use restrictions, Applicant shall submit to the Department for approval an Environmental Easement to run with the land in favor of the State which complies with the requirements of ECL Article 71, Title 36 and 6 NYCRR § 375-1.8(h)(2). Applicant shall cause such instrument to be recorded with the recording officer for the county in which the Site is located within thirty (30) days after the Department's approval of such instrument. Applicant shall provide the Department with a copy of such instrument certified by the recording officer to be a true and faithful copy within thirty (30) days of

such recording (or such longer period of time as may be required to obtain a certified copy provided Applicant advises the Department of the status of its efforts to obtain same within such thirty (30) day period), which shall be deemed to be incorporated into this Agreement.

B. Applicant or the owner of the Site may petition the Department to modify or extinguish the Environmental Easement filed pursuant to this Agreement at such time as it can certify that the Site is protective of public health and the environment without reliance upon the restrictions set forth in such instrument. Such certification shall be made by a Professional Engineer or Qualified Environmental Professional as defined at 6 NYCRR § 375-1.2(ak) approved by the Department. The Department will not unreasonably withhold its consent.

XI. Progress Reports

Applicant shall submit a written progress report of its actions under this Agreement to the parties identified in Subparagraph III.A.1 of the Agreement by the 10th day of each month commencing with the month subsequent to the approval of the first Work Plan and ending with the Termination Date, unless a different frequency is set forth in a Work Plan. Such reports shall, at a minimum, include: all actions relative to the Site during the previous reporting period and those anticipated for the next reporting period; all approved activity modifications (changes of work scope and/or schedule); all results of sampling and tests and all other data received or generated by or on behalf of Applicant in connection with this Site, whether under this Agreement or otherwise, in the previous reporting period, including quality assurance/quality control information; information regarding percentage of completion; unresolved delays encountered or anticipated that may affect the future schedule and efforts made to mitigate such delays; and information regarding activities undertaken in support of the Citizen Participation Plan during the previous reporting period and those anticipated for the next reporting period.

XII. Termination of Agreement

Applicant or the Department may terminate this Agreement consistent with the provisions of 6 NYCRR §§ 375-3.5(b), (c), and (d) by providing written notification to the parties listed in Paragraph IV of the Agreement.

XIII. Dispute Resolution

A. In the event disputes arise under this Agreement, Applicant may, within fifteen (15) days after Applicant knew or should have known of the facts which are the basis of the dispute, initiate dispute resolution in accordance with the provisions of 6 NYCRR § 375-1.5(b)(2).

B. All cost incurred by the Department associated with dispute resolution are State costs subject to reimbursement pursuant to Paragraph V of Appendix A of this Agreement, if applicable.

C. Notwithstanding any other rights otherwise authorized in law or equity, any disputes pursuant to this Agreement shall be limited to Departmental decisions on remedial activities. In no event shall such dispute authorize a challenge to the applicable statute or regulation.

XIV. Miscellaneous

A. If the information provided and any certifications made by Applicant are not materially accurate and complete, this Agreement, except with respect to Applicant's obligations pursuant to Paragraphs V, if applicable, and VII.B, and VIII, shall be null and void ab initio fifteen (15) days after the Department's notification of such inaccuracy or incompleteness or fifteen (15) days after issuance of a final decision resolving a dispute pursuant to Paragraph XIII, whichever is later, unless Applicant submits information within that fifteen (15) day time period indicating that the information provided and the certifications made were materially accurate and complete. In the event this Agreement is rendered null and void, any Certificate of Completion and/or Liability Limitation that may have been issued or may have arisen under this Agreement shall also be null and void ab initio, and the Department shall reserve all rights that it may have under law.

B. By entering into this Agreement, Applicant agrees to comply with and be bound by the provisions of 6 NYCRR §§ 375-1, 375-3 and 375-6; the provisions of such subparts that are referenced herein are referenced for clarity and convenience only and the failure of this Agreement to specifically reference any particular regulatory provision is not intended to imply that such provision is not applicable to activities performed under this Agreement.

C. The Department may exempt Applicant from the requirement to obtain any state or local permit or other authorization for any activity conducted pursuant to this Agreement in accordance with 6 NYCRR §§ 375-1.12(b), (c), and (d).

D. 1. Applicant shall use “best efforts” to obtain all Site access, permits, easements, approvals, institutional controls, and/or authorizations necessary to perform Applicant’s obligations under this Agreement, including all Department-approved Work Plans and the schedules contained therein. If, despite Applicant’s best efforts, any access, permits, easements, approvals, institutional controls, or authorizations cannot be obtained, Applicant shall promptly notify the Department and include a summary of the steps taken. The Department may, as it deems appropriate and within its authority, assist Applicant in obtaining same.

2. If an interest in property is needed to implement an institutional control required by a Work Plan and such interest cannot be obtained, the Department may require Applicant to modify the Work Plan pursuant to 6 NYCRR § 375-1.6(d)(3) to reflect changes necessitated by Applicant’s inability to obtain such interest.

E. The paragraph headings set forth in this Agreement are included for convenience of reference only and shall be disregarded in the construction and interpretation of any provisions of this Agreement.

F. 1. The terms of this Agreement shall constitute the complete and entire agreement between the Department and Applicant concerning the implementation of the activities required by this Agreement. No term, condition, understanding, or agreement purporting to modify or vary any term of this Agreement shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department shall be construed as relieving Applicant of its obligation to obtain such formal approvals as may be required by this Agreement. In the event of a conflict between the terms of this Agreement and any Work Plan submitted pursuant to this Agreement, the terms of this Agreement shall control over the terms of the Work Plan(s). Applicant consents to and agrees not to contest the authority and jurisdiction of the

Department to enter into or enforce this Agreement.

2. i. Except as set forth herein, if Applicant desires that any provision of this Agreement be changed, Applicant shall make timely written application to the Commissioner with copies to the parties in Subparagraph IV.A.1 of the Agreement.

ii. If Applicant seeks to modify an approved Work Plan, a written request shall be made to the Department’s project manager, with copies to the parties listed in Subparagraph IV.A.1 of the Agreement.

iii. Requests for a change to a time frame set forth in this Agreement shall be made in writing to the Department’s project attorney and project manager; such requests shall not be unreasonably denied and a written response to such requests shall be sent to Applicant promptly.

G. 1. If there are multiple parties signing this Agreement, the term “Applicant” shall be read in the plural, the obligations of each such party under this Agreement are joint and several, and the insolvency of or failure by any Applicant to implement any obligations under this Agreement shall not affect the obligations of the remaining Applicant(s) under this Agreement.

2. If Applicant is a partnership, the obligations of all general partners (including limited partners who act as general partners) under this Agreement are joint and several and the insolvency or failure of any general partner to implement any obligations under this Agreement shall not affect the obligations of the remaining partner(s) under this Agreement.

3. Notwithstanding the foregoing Subparagraphs XIV.G.1 and 2, if multiple parties sign this Agreement as Applicants but not all of the signing parties elect to implement a Work Plan, all Applicants are jointly and severally liable for each and every obligation under this Agreement through the completion of activities in such Work Plan that all such parties consented to; thereafter, only those Applicants electing to perform additional work shall be jointly and severally liable under this Agreement for the obligations and activities under such additional Work Plan(s). The parties electing not to implement the additional Work Plan(s) shall have no obligations under this Agreement relative to

the activities set forth in such Work Plan(s). Further, only those Applicants electing to implement such additional Work Plan(s) shall be eligible to receive the Liability Limitation referenced in Paragraph VI.

4. Any change to parties pursuant to this Agreement, including successors and assigns through acquisition of title, is subject to approval by the Department, after submittal of an application acceptable to the Department.

H. Applicant shall be entitled to receive contribution protection and/or to seek contribution to the extent authorized by ECL § 27-1421(6) and 6 NYCRR § 375-1.5(b)(5).

I. Applicant shall not be considered an operator of the Site solely by virtue of having executed and/or implemented this Agreement.

J. Applicant and Applicant's agents, grantees, lessees, sublessees, successors, and assigns shall be bound by this Agreement. Any change in ownership of Applicant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Applicant's responsibilities under this Agreement.

K. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in ECL Article 27 or in regulations promulgated thereunder shall have the meaning

assigned to them under said statute or regulations.

L. Applicant's obligations under this Agreement shall not be deemed to constitute any type of fine or penalty.

M. In accordance with 6 NYCRR § 375-1.6(a)(4), the Department shall be notified at least 7 days in advance of, and be allowed to attend, any field activities to be conducted under a Department approved work plan, as well as any pre-bid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting; provided, however that the Department may be excluded from portions of meetings where privileged matters are discussed.

N. In accordance with 6 NYCRR § 375-1.11(a), all work plans; reports, including all attachments and appendices, and certifications, submitted by a remedial party shall be submitted in print, as well as in an electronic format acceptable to the Department.

O. This Agreement may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.

**ACTION WITHOUT MEETING
OF
THE SOLE MEMBER
OF
UR-BAN VILLAGES PFA, LLC**

Pursuant to Section 407 of the New York State
Limited Liability Company Law

The undersigned, being the sole Member of **UR-BAN VILLAGES PFA, LLC**, a New York limited liability company (the "Company"), does hereby authorize, adopt, ratify, and consent to the following actions by written consent of the Member:

RESOLVED, That the Company enter into a certain Brownfield Site Cleanup Agreement ("Agreement") with the New York Department of Environmental Conservation, for the cleanup of property located at 100 Buckley Road, Town of Salina, County of Onondaga, State of New York, consisting of approximately 11.680 acres of land ("Site"), a copy of which shall be annexed to this Action; and it is

FURTHER RESOLVED, That Vittorio Pascarella, a Manager of the Company, is hereby authorized and directed to execute any and all documents and to take any and all actions necessary to effectuate the above-approved Agreement; and it is

FURTHER RESOLVED, That copies of any and all documents signed in order to effectuate the above actions are hereby directed to be placed in the records of the Company.

SOLE MEMBER:

PASCARELLA FAMILY ASSOCIATES, LLC

By:


Vincent Pascarella, Manager Date: 2/1/22

By:


Serafina Pascarella, Manager Date: 2/1/22

THIRD AMENDED AND RESTATED

OPERATING AGREEMENT

OF

PASCARELLA FAMILY ASSOCIATES, LLC

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EXHIBIT "A" - Membership Listing

EXHIBIT "B" - Adherence Agreement

PASCARELLA FAMILY ASSOCIATES, LLC

**THIRD AMENDED AND RESTATED
OPERATING AGREEMENT**

THIS THIRD AMENDED AND RESTATED OPERATING AGREEMENT (this "Agreement") is entered into this 29th day of December 2014 by and among **PASCARELLA FAMILY ASSOCIATES, LLC**, a New York limited liability company (the "Company"); **VINCENT PASCARELLA** ("Vincent"), **SERAFINA PASCARELLA** ("Serafina"), **FLORINDO PASCARELLA** ("Florindo"), **VITTORIO PASCARELLA** ("Vittorio"), and **SERAFINA PASCARELLA, VITTORIO PASCARELLA and FLORINDO PASCARELLA AS CO-TRUSTEES OF THE VINCENT PASCARELLA FAMILY BENEFIT TRUST** (the "Trust"). Vincent, Serafina, Florindo, Vittorio, and the Trust may be hereinafter referred to individually as "Member" and collectively as "Members".

EXPLANATORY STATEMENT

WHEREAS, The Members, being all of the members of the Company, have agreed to operate the Company in accordance with the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, The then-existing Members of the Company executed an Operating Agreement for the Company following the filing of the Company's Articles of Organization (the "Original Agreement"); and

WHEREAS, The Members amended and restated the Original Agreement on September 21, 2007 as set forth in the Amended and Restated Operating Agreement, and further amended pursuant to a Second Amended and Restated Operating Agreement dated October 9, 2008; and

WHEREAS, The Members now wish to amend and restate the Second Amended and Restated Operating Agreement as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the parties, intending to be legally bound, agree as follows:

ARTICLE I

DEFINED TERMS

The following capitalized terms shall have the meaning specified in this Article I. Other terms are defined in the text of this Agreement; and, throughout this Agreement, those terms shall have the meanings respectively ascribed to them.

"Adjusted Basis" means the adjusted basis for determining gain or loss from the sale or exchange or other disposition of property as determined according to Code Section 1011(a).

"Adjusted Capital Account Deficit" means, with respect to any Economic Interest Holder, the deficit balance, if any, in the Economic Interest Holder's Capital Account as of the end of the relevant taxable year, after giving effect to the following adjustments:

(a) The deficit shall be decreased by the amounts which the Economic Interest Holder is deemed obligated to restore pursuant to Regulation Section 1.704-1(b)(2)(ii)(c); and

(b) The deficit shall be increased by the items described in Regulation Sections 1.704-1(b)(2)(ii)-(d)(4), (5) and (6).

"Adjusted Capital Balance" means, as of any day, an Economic Interest Holder's total Capital Contributions less all amounts of cash and property actually distributed to the Economic Interest Holder including those pursuant to Sections 4.1 and 4.4 hereof. If any Economic Interest is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Adjusted Capital Balance of the transferor to the extent the Adjusted Capital Balance relates to the Economic Interest transferred.

"Affiliate" means, with respect to any Member, any Person: (i) which owns more than fifty percent (50%) of the voting interests in the Member; or (ii) in which the Member owns more than fifty percent (50%) of the voting interests; or (iii) in which more than fifty percent (50%) of the voting interests are owned by a Person who has a relationship with the Member described in clause (i) or (ii) above or who otherwise controls, is controlled by, or under common control with, another such Person.

"Agreement" means this Operating Agreement, as amended from time to time.

"Capital Account" means the account to be maintained by the Company for each Economic Interest Holder in accordance with the following provisions:

(a) An Economic Interest Holder's Capital Account shall be credited with the Economic Interest Holder's Capital Contributions, the amount of any Company liabilities assumed by the Economic Interest Holder within the meaning of Regulation Section 1.704-1(b)(2)(iv)(c) (or which are secured by Company property distributed to the Economic Interest Holder), the Economic Interest Holder's distributive share of Profit and any item in the nature of income or gain specially allocated to the Economic Interest Holder pursuant to the provisions of Article V (other than Section 4.3(c)); and

(b) An Economic Interest Holder's Capital Account shall be debited with the amount of money and the fair market value of any Company property distributed to the Economic Interest Holder, the amount of any liabilities of the Economic Interest Holder assumed by the Company within the meaning of Regulation Section 1.704-1(b)(2)(iv)(c) (or which are secured by property contributed by the Economic Interest Holder to the Company), the Economic

Interest Holder's distributive share of Loss and any item in the nature of expenses or losses specially allocated to the Economic Interest Holder pursuant to the provisions of Article IV (other than Section 4.3(c)).

If any Economic Interest is transferred pursuant to the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent the Capital Account is attributable to the transferred Economic Interest. If the book value of Company property is adjusted pursuant to Section 4.3(c), the Capital Account of each Economic Interest Holder shall be adjusted to reflect the aggregate adjustment in the same manner as if the Company had recognized gain or loss equal to the amount of such aggregate adjustment. It is intended that the Capital Accounts of all Economic Interest Holders shall be maintained in compliance with the provisions of Regulation Section 1.704-1(b), and all provisions of this Agreement relating to the maintenance of Capital Accounts shall be interpreted and applied in a manner consistent with that Regulation.

"Capital Contribution" means the total amount of cash and the fair market value of any other assets contributed (or deemed contributed under Regulation Section 1.704-1(b)(2)(iv)(d)) to the Company by a Member, net of liabilities assumed or to which the assets are subject.

"Capital Transaction" means any transaction not in the ordinary course of business which results in the Company's receipt of cash or other consideration other than Capital Contributions, including, without limitation, proceeds of sales or exchanges or other dispositions of property not in the ordinary course of business, financings, refinancings, condemnations, recoveries of damages, awards and insurance proceeds.

"Cash Flow" means all cash funds derived from operations of the Company (including interest received on reserves), without reduction for any noncash charges, but less cash funds used to pay current operating expenses and to pay or establish reasonable reserves for incurred but unpaid expenses, future expenses, debt payments, capital improvements, and replacements as determined by the Members. Cash Flow shall not include Capital Proceeds but shall be increased by the reduction of any reserve previously established.

"Code" means the Internal Revenue Code of 1986, as amended, or any corresponding provision of any succeeding law.

"Company" means the limited liability company formed in accordance with this Agreement.

"Economic Interest" means a Person's share of the Profits and Losses of, and the right to receive distributions from, the Company.

"Economic Interest Holder" means any Person who holds an Economic Interest, whether as a Member or an unadmitted assignee of a Member.

"Involuntary Withdrawal" means, with respect to any Member, the occurrence of any of the following events:

- (a) The Member makes an assignment for the benefit of creditors;
- (b) The Member files a voluntary petition of bankruptcy;
- (c) The Member is adjudged bankrupt or insolvent or there is entered against the Member an order for relief in any bankruptcy or insolvency proceeding;
- (d) The Member files a petition seeking for the Member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;
- (e) The Member seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the Member or of all or any substantial part of the Member's properties;
- (f) The Member files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in any proceeding described in subsections (a) through (e);
- (g) Any proceeding against the Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, that continues for one hundred twenty (120) days after the commencement thereof, or the appointment of a trustee, receiver, or liquidator for the Member or all or any substantial part of the Member's properties without the Member's agreement or acquiescence, which appointment is not vacated or stayed for one hundred twenty (120) days or, if the appointment is stayed, for one hundred twenty (120) days after the expiration of the stay during which period the appointment is not vacated;
- (h) If the Member is an individual, the Member's death, incapacity or adjudication by a court of competent jurisdiction as incompetent to manage the Member's person or property;
- (i) If the Member is acting as a Member by virtue of being a trustee of a trust, the termination of the trust;
- (j) If the Member is a partnership or limited liability company, the dissolution of the partnership or limited liability company;
- (k) If the Member is a corporation, the dissolution of the corporation or the revocation of its charter; or
- (l) If the Member is an estate, the distribution by the fiduciary of the estate's entire interest in the Company.

"Law" means the New York Limited Liability Company Law, as amended from time to time.

"Manager" means the Person(s) described as such in Article V.

"Member" means each Person signing this Agreement and any Person who subsequently is admitted as a member of the Company with Voting and/or Non-voting Membership Interests..

"Membership Interest" means all of the rights of a Member in the Company, including a Member's: (i) Economic Interest; (ii) right to inspect the Company's books and records; (iii) right to participate in the management of and vote on matters coming before the Company; and (iv) unless this Agreement or the Articles of Organization provide to the contrary, right to act as an agent of the Company.

"Minimum Gain" has the meaning set forth in Regulation Section 1.704-2(d). Minimum Gain shall be computed separately for each Economic Interest Holder in a manner consistent with the Regulations under Code Section 704(b).

"Negative Capital Account" means a Capital Account with a balance of less than zero.

"Non-Voting Member" means a Member who owns a Non-Voting Membership Interest.

"Percentage" means, as to a Member, the percentage set forth after the Member's name on Exhibit "A", as amended from time to time, and as to an Economic Interest Holder who is not a Member, the Percentage of the Member whose Economic Interest has been acquired by such Economic Interest Holder, to the extent the Economic Interest Holder has succeeded to that Member's Economic Interest.

"Person" means and includes an individual, corporation, partnership, association, limited liability company, trust, estate, or other entity.

"Positive Capital Account" means a Capital Account with a balance greater than zero.

"Profit" and "Loss" means, for each taxable year of the Company (or other period for which Profit or Loss must be computed), the Company's taxable income or loss determined in accordance with Code Section 703(a), with the following adjustments:

(a) All items of income, gain, loss, deduction, or credit required to be stated separately pursuant to Code Section 703(a)(1) shall be included in computing taxable income or loss; and

(b) Any tax-exempt income of the Company, not otherwise taken into account in computing Profit or Loss, shall be included in computing taxable income or loss; and

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

(d) Gain or loss resulting from any taxable disposition of Company property shall be computed by reference to the adjusted book value of the property disposed of, notwithstanding the fact that the adjusted book value differs from the adjusted basis of the property for federal income tax purposes; and

(e) In lieu of the depreciation, amortization, or cost recovery deductions allowable in computing taxable income or loss, there shall be taken into account the depreciation computed based upon the adjusted book value of the asset; and

(f) Notwithstanding any other provision of this definition, any items which are specially allocated pursuant to Section 4.3 hereof shall not be taken into account in computing Profit or Loss.

"Regulation" means the income tax regulations, including any temporary regulations, from time to time promulgated under the Code.

"Transfer" means - when used as a noun - any sale, hypothecation, pledge, assignment, attachment, or other transfer - and, when used as a verb - means to sell, hypothecate, pledge, assign, or otherwise transfer.

"Unpaid Capital Contribution" means an outstanding obligation to make an additional capital contribution (to the extent thereof) required pursuant to Section 3.2 of this Agreement.

"Voluntary Withdrawal" means a Member's disassociation with the Company by means other than a Transfer or an Involuntary Withdrawal.

"Voting Member" means a Member who owns a Voting Membership Interest.

ARTICLE II

FORMATION AND NAME: OFFICE; PURPOSE; TERM

2.1 Organization. The parties hereby organized a limited liability company pursuant to the Law and the provisions of this Agreement and, for that purpose, caused Articles of Organization to be prepared, executed, and filed with the New York Department of State on the 20th day of April, 2006.

2.2 Name of the Company. The name of the Company shall be **PASCARELLA FAMILY ASSOCIATES, LLC**. The Company may do business under that name and under any other name or names upon which the Members agree. If the Company does business under a

name other than that set forth in its Articles of Organization, then the Company shall file a certificate as required by General Business Law § 130.

2.3 Purpose. The Company is organized to engage in any business permitted under the Law, except to do in New York any business for which any statute of New York other than the Limited Liability Company Law specifically requires some other business entity or natural person to be formed or used for such business.

2.4 Term. The term of the Company shall begin upon the filing of Articles of Organization with the New York Department of State and shall continue until its existence is sooner terminated pursuant to Article VIII of this Agreement.

2.5 Location. The County within the State of New York in which the office of the Company is located in Onondaga County.

2.6 Registered Agent. The Secretary of State, State of New York is designated as the Company's agent upon whom process against the Company may be served.

2.7 Members. The name, present mailing address, taxpayer identification number, and Percentage of each Member are set forth on Exhibit "A".

ARTICLE III

MEMBERS; CAPITAL; CAPITAL ACCOUNTS

3.1 Initial Capital Contributions. Upon the execution of this Agreement, the Members shall contribute to the Company the property respectively set forth on Exhibit "A".

3.2 Additional Capital Contributions.

(a) **Limitation on Additional Contributions.** No Member shall be required to contribute any additional capital to the Company, unless required by a vote of the Members holding at least a majority (over 50%) of Percentages in Membership Interests.

(b) **No Personal Liability.** None of the foregoing shall make any Member or Economic Interest Holder personally liable for any obligations of the Company.

3.3 No Interest on Capital Contributions. Economic Interest Holders shall not be paid interest on their Capital Contributions.

3.4 Return of Capital Contributions. Except as otherwise provided in this Agreement, no Economic Interest Holder shall have the right to receive any return of any Capital Contribution.

3.5 Form of Return of Capital. If an Economic Interest Holder is entitled to receive a return of a Capital Contribution, the Company may distribute cash, notes, property, or a combination thereof to the Economic Interest Holder in return of the Capital Contribution.

3.6 Capital Accounts. A separate Capital Account shall be established and maintained for each Economic Interest Holder in accordance with Regulation Section 1.704-1(b)(2)(iv).

3.7 Loans. Any Member may, at any time, make or cause a loan to be made to the Company in any amount and on those terms as approved by a majority in interest of the other Members.

ARTICLE IV

PROFIT, LOSS AND DISTRIBUTIONS

4.1 Distributions.

(a) **Distributions.** The Manager(s) may from time to time in the discretion of the Manager(s), make distributions to the Economic Interest Holders. All distributions shall be made to the Economic Interest Holders in proportion to their Percentages as of the record date set for such distribution.

(b) **Distributions to Members for Payment of Taxes.** Provided that there exists sufficient cash flow in the opinion of the Manager(s), the Company shall make pro rata quarterly distributions of cash to its Members in sufficient amounts to pay federal, state and local income taxes on the net distributive share of income, losses, deductions and credits that have passed through to the Members under Section 704 of the Internal Revenue Code (the "Code") as shown on each Member's Schedule K-1 of the Company's informational tax return form 1065. Each Member is assumed to be taxable at the highest marginal federal, state and local income tax rates applicable to married individuals filing a joint tax return and fully utilizing any losses, deductions and credits passed through to the Member under Section 704 of the Code.

4.2 Allocation of Profit or Loss. After giving effect to the special allocations set forth in Section 4.3, for any taxable year of the Company, Profit or Loss shall be allocated to the Economic Interest Holders in proportion to their Percentages.

4.3 Regulatory Allocations.

(a) **Qualified Income Offset.** No Economic Interest Holder shall be allocated Losses or deductions if the allocation causes the Economic Interest Holder to have an Adjusted Capital Account Deficit. If an Economic Interest Holder unexpectedly receives an adjustment, allocation or distribution described in Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), such Economic Interest Holder will be allocated items of income and gain of the Company (consisting of a pro rata portion of each item of Company income, including gross income and gain) for that

taxable year in an amount sufficient to eliminate such Adjusted Capital Account Deficit as quickly as possible.

(b) Minimum Gain Chargeback. Except as set forth in Regulation Section 1.704-2(f)(2), (3) and (4), if, during any taxable year, there is a net decrease in Minimum Gain, each Economic Interest Holder, prior to any other allocation pursuant to this Article IV, shall be specially allocated items of gross income and gain for such taxable year (and, if necessary, subsequent taxable years) in an amount equal to that Economic Interest Holder's share of the net decrease of Minimum Gain, computed in accordance with Regulation Section 1.704-2(g). Allocations of gross income and gain pursuant to this Section 4.3(b) shall be made first from gain recognized from the disposition of Company assets subject to non-recourse liabilities (within the meaning of the Regulations promulgated under Code Section 752), to the extent of the Minimum Gain attributable to those assets, and thereafter, from a pro rata portion of the Company's other items of income and gain for the taxable year. It is the intent of the parties hereto that any allocation pursuant to this Section 4.3(b) shall constitute a "minimum gain chargeback" under Regulation Section 1.704-2(f).

(c) Contributed Property and Book-Ups.

(i) Generally, the Capital Accounts of Economic Interest Holders shall be adjusted in accordance with Regulations Section 1.704-1(b)(2)(iv)(g) for allocations to them of income, gain, loss, and deduction (including depreciation, depletion, amortization or other cost recovery) as computed for book purposes, with respect to property of the Company.

(ii) Notwithstanding Section 4.3(c)(i) hereof, if, with respect to a property, the Company chooses to eliminate distortions caused by the ceiling rule (as defined in Regulations Section 1.704-3(b)(1)) by means of the Remedial Allocation Method (as defined in Regulations Section 1.704-3(d) and as provided in Section 4.3(c) herein), then the Capital Accounts of Economic Interest Holders shall be adjusted in accordance with Regulations Section 1.704-3(d)(2) for allocations to them of income, gain, loss, and deduction (including depreciation, depletion, amortization or other cost recovery) as computed for book purposes, with respect to such property.

(d) Curative Allocations. Economic Interest Holders who contribute (or are deemed to contribute under Regulation §1.704-1(b)(2)(iv)(g)) property with a fair market book value that differs from the adjusted basis of the property for federal income tax purposes shall have specifically allocated to them income, gain or deduction that reflects the difference between the fair market book value and the adjusted basis of such property according to §704(c) and Regulations §1.704-3(c), or (d).

4.4 Liquidation and Dissolution.

(a) Assets Distributed Upon Liquidation. If the Company is liquidated, the assets of the Company shall be distributed to the Economic Interest Holders in accordance with the balances in their respective Capital Accounts, after taking into account the allocations of

Profit or Loss pursuant to Section 4.2, if any, and distributions, if any, of cash pursuant to Section 4.1 or of property.

(b) **No Obligation to Make Up Negative Capital Account.** No Economic Interest Holder shall be obligated to restore a Negative Capital Account.

4.5 Miscellaneous Rules Concerning Distributions and Allocations.

(a) **Timing and Amount of Distributions.** Except as otherwise provided in this Agreement, the timing and amount of all distributions shall be determined by the Manager(s).

(b) **Distributions in Kind.** If any assets of the Company are distributed in kind to the Economic Interest Holders, those assets shall be valued on the basis of their fair market value, and any Economic Interest Holder entitled to any interest in those assets shall receive that interest as a tenant-in-common with all other Economic Interest Holders so entitled. Unless the Members otherwise agree, the fair market value of the assets shall be determined by an independent appraiser who shall be selected by the Manager(s). The Profit or Loss for each unsold asset shall be determined as if the asset had been sold at its fair market value, and the Profit or Loss shall be allocated as provided in Section 4.2 and shall be properly credited or charged to the Capital Accounts of the Economic Interest Holders prior to the distribution of the assets in liquidation pursuant to Section 4.4.

(c) **To Whom Allocations and Distributions are Made.** All Profit and Loss shall be allocated, and all distributions shall be made to the Persons shown on the records of the Company to have been Economic Interest Holders as of the last day of the taxable year for which the allocation or distribution is to be made. Notwithstanding the foregoing, unless the Company's taxable year is separated into segments, if there is a Transfer or an Involuntary Withdrawal during the taxable year, the Profit and Loss shall be allocated between the original Economic Interest Holder and the successor on the basis of the number of days each was an Economic Interest Holder during the taxable year; provided, however, the Company's taxable year shall be segregated into two or more segments in order to account for Profit, Loss or proceeds attributable to any extraordinary non-recurring items of the Company.

(d) **Members' Power to Amend Article IV.** The Members are hereby authorized, upon the advice of the Company's tax counsel, to amend this Article IV to comply with the Code and the Regulations promulgated under Code Section 704(b); provided, however, that no amendment shall materially affect distributions to an Economic Interest Holder without the Economic Interest Holder's prior written consent.

ARTICLE V

MANAGEMENT: RIGHTS, POWERS AND DUTIES

5.1 Management.

(a) **Manager Managed.** The Company shall be managed by one or more Managers who may, but need not, be a Member. VINCENT PASCARELLA and SERAFINA PASCARELLA are hereby designated to serve as the initial Managers and shall serve until their deaths, legal incompetence or resignations. In the event the position of the Manager shall be vacant, the Manager(s) shall be appointed by an election of the Members. The affirmative vote of the Members holding a majority (over 50%) or more of the Percentages then held by the Members shall be required to appoint a Manager. If a Manager is a corporation, limited liability company or other entity, it may perform the duties assigned to the Manager in this Agreement through its officers and employees. In addition, the Manager may contract with one or more Persons, including Affiliates of the Manager, on an independent contractor basis to perform some or all of the duties assigned in this Agreement to the Manager under such terms and conditions as shall be approved by the Manager. In such event, the Manager shall remain the Manager of the Company and the Person or Persons with whom the Manager so contracts shall be deemed agents of the Manager. If there are multiple Managers then the vote of a majority (over 50%) of the Managers shall be required to take such action. In the event the Managers' vote shall result in a tie, then the Members shall vote on such issue based upon their Percentages.

(b) **General Powers.** The Manager(s) shall have full, exclusive, and complete discretion, power, and authority, subject in all cases to the other provisions of this Agreement and the requirements of applicable law, to manage, control, administer, and operate the business and affairs of the Company for the purposes herein stated, and to make all decisions affecting such business and affairs, including, without limitation, for Company purposes, the power to:

- (i) acquire by purchase, lease, or otherwise, any real or personal property, tangible or intangible;
- (ii) construct, operate, maintain, finance, and improve, and to own, sell, convey, assign, mortgage, or lease any real estate and any personal property;
- (iii) sell, dispose, trade, or exchange Company assets in the ordinary course of the Company's business;
- (iv) enter into agreements and contracts and to give receipts, releases, and discharges;
- (v) purchase liability and other insurance to protect the Company's properties and business;

(vi) borrow money for and on behalf of the Company, and, in connection therewith, execute and deliver instruments authorizing the confession of judgment against the Company;

(vii) execute or modify leases with respect to any part or all of the assets or real property of the Company;

(viii) prepay, in whole or in part, refinance, amend, modify, or extend any mortgages or deeds of trust which may affect any asset of the Company and in connection therewith to execute for and on behalf of the Company any extensions, renewals, or modifications of such mortgages or deeds of trust;

(ix) execute any and all other instruments and documents which may be necessary or in the opinion of the Manager(s) desirable to carry out the intent and purpose of this Agreement, including, but not limited to, documents whose operation and effect extend beyond the term of the Company;

(x) make any and all expenditures which the Manager(s), in his/her/their sole discretion, deem(s) necessary or appropriate in connection with the management of the affairs of the Company and the carrying out of his/her/their obligations and responsibilities under this Agreement, including, without limitation, all legal, accounting and other related expenses incurred in connection with the organization and financing and operation of the Company; and

(xi) enter into any kind of activity necessary to, in connection with, or incidental to, the accomplishment of the purposes of the Company.

(c) **Extraordinary Transactions.** Notwithstanding anything to the contrary in this Agreement, the Manager shall not undertake any of the following without a vote of at least a majority (over 50%) approval of the Voting Members:

(i) any Capital Transaction;

(ii) sell, dispose, trade, or exchange Company assets not in the ordinary course of the Company's business;

(iii) the Company's expending in excess of \$5,000.00 for any one transaction, acquisition or other contractual obligation;

(iv) the Company's borrowing of more than \$5,000.00 or the modification, amendment or extension of any existing Company debt;

(v) the admission of additional Members to the Company;

(vi) the Company's engaging in business in any jurisdiction which does not provide for the registration of limited liability companies;

(vii) amendment of this Agreement;

(viii) the sale, conveyance, exchange, lease, mortgage pledge, or other transfer of all or substantially all of the assets or real property of the Company; and

(ix) approval of a merger or consolidation of the Company with or into another limited liability company or other business entity.

(d) Limitation on Authority of Members.

(i) No Member is an agent of the Company solely by virtue of being a Member, and no Member has authority to act for the Company solely by virtue of being a Member.

(ii) This Section 5.1 supersedes any authority granted to the Members pursuant to Section 401 of the Law. Any Member who takes any action or binds the Company in violation of this Section 5.1 shall be solely responsible for any loss and expense incurred by the Company as a result of the unauthorized action and shall indemnify and hold the Company harmless with respect to the loss or expense.

(e) Removal of Manager. The Voting Members, at any time and from time to time and with or without cause, may remove, by a majority (over 50%) affirmative vote, any or all Manager(s) of the Company then acting and elect a new Manager or Managers or make other provisions or arrangements for the management of the Company.

5.2 Personal Service. No Member or Manager shall be required to perform services for the Company solely by virtue of being a Member or Manager. Unless approved by the Members, no Member or Manager shall be entitled to compensation for services performed for the Company. However, upon substantiation of the amount and purpose thereof, the Members or Managers shall be entitled to reimbursement for expenses reasonably incurred in connection with the activities of the Company.

5.3 Duties of Parties.

(a) Time. The Members and Manager(s) shall devote such time to the business and affairs of the Company as is necessary to carry out the Members' and Managers' duties set forth in this Agreement.

(b) Arm's-Length Dealings. Each Member and Manager understands and acknowledges that the conduct of the Company's business may involve business dealings and undertakings with Members, Managers and their Affiliates. In any of those cases, those dealings and undertakings shall be at arm's length and on commercially reasonable terms.

5.4 Liability and Indemnification.

(a) **No Liability for Acts with Respect to Company.** A Member or Manager shall not be liable, responsible, or accountable, in damages or otherwise, to any other Member or Manager or to the Company for any act performed by the Member or Manager with respect to Company matters, except for fraud, bad faith, gross negligence, or an intentional breach of this Agreement.

(b) **Indemnification.** The Company shall indemnify each Member and Manager for any liability incurred for any act performed by the Member and Manager with respect to Company matters, except for fraud, bad faith, gross negligence, or an intentional breach of this Agreement.

5.5 Salaries. The salaries and other compensation of the Manager(s) and Voting Members shall be fixed from time to time by the vote or written consent of at least a majority (over 50%) of the Membership Interests.

5.6 Member Deadlock. In the event of a deadlock between the Voting Members on any issue which issue cannot be resolved after the Voting Members have met on two (2) separate occasions held at least three (3) and not more than ten (10) business days apart, then the Voting Members will select, by mutual agreement, an independent third party to resolve the dispute. The determination by the independent third party will be binding on the Voting Members. In the event the Voting Members cannot mutually agree upon the selection of an independent third party then the issue shall be submitted to expedited arbitration in Onondaga County, New York, pursuant to the then-current rules of the American Arbitration Association. The expenses associated with any dispute resolution or arbitration proceeding required hereunder shall be equally shared among the Voting Members. In the event there are more than two such disputes submitted for resolution within a twelve (12) month period, the Voting Members hereby agree to take immediate action to dissolve the Company in accordance with the provisions herein, unless the parties otherwise agree in writing.

5.7 Officers. The Manager(s) may designate one or more individuals as officers of the Company, who shall have such titles and exercise and perform such powers and duties as shall be assigned to them from time to time by the Manager(s). Any officer may be removed by the Manager(s) at any time, with or without cause. Each officer shall hold office until his or her successor is elected and qualified. Any number of offices may be held by the same individual. The salaries and other compensation of the officers shall be fixed by the Manager(s).

ARTICLE VI

MEETINGS OF MEMBERS

6.1 Annual Meeting. The annual meeting of the Voting Members and the Non-Voting Members shall be held on each first Tuesday in December or at such other time as

shall be determined by the vote or written consent of the Members for the purpose of the transaction of any business as may come before such meeting.

6.2 Special Meetings. Special meetings of the Members, for any purpose or purposes, may be called by any Voting Member or any Non-Voting Member holding not less than ten percent of the Limited Liability Company Interests in aggregate.

6.3 Place of Meetings. Meetings of the Members may be held at any place, within or outside the State of New York, for any meeting of the Members designated in any notice of such meeting. If no such designation is made, the place of any such meeting shall be the executive office of the Company.

6.4 Notice of Meetings. Written notice stating the place, day and hour of the meeting indicating that it is being issued by or at the direction of the person or persons calling the meeting, stating the purpose or purposes for which the meeting is called shall be delivered no fewer than ten (10) nor more than sixty (60) days before the date of the meeting.

6.5 Record Date. For the purpose of determining the Members entitled to notice of or to vote at any meeting of Members or any adjournment of such meeting, or Members entitled to receive payment of any Distribution, or to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declaring Distribution is adopted, as the case may be, shall be the record date for making such a determination. When a determination of Members entitled to vote at any meeting of Members has been made pursuant to this Section, the determination shall apply to any adjournment of the meeting.

6.6 Quorum. Members holding not less than a majority (over 50%) of all Limited Liability Company Interests, represented in person or by proxy, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any meeting of Members, a majority of the Limited Liability Company Interests so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice. However, if the adjournment is for more than sixty (60) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Member of record entitled to vote at such meeting. At an adjourned meeting at which a quorum shall be present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed. The Members present at a meeting may continue to transact business until adjournment, notwithstanding the withdrawal during the meeting of Limited Liability Company Interests whose absence results in less than a quorum being present.

6.7 Manner of Acting. If a quorum is present at any meeting, the vote or written consent of Members holding not less than a majority (over 50%) of Limited Liability Company Interests shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by the New York Act, the Articles of Organization or this Agreement.

6.8 Proxies.

(a) A Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact.

(b) Every proxy must be signed by the Member or his attorney-in-fact. No proxy shall be valid after the expiration of eleven months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing it, except as otherwise provided in this Section.

(c) The authority of the holder of a proxy to act shall not be revoked by the incompetence or death of the Member who executed the proxy unless, before the authority is exercised, written notice of an adjudication of such incompetence or of such death is received by any Voting Member.

(d) Except when other provision shall have been made by written agreement between the parties, the record holder of a Limited Liability Company Interest which he, she or it holds as pledgee or otherwise as security or which belong to another, shall issue to the pledgor or to such owner of such Limited Liability Company Interest, upon demand therefor and payment of necessary expenses thereof, a proxy to vote or take other action thereon.

(e) A proxy which is entitled "irrevocable proxy" and which states that it is irrevocable, is irrevocable when it is held by (i) a pledgee, (ii) a Person who has purchased or agreed to purchase the shares, (iii) a creditor or creditors of the Company who extend or continue credit to the Company in consideration of the proxy if the proxy states that it was given in consideration of such extension or continuation of credit, the amount thereof, and the name of the person extending or continuing credit, (iv) a Person who has contracted to perform services as an officer of the Company, if a proxy is required by the contract of employment, if the proxy states that it was given in consideration of such contract of employment, the name of the employee and the period of employment contracted for, or (v) a nominee of any of the Persons described in clauses (i)-(iv) of this sentence.

(f) Notwithstanding a provision in a proxy, stating that it is irrevocable, the proxy becomes revocable after the pledge is redeemed, or the debt of the Company is paid, or the period of employment provided for in the contract of employment has terminated and, in a case provided for in Section 6.8(e) (iii) or (iv) of this Agreement, becomes revocable three years after the date of the proxy or at the end of the period, if any, specified therein, whichever period is less, unless the period of irrevocability is renewed from time to time by the execution of a new irrevocable proxy as provided in this Section. This paragraph does not affect the duration of a proxy under paragraph (b) of this Section.

(g) A proxy may be revoked, notwithstanding a provision making it irrevocable, by a purchaser of a Limited Liability Company Interest without knowledge of the existence of such proxy.

6.9 Action by Members Without a Meeting.

(a) Whenever the Members of the Company are required or permitted to take any action by vote, such action may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken shall be signed by the Members who hold the 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 of the Members entitled to vote therein were present and voted and shall be delivered to the office of the Company, its principal place of business or a Voting Member, employee or agent of the Company. Delivery made to the office of the Company shall be by hand or by certified or registered mail, return receipt requested.

(b) Every written consent shall bear the date of signature of each Member who signs the consent, and no written consent shall be effective to take the action referred to therein unless, within sixty (60) days of the earliest dated consent delivered in the manner required by this Section to the Company, written consents signed by a sufficient number of Members to take the action are delivered to the office the Company, its principal place of business or a Voting Member, employee or agent of the Company having custody of the records of the Company. Delivery made to such office, principal place of business of a Voting Member, employee or agent shall be by hand or by certified or registered mail, return receipt requested.

(c) Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to each Member who have not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting.

6.10 Waiver of Notice. Notice of a meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him or her.

6.11 Voting Agreements. An agreement between two or more Voting Members, if in writing and signed by the parties thereto, may provide that in exercising any voting rights, the Limited Liability Company Interest held by them shall be voted as therein provided, or as they may agree, or as determined in accordance with a procedure agreed upon by them.

ARTICLE VII

TRANSFER OF INTERESTS, WITHDRAWAL OF MEMBERS AND ADDITION OF MEMBERS

7.1 Transfers. Except as otherwise permitted herein, or in any subsequent Cross Purchase, Redemption and Restrictive Sale Agreement among the parties hereto, no Member may Voluntarily Transfer all, or any portion of, or any interest or rights in, the Membership Interest owned by the Member. Each Member hereby acknowledges the reasonableness of this

prohibition in view of the purposes of the Company and the relationship of the Members. The Voluntary Transfer of any Membership Interests, including Economic Interest, in violation of the prohibition contained in this Section 7 shall be deemed invalid, null and void, and of no force or effect. Any Person to whom Membership Interests are attempted to be transferred in violation of this Section 7 shall not be entitled to vote on matters coming before the Members, participate in the management of the Company, act as an agent of the Company, receive distributions from the Company, or have any other rights in or with respect to the Membership Interests.

7.2 Involuntary Withdrawal. Immediately upon the occurrence of an Involuntary Withdrawal, the successor of the Withdrawn Member shall thereupon become an Economic Interest Holder, but shall not become a Member. The successor Economic Interest Holder shall have all the rights of an Economic Interest Holder, but shall not be entitled to receive in liquidation of the Economic Interest, the fair market value of the Member's Economic Interest as of the date the Member Involuntarily withdrew from the Company.

7.3 Additional Members. Additional persons may be admitted to the Company as Members and Membership Interests may be created and issued to those persons and to existing Members upon the unanimous approval of the Members on such terms and conditions as they may determine at the time of admission. The terms of admission or issuance must specify the percentage applicable thereto and may provide for the creation of different classes or groups of Interests having different rights, powers and duties. The creation of any new class or group shall be reflected in an amendment to the Operating Agreement indicating the different rights, powers and duties. The provisions of this Section 7 shall not apply to transfers of existing Membership Interests.

7.4 Permitted Transferees. Notwithstanding the restrictions on transfer otherwise contained in this Agreement, transfers during life or bequests upon death may be made in accordance with and subject to the following:

(i) A Member may make a transfer of such Member's Membership Interest to a Permitted Transferee provided the Permitted Transferee executes an Adherence Agreement in form and substance as set forth in Exhibit "B" or such other agreement as counsel for the Company shall determine pursuant to which the Permitted Transferee shall agree to and become obligated to the terms and conditions of this Agreement as if an original party hereto and acknowledges therein the obligation to sell any Membership Interests of the Company in which the Permitted Transferee shall have a legal or beneficial interest upon an Event of Termination suffered by such Member or Permitted Transferee.

(ii) "Permitted Transferee(s)" shall mean:

(A) A trust created for the benefit of any lineal descendant of any Member; provided, however, that distributions may only be made to the beneficiaries with the consent of the Voting Members of the Company;
or

(B) Any other party to this Agreement.

(iii) In no event shall a Membership Interest held at any time by any Member, their successors and assigns, be transferred to any party prior to the transferee executing and becoming a party to the Adherence Agreement in form and substance as set forth in Exhibit "B" attached hereto and made a part hereof. A transfer in violation of this provision shall be void ab initio and such Membership Interest shall be offered to the other Members and the Company pursuant to the terms herein contained.

ARTICLE VIII

DISSOLUTION, LIQUIDATION AND TERMINATION OF THE COMPANY

8.1 Events of Dissolution. The Company shall be dissolved upon the happening of any of the following events:

(a) **Written Agreement.** Upon the approval of the Members holding a majority (over 50%) of the Percentages in Membership Interests; or

(b) **Judicial Decree.** Upon the entry of a decree of judicial dissolution.

8.2 Procedure for Winding Up and Distribution. If the Company is dissolved, the Managers or remaining Members shall wind up its affairs. On winding up of the Company, the assets of the Company shall be distributed, first, to creditors of the Company, including Members and Economic Interest Holders who are creditors, to the extent permitted by law, in satisfaction of the liabilities of the Company, and then to the Members and Economic Interest Holders in accordance with Section 4.4 of this Agreement.

8.3 Filing of Articles of Dissolution. If the Company is dissolved, the Manager(s) or Members shall promptly file an Articles of Dissolution with the New York Secretary of State. If there are no remaining Members, the Articles of Dissolution shall be filed by the last Person to be a Member; if there are no remaining Members, or a Person who last was a Member, the Articles of Dissolution shall be filed by the legal or personal representatives of the Person who last was a Member.

ARTICLE IX

BOOKS, RECORDS, ACCOUNTING AND TAX ELECTIONS

9.1 Bank Accounts. All funds of the Company shall be deposited in a bank account or accounts opened in the Company's name. The Manager(s) shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts, and the Persons who will have authority with respect to the accounts and the funds therein.

9.2 Books and Records. The Manager(s) shall keep or cause to be kept complete and accurate books and records of the Company as required under Section 1102 of the Law as well as supporting documentation of transactions with respect to the conduct of the Company's business. The books and records shall be maintained in accordance with sound accounting practices and shall be available at the Company's principal office for examination by any Member or the Member's duly authorized representative at any and all reasonable times during normal business hours.

9.3 Annual Accounting Period. The annual accounting period of the Company shall be its taxable year. The Company's taxable year shall be selected by the Members, subject to the requirements and limitations of the Code.

9.4 Reports. Within seventy-five (75) days after the end of each taxable year of the Company, the Manager(s) shall cause to be sent to each Person who was a Member at any time during the taxable year then ended a complete accounting of the affairs of the Company for the taxable year then ended. In addition, within seventy five (75) days after the end of each taxable year of the Company, the Manager(s) shall cause to be sent to each Person who was an Economic Interest Holder at any time during the taxable year then ended, that tax information concerning the Company which is necessary for preparing the Economic Interest Holder's income tax returns for that year. At the request of any Member, and at the Member's expense, the Manager(s) shall cause an audit of the Company's books and records to be prepared by independent accountants for the period requested by the Member.

9.5 Tax Matters Member. The Manager(s) shall designate a Member to be the Company's tax matters Member ("Tax Matters Member"). The Tax Matters Member shall have all powers and responsibilities provided in Code Section 6221, et seq. The Tax Matters Member shall keep the Manager(s) and all Members informed of all notices from government taxing authorities which may come to the attention of the Tax Matters Member. The Company shall pay and be responsible for all reasonable third-party costs and expenses incurred by the Tax Matters Member in performing those duties. A Member shall be responsible for any costs incurred by the Member with respect to any tax audit or tax-related administrative or judicial proceeding against any Member, even though it relates to the Company. The Tax Matters Member shall not compromise any dispute with the Internal Revenue Service without the approval of the Manager(s) and Members.

9.6 Tax Elections. All elections required or permitted to be made by the Company under the Code shall be made by the Manager(s). In particular:

(a) **Organizational Expenses.** The Company shall elect to deduct expenses incurred in organizing the Company ratably over a 60-month period as provided in Code Section 709.

(b) **Transfer of Economic Interest.** In case of a transfer of all or part of any Economic Interest, the Company may elect, in a timely manner pursuant to Code Section 754 and pursuant to corresponding provisions of applicable State and local tax laws, to adjust the basis of Company property pursuant to Code Sections 734 and 743.

(c) **Taxation as Partnership.** The Company shall not elect to be excluded from the application of the provisions of Subchapter K of Chapter 1 of Subtitle A of the Code or corresponding provisions of State or local law.

ARTICLE X

GENERAL PROVISIONS

10.1 Title to Company Property. All real and personal property acquired by the Company shall be acquired and held by the Company in its name.

10.2 Assurances. Each Member shall execute all certificates and other documents and shall do all such filing, recording, publishing, and other acts as the Members deem appropriate to comply with the requirements of law for the formation and operation of the Company and to comply with any laws, rules, and regulations relating to the acquisition, operation, or holding of the property of the Company.

10.3 Notifications. Any notice, demand, consent, election, offer, approval, request, or other communication (collectively a "notice") required or permitted under this Agreement must be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, return receipt requested or by facsimile transmission, provided receipt is actually acknowledged by the Member or Member's agent. A notice must be addressed to a Member at the Member's last known address on the records of the Company. A notice to the Company must be addressed to the Company's principal office. A notice delivered personally will be deemed given only when acknowledged in writing by the person to whom it is delivered. A notice that is sent by mail will be deemed given three (3) business days after it is mailed. Any party may designate, by notice to all of the others, substitute addresses or addressees for notices; and, thereafter, notices are to be directed to those substitute addresses or addressees. A notice sent by facsimile is deemed given when receipt is acknowledged.

10.4 Specific Performance. The parties recognize that irreparable injury will result from a breach of any provision of this Agreement and that money damages will be inadequate to fully remedy the injury. Accordingly, in the event of a breach or threatened breach of one or more of the provisions of this Agreement, any party who may be injured (in addition to any other remedies which may be available to that party) shall be entitled to one or more preliminary or permanent orders (i) restraining and enjoining any act which would constitute a breach or (ii) compelling the performance of any obligation which, if not performed, would constitute a breach.

10.5 Complete Agreement. This Agreement constitutes the complete and exclusive statement of the agreement among the Managers and Members with respect to the subject matter thereof. It supersedes all prior written and oral statements, including any prior representation, statement, condition, or warranty. Except as expressly provided otherwise herein, this Agreement may not be amended without the written consent of the Managers and Members holding at least a majority (over 50%) or more of the Percentages then held by Members.

10.6 Applicable Law. All questions concerning the construction, validity, and interpretation of this Agreement and the performance of the obligations imposed by this Agreement shall be governed by the internal law, not the law of conflicts, of the State of New York.

10.7 Article and Section Titles. The headings herein are inserted as a matter of convenience only and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

10.8 Binding Provisions. This Agreement is binding upon, and inures to the benefit of, the parties hereto and their respective heirs, executors, administrators, personal and legal representatives, successors, and permitted assigns.

10.9 Exclusive Jurisdiction and Venue. Any suit involving any dispute or matter arising under this Agreement may only be brought in a United States District Court located in the State of New York or any New York State Court having jurisdiction over the subject matter of the dispute or matter. All Members hereby consent to the exercise of personal jurisdiction by any such court with respect to any such proceeding.

10.10 Terms. Common nouns and pronouns shall be deemed to refer to the masculine, feminine, neuter, singular, and plural, as the identity of the Person may in the context require.


10.11 Separability of Provisions. Each provision of this Agreement shall be considered separable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

10.12 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

[Signatures on Following Page]


IN WITNESS WHEREOF, the parties have executed, or caused this Agreement to be executed as of the date set forth hereinabove.

**PASCARELLA FAMILY
ASSOCIATES, LLC**

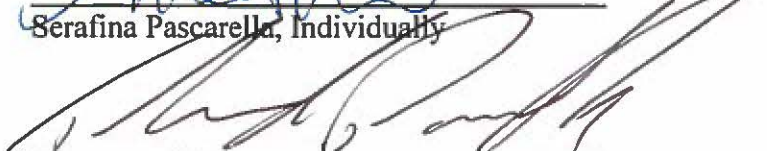
By: 
Vincent Pascarella, Manager

By: 
Serafina Pascarella, Manager

MEMBERS


Vincent Pascarella, Individually


Serafina Pascarella, Individually



Florindo Pascarella, Individually


Vittorio Pascarella, Individually

**THE VINCENT PASCARELLA FAMILY
BENEFIT TRUST**

By: 
Serafina Pascarella, Co-Trustee

By: 
Vittorio Pascarella, Co-Trustee

By: 
Florindo Pascarella, Co-Trustee

PASCARELLA FAMILY ASSOCIATES, LLC**EXHIBIT "A"****LIST OF MEMBERS, CAPITAL, AND PERCENTAGES**

<u>Member</u>	<u>Voting Units</u>	<u>Non-Voting Units</u>	<u>Contribution</u>
Vincent Pascarella	10	0	\$ _____
Serafina Pascarella	10	0	\$ _____
Florindo Pascarella	5	315396	\$ _____
Vittorio Pascarella	5	315396	\$ _____
THE VINCENT PASCARELLA FAMILY BENEFIT TRUST EIN #	0	315396	\$ _____

EXHIBIT "B"**ADHERENCE AGREEMENT**

The undersigned, _____, hereby acknowledges that he/she has read the Third Amended and Restated Operating Agreement, dated the ____ day of _____, 2014 by and among PASCARELLA FAMILY ASSOCIATES, LLC (the "Company") and its members attached hereto as Exhibit "A". By signing this Adherence Agreement, the undersigned hereby agrees to adhere to and be bound by the terms and conditions set forth in the Operating Agreement as if an original signatory.

By signing this Adherence Agreement, PASCARELLA FAMILY ASSOCIATES, LLC, its Members and Officers, acknowledge that the undersigned is a member of the Company who upon execution of this Adherence Agreement shall be subject to and bound by the same terms and conditions, and entitled to the same rights and obligations as if an original signatory.

The parties have executed this Adherence Agreement on this ____ day of _____, 20__.

PASCARELLA FAMILY ASSOCIATES, LLC

By: _____
 Name: _____
 Title: Manager

NEW MEMBER:

CURRENT MEMBERS:

OPERATING AGREEMENT

OF

UR-ban Villages PFA, LLC

UR-ban Villages PFA, LLC
OPERATING AGREEMENT

THIS OPERATING AGREEMENT ("Agreement") is entered into effective as of the 27th day of October, 2020, by and between **UR-ban Villages PFA, LLC**, a New York limited liability company, and **PASCARELLA FAMILY ASSOCIATES, LLC** ("**Member**").

EXPLANATORY STATEMENT

To organize and operate a limited liability company in accordance with the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, intending to be legally bound, it is agreed that:

ARTICLE I

DEFINED TERMS

The following capitalized terms shall have the meaning specified in this ARTICLE I. Other terms are defined in the text of this Agreement; and, throughout this Agreement, those terms shall have the meanings respectively ascribed to them.

"Adjusted Basis" means the adjusted basis for determining gain or loss from the sale or exchange or other disposition of property as determined according to Code Section 1011(a).

"Affiliate" means, with respect to any Member, any Person: (i) which owns more than fifty percent (50%) of the voting interests in the Member; or (ii) in which the Member owns more than fifty percent (50%) of the voting interests; or (iii) in which more than fifty percent (50%) of the voting interests are owned by a Person who has a relationship with the Member described in clause (i) or (ii) above or who otherwise controls, is controlled by, or under common control with, another such Person.

"Agreement" means this Operating Agreement, as amended from time to time.

"Capital Contribution" means the total amount of cash and the fair market value of any other assets contributed to the Company by the Member, net of liabilities assumed or to which the assets are subject.

"Cash Flow" means all cash funds derived from operations of the Company (including interest received on reserves), without reduction for any noncash charges, but less cash funds used to pay current operating expenses and to pay or establish reasonable reserves for incurred but

unpaid expenses, future expenses, debt payments, capital improvements, and replacements as determined by the Member. Cash Flow shall not include capital proceeds but shall be increased by the reduction of any reserve previously established.

"Code" means the Internal Revenue Code of 1986, as amended, or any corresponding provision of any succeeding law.

"Company" means the limited liability company operated in accordance with this Agreement.

"Economic Interest" means a Person's share of the Profits and Losses of, and the right to receive distributions from, the Company.

"Economic Interest Holder" means any Person who holds an Economic Interest, whether as a Member or an un-admitted assignee of a Member.

"Involuntary Withdrawal" means, with respect to any Member, the occurrence of any of the following events:

- (a) The Member makes an assignment for the benefit of creditors;
- (b) The Member files a voluntary petition of bankruptcy;
- (c) The Member is adjudged bankrupt or insolvent or there is entered against the Member an order for relief in any bankruptcy or insolvency proceeding;
- (d) The Member files a petition seeking for the Member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;
- (e) The Member seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the Member or of all or any substantial part of the Member's properties;
- (f) The Member files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in any proceeding described in subsections (a) through (e);
- (g) Any proceeding against the Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, that continues for one hundred twenty (120) days after the commencement thereof, or the appointment of a trustee, receiver, or liquidator for the Member or all or any substantial part of the Member's properties without the Member's agreement or acquiescence, which appointment is not vacated or stayed for one hundred twenty (120) days or, if the appointment is stayed, for one

hundred twenty (120) days after the expiration of the stay during which period the appointment is not vacated;

(h) If the Member is an individual, the Member's death, incapacity or adjudication by a court of competent jurisdiction as incompetent to manage the Member's person or property;

(i) If the Member is acting as a Member by virtue of being a trustee of a trust, the termination of the trust;

(j) If the Member is a partnership or limited liability company, the dissolution of the partnership or limited liability company;

(k) If the Member is a corporation, the dissolution of the corporation or the revocation of its charter;

(l) If the Member is an estate, the distribution by the fiduciary of the estate's entire interest in the Company;

"Law" means the New York Limited Liability Company Law, as amended from time to time.

"Manager(s)" means the Person(s) described as such in Article V.

"Member" means each Person signing this Agreement and any Person who subsequently is admitted as a member of the Company.

"Membership Interest" means all of the rights of a Member in the Company, including a Member's: (i) Economic Interest; (ii) right to inspect the Company's books and records; (iii) right to participate in the management of and vote on matters coming before the Company; and (iv) unless this Agreement or the Articles of Organization of the Company provide to the contrary, right to act as an agent of the Company.

"Percentage" means, as to a Member, the percentage set forth after the Member's name on **Exhibit A**, as amended from time to time, and as to an Economic Interest Holder who is not a Member, the Percentage of the Member whose Economic Interest has been acquired by such Economic Interest Holder, to the extent the Economic Interest Holder has succeeded to that Member's Economic Interest.

"Person" means and includes an individual, corporation, partnership, association, limited liability company, trust, estate, or other entity.

"Profit (Loss)" means, for each taxable year of the Company (or other period for which Profit or Loss must be computed), the Company's taxable income or loss determined in accordance with the Code.

"Regulation" means the income tax regulations, including any temporary regulations, from time to time promulgated under the Code.

"Transfer" means - when used as a noun - any sale, hypothecation, pledge, assignment, attachment, or other transfer - and, when used as a verb - means to sell, hypothecate, pledge, assign, or otherwise transfer.

"Unpaid Capital Contribution" means an outstanding obligation to make an additional capital contribution (to the extent thereof) required pursuant to the terms of this Agreement.

"Voluntary Withdrawal" means a Member's disassociation with the Company by means other than a Transfer or an Involuntary Withdrawal.

ARTICLE II

FORMATION AND NAME: OFFICE; PURPOSE; TERM

2.1 Organization. The Member agrees to organize a limited liability company pursuant to the Law and the provisions of this Agreement and, for that purpose, has caused Articles of Organization to be prepared, executed, and filed with the office of the New York Secretary of State on 15th day of October, 2020.

2.2 Name of the Company. The name of the Company shall be **UR-ban Villages PFA, LLC**. The Company may do business under that name and under any other name or names upon which the Member decides. If the Company does business under a name other than that set forth in its Articles of Organization, then the Company shall file a certificate as required by General Business Law §130.

2.3 Purpose. The nature of the business and of the purposes to be conducted and promoted by the Company is any and all activities allowed under the Law. The Company shall exercise all powers enumerated in the Law necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

2.4 Term. The term of the Company shall begin upon the filing of the Articles of Organization with the New York Department of State and shall continue until its existence is terminated pursuant to the terms of this Agreement.

2.5 Location. The County within the State of New York in which the office of the Company is located is as set forth in the Company's Articles of Organization.

2.6 Registered Agent. The Secretary of State, State of New York is designated as the Company's agent upon whom process against the Company may be served.

2.7 **Member.** The name, present mailing address, and Percentage ownership of the Member is set forth on **Exhibit A**, attached hereto and made a part hereof.

ARTICLE III

MEMBER; CAPITAL; CAPITAL ACCOUNTS

3.1 **Initial Capital Contributions.** Upon the execution of this Agreement, the Member shall contribute to the Company the property respectively set forth on **Exhibit A**.

3.2 **Additional Capital Contributions/No Personal Liability.** No Member shall be required to contribute any additional capital to the Company, unless required by a vote of the Member. Nothing contained in this Agreement shall make any Member or Economic Interest Holder personally liable for any obligations of the Company.

3.3 **No Interest on Capital Contributions.** An Economic Interest Holder shall not be paid interest on his or her Capital Contribution.

3.4 **Return of Capital Contributions.** Except as otherwise provided in this Agreement, no Economic Interest Holder shall have the right to receive any return of any Capital Contribution.

3.5 **Form of Return of Capital.** If an Economic Interest Holder is entitled to receive a return of a Capital Contribution, the Company may distribute cash, notes, property, or a combination thereof to the Economic Interest Holder in return of the Capital Contribution.

3.6 **Loans.** A Member may, at any time, make or cause a loan to be made to the Company in any amount and on those terms as approved by the Manager.

ARTICLE IV

PROFIT, LOSS AND DISTRIBUTIONS

4.1 **Distributions of Cash Flow.** Cash Flow of the Company shall be distributed to the Economic Interest Holder at the sole discretion of the Manager.

4.2 **Allocation of Profit or Loss.** Profit or Loss shall be allocated to the Economic Interest Holder.

4.3 **Liquidation and Dissolution.** If the Company is liquidated, the assets of the Company, subject to Article VIII below, shall be distributed to the Economic Interest Holder.

4.4 **Miscellaneous Rules Concerning Distributions and Allocations.**

(a) **Timing and Amount of Distributions.** Except as otherwise provided in this Agreement, the timing and amount of all distributions shall be determined by the Manager.

(b) **Distributions in Kind.** If any assets of the Company are distributed in kind to the Economic Interest Holder, those assets shall be valued on the basis of their fair market value.

(c) **To Whom Allocations and Distributions Are Made.** All Profit and Loss shall be allocated, and all distributions shall be made to the Person(s) shown on the records of the Company to have been an Economic Interest Holder(s) as of the last day of the taxable year for which the allocation or distribution is to be made. Notwithstanding the foregoing, unless the Company's taxable year is separated into segments, if there is a Transfer or an Involuntary Withdrawal during the taxable year, Profit and Loss shall be allocated between the original Economic Interest Holder and the successor on the basis of the number of days each was an Economic Interest Holder during the taxable year; provided, however, the Company's taxable year shall be segregated into two or more segments in order to account for Profit, Loss or proceeds attributable to any extraordinary non-recurring items of the Company.

(d) **Member's Power to Amend Article IV.** The Member is hereby authorized, upon the advice of the Company's tax counsel, to amend this ARTICLE IV to comply with the Code and the Regulations promulgated under the Code.

ARTICLE V

MANAGEMENT: RIGHTS, POWERS, AND DUTIES

5.1 **Management.**

(a) **Manager Managed.** The Company shall be managed by one (1) or more managers who may, but need not, be a Member. Vincent Pascarella, Serafina Pascarella, Florindo Pascarella and Vittorio Pascarella are hereby designated to serve as the initial managers (collectively "Manager"). The Manager(s) shall oversee the day-to-day operations of the Company as set forth in Section 5.1(c) and may act for the Company provided that such act has been duly approved pursuant to Section 5.1(d). In the event there is more than one (1) Manager all actions taken on behalf of the Company shall require a majority vote of the Managers (regardless of the voting percentage held by each Manager, if any). In the event the Managers' vote shall result in a tie, then such tie shall be resolved pursuant to the Manager Deadlock provision set forth herein.

The Manager(s) may contract with one or more Persons, including Affiliates of a Manager, on an independent contractor basis to perform some or all of the duties assigned in this Agreement to the Manager(s) under such terms and conditions as shall be approved by the Manager(s). In such event, the Manager(s) shall remain the Manager(s) of the Company and the Person or Persons with whom the Manager(s) so contracts shall be deemed agents of the Manager(s).

(b) **Right to Rely on Manager.** Any Person, any lender, or other third-party dealing with the Company may rely upon any statement or certificate signed by a Manager pursuant to this Section as to: (i) the identity of any Manager or Member; (ii) the existence or nonexistence of any fact or facts which constitute a condition precedent to acts by the Manager(s), or which are in any other manner germane to the affairs of the Company; (iii) the Persons who are authorized to execute and deliver any instrument or document on behalf of the Company for any lender or third-party; (iv) any act or failure to act by the Company or any other matter whatsoever involving the Company or any Member; or (v) whether the Company's Officers, Manager(s), or Members authorized a particular transaction on behalf of the Company. Any Person, any lender or other third-party relying upon any statement or certification issued by a Manager pursuant to this Section shall be indemnified by the Company for relying on such statement or certification.

(c) **General Powers of the Manager(s).** Except for those matters requiring the pre-approval of the Member as specifically set forth herein, the Manager(s) shall have full, exclusive, and complete discretion, power, and authority, subject in all cases to the other provisions of this Agreement and the requirements of applicable law, to manage, control, administer, and operate the day-to-day business and affairs of the Company for any and all purposes that may properly come before the Manager.

(d) **Extraordinary Transactions.** Notwithstanding anything to the contrary in this Agreement, the Manager(s) shall not undertake any of the following without the consent of the Member:

- (i) any capital transaction of more than \$5,000.00;
- (ii) the Company's borrowing of more than \$5,000.00;
- (iii) amendment to this Agreement;
- (iv) the Company's engaging in business in any jurisdiction which does not provide for the registration of limited liability companies;
- (v) the sale, conveyance, exchange, lease, mortgage pledge, or other transfer of all or substantially all of the assets or real property of the Company;
- (vi) approval of a merger or consolidation of the Company with or into another limited liability company or other business entity;
- (vii) require that additional Capital Contributions be made;
- (viii) admit additional Members to the Company; and/or
- (ix) authorize dissolution of the Company pursuant to the terms of this Agreement.

(e) **Limitation on Authority of Member.**

(i) No Member is an agent of the Company solely by virtue of being a Member, and no Member has authority to act for the Company solely by virtue of being a Member.

(ii) This Section 5.1 supersedes any authority granted to the Member pursuant to Section 401 of the Law. Any Member who takes any action or binds the Company in violation of this Section 5.1 shall be solely responsible for any loss and expense incurred by the Company as a result of the unauthorized action and shall indemnify and hold the Company harmless with respect to the loss or expense.

(f) **Election and Term of Office.** The Manager(s) shall be elected at the annual meeting of the Member. The Manager(s) shall hold office until the next annual meeting of the Member and until his, her, or its successor shall have been duly elected and qualified, or until his or her death, or until such Manager shall have resigned, or has been removed, as hereinafter provided in this Agreement.

(g) **Removal of Manager(s).** The Member, at any time and from time to time and with or without cause, may remove any or all Managers of the Company then acting and elect a new Manager or Managers or make other provisions or arrangements for the management of the Company.

5.2 Telephonic Conferences. In the event that there shall be more than one (1) Manager, the Managers may participate in a meeting of the Managers by means of conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence of the Person at the meeting. Participation by such means by a Manager shall constitute presence in person at a meeting.

5.3 Personal Service.

(a) **Member.** No Member shall be required to perform services for the Company solely by virtue of being a Member. Unless approved by the Manager(s), no Member shall be entitled to compensation for services performed for the Company. However, upon substantiation of the amount and purpose thereof, the Member shall be entitled to reimbursement for expenses reasonably incurred in connection with the activities of the Company.

(b) **Manager(s).** Upon approval of the Member, the Manager(s) shall be entitled to compensation for services performed for the Company in such amounts as determined by the Member. Further, upon substantiation of the amount and purpose thereof, the Manager(s) shall be entitled to reimbursement for expenses reasonably incurred in connection with the activities of the Company.

5.4 Duties of Parties.

(a) **Time.** The Manager(s) shall devote such time to the business and affairs of the Company as is necessary to carry out his, her, or its duties set forth in this Agreement.

(b) **Duty to Company.** The Member, any Affiliate of the Member, any Manager, or any Affiliate of the Manager may have other business interests and may engage in other activities in addition to those relating to the Company provided such business interests and activities neither directly compete with the Company nor interfere with the primary business obligations of the Members and/or the Manager(s) which shall be to the Company. Neither the Company nor the Member shall have any right pursuant to this Agreement to share or participate in such other business interests or activities or to the income or proceeds derived therefrom. Each Manager and the Member shall incur no liability to the Company as a result of engaging in any other business interests or activities.

5.5 **Arm's-Length Dealings.** The Member understands and acknowledges that the conduct of the Company's business may involve business dealings and undertakings with the Member, the Member's Affiliates, the Manager(s), and the Manager's Affiliates. In any of those cases, those dealings and undertakings shall be at arm's length and on commercially reasonable terms.

5.6 Liability and Indemnification.

(a) **Liability for Certain Acts.** The Manager(s) shall perform his, her, or its duties in good faith, in a manner he, she, or it reasonably believes to be in the best interests of the Company and with such care as an ordinarily prudent person in a similar position would use under similar circumstances. A Manager who so performs such duties shall not have any liability by reason of being or having been a Manager. A Manager shall not be liable to the Company or to the Member for any loss or damage sustained by the Company or the Member, unless the loss or damage shall have been the result of the gross negligence or willful misconduct of the Manager. Without limiting the generality of the preceding sentence, the Manager(s) does not in any way guaranty the return of any capital contribution to the Member or a profit for the Member from the operations of the Company.

(b) **Indemnification.** The Company shall defend, indemnify, and hold harmless the Manager(s) for any liability incurred for any act performed by the Manager(s) with respect to Company matters, except for fraud, bad faith, gross negligence, or an intentional breach of this Agreement.

5.7 **Manager Deadlock Provision.** As set forth herein, the management of the Company may be vested in more than one (1) Manager. In the event of a dispute between multiple Managers with respect to the operations of the business of the Company and decisions to be made hereunder, and the Managers are unable to resolve such dispute after meeting on two separate occasions held at least three (3) and not more than ten (10) business days apart, the Managers will submit the issue to the Member who shall resolve the dispute. The decision of the Member shall be binding upon the Managers and the Company.

5.8 Meetings of and Voting by Member.

(a) **Annual Meeting.** The annual meeting of the Member shall be held on such date and time as shall be determined by the Member for the purpose of the transaction of any business as may come before such meeting.

(b) **Special Meetings.** Special meetings of the Member, for any purpose or purposes, may be called by the Member or the Manager(s).

(c) **Place of Meetings.** Meetings of the Member may be held at any place, within or without the State of New York, for any meeting of the Member designated in any notice of such meeting. If no such designation is made, the place of any such meeting shall be the executive office of the Company.

(d) **Notice.** Not less than three (3) days before each meeting, the Person calling the meeting shall give written notice of the meeting to the Member entitled to vote at the meeting. The notice shall state the place, date, hour, and purpose of the meeting. Notwithstanding the foregoing provisions, the Member who is entitled to notice waives notice if before or after the meeting the Member signs a waiver of the notice which is filed with the records of Member's meetings, or is present at the meeting in person or by proxy without objecting to the lack of notice.

(e) **Waiver of Notice.** Notice of a meeting need not be given to a Member who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of a Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him or her.

5.9 **Action by the Member Without a Meeting.** In lieu of holding a meeting, the Member may vote or otherwise take action by a written instrument indicating the consent of the Member holding such voting interest then held by Member as would be required for Member to take action under this Operating Agreement; providing, however, no written consent shall be effective to take such action unless within sixty (60) days of the earliest dated consent delivered in accordance with the Law, signed consents sufficient to take such action have been likewise delivered.

5.10 Manager Meetings.

(a) **Notice of Meetings.** Written notice stating the place, day and hour of the meeting indicating that it is being issued by or at the direction of the person or persons calling the meeting, stating the purpose or purposes for which the meeting is called shall be delivered no fewer than five (5) nor more than thirty (30) days before the date of the meeting.

(b) **Quorum.** A majority (over 50%) of the Managers shall constitute a quorum at any meeting of the Managers. In the absence of a quorum at any meeting of the Managers, a majority of the Managers so present may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice. However, if the adjournment is for more than

sixty (60) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Manager entitled to vote at such meeting. At an adjourned meeting at which a quorum shall be present, any business may be transacted that might have been transacted at the meeting as originally noticed. The Managers present at a meeting may continue to transact business until adjournment, notwithstanding the withdrawal during the meeting of one (1) or more Managers whose absence results in less than a quorum of the Managers being present.

(c) **Manner of Acting.** If a quorum is present at any meeting, the vote or written consent of a majority (over 50%) of the Managers shall be the act of the Managers, unless the vote of a greater or lesser proportion or number is otherwise required by the Law, the Articles of Organization or this Agreement.

(d) **Action by a Manager(s) Without a Meeting.**

(i) Whenever a Manager(s) of the Company is required or permitted to take any action by vote, such action may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken shall be signed by the Manager(s) who hold the 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 of the Managers entitled to vote therein were present and voted and shall be delivered to the office of the Company, its principal place of business or a Manager, agent of the Company. Delivery made to the office of the Company shall be by hand or by certified or registered mail, return receipt requested.

(ii) Every written consent shall bear the date of signature of each Manager who signs the consent, and no written consent shall be effective to take the action referred to therein unless, within sixty (60) days of the earliest dated consent delivered in the manner required by this Section to the Company, written consents signed by a sufficient number of the Managers to take the action are delivered to the office of the Company, its principal place of business, Manager, or agent of the Company having custody of the records of the Company. Delivery made to such office, principal place of business, Manager, or agent shall be by hand or by certified or registered mail, return receipt requested.

(iii) Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to each Manager who has not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting.

(e) **Waiver of Notice.** Notice of a meeting need not be given to any Manager who submits a signed waiver of notice whether before or after the meeting. The attendance of any Manager at a meeting without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him or her.

ARTICLE VI

OFFICERS

6.1 **Officers.** The Manager(s) may, but shall not be required to, designate one or more individuals as officers of the Company, who shall have such titles and exercise and perform such powers and duties as shall be assigned to them from time to time by the Manager(s). Any officer may be removed by the Manager(s) at any time, with or without cause. Each officer shall hold office until his or her successor is elected and qualified. Any number of offices may be held by the same individual. The salaries and other compensation of the officers shall be fixed by the Manager(s).

6.2 **Officers' Bonds or Other Security.** No officer of the Company, unless otherwise specified by law or by the Manager(s), shall be required to furnish a bond or other security for the faithful performance of his or her duties hereunder. If such bond or security is required by the Manager(s), it shall be in such amount and with such surety or sureties as the Manager(s) may require.

ARTICLE VII

TRANSFER OF INTERESTS AND WITHDRAWAL OF MEMBER

7.1 **Transfers.** The Member (or transferee) at any time and from time to time may Transfer all or any portion of the Member's Economic Interest. The Transfer of all or a portion of an Economic Interest does not entitle the transferee to become a Member or to exercise any rights of a Member. The transferee shall be entitled to receive, to the extent transferred, only the distributions and allocations of profits and losses to which the transferor would be entitled; and the transferee shall not be admitted as a Member unless approved by the Member, which consent may be withheld by the Member in his or her sole discretion.

7.2 **Involuntary Withdrawal.** Immediately upon the occurrence of an Involuntary Withdrawal, the successor of the withdrawn Member shall thereupon become an Economic Interest Holder, but shall not become a Member. The successor Economic Interest Holder shall have all the rights of an Economic Interest Holder, but shall not be entitled to receive any distribution of Cash Flow or in kind property prior to the dissolution of the Company.

ARTICLE VIII

DISSOLUTION, LIQUIDATION, AND TERMINATION OF THE COMPANY

8.1 **Events of Dissolution.** The Company shall be dissolved upon the happening of any of the following events:

- (a) **Written Consent.** The written consent of the Member; or
- (b) **Judicial Decree.** Upon the entry of a decree of judicial dissolution.

8.2 Procedure for Winding Up and Distribution. If the Company is dissolved, the Member shall wind up its affairs. On winding up of the Company, the assets of the Company shall be distributed, first, to creditors of the Company, including the Member and Economic Interest Holders who are creditors, to the extent permitted by law, in satisfaction of the liabilities of the Company, and then to the Member and Economic Interest Holders in accordance with Article IV of this Agreement.

8.3 Filing of Articles of Dissolution. If the Company is dissolved, the Member shall promptly file Articles of Dissolution with the office of the New York Secretary of State. If there is no remaining Member, the Articles shall be filed by the last Person to be a Member; if there is no remaining Member, or a Person who last was a Member, the Articles shall be filed by the legal or personal representatives of the Person who last was a Member.

ARTICLE IX

BOOKS, RECORDS, ACCOUNTING, AND TAX ELECTIONS

9.1 Bank Accounts. All funds of the Company shall be deposited in a bank account or accounts opened in the Company's name. The Manager(s) shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts, and the Persons who will have authority with respect to the accounts and the funds therein.

9.2 Books and Records. The Manager(s) shall keep or cause to be kept complete and accurate books and records of the Company as required under Section 1102 of the Law as well as supporting documentation of transactions with respect to the conduct of the Company's business. The books and records shall be maintained in accordance with sound accounting practices and shall be available at the Company's principal office for examination by the Member or the Member's duly authorized representative at any and all reasonable times during normal business hours.

9.3 Annual Accounting Period. The annual accounting period of the Company shall be its taxable year. The Company's taxable year shall be selected by the Manager(s), subject to the requirements and limitations of the Code.

9.4 Reports. To the extent determined necessary by the Manager(s), within seventy-five (75) days after the end of each taxable year of the Company, the Member shall cause to be sent to each Person who was a Manager(s) at any time during the taxable year then ended a complete accounting of the affairs of the Company for the taxable year then ended. In addition, within seventy five (75) days after the end of each taxable year of the Company, the Member shall cause to be sent to each Person who was an Economic Interest Holder at any time during the

taxable year then ended, that tax information concerning the Company which is necessary for preparing the Economic Interest Holder's income tax returns for that year.

9.5 Tax Elections. All elections required or permitted to be made by the Company under the Code shall be made by the Member.

ARTICLE X

GENERAL PROVISIONS

10.1 Title to Company Property. Title to Company assets shall be held in the Company's name.

10.2 Assurances. The Member shall execute all certificates and other documents and shall do all such filing, recording, publishing, and other acts as the Member deems appropriate to comply with the requirements of law for the formation and operation of the Company and to comply with any laws, rules, and regulations relating to the acquisition, operation, or holding of the property of the Company.

10.3 Notifications. Any notice, demand, consent, election, offer, approval, request, or other communication (collectively a "notice") required or permitted under this Agreement must be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, return receipt requested or by facsimile transmission or electronic mail provided receipt of such fax or electronic mail is actually acknowledged by the Member or Member's agent. A notice must be addressed to the Member at the Member's last known address on the records of the Company. A notice to the Company must be addressed to the Company's principal office. A notice delivered personally will be deemed given only when acknowledged in writing by the person to whom it is delivered. A notice that is sent by mail will be deemed given three (3) business days after it is mailed. Any party may designate, by notice to all of the others, substitute addresses or addressees for notices; and, thereafter, notices are to be directed to those substitute addresses or addressees. A notice sent by facsimile or electronic mail is deemed given when receipt is acknowledged.

10.4 Specific Performance. The parties recognize that irreparable injury will result from a breach of any provision of this Agreement and that money damages will be inadequate to fully remedy the injury. Accordingly, in the event of a breach or threatened breach of one or more of the provisions of this Agreement, any party who may be injured (in addition to any other remedies which may be available to that party) shall be entitled to one or more preliminary or permanent orders: (i) restraining and enjoining any act which would constitute a breach; or (ii) compelling the performance of any obligation which, if not performed, would constitute a breach.

10.5 Complete Agreement. This Agreement constitutes the complete and exclusive statement of the agreement between the Company and the Member with respect to the subject matter thereof. It supersedes all prior written and oral statements, including any prior representation, statement, condition, or warranty. This Agreement may not be amended except upon the mutual agreement of the Company and the Member.

10.6 Applicable Law. All questions concerning the construction, validity, and interpretation of this Agreement and the performance of the obligations imposed by this Agreement shall be governed by the internal law, not the law of conflicts, of the State of New York.

10.7 Article and Section Titles. The headings herein are inserted as a matter of convenience only and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

10.8 Binding Provisions. This Agreement is binding upon, and inures to the benefit of, the parties hereto and their respective heirs, executors, administrators, personal and legal representatives, successors, and permitted assigns.

10.9 Exclusive Jurisdiction and Venue. Any suit involving any dispute or matter arising under this Agreement may only be brought in a United States District Court located in the State of New York or any New York State Court having jurisdiction over the subject matter of the dispute or matter. The Member hereby consents to the exercise of personal jurisdiction by any such court with respect to any such proceeding.

10.10 Terms. Common nouns and pronouns shall be deemed to refer to the masculine, feminine, neuter, singular, and plural, as the identity of the Person may in the context require.

10.11 Separability of Provisions. Each provision of this Agreement shall be considered separable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

10.12 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned has executed, or caused this Agreement to be executed, under seal, as of the date set forth hereinabove.

COMPANY:

UR-ban Villages PFA, LLC

By: 

Name: Vittorio Pascarella

Title: Manager

MEMBER:

PASCARELLA FAMILY ASSOCIATES, LLC

By: 

Name: Vittorio Pascarella

Title: Manager

MANAGERS:


Vincent Pascarella, Individually


Serafina Pascarella, Individually


Florindo Pascarella, Individually

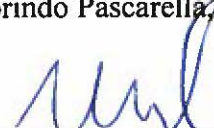

Vittorio Pascarella, Individually

EXHIBIT A**MEMBER, CAPITAL, AND PERCENTAGES**

<u>Name</u>	<u>Voting Percentage</u>	<u>Non-Voting Percentage</u>	<u>Initial Capital</u>
Pascarella Family Associates, LLC	100%	0	\$100.00