

**SANTA FE COUNTY
HOUSING AUTHORITY BOARD
RESOLUTION No. 2022- 8 -HB**

**A RESOLUTION APPROVING THE CREATION OF NUEVA ACEQUIA
DEVELOPERS LLC FOR THE DEVELOPMENT OF THE NUEVA ACEQUIA
MULTIFAMILY AFFORDABLE HOUSING PROJECT AND AUTHORIZING
THE SANTA FE COUNTY HOUSING AUTHORITY EXECUTIVE DIRECTOR
TO ACT AS THE SIGNATOR FOR THE ARTICLES OF ORGANIZATION AND
OPERATING AGREEMENT**

WHEREAS, the Santa Fe County Housing Authority Board (Board) was created for the public purpose and function, among others, of providing a means to finance the cost of residential developments that will provide decent, safe, and sanitary housing at affordable prices for residents of Santa Fe County; and

WHEREAS, on November 27, 2018, the Board of County Commissioners of Santa Fe County purchased approximately 6.6 acres of developable land for the development of a multifamily affordable housing project, herein referred to as the Nueva Acequia Site; and

WHEREAS, in November of 2018, a Phase 1 Environmental Study was completed for the Nueva Acequia Site; and

WHEREAS, on April 21, 2020, the Nueva Acequia Site was selected as the national location for the United States Department of Housing and Urban Development ("HUD") 2020 Innovations in Affordable Housing Design Competition; and

WHEREAS, on June 25, 2020, Autotroph Inc. completed a massing study for an affordable housing multifamily complex at the Nueva Acequia Site; and

WHEREAS, on July 13, 2021, the County entered into a professional services agreement with Autotroph Inc. to provide architectural and engineering services for the development of a Low-Income Housing Tax Credit ("LIHTC") housing development at the Nueva Acequia Site; and

WHEREAS, in September of 2021 residents of the Jacobo D. Martinez Public Housing Development were surveyed to establish the name of the new development project, and the project was officially name Nueva Acequia; and

WHEREAS, on September 28, 2021, the Santa Fe County Housing Authority Board approved Resolution No. 2021-11-HB, requesting authorization from HUD's Special Applications Center ("SAC") to use proceeds from the Santa Fe County Housing Authority's 5(h) Homeownership Program as equity for the Nueva Acequia Development; and

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WHEREAS, on May 12, 2022, the Santa Fe County Housing Authority received approval from the HUD SAC Office to utilize proceeds for the requested purpose; and

WHEREAS, on June 30, 2022, the County entered into a professional services agreement with Project Moxie, LLC, a Colorado limited liability company, to provide financial consulting services for the Nueva Acequia Development, and to create a financial package comprised of multiple funding sources specific to affordable housing developments, including tax credit equity; and

WHEREAS, at a special meeting of the Santa Fe County Housing Authority Board held on Tuesday, August 9, 2022, a presentation was provided the Housing Board on the Nueva Acequia Project, which included the history of the project, schematic design, the project's financial package design, and the need for a limited liability company to act as the development entity responsible for planning, financing and constructing the project; and

WHEREAS, the Santa Fe County Housing Authority, in conjunction with the Santa Fe County Legal Department, has created the Articles of Organization and Operating Agreement for the establishment of Nueva Acequia Developers LLC; and

WHEREAS, the County has negotiated an arrangement by which New Mexico Inter-Faith Housing, a non-profit affordable housing developer with experience in LIHTC developments within Santa Fe County, will be a member of the LLC, holding a minority (30%) interest in the LLC; and

WHEREAS, the formation of Nueva Acequia Developers LLC is now necessary to move forward with applications for funding for the Nueva Acequia Affordable Housing Development.

NOW, THEREFORE, BE IT RESOLVED by the Santa Fe County Housing Authority Board ("Board") that:

The Board finds, determines, and declares that it is wise, expedient, necessary, and advisable that the LLC be formed. The Board therefore approves the creation and organization of the limited liability company in accordance with state law, with the Housing Authority holding a 70% interest and New Mexico Inter-Faith Housing holding a 30% interest.

The Housing Board authorizes the creation of Nueva Acequia Developers LLC for the purpose of developing the Nueva Acequia affordable housing development, and authorizes the Santa Fe County Housing Authority's Executive Direct to sign the appropriate Articles of Organization and Operating Agreement in substantially the form attached hereto as Exhibits A and B.

The Board finds, determines, recites, and declares that any notes, bonds, loans, debts or other obligations of the LLC are not intended to be and shall not be deemed an indebtedness, liability, general or moral obligation or pledge of the faith or credit of the

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State of New Mexico, Santa Fe County Board of County Commissioners, the Santa Fe County Housing Authority Board, Santa Fe County, or any other political subdivision or governmental unit, nor shall any such notes, bonds, loans, debts or other obligations constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction or an agreement, obligation, or indebtedness of the Santa Fe County Housing Authority Board, the Santa Fe Board of County Commissioners, Santa Fe County, or of any constitutional or statutory provision whatsoever.

PASSED, APPROVED, AND ADOPTED THIS 16th DAY OF August, 2022.

SANTA FE COUNTY HOUSING AUTHORITY BOARD

By: Anna T Hamilton
Anna T. Hamilton, Chair

ATTEST:

Katharine Clark
Katharine Clark, Santa Fe County Clerk

Date: 8/16/2022



APPROVED AS TO FORM:

Jeff Young
Jeff Young, Santa Fe County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

HOUSING RESOLUTION
PAGES: 24

I Hereby Certify That This Instrument Was Filed for
Record On The 16TH Day Of August, 2022 at 03:45:35 PM
And Was Duly Recorded as Instrument # 1995221
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Katharine E. Clark
Deputy Domingo Romero County Clerk, Santa Fe, NM



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EXHIBIT A

**ARTICLES OF ORGANIZATION
FOR
NUEVA ACEQUIA DEVELOPERS LLC**

ARTICLE ONE:

The name of the limited liability company is: **Nueva Acequia Developers LLC**

ARTICLE TWO:

The period of the company's duration is: Perpetual

ARTICLE THREE:

The street address of the company's initial registered office in New Mexico, which is also the company's principal place of business, is 52 Camino de Jacobo, Santa Fe, NM 87507.

The name of the initial registered agent at that address is Joseph Jordan Barela.

ARTICLE FOUR:

Management of the business and affairs of the company is vested in one or more managers, who shall be appointed by a majority in interest of the members.

ARTICLE FIVE:

The Limited Liability Company has two original members, but is authorized to carry on its business as a single-member limited liability company.

ARTICLE SIX: These Articles of Organization are to be effective upon filing with the Secretary of State's Office.

ORGANIZER:

Joseph Jordan Barela

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**ACCEPTANCE OF APPOINTMENT AS INITIAL
REGISTERED AGENT OF NUEVA ACEQUIA DEVELOPERS LLC**

STATE OF NEW MEXICO)
)ss
COUNTY OF SANTA FE)

Joseph Jordan Barela, being first duly sworn and upon his oath, hereby accepts the appointment as the initial registered agent of Nueva Acequia Developers LLC, the limited liability company identified in the attached Articles of Organization.

Joseph Jordan Barela

This instrument was acknowledged before me by Joseph Jordan Barela on August _____, 2022.

Notary Public

My Commission Expires: _____

EXHIBIT B

NUEVA ACEQUIA DEVELOPERS LLC

(a New Mexico limited liability company)

OPERATING AGREEMENT

THE MEMBERSHIP INTERESTS REFERENCED HEREIN HAVE NOT
BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED,
NOR PURSUANT TO THE PROVISIONS OF ANY STATE SECURITIES ACT

CERTAIN RESTRICTIONS ON TRANSFERS OF INTERESTS
ARE SET FORTH HEREIN

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Attachment:

Schedule 1 -- Names, Initial Capital Contributions and
Membership Interests of the Members

OPERATING AGREEMENT
OF
NUEVA ACEQUIA DEVELOPERS LLC

This Operating Agreement of NUEVA ACEQUIA DEVELOPERS LLC is initially made and entered into by the New Mexico Inter-Faith Community Housing Development Corp., a New Mexico non-profit corporation, and the Santa Fe County Housing Authority.

The Articles of Organization of NUEVA ACEQUIA DEVELOPERS LLC were filed in the office of the New Mexico Secretary of State on June ____, 2022.

ARTICLE I
Definitions

1.1 **Definitions.** The following terms used in this Operating Agreement shall have the following meanings (unless otherwise expressly provided herein):

- (a) “Act” shall mean the New Mexico Limited Liability Company Act, Chapter 53, Article 19 NMSA 1978, as amended.
- (b) “Capital Account” means, with respect to any Member, the account maintained for such Member in a manner which the Managers determine is in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv), and Section 5.2 of this Agreement.
- (c) “Capital Contribution” means any contribution to the capital of Company in cash or property by a Member whenever made.
- (d) “Code” means the Internal Revenue Code of 1986, as amended.
- (e) “Company” means NUEVA ACEQUIA DEVELOPERS LLC a New Mexico limited liability company.
- (f) “Distributable Cash” means all cash, revenues and funds received by Company from Company operations, less the sum of the following to the extent paid or set aside by Company: (i) all principal and interest payments on indebtedness of Company and all other sums paid to lenders; (ii) all cash expenditures incurred incident to the normal operations of Company’s business; and (iii) such cash reserves as the Managers deem reasonably necessary to the proper operation of Company’s business.
- (g) “Fiscal Year” means Company’s fiscal year, which shall be the calendar year.
- (h) “Initial Capital Contribution” means the initial contribution to the capital of Company made by a Member pursuant to this Operating Agreement.

- (i) “Losses” means, for each Fiscal Year, the losses and deductions of Company determined in accordance with accounting principles consistently applied from year to year employed under the cash receipts and disbursements method of accounting and as reported, separately or in the aggregate, as appropriate, on Company’s information tax return filed for federal income tax purposes, plus any expenditures described in Section 705(a)(2)(B) of the Code.
- (j) “Majority” means, with respect to any referenced group of Managers, a combination of any of such Managers constituting more than fifty percent (50%) of the number of Managers of such referenced group who are then elected and qualified.
- (k) “Majority in Interest” means, with respect to any referenced group of Members, a combination of any of such Members who, in the aggregate, own more than fifty percent (50%) of the Membership Interests owned by all of such referenced group of Members.
- (l) “Manager” or collectively, “Managers” means the Santa Fe County Housing Authority, or any other Person or Persons that succeed it in that capacity or are elected to act as additional managers of Company as provided herein.
- (m) “Member” means each Person designated as a member on Schedule 1, attached hereto and made a part hereof, any successor or successors to all or any part of any such Person’s interest in Company, or any additional member admitted as a member of Company in accordance with Article VII, each in the capacity as a member of Company. “Members” means all such Persons collectively in their capacity as members of Company.
- (n) “Membership Interest” means the percentage of ownership interest of a Member of Company at any particular time.
- (o) “Operating Agreement” means this Operating Agreement of Company as originally adopted and as amended from time to time.
- (p) “Person” means any individual, corporation, partnership, limited liability company, limited liability partnership, business trust, trust, joint venture, association, joint stock company, unincorporated organization, estate or other entity, governmental agency or instrumentality.
- (q) “Profits” means, for each Fiscal Year, the income and gains of Company determined in accordance with accounting principles consistently applied from year to year employed under the cash receipts and disbursements method of accounting and as reported, separately or in the aggregate, as appropriate, on Company’s information tax return filed for federal income tax purposes, plus any income described in Section 705(a)(1)(B) of the Code.

ARTICLE II

Formation of Company

2.1 Name and Formation. The name of Company is NUEVA ACEQUIA DEVELOPERS LLC. The Articles of Organization of Company were filed with the New Mexico Secretary of State's Office on August _____, 2022, which act constituted the formation of the Company in accordance with Section 53-19-7 of the Act.

2.2 Principal Place of Business. The principal place of business of Company shall be 52 Camino de Jacobo, Santa Fe, New Mexico 87507. Company may locate its place of business and registered office at any other place or places as the Managers may from time to time deem necessary or advisable.

2.3 Registered Office and Registered Agent. Company's initial registered office in the state of New Mexico shall be at 52 Camino de Jacobo, Santa Fe, New Mexico 87507, and the name of its initial registered agent at such address shall be Joseph Jordan Barela.

2.4 Term. The term of existence of Company shall be perpetual from the date of filing of its Articles of Organization with the Secretary of State's Office, unless Company is earlier wound up in accordance with either the provisions of this Operating Agreement or the Act.

2.5 Purposes and Powers.

- (a) The purposes of the business of Company shall be to accomplish any or all lawful business for which limited liability companies may be organized under the Act.
- (b) Company shall have any and all powers which are necessary or desirable to carry out the purposes and business of Company, to the extent the same may be legally exercised by limited liability companies under the Act. Company shall carry out the foregoing activities pursuant to the arrangements set forth in the Articles of Organization of Company and under this Operating Agreement.

ARTICLE III

Rights and Duties of Managers

3.1 Management. The powers of Company shall be exercised by or under the authority of, and the business and affairs of Company shall be managed under, its designated Manager or Managers. In addition to the powers and authorities expressly conferred by this Operating Agreement upon the Managers, any one Manager may exercise all such powers of Company and do all such lawful acts and things as are not directed or required to be exercised or done by the Members by the Act, the Articles of Organization of Company or this Operating Agreement, including, but not limited to, contracting for or incurring debts, liabilities and other obligations on behalf of Company. The Managers may designate and remove one or more Persons, including without limitation, itself or themselves, as officers of Company. Such officers shall either have the powers and duties delegated to them in the document making such delegation or the powers and duties normally associated with an officer having a similar title with a New Mexico corporation.

3.2 Number and Qualifications. The number of Managers of Company shall consist of one (1) or more Persons, as may be determined by the Members from time to time, but no decrease in the

number of Managers shall have the effect of shortening the term of any incumbent Manager. Managers need not be residents of the State of New Mexico. The Managers need not be a Member of Company and the Managers need not own, in the aggregate, Membership Interests in Company. The Managers in their discretion may elect and remove a chairman of the Managers who shall preside at meetings of the Managers.

3.3 Election. At the first annual meeting of the Members and at each annual meeting thereafter, the Members shall elect one or more Managers to hold office until the next succeeding annual meeting. Unless removed in accordance with this Operating Agreement, each Manager shall hold office for the term for which the Manager is elected and until the Manager's successor shall be elected and qualified or until such Manager's earlier death resignation, expulsion or removal.

3.4 Vacancy. Any vacancy occurring for any reason in the number of Managers shall be filled by the affirmative vote of a Majority in Interest of the Members. A Manager elected to fill a vacancy shall be elected for the unexpired term of the predecessor in office.

3.5 Removal. At a meeting called expressly for such purpose, all or any lesser number of Managers may be removed at any time, with or without cause, by the affirmative vote of a Majority in Interest of the Members.

3.6 Place of Meetings. All meetings of the Managers of Company may be held either within or without the State of New Mexico.

3.7 Annual Meetings of Managers. The annual meeting of Managers shall be held, without further notice, immediately following the annual meeting of Members, and at the same place, or at such other time and place as shall be fixed with the consent in writing of all the Managers.

3.8 Regular Meetings of Managers. Regular meetings of the Managers may be held without notice at such time and place either within or without the State of New Mexico as shall from time to time be determined by the Managers.

3.9 Special Meetings of Managers. Special meetings of the Managers may be called by any Manager on three (3) days' notice to each Manager, either personally or by mail, telephone or by telegram.

3.10 Quorum. At all meetings of the Managers, the presence of a Majority of the Managers shall be necessary and sufficient to constitute a quorum for the transaction of business unless a greater number is required by law. The act of a Majority of the Managers present at a meeting at which a quorum is present shall be the act of the Managers, except as otherwise provided by law, the Articles of Organization or this Operating Agreement. If a quorum shall not be present at any meeting of the Managers, the Managers present at the meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

3.11 Attendance and Waiver of Notice. Attendance of a Manager at any meeting shall constitute a waiver of notice of such meeting, except where a Manager attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Managers need be specified in the notice or waiver of notice of such meeting.

3.12 Actions Without a Meeting and Telephone Meetings. Notwithstanding any provision contained in this Article III, all actions of the Managers provided for herein may be taken by written consent without a meeting, or any meeting thereof may be held by means of a conference telephone or similar communications equipment that allows all parties present at such meeting to hear all of the other parties, and such participation in a meeting shall constitute presence for purposes of determining if a quorum has been obtained. Any such action which may be taken by the Managers without a meeting shall be effective only if the written consent or consents are in writing, set forth the action so taken, and are signed by the Managers having not fewer than the minimum number of votes that would be necessary to take the action at a meeting at which all Managers entitled to vote on the action were present and voted.

3.13 Compensation of Managers and Officers. Managers, as such, shall not receive any stated salary for their services, but shall receive such compensation for their services as may be from time to time agreed upon by a Majority in Interest of the Members. In addition, a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Managers, provided that nothing contained in this Operating Agreement shall be construed to preclude any Manager from serving Company in any other capacity, including as an officer, and receiving compensation for such service.

3.14 Committees. The Managers may, by resolution, designate from among the Managers one or more committees, each of which shall be comprised of one or more Managers, and may designate one or more of the Managers as alternate members of any committee, who may, subject to any limitations imposed by the Managers, replace absent or disqualified Managers at any meeting of that committee. Such committee shall have and may exercise all of the authority of the Managers, subject to any limitations set forth in the Act.

ARTICLE IV Meetings of Members

4.1 Place of Meetings. All meetings of the Members shall be held at the principal office of Company or at such other place within or without the State of New Mexico as may be determined by the Managers and set forth in the respective notice or waivers of notice of such meeting.

4.2 Annual Meetings of Members. The annual meeting of the Members of Company for the election of Managers and the transaction of such other business as may properly come before the meeting, shall be held at such time and date as shall be designated by the Managers from time to time and stated in the notice of the meeting. Such annual meeting shall be called in the same manner as provided in this Operating Agreement for special meetings of the Members, except that the purposes of such meeting need be enumerated in the notice of such meeting only to the extent required by law in the case of annual meetings.

4.3 Special Meetings of Members. Special meetings of the Members may be called by the Managers or by the holders of not less than twenty percent (20%) of all the Membership Interests. Business transacted at all special meetings shall be confined to the purposes stated in the notice.

4.4 Notice of Meetings of Members. Written or printed notice stating the place, day and hour of the meeting and, in the case of special meetings, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than sixty (60) days before the date of

the meeting, either personally or by mail, by or at the direction of the Managers or person calling the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the transfer records of Company, with postage prepaid.

4.5 Quorum. A Majority in Interest of the Members shall constitute a quorum at all meetings of the Members, except as otherwise provided by law or the Articles of Organization. Once a quorum is present at the meeting of the Members, the subsequent withdrawal from the meeting of any Member prior to adjournment or the refusal of any Member to vote shall not affect the presence of a quorum at the meeting. If, however, such quorum shall not be present at any meeting of the Members, the Members entitled to vote at such meeting shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until the holders of the requisite amount of Membership Interests shall be present or represented. At any meeting of the Members at which a quorum is present, the vote of the holders of a Majority in Interest of all the Members shall be the act of the Members, unless the vote of a greater number is required by law, the Articles of Organization or this Operating Agreement.

4.6 Voting on Matters Other Than the Election of Managers. For purposes of voting on matters other than the election of Managers or a matter for which the affirmative vote of the holders of a specified portion of the Membership Interests entitled to vote is required by the Act, at any meeting of the Members at which a quorum is present, the act of Members shall be the affirmative vote of the holders of a Majority in Interest of all the Members.

4.7 Voting in the Election of Managers. For purposes of voting on the election of Managers, Managers shall be elected at any meeting of the Members at which a quorum is present by the vote of a Majority in Interest of all the Members.

4.8 List of Members Entitled to Vote. The Managers shall make, at least ten (10) days before each meeting of Members, a complete list of the Members entitled to vote at such meeting, or any adjournment of such meeting, arranged in alphabetical order, with the address of and the Membership Interest held by each, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the registered office of Company and shall be subject to inspection by any Member at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to inspection of any Member during the whole time of the meeting. However, failure to comply with the requirements of this Section shall not affect the validity of any action taken at such meeting.

4.9 Registered Members. Company shall be entitled to treat the holder of record of any Membership Interest as the holder in fact of such Membership Interest for all purposes, and accordingly shall not be bound to recognize any equitable or other claim to or interest in such Membership Interest on the part of any other Person, whether or not it shall have express or other notice of such claim or interest, except as expressly provided by this Operating Agreement or the laws of the State of New Mexico.

4.10 Actions Without a Meeting and Telephone Meetings. Notwithstanding any provision contained in this Article IV, all actions of the Members provided for herein may be taken by written consent without a meeting, or any meeting thereof may be held by means of a conference telephone or similar communications equipment that allows all parties present at such meeting to hear all of

the other parties, and such participation in a meeting shall constitute presence for purposes of determining if a quorum has been obtained. Any such action which may be taken by the Members without a meeting shall be effective only if the written consent or consents are in writing, set forth the action so taken, and are signed by the holder or holders of Membership Interests constituting not less than the minimum amount of Membership Interests that would be necessary to take such action at a meeting at which the holders of all Membership Interests entitled to vote on the action were present and voted.

ARTICLE V
Contributions to Capital and Capital Accounts

5.1 Capital Contributions.

- (a) Upon the execution of this Operating Agreement, each Member shall contribute such contribution to Company set forth as the Initial Capital Contribution of such Member on Schedule 1, attached hereto. Such cash shall be the Initial Capital Contribution of each such Member and, upon contribution, each such Member shall receive its Membership Interest.
- (b) If the Managers determine that the amounts contributed to Company by the Members with regard to the Initial Capital Contributions are insufficient to carry out the purposes of Company, the Managers may request that the Members make additional Capital Contributions to Company. No Member shall be required to make any additional Capital Contribution without the consent of all the Members.
- (c) No Member shall be paid interest on any Capital Contribution to Company.

5.2 Capital Accounts.

- (a) A separate Capital Account will be maintained for each Member. Each Member's Capital Account will be increased by (i) the amount of money contributed by such Member to Company; (ii) the fair market value of any property contributed by such Member to Company; (iii) the amount of any Company liabilities that are expressly assumed by such Member or that are secured by any Company property distributed to such Member; and (iv) the amount of Profits allocated to such Member. Each Member's Capital Account will be decreased by (i) the amount of money distributed to such Member by Company; (ii) the fair market value of any property distributed to such Member by Company; (iii) the amount of any liabilities of such Member that are expressly assumed by Company or that are secured by any property contributed by such Member to Company; and (iv) the amount of Losses allocated to such Member.
- (b) In the event of a permitted sale or exchange of a Membership Interest in Company, the Capital Account of the transferor shall become the Capital Account of the transferee to the extent it relates to the transferred interest.
- (c) The manner in which Capital Accounts are to be maintained pursuant to this Section is intended to comply with the requirements of Code Section 704(b) and the Treasury Regulations promulgated thereunder.

5.3 Withdrawal or Reduction of Members' Contributions to Capital.

- (a) A Member shall not receive out of Company's property any part of its Capital Contributions until all liabilities of Company, except the liabilities to Members on account of their Capital Contributions, have been paid or there remains property of Company sufficient to pay such liabilities.
- (b) No Member shall have the right to withdraw all or any part of its Capital Contribution or to receive any return on any portion of its Capital Contribution, except as may be otherwise specifically provided in this Operating Agreement. Under circumstances involving a return of any Capital Contribution, no Member shall have the right to receive property other than cash.
- (c) No Member shall have priority over any other Member, either as to the return of Capital Contributions or as to Profits, Losses or distributions; provided that this subsection shall not apply to loans (as distinguished from Capital Contributions) which a Member has made to Company.

5.4 Liability of Members. No Member shall be liable for the debts, liabilities or obligations of Company beyond his respective Initial Capital Contribution. No Member shall be required to contribute to the capital of, or to loan, Company any funds.

ARTICLE VI

Allocations, Distributions, Elections and Reports

6.1 Allocations of Profits and Losses. The Profits and Losses of Company for each Fiscal Year shall be allocated among the Members in proportion to their respective Membership Interests in Company. Any credit available for federal income tax purposes shall be allocated among the Members in the same manner.

6.2 Distributions. All distributions of Distributable Cash of Company shall be distributed among the Members, in proportion to their respective Membership Interests in Company. All distributions of Distributable Cash or other property shall be made to the Members as provided above based upon their respective Membership Interests on the record date of such distributions. Except as provided in Section 6.3, all distributions of Distributable Cash and property shall be made at such time as determined by the Managers. All amounts withheld pursuant to the Code or any provisions of state or local tax laws with respect to any payment or distribution to the Members from Company shall be treated as amounts distributed to the relevant Member or Members pursuant to this Section.

6.3 Limitation Upon Distributions. No distribution shall be declared and paid unless, after the distribution is made, the assets of Company are in excess of all liabilities of Company, except liabilities to Members on account of their Capital Contributions.

6.4 Accounting Principles. The Profits and Losses of Company shall be determined in accordance with accounting principles applied on a consistent basis under the cash receipts and disbursements method of accounting.

6.5 Records and Reports. At the expense of Company, the Managers shall maintain records and accounts of all operations and expenditures of Company. At a minimum, Company shall keep at its principal place of business the following records:

- (a) A current list that states:
 - (i) The name and mailing address of each Member; and
 - (ii) The Membership Interest owned by each Member;
- (b) Copies of the federal, state and local information or income tax returns for each of Company's six (6) most recent tax years;
- (c) A copy of the Articles of Organization and Operating Agreement, all amendments or restatements, executed copies of any powers of attorney, and copies of any document that creates, in the manner provided by the Articles of Organization or Operating Agreement, classes or groups of Members;
- (d) Correct and complete books and records of account of Company; and
- (e) Any other books, records or documents required by the Act or other applicable law.

6.6 Returns and Other Elections. The Managers shall cause the preparation and timely filing of all tax returns required to be filed by Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which Company does business. Copies of such returns, or pertinent information therefrom, shall be furnished to the Members within seventy-five (75) days after the end of each Fiscal Year of Company. All elections permitted to be made by Company under federal or state laws shall be made by the Managers with the consent of a Majority in Interest of the Members.

ARTICLE VII Transferability

7.1 Restrictions on Transfer of Membership Interest.

- (a) Except as otherwise provided in Section 3.2 (with regard to ownership requirements of Managers) or this Article VII, each Member shall have the right to sell, transfer or assign all or any portion of its Membership Interest.
- (b) Notwithstanding anything to the contrary contained herein, unless all of the Members shall consent, no Member shall sell, transfer or assign any portion of its Membership Interest if such sale, transfer or assignment:
 - (i) when added to the total of all other sales, transfers or assignments of Membership Interests within the preceding twelve (12) months, would result in Company being considered to have terminated within the meaning of Code Section 708;

- (ii) would otherwise cause Company to lose its status as a partnership for federal income tax purposes; or
- (iii) would violate any federal securities laws or any applicable state securities laws (including suitability standards).

7.2 Death, Resignation or Incapacity of Member. If a Member dies, retires, resigns or becomes bankrupt or legally incapacitated, the liquidator, personal representative, trustee or receiver of its estate shall have all the rights of a Member for the purpose of settling or managing his estate and such power as the Member possessed to assign all or any part of its interest and to join with such assignee in satisfying conditions precedent to such assignee becoming a substituted Member. The death, retirement, resignation, bankruptcy or legal incapacity of a Member who is not a Manager shall not cause Company to wind up.

7.3 Assignees.

- (a) Company shall not recognize for any purpose any purported sale, assignment or transfer of all or any fraction of the interest of a Member unless all costs of such assignment have been paid by the assigning Member and there is filed with Company a written and dated notification of such sale, assignment or transfer, in form satisfactory to the Managers, executed and acknowledged by both the seller, assignor or transferor and the purchaser, assignee or transferee and such notification (i) contains the agreement by the purchaser, assignee or transferee to be bound by all the terms and provisions of this Operating Agreement and (ii) represents that such sale, assignment or transfer was made in accordance with all applicable securities laws and regulations (including suitability standards). Any sale, assignment or transfer shall be recognized by Company as effective on the date of receipt of such notification by Company.
- (b) Any Member who assigns all its interest in Company shall cease to be a Member, except that, unless and until a substituted Member has been admitted into Company, such assigning Member shall retain the statutory rights of the assignor of a member's interest under the Act.
- (c) A Person who is the assignee of all or any fraction of the interest of a Member, but does not become a substituted Member, and desires to make a further assignment of such interest, shall be subject to all the provisions of this Article to the same extent and in the same manner as any Member desiring to make an assignment of its interest.

7.4 Substituted and Additional Members.

- (a) No Member shall have the right to substitute in its place a purchaser, assignee, transferee, donee, heir, legatee or other recipient of all or any portion of the Membership Interest of such Member. Any such purchaser, assignee, transferee, donee, legatee, distributee or other recipient of any Membership Interest shall be admitted to Company as a substituted Member only with the written consent of a

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Majority in Interest of the other Members, which consent may be granted or withheld in the sole discretion of the other Members.

- (b) Any Person may, subject to the terms and conditions of this Operating Agreement, become an additional Member in Company by the sale of new Membership Interests for such consideration as a Majority in Interest of the Members shall determine, upon obtaining the written consent of a Majority in Interest of the Members.
- (c) No Person shall become a substituted or additional Member until such Person has satisfied the requirements of this Article VII; provided, however, that for the purpose of allocating Profits, Losses and distributions, a Person shall be treated as having become, and as appearing in the records of Company as, a Member, as the case may be, on such date as the sale, assignment or transfer to such Person was recognized by Company pursuant to Section 7.3.

7.5 Withdrawal of Members.

- (a) Except in connection with the assignment of a Membership Interest as provided in Section 7.3(b), no Member may withdraw or resign as a Member of Company without the prior written consent of a Majority in Interest of the remaining Members.
- (b) No withdrawing Member shall be entitled to receive any distribution upon withdrawal or resignation, unless approved in writing by a Majority in Interest of the remaining Members.

ARTICLE VIII Winding Up and Termination

8.1 Events Requiring Winding Up.

- (a) Company shall be wound up upon the first of the following to occur:
 - (i) Upon the election to wind up Company by a Majority in Interest of the Members;
 - (ii) Upon the death, retirement, resignation, expulsion, bankruptcy, legal incapacity or termination of any Member who is at such time a Manager, or the occurrence of any other event which terminates the continued membership of any Member who is at such time a Manager of Company, unless there is at least one remaining Member and the business of Company is continued by the consent of a Majority in Interest of the remaining Members within ninety (90) days; or
 - (iii) The entry of a judicial order to wind up under the Act.

- (b) If an event requiring the winding up of Company occurs, the business and affairs of Company shall terminate, and the assets of Company shall be liquidated in accordance with this Article VIII.
- (c) The winding up of Company shall be effective as of the day on which the event occurs giving rise to the winding up, but Company shall not terminate until there has been a winding up of Company's business and affairs, and the assets of Company have been distributed as provided in Section 8.2.
- (d) If an event requiring the winding up of Company occurs, the Managers may cause any part or all of the assets of Company to be sold in such manner as the Managers shall determine in an effort to obtain the best prices for such assets; provided, however, that the Managers may distribute assets of Company in kind to the Members to the extent practicable.

8.2 Distribution of Assets Upon Winding Up. In settling accounts after an event requiring winding up occurs, the assets of Company shall be distributed in the following order:

- (a) First, to creditors, in the order of priority as provided by law, except those to Members of Company on account of their Capital Contributions;
- (b) Second, an amount equal to the then remaining credit balances in the Capital Accounts of Members shall be distributed to the Members in proportion to the amount of such balances; and
- (c) Third, any remainder shall be distributed to the Members of Company, pro rata, in accordance with their respective Membership Interests.

8.3 Distributions in Kind. If any assets of Company are distributed in kind, such assets shall be distributed to the Members entitled thereto as tenants-in-common in the same proportions as the Members would have been entitled to cash distributions if such property had been sold for cash and the net proceeds thereof distributed to the Members. In the event that distributions in kind are made to the Members upon winding up and liquidation of Company, the Capital Account balances of such Members shall be adjusted to reflect the Members' allocable share of gain or loss which would have resulted if the distributed property had been sold at its fair market value.

8.4 Articles of Dissolution. When all liabilities and obligations of Company have been paid or discharged, or adequate provision has been made therefor, and all of the remaining property and assets of Company have been distributed to the Members according to their respective rights and interests, the Articles of Dissolution shall be executed on behalf of Company by the Managers or an authorized Member and shall be filed with the Secretary of State, and the Managers and Members shall execute, acknowledge and file any and all other instruments necessary or appropriate to reflect the winding up and termination of Company.

ARTICLE IX

Miscellaneous Provisions

9.1 Notices. Any notice, demand or communication required or permitted to be given by any provision of this Operating Agreement shall be deemed to have been sufficiently given or served

for all purposes if delivered personally to the party or to an officer of the party to whom the same is directed or, if sent by registered or certified mail, postage and charges prepaid, addressed to the Member's and/or Company's address as it appears in Company's records, as appropriate. Except as otherwise provided herein, any such notice shall be deemed to be given three (3) business days after the date on which the same was deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as aforesaid.

9.2 Application of New Mexico Law. This Operating Agreement and the application or interpretation hereof, shall be governed exclusively by the laws of the State of New Mexico and specifically the Act.

9.3 No Action for Partition. No Member shall have any right to maintain any action for partition with respect to the property of Company.

9.4 Headings and Sections. The headings in this Operating Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Operating Agreement or any provision hereof. Unless the context requires otherwise, all references in this Operating Agreement to Sections or Articles shall be deemed to mean and refer to Sections or Articles of this Operating Agreement.

9.5 Amendment of Articles of Organization and Operating Agreement. Except as otherwise expressly set forth in this Operating Agreement, the Articles of Organization of Company and this Operating Agreement may be amended, supplemented or restated only upon the unanimous written consent of all of the Members. Upon obtaining the approval of any amendment to the Articles of Organization, the Managers shall cause Articles of Amendment in accordance with the Act to be prepared, and such Articles of Amendment shall be executed by no less than one authorized Manager and shall be filed in accordance with the Act.

9.6 Numbers and Gender. Where the context so indicates, the masculine shall include feminine and neuter, and the neuter shall include the masculine and feminine, the singular shall include the plural.

9.7 Binding Effect. Except as herein otherwise provided to the contrary, this Operating Agreement shall be binding upon and inure to the benefit of the Members, their distributees, heirs, legal representatives, executors, administrators, successors and assigns.

9.8 Counterparts. This Operating Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and shall be binding upon the Member who executed the same, but all of such counterparts shall constitute the same Operating Agreement.

9.9 Legal Construction. In case any one or more of the provisions contained in this Operating Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Operating Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

9.10 Power of Attorney. Each Member constitutes and appoints the Manager(s) its true and lawful attorney with full power of substitution to make, execute, sign, acknowledge and file all certificates and instruments necessary to form or qualify, or continue the existence or qualification

of, Company in any jurisdiction or before any governmental authority. This grant of a power of attorney is coupled with an interest and shall survive a Member's disability, incompetence, death or assignment by such Membership Interest pursuant to this Operating Agreement.

9.11 Mediation. Any and all disputes, controversies, or claims arising out of or relating to this Operating Agreement shall be submitted to mediation in accordance with the Commercial Mediation Rules of American Arbitration Association. Any agreement executed by the parties pursuant to a mediation conference in accordance with this provision shall be binding and enforceable on the parties hereto. Legal procedures or actions which cannot be resolved through mediation shall be excluded from the terms of this section.

[Signature Page Follows]

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The undersigned, being all of the Members of Company, do hereby ratify, confirm and approve the adoption of this Operating Agreement of Company, and do hereby assume and agree to be bound by and to perform all of the terms and provisions set forth in this Operating Agreement.

NEW MEXICO INTER-FAITH COMMUNITY HOUSING DEVELOPMENT CORP.

By: _____
Daniel Werwath, Executive Director

SANTA FE COUNTY HOUSING AUTHORITY

By: _____
Joseph Jordan Barela, Executive Director

IN WITNESS WHEREOF, the undersigned, being the sole Manager of Company, has caused this Operating Agreement to be duly adopted by Company effective on this ____ day of August, 2022.

SANTA FE COUNTY HOUSING AUTHORITY

By: _____
Joseph Jordan Barela, Executive Director

NUEVA ACEQUIA DEVELOPERS LLC

SCHEDULE 1

Names, Initial Capital Contributions and
Membership Interests of the Members

<u>Names and Address of Members</u>	<u>Initial Capital Contribution</u>	<u>Membership Interest</u>
Santa Fe County Housing Authority 52 Camino de Jacobo Santa Fe, NM 87507	\$70	70%
New Mexico Inter-Faith Community Housing Development Corp. 125 E. Palace Ave., Ste. 43 Santa Fe, NM 87501	\$30	30%

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