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Bryan L. Asay, Attorney PLLC  
P.O. Box. 19820  
Bozeman, MT 59719-0820

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Eric Semerad - Gallatin County, MT MISC



## ASSOCIATION BYLAWS OF AUTUMN GROVE CONDOMINIUM ASSOCIATION

### Section 1. NAME, PURPOSE, OFFICE

1.1 **Name.** The name of the corporation shall be AUTUMN GROVE CONDOMINIUM ASSOCIATION (hereinafter "Association" or "Corporation").

1.2 **Purpose.** The corporation is a mutual benefit corporation with members, organized exclusively for not-for-profit purposes, including the preservation, enhancement, management and operation of a Condominium, a Condominium owners' association and related purposes.

1.3 **Limitation.** This Association may not engage in any activity prohibited by the Montana Nonprofit Corporation Act ("Act") or otherwise prohibited by law.

1.4 **Definitions.** Unless otherwise defined by these Bylaws, all terms used herein shall have the meanings provided in the Declaration, which definitions are hereby incorporated by reference.

1.5 **Registered Agent and Office.** The registered office of Association shall always be located within the State of Montana. The name and address of the initial noncommercial registered agent is as follows:

William J. Senecal 18411 Frontage Rd., Belgrade, Montana 59714.

1.6 **Principal Office.** The board may change the Association's principal office, but the principal office shall always be located within the State of Montana. The Association may have such other offices, either within or without the State of Montana, as the board of directors may designate. The Secretary shall maintain a copy of all required records at the principal office. The Association's initial principal office is as follows: 18411 Frontage Rd., Belgrade, Montana 59714

1.7 **Founding Documents.** The incorporator(s) of the Association have:

- a. filed the Articles of Incorporation with the Secretary of State of Montana;
- b. paid all fees, charges and done all other things requisite for the due formation of the Association pursuant to the laws of the State of Montana;
- c. recorded a Declaration for Autumn Grove Condominiums with the Gallatin County Clerk and Recorder's office, pursuant to the *Montana Unit Ownership Act*, Chapter 23, Title 70, Montana Code Annotated (2021) (hereinafter referred to as "Declaration"). These Bylaws, as amended or restated from time to time, are incorporated into the Declaration which was recorded as

Document No. 2785762.

## Section 2. MEMBERS

2.1 **Membership and Voting.** All owners of any of the Units in Autumn Grove Condominium shall be members of the Association. Each member shall have one vote for each unit owned, and all members shall have the right to vote regarding the affairs of the Association. Each Unit Owner shall have a vote equal to that Owner's Percentage of Interest (as defined in the Declaration for Autumn Grove Condominiums, hereafter "Declaration") in the General Common Elements, unless otherwise provided by the Declaration and these Bylaws. In the event a unit is owned by more than one person, either jointly, in common tenancy, by an organization or by a trust, the unit only has one vote and any owner authorized to act on behalf of that unit may vote. In the event that Unit Owners of the same Unit cannot agree as to how to vote that Unit's interest, said Unit's vote shall be suspended for that particular matter. Until seventy-five percent (75%) of all Units, including expansion Units, in Autumn Grove Condominiums have been built and sold, the any acts of the Members or the Board shall require the Declarant's written approval.

3.1 **Powers of Declarant.** Notwithstanding any other provision(s) expressly or impliedly to the contrary contained in the Declaration, the Articles of Incorporation or these Bylaws, Declarant reserves the right to exercise the rights, duties and functions of the Board of Directors of the Association until seventy-five percent (75%) of all the Units, including expansion Units, in Autumn Grove Condominiums have been built and sold.

2.2 **Powers and authority of Members.** Members shall have no powers inconsistent with these Bylaws and the Act.

2.3 **Limitations.** No Member may act on behalf of the Association unless acting in their capacity as a director or an officer.

2.4 **Annual Meeting.** The annual meeting of the members shall be held on the second Tuesday of November each calendar year unless the board designates a different meeting time. If the annual meeting does not occur, it may be held subsequently in a special meeting called as provided by these Bylaws and the Act. Any and all member's resolutions and actions taken at such special meeting shall be valid as if taken at a regularly scheduled annual meeting.

2.5 **Time & Place of Meeting.** The directors may designate any time and place, unless otherwise prescribed by statute, as the place of meeting. If no designation is made, the place of meeting shall be held at the principal office. The annual meeting does not have to be held within the State of Montana.

2.6 **Purpose of Annual Member's Meeting.** At the annual meeting, the Members shall elect directors, discuss annual assessments and transact any other lawful and necessary business of the Association. At the annual meeting, the president and the treasurer shall report on the activities and financial condition of the corporation.

2.7 **Special Members' Meetings.** The President or Board may call a special Members' meeting at any time. Such a meeting may be called by a majority of the Board, at the request of two or more of the Members entitled to vote, or the Declarant.

2.8 **Presence at Members' Meetings.** Members may participate in the annual meeting or any special meeting through a telephone conference, web-based meeting, or similar remote communication such that all persons participating in the meeting can hear each other at the same time. Participation in this manner constitutes presence in person at a meeting.

2.9 **Conduct of Meetings.** The President shall preside over all meetings. The Secretary shall perform all duties as described by these Bylaws. If the President is absent, the next senior officer shall preside. If the Secretary is absent, the presiding officer shall appoint another person to perform the duties of Secretary for the meeting.

2.10 **Notice of Members' Meetings.** The Secretary shall notify all voting Members of any meeting. The notice shall be in writing stating the time, date and place of the meeting. If the meeting is a special

meeting, the notice shall also state the purpose of the meeting. The notice shall be delivered not less than 10 days or more than 30 days in advance of the meeting, and shall be delivered by mail or personally. If mailed, notice must be mailed to the last known address reflected in the corporate records; and delivery is effective on the date deposited in the United States mail. In the event the Secretary fails to give notice in a timely manner, any Member may serve notice. Only those matters that are within the purpose or purposes described in the meeting notice may be conducted at a special meeting of members.

**2.11 *Waiver of Notice of Members' Meetings.*** A Member may waive his or her right to notice of any meeting, at any time, either before or after the event requiring notice. The waiver must be in writing and shall have the same effect as if such member had received a timely and proper notice of meeting. A Member's attendance at a meeting waives objection to lack of notice or defective notice of the meeting unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting. Likewise, a Member's attendance at a meeting waives objection to consideration of a particular matter at the meeting that is not within the purpose described in the meeting notice unless the Member objects to considering the matter when it is presented.

**2.12 *Quorum.*** A quorum shall constitute the presence (in person or by proxy) of a majority of the Unit Ownership Percentage. Except as otherwise provided in the Unit Ownership Act, the Declaration or these Bylaws, a majority of the Unit Ownership Percentage present at any meeting or by proxy shall be sufficient to act on matters brought before the Unit Owners. Meetings of the Unit Owners shall only be conducted when a quorum is present. The Articles do not provide otherwise.

**2.13 *Joint or Co-Ownning Members.*** Any Member who holds an interest as a joint tenant with right of survivorship or as a tenant in common, shall be deemed to have authority to act on behalf of all named joint tenants or co-owners, unless said owners have delivered written notice to the Secretary otherwise or unless a court orders otherwise. Any person or entity claiming to act on behalf of a Member may be required by the Secretary to prove their authority to do so.

**2.14 *Member Proxies.*** A Member may vote either in person or by proxy. A proxy must be executed in writing by the Member or his or her attorney in fact and filed with the Secretary. A proxy shall be valid for 11 months from the date of execution unless specified otherwise in the proxy. Proxy may not be sold.

**2.15 *Authority to Act Without Meeting.*** Without calling a meeting, Members may take any action that they could have taken at a duly called Members' meeting, but only upon unanimous written consent of all Members.

**2.16 *Procedure for Members' Meetings.*** Unless otherwise determined by a majority of voting members in quorum, meetings shall be conducted by Robert's Rules of Order. Order of business shall be conducted as follows:

Call to Order, reading of prior minutes, report of officers, election of directors (if an item of business), unfinished business, new business, and adjournment.

**2.17 *Rights of Inspection.*** Any Member may inspect and copy, during regular business hours, any of the corporate records, if the member gives the Secretary a minimum of 30 day's written notice of their intent to exercise their right of inspection.

**2.18 *Election of Directors.*** At each annual meeting, the Members shall vote to re-elect or replace all Directors whose terms of office have expired.

### Section 3. BOARD OF DIRECTORS

**3.1 *Qualification and Selection of Directors.*** A Director shall be a Member of the Association in good standing.

**3.2 *Number and Identity of Directors.*** The Association shall have no less than three and no more than five Directors.

3.3 **Term of Office.** Each Director shall hold office until the next annual meeting of the directors. In the absence of an election, each Board member shall be deemed reelected. After the first calendar year of the Association, the terms of the Directors shall be staggered so that at least one-third (1/3) of the directors expire annually.

3.4 **Resignation; Removal.** Any Director may resign at any time by giving written notice of such resignation to the Association. Any officer, or assistant appointed by that officer, may be removed, with or without cause, and the Board may elect a successor at any time.

3.5 **Removal of Directors.** A Director may be removed by the Members at a Members' meeting if removal of that Director is stated as a purpose in the notice for that meeting. Members may remove any or all Directors by a vote of 75% of those Members entitled to vote in the manner prescribed by MCA 35-2-421.

3.6 **Time and Place of Directors' Meetings.** Unless otherwise decided, the Board shall hold regular meetings as follows:

Regular quarterly meetings:

Annual meetings:

Immediately following the annual Members' meeting.

Directors may participate in any meeting by any means that permits all Directors to hear each other during the meeting.

3.7 **Conduct of Board Meetings.** The Board shall elect a chairperson to preside over all Board meetings. The Chairperson, if a Director, shall have voting rights. If the Chairperson is absent, the Board shall designate a substitute chairperson. The Secretary shall perform the duties of Secretary during the meeting. In the absence of the Secretary, the Chairperson shall designate another member to act as Secretary for the meeting.

3.8 **Procedure for Directors' Meetings.** Unless otherwise determined by a majority of directors, meetings shall be conducted Robert's Rules of Order. Order of business shall be as follows:

Call to Order, reading of prior minutes, report of officers, unfinished business, new business, and adjournment.

3.9 **Special Board Meetings.** After notice, a special Board meeting may be called at any time by the President, any member of the Board, or the Declarant.

3.10 **Notice of Regular Board Meetings.** No notice is required for any regularly scheduled Board meeting.

3.11 **Special Board Meetings – Notice Required.** Notice of a special Board meeting must be timely, giving the time, date, and place of meeting with at least 48 hours advance notice.

3.12 **Waiver of Notice – Attendance.** A Director's attendance at a Board meeting shall be deemed a waiver of any rights to notice unless that Director promptly objects in writing to the meeting or the transaction of business in that meeting. If that Director condones or participates in any business transacted at the meeting, they are deemed to have waived their right to notice.

3.13 **Waiver of Notice – Writing.** A Director may waive his or her right to notice of any special meeting, either before or after the event requiring notice. The waiver must be signed, in writing, and filed with the minutes or Secretary. The waiver shall have the same effect as if the Director had received a timely and proper notice.

3.14 **Quorum for Board Meetings.** Two Directors shall constitute a quorum, except that if less than two is present, a majority of directors present may adjourn the meeting without further notice and reconvene at such a time as a quorum can be assembled.

3.15 ***Voting Rights.*** If a quorum is present, a majority of the Directors present may transact any business authorized by the Declaration, the Bylaws and the Articles.

3.16 ***Committees.*** The Board may designate, appoint and empower one or more committees, comprising at least two Directors to act on its behalf.

3.17 ***Action Without a Meeting.*** Without calling a meeting, the Board may take any action that they could have taken at a duly called board meeting. Such action requires unanimous written consent of all Directors.

3.18 ***Electronic Means.*** Any signature contemplated by this document may be conducted by electronic means in accordance with the Montana Uniform Electronic Act.

3.19 ***Powers and Duties of Directors.*** The business and affairs of the corporation shall be managed by its board of directors. The directors shall, in all cases, act as a board. They may make such rules and regulations for the conduct of their meetings and the management of the corporation as they may deem proper and consistent with the Declaration, these Bylaws and the laws of the State of Montana. The act of the majority of directors who are present at a meeting at which a quorum is present shall be the act of the directors. The Directors may engage the services of a manager or managing agent. Specifically, the Directors shall have the following powers and duties:

- a. the duty to adopt an annual resolution reflecting the annual plan and budget for repair, maintenance and operation of the Common Elements and other property of the Association as determined by the Declaration;
- b. enter into contracts and agreements as are necessary to affect the business of the Association.
- c. provide for the construction, installation, acquisition, replacement, operation, maintenance, and repair by the Association of buildings, equipment, common areas, facilities, and service streets, roads, bridges, lighting, garbage removal and disposal in common areas, security of persons or property, fire protection, and other municipal or quasi-municipal services and functions. Contracts for such work with third parties which provide for a term or duration in excess of one year must be approved by a majority of the members, which approval may be ratified at the annual or any special meeting of the Association.
- d. make and establish rules and regulations for the governance of facilities and the performing of such functions, the taking of such action and operating in such areas as are within the jurisdictions of the Association.
- e. make assessments as described in these Bylaws and the Declaration on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana.
- f. take necessary and appropriate action to collect assessments from members, including the filing of liens and prosecuting foreclosures as provided in these Bylaws.
- g. call meetings of the Association, both annual and special, and to preside over such meetings and to give appropriate notice of such meetings as required by the Bylaws.
- h. formulate and introduce resolutions at the meetings of the Association.
- i. hold meetings of the Board of Directors as are necessary to conduct Association affairs.
- j. exercise ultimate decisional power in and on all matters affecting the Association.
- k. pay the expenses of the Association, including all taxes or assessments, and to contract and pay for such insurance as may be necessary in the best interests of the Association, and to provide for the use and disposition of the insurance proceeds in the event of loss or damage.
- l. fill vacancies on the Board by agreement of the two remaining members, should the vacancy not, however, be filled by the Board, it may be filled by an election at an annual or special meeting wherein each membership interest shall have opportunity to vote.
- m. maintain lists of members.
- n. keep records in a good and businesslike manner of all expenditures, assessments made, the status of each member's payments of assessments, and to make such records accessible at reasonable times to all members.

- o. provide facilities for the safety, comfort, health, well-being, and pleasure of the owners, their guests and invitees.
- p. promote, conserve, and preserve the premises.
- q. do any and all things necessary to carry into effect these Bylaws and to implement the purposes as stated in the Articles of Incorporation and to do any and all things necessary to require compliance with and enforce the Declaration which, which is made a part hereof by reference.
- r. deal with agencies, officers, boards, commissions, departments, and bureaus or other governmental bodies to carry out the above powers, duties, and responsibilities.
- s. establish accounts for operating and/or development funds as set out in the Declaration.
- t. provide, through assessments, an adequate reserve fund for maintenance, repairs and replacement of those elements in the common area that must be replaced or maintained on a periodic basis.

## Section 4. OFFICERS

4.1 ***Number and Qualification.*** Initially there shall be the following positions:

President, Vice President, Secretary, Treasurer.

Any officer may hold two positions, except the offices of President and Secretary. An officer need not be a Director or Member. The Board may create such other positions as it deems useful.

4.2 ***Duties of President.*** The President shall be the chief executive of the Association; preside over all Members' and Board meetings, when required and when present; delegate duties and responsibilities as is in the best interest of the successful management of the Association; perform such duties that are commonly incident to the position president; and perform or not perform such tasks as directed by the Board. In addition, the president may sign, with the secretary or any other officer authorized by the directors, any bonds, contracts or other instruments as authorized by the Board to be executed.

4.3 ***Duties of Vice President.*** The Vice President shall perform all of the President's duties in the absence or disability of the President or when the President or Board so directs.

4.4 ***Duties of Secretary.*** The Secretary shall keep minutes of all Members' and Board meetings; serve all notices as required by these Bylaws at the direction of the President; maintain custody of all the corporate records and papers, except those used by the Treasurer; file all annual reports and other information required by the State of Montana; attest to all official corporate documents; and perform or not perform such tasks as directed by the Board.

4.5 ***Duties of the Treasurer.*** The Treasurer shall manage the funds of the corporation; keep the books of account; prepare annual financial reports, including any required state and federal tax returns; keep track of all corporate assets; perform such other duties as the President may delegate; and perform or not perform such tasks as directed by the Board.

4.6 ***Resignation; Removal.*** Any officer may resign at any time by giving written notice of such resignation to the Association. Any officer, or assistant appointed by that officer, may be removed, with or without cause, and the Board may elect a successor at any time.

4.7 ***Compensation.*** The officers may be compensated as determined by the Board from time to time. No officer shall be prevented from receiving a salary by reason that he or she also is a Director.

## Section 5. CHECKS, DEPOSITS, CONTRACTS, LOANS

5.1 ***Checks.*** All checks, drafts or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or

agents of the Association and in such manner as shall from time to time be determined by resolution of the directors.

5.2 **Limit on Checks.** Unless instructed otherwise by the Board, checks may be written for any amount for any corporate purpose, except that the signature of at least two of the following individuals shall be required for each check: President, Vice-President, Secretary, Treasurer, or any Director.

5.3 **Deposits.** All funds of the Association shall be deposited to the credit of the Association in such banks or other depositories as the Directors may designate.

5.4 **Contracts.** The Directors may authorize any officers or agents to enter into any contract or execute any instrument in the name of and on behalf of the Association.

5.5 **Loans.** The Directors may authorize, by specific or general resolution, loans or other evidences of indebtedness in the name of the Association.

5.6 **Limit on Expenditures.** Neither the Association nor Manager may make or incur a single expenditure or debt in excess of Ten Thousand Dollars (\$10,000.00) without the prior approval of the majority of the Unit ownership percentage.

## Section 6. MAINTENANCE

6.2 **Resolution.** Annually the Board shall adopt a resolution to adopt an annual budget reflecting the plan and budget for repair, maintenance and operation of the Common Elements and other Property of the Association as determined by the Declaration. The President or the Manager shall implement the plan and the Treasurer shall pay the expenses from Association funds.

6.3 **Authorization.** The repairs, maintenance and operation of the Common Elements and other Property of the Association shall be performed "as needed". The President or Manager is authorized to initiate all repairs, maintenance and other operations estimated to be less than \$25,000. Any such efforts anticipated to cost more than \$25,000 shall require a resolution adopted by the Board. The President or Manager may employ any personnel reasonably necessary to accomplish repair and maintenance.

## Section 7. LIMITED LIABILITY AND INDEMNIFICATION OF CORPORATE PERSONS

7.2 **Limitation of Personal Liability.** A director shall have not liability to the Corporation or its members for monetary damages for the breach of fiduciary duty as a director, except for a breach of the director's duty of loyalty, to the Corporation or its members, for acts or omissions that constitute willful misconduct, recklessness, or a knowing violation of the law, for a transaction from which the director derives an improper personal benefit or from other breach which is excepted from the liability waiver the Montana Nonprofit Corporation Act.

7.3 **Indemnification of Persons Acting on Behalf of Association.** This Association shall indemnify to the maximum extent now or hereafter permitted, any person made, or threatened to be made, a party to any threatened, pending or completed action, suit or proceeding whether civil, criminal, administrative or investigative including appeals therefrom and actions by or in the right of the Association by reason of the fact that such person is or was a Director, officer, member, employee or agent of this Association. This indemnification is not exclusive of any other rights.

7.4 **Liability Insurance.** The Association shall have the power to purchase liability insurance to protect any person acting in the scope of his or her employment or in any capacity on behalf of this Association.

## Section 8. MISCELLANEOUS PROVISIONS

- 8.2 **Fiscal Year.** The fiscal year of the Association shall be the calendar year.
- 8.3 **Liability.** Unless otherwise provided in this Agreement, no Member or Director shall be liable to any other Member or to the Association for any good faith act or omission to act in the exercise of his or her judgment under the provisions of this Agreement.
- 8.4 **Agency.** Nothing herein contained shall be construed to constitute any Member hereof the agent of this Association or of any other Member.
- 8.5 **Headings, Gender, Pronouns, Number.** The use of any gender herein shall be deemed to be or include the other genders, and the use of the singular herein shall be deemed to be or include the plural (and vice versa), wherever appropriate. The headings herein are inserted only as a matter of convenience and reference, and in no way define, limit or describe the scope of this Agreement, or the intent of any provisions thereof.
- 8.6 **Construction.** Nothing contained in these Bylaws shall be construed as requiring the commission by any person of any act contrary to applicable law. Wherever there is any conflict between any provision of these Bylaws and any statute, law, ordinance or regulation, the latter shall prevail, but in such manner that the provision(s) of these Bylaws thus affected shall be curtailed and limited only to the extent necessary to conform to said requirement of law. In the event that any part, section, paragraph or clause of these Bylaws shall be held to be indefinite, invalid or otherwise unenforceable, the entire set of Bylaws shall not fail on account thereof, and the balance of the Bylaws shall continue in full force and effect.
- 8.7 **Governing Law.** It is the intention that these Bylaws shall be governed by and construed and enforced in accordance with the laws of the State of Montana.
- 8.8 **Notices.** Except as otherwise provided in these Bylaws, any notice, consent or other communication required or permitted hereunder shall be in writing and shall be addressed, in the case of the Association, to its principal place of business specified, and in the case of any Member, to the Member's address on record with the Secretary, or to such other address or person as any of the foregoing shall furnish to the others in writing; and any such communication so addressed shall be deemed to have been given when personally delivered by hand or on the earlier of actual receipt and three (3) business days after being sent by first class mail; three (3) business days after being sent by registered or certified mail, postage prepaid, return receipt requested; or one (1) business day after being sent by overnight courier, telegram, or cable.
- 8.9 **Waiver of Notice.** Unless otherwise provided by law or by the Bylaws, whenever any notice is required to be given to any Member or Director, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.
- 8.10 **Third-Party Beneficiaries.** The provisions of these Bylaws are intended solely for the benefit of the Members and Association, and shall create no rights or obligations enforceable by any third party, including creditors of the Association, except as otherwise provided by applicable law.
- 8.11 **Amendments to these Bylaws.** These Bylaws may be altered, amended or repealed and new Bylaws may be adopted only by a vote of seventy-five percent (75%) of the Owners. Such an amendment shall be effective when a copy of the Bylaws, as amended, certified by the presiding officer and secretary of the Association, is recorded.
- 8.12 **Amendments to the Articles.** The Articles of Incorporation as originally filed, or thereafter amended or restated, may be altered, amended or restated without member approval for reasons stated in §35-2-222, of the Act, by a majority vote of the Board of Directors. Any other amendments to the Articles shall require majority vote of the Directors and, after giving written notice to all Members pursuant to §35-2-530, seventy-five percent (75%) of the Unit Owners.
- 8.13 **Amendment by Declarant.**




- a. The Declarant may amend the Declaration, the Articles of Incorporation or these Bylaws until seventy-five percent (75%) of all of the Units, including the expansion Units, in the Project, have been sold.
- b. The Declarant also may amend the Declaration, the Articles of Incorporation or these Bylaws, under the following circumstances:
  - i. prior to any sale or lease of a Unit;
  - ii. for the purpose of correcting errors and for any other purpose, unless the amendment would materially alter or change the rights of a Unit Owner or mortgagee, in which event Declarant shall be required to gain consent as provided in herein.

8.14 **No Distribution or Receipt of Corporate Profit.** No Member, Director, Officer, employee or any person connected with the association may receive any of the net earnings or profit from the operations of the Association or Corporation. This provision shall not prevent payment for reasonable compensation, services performed or reimbursement of expenses on behalf of the Association. No person shall be entitled to share in the distribution of Association or Association assets upon dissolution of the Association or Association.

8.15 **Exempt Activities.** Notwithstanding any other provision of the Bylaws, no Member, Director, Officer, employee, representative or any other person may take any action or carry on any activity by or on behalf of the Association not permitted by an organization exempt under Section 501(c)(3) of the Internal Revenue Code as it now exists or may be amended, or by an organization, contributions to which are deductible under Section 170(c)(2) of the code.

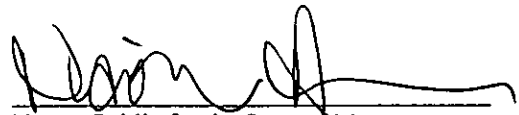
THESE BYLAWS were adopted by the Declarant for AUTUMN GROVE CONDOMINIUM ASSOCIATION on the 29<sup>th</sup> day of August 2022.

TruNorth Properties, Inc., Incorporator

By:   
 William J. Senecal, its Managing Member

STATE OF MONTANA  
 County of Gallatin

This instrument was acknowledged or signed before me on August <sup>30</sup>~~29~~, 2022, by William J. Senecal, as member TruNorth Properties, LLC.

  
 Notary Public for the State of Montana

