

# State of Idaho



## Department of State.

### CERTIFICATE OF QUALIFICATION OF FOREIGN CORPORATION

I, ARNOLD WILLIAMS, Secretary of State of the State of Idaho, and legal custodian of the corporation records of the State of Idaho, do hereby certify that

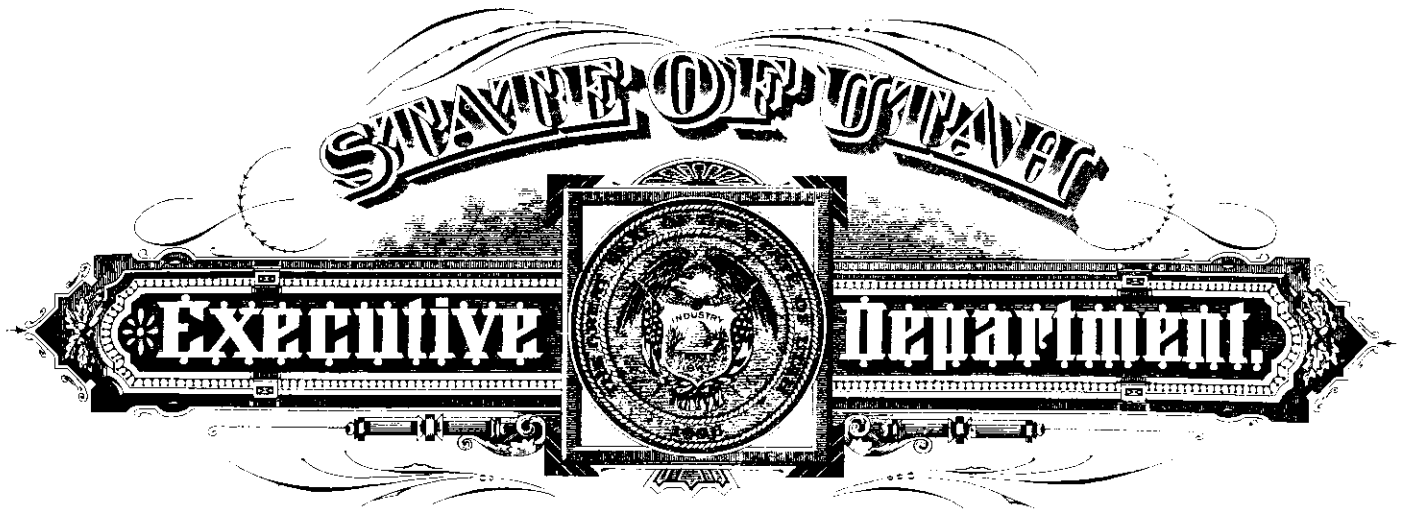
#### INTERMOUNTAIN CAPITAL CORPORATION OF UTAH

a corporation duly organized and existing under the laws of **Utah** has fully complied with Section 10 Article II of the Constitution, and with Sections 30-501 and 30-502, Idaho Code, by filing in this office on the **Thirteenth** day of **May**, 19 **63**, a properly authenticated copy of its articles of incorporation, and on the **Thirteenth** day of **May**, 19 **63**, a designation of **J. Reed Whiteley** in the County of **Cassia** as statutory agent for said corporation within the State of Idaho, upon whom process issued by authority of, or under any law of this State, may be served.

AND I FURTHER CERTIFY, That said corporation has complied with the laws of the State of Idaho, relating to corporations not created under the laws of the State, as contained in Chapter 5 of Title 30, Idaho Code, and is therefore duly and regularly qualified as a corporation in Idaho, having the same rights and privileges, and being subject to the same laws, as like domestic corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State. Done at Boise City, the Capital of Idaho, this **13th** day of **May**, A.D. 19 **63**.

Secretary of State.



Secretary of State's Office

I, LAMONT F. TORONTO, SECRETARY OF STATE OF THE STATE OF UTAH,  
DO HEREBY CERTIFY THAT this is a full, true and correct copy of the  
Articles of Incorporation and all amendments of. ~~~~~

~~~~~INTERMOUNTAIN CAPITAL CORPORATION OF UTAH~~~~~

AS APPEARS ~~~Of Record~~~ IN MY OFFICE.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND

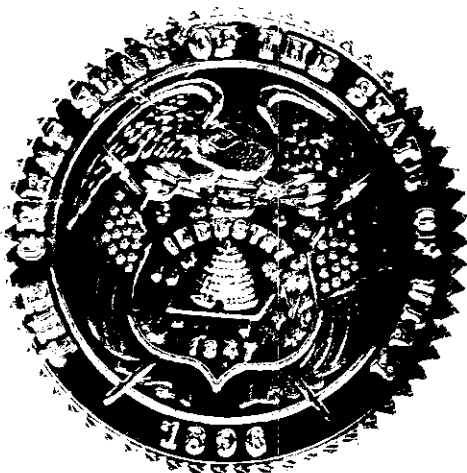
AND AFFIXED THE GREAT SEAL OF THE STATE OF UTAH

AT SALT LAKE CITY, THIS ~~~TENTH~~~ DAY OF

~~~May~~~ 19 ~~~63~~~

*Lamont F. Toronto*  
\_\_\_\_\_  
SECRETARY OF STATE

BY *Mendell L. Coffull*  
\_\_\_\_\_  
DEPUTY



RECEIVED  
OFFICE OF  
SECRETARY OF STATE

1963 Mar 25 PM 3 50

ARTICLES OF INCORPORATION

OF

INTERMOUNTAIN CAPITAL CORPORATION

40506

OF UTAH

FILED in the office of the Secretary of  
State, of the State of Utah, on the  
28<sup>th</sup> day of March A.D. 1963

LAMONT E. TORONTO  
Secretary of State

Filing Clerk EQ2 Fees 170<sup>00</sup>

WE, the undersigned, hereby associate together for

the purpose of forming a corporation under the laws of the State  
of Utah and hereby adopt and agree to the following Articles of  
Incorporation:

ARTICLE I

NAME. The name of the corporation hereby created  
shall be:

INTERMOUNTAIN CAPITAL CORPORATION OF UTAH.

ARTICLE II

PAID-IN CAPITAL. The corporation will not commence  
business until at least ONE HUNDRED FIFTY-FIVE THOUSAND DOLLARS  
(\$155,000.00) has been received by it as consideration for the  
issuance of its stock.

ARTICLE III

DURATION. This corporation shall continue in exis-  
tence perpetually unless dissolved by operation of law or by  
act of its stockholders.

#### ARTICLE IV

##### PLACE OF BUSINESS, REGISTERED OFFICE AND REGISTERED AGENT.

The principal place of business of the corporation shall be at Beehive Bank Building, Salt Lake City, Utah. The initial registered office of the corporation shall be Beehive Bank Building, Salt Lake City, Utah and the initial registered agent at said address shall be John M. Whiteley.

#### ARTICLE V

ASSESSMENT OF STOCK. The capital stock of this corporation fully paid and issued shall not be assessable for any purpose whatever.

#### ARTICLE VI

LIABILITY OF STOCKHOLDERS. The private property of the stockholders shall not be liable for the debts and obligations of the corporation.

#### ARTICLE VII

GENERAL PURPOSE. This corporation is organized and chartered under the laws of the State of Utah expressly for the purpose of operating as a Small Business Investment Company under the Small Business Investment Act of 1958, as amended, for the purpose of providing equity capital and long-term loans to small business concerns, including consulting and advisory services.

#### ARTICLE VIII

CORPORATE POWERS. In addition to the general powers provided by the laws of the State of Utah, the corporation

shall have the following powers:

1. To adopt and use a corporate seal;
2. To make contracts;
3. To sue and be sued, complain and defend in any court of law or equity;
4. By its Board of Directors to appoint such officers and employees as may be deemed proper, define their authority and duties, fix their compensation, require bonds of such of them as it deems advisable and fix the penalty thereof, dismiss such officers or employees, or any thereof, at pleasure, and appoint others to fill their places;
5. To adopt bylaws regulating the manner in which its stock shall be transferred, its officers and employees appointed, its property transferred and the privileges granted to it by law, exercised and enjoyed;
6. To acquire, hold, operate and dispose of any property (real, personal or mixed) whenever necessary or appropriate to the carrying out of its lawful functions;
7. To provide consulting and advisory services to small business concerns on a fee basis;
8. To borrow money and issue its debenture bonds, promissory notes or other obligations. However, the ratio of the total amount of outstanding indebtedness of the corporation to the paid-in capital and surplus shall not exceed four to one, including within such capital and surplus for such purpose the unpaid balance due on any subordinated debentures issued to Small Business Administration and remaining unpaid.

9. To invest funds not reasonably needed for current operation, but only in direct obligations of, or obligations guaranteed as to principal and interest by, the United States Government;

10. To conduct its operations in the States of Utah, Idaho and Wyoming, without limitation, however, as to the residence, domicile or place of business of parties with which it transacts business or otherwise deals;

11. To exercise such incidental powers as may be reasonably necessary to carry out the business for which the corporation is established.

#### ARTICLE IX

COOPERATION WITH BANKS. Whenever practicable, the operations of the corporation, including the generation of business, may be undertaken in cooperation with banks or other financial institutions and any servicing or initial investigation required for loans or acquisitions of securities by the corporation under the provisions of this charter may be handled through such banks or other financial institutions on a fee basis. The corporation may receive fees for services rendered to banks or other financial institutions.

#### ARTICLE X

##### CONSIDERATION FOR STOCK.

1. Shares of stock of any class in the corporation which represents the initial minimum capital shall be issued by

the corporation only in consideration for the simultaneous payment of cash or upon the simultaneous transfer to the corporation of direct obligations of, or obligations guaranteed as to principal and interest by, the United States. Shares of stock of any class in the corporation which represent no part of the initial minimum capital may be issued in consideration for the simultaneous payment of cash; upon the simultaneous transfer to the corporation of direct obligations of, or obligations guaranteed as to principal and interest by, the United States; as stock dividends; in connection with the reclassification of the stock of the corporation; for services previously rendered to the corporation; or for physical assets to be employed currently in the operation of the corporation.

2. Options upon the stock of the corporation may be granted to an individual only upon approval of at least a majority of the corporation's stockholders and only in lieu of salary or in payment for services actually rendered the corporation and only if:

(a) At the time such option is granted the option price is at least eighty-five per cent (85%) of the fair market value at such time of the stock subject to the option;

(b) Such option by its terms is not transferable by such individual otherwise than by will or the laws of descent and distribution, and is exercisable, during his lifetime, only by him;

(c) Such individual, at the time the option is granted, does not own stock possessing more than ten per cent (10%) of the total combined voting power of all classes of stock of the corporation. This subparagraph shall not apply if at the time such option is granted the option price is at least one hundred ten per cent (110%) of the fair market value of the stock subject to the option and such option by its terms is not exercisable after the expiration of five (5) years from the date such option is granted. For purposes of this subparagraph

(i) Such individual shall be considered as owning the stock owned directly or indirectly, by or for his brothers and sisters (whether by the whole or half blood), spouse, ancestors and lineal descendants; and

(ii) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners or beneficiaries; and

(d) Such option by its terms is not exercisable after the expiration of ten years from the date such option is granted.



## ARTICLE XI

### IMPAIRMENT OF CAPITAL.

The corporation shall at all times maintain an unimpaired capital. An impairment shall be deemed to exist when the retained earnings deficit exceeds fifty per cent (50%) of the combined fully paid capital stock issued and outstanding and paid-in surplus.

## ARTICLE XII

INVESTMENT ADVISORY SERVICES. If the corporation shall obtain investment advisory services or management services on a continuing basis, performed for, or supplied to the corporation by any person or other entity other than the directors, officers or employees in their capacities as such, it shall contract in writing for such services and such written contract shall specifically:

1. Describe such services;
2. Describe all compensation to be paid thereunder;
3. State the duration of the contract;
4. Provide for its termination by the corporation, without penalty, on not more than 60 days' written notice;
5. Provide for its automatic termination in the event of its assignment by the person performing the service;
6. Provide for full disclosure to all interested parties whenever the person performing such services performs services for small business concerns doing business with the

corporation.

7. Be approved by a vote of a majority of the outstanding voting securities of the corporation prior to such contract becoming effective; and

8. Be approved annually by a vote of a majority of the outstanding voting securities of the corporation or by the vote of a majority of its Board of Directors, including the approval vote of a majority of those members of the Board of Directors who are not parties to, or do not have a pecuniary interest, direct or indirect, in such contract. Contracts for appraisal, custodial, collection, bookkeeping, accounting and legal services shall not be considered advisory or management services for purposes of this section.

#### ARTICLE XIII

##### PROVIDING EQUITY CAPITAL FOR SMALL BUSINESS CONCERNS.

The corporation shall provide equity capital for incorporated small business concerns under the following terms and conditions:

1. The corporation shall constitute a source of Equity Capital for incorporated small business concerns;

2. "Equity Capital" means funds received by an incorporated small business concern from the corporation as the consideration for the issuance of Equity Securities by such concern to the corporation.

3. "Equity Securities" means:

(a) Certificates of stock of any class; provided however, that whenever any such stock contains a right to convert to another class of

stock or contains rights or privileges therein in the nature of stock warrants or options, no further stock purchase warrants, options or conversion rights shall be issued in connection therewith; and

(b) Instruments which evidence a debt and which provide either an option to convert all or any portion of the outstanding principal amount of such debt into stock of the small business concern, or provide nondetachable or detachable stock purchase warrants or options.

(c) Equity Securities which evidence a debt may be secured by collateral.

(d) Equity Securities which evidence a debt shall have stated maturities of not less than five years. Further, Equity Securities which evidence a debt shall not be amortized during the first five years thereof at a rate greater than the equivalent of five years' straight-line amortization.

(e) The corporation shall not purchase or acquire any type of Equity Securities if the purpose of such purchase or acquisition is to furnish the small business concern with financing for a period of less than five years' duration: Provided, that Equity Securities may be purchased or acquired by the corporation for less than five

years' duration when necessary to protect the interest of the corporation in previously issued long-term Equity Securities. Provided, further, that the identical conditions and privileges covering the long-term Equity Securities shall otherwise apply thereto.

(f) Equity Securities which evidence a debt shall be callable on such terms as may be negotiated at the time of issuance of such Equity Securities in whole or in part, by the issuer on any interest payment date, upon three months' notice: Provided, that any right to convert the debt may be exercised prior to the effective date of such call.

Certificates of stock which provide for redemption shall provide for redemption by the issuer on such terms as may be negotiated at the time of issuance thereof, in whole or in part, upon three months' notice. Provided, that any such stock which contains conversion rights may be converted prior to the effective date of such redemption.

(g) Equity Securities which are converted into stock shall be converted at a price or series of prices per share not less than the sound book value of such stock as determined at the time of the issuance of said securities.

"Sound Book Value," for the purposes hereof, shall be determined through consideration of all pertinent factors including the actual value of the assets of the small business concern and the relationship of the earnings of such concern to its invested capital.

(h) Stock purchase warrants or options issued in connection with Equity Securities shall expire not later than two years after the stated maturity date of such Equity Securities but in no event more than ten years from the date of the issuance of such Equity Securities.

(i) The purchase price per share of shares available under warrants or options acquired in connection with the purchase of Equity Securities shall be at no less than the sound book value of such shares, as defined herein, at the time the warrant or option is issued, and the total cost of such shares shall not exceed the amount of Equity Capital provided by the securities with which the warrant or option was issued except as the warrant or option may provide for successive increases in the price per share of optioned shares.

(j) Wherever Equity Securities involve debt, the corporation may require small business

concerns to refinance any or all of its outstanding indebtedness so that the corporation is the only holder of any indebtedness of such concern.

(k) Wherever Equity Securities involve debt, the corporation may require a small business concern to agree not to incur any additional indebtedness without first securing the approval of the corporation and giving the corporation the first opportunity to finance such additional indebtedness; provided, however, that the corporation shall allow appropriate exceptions for open account or other short-term credit.

(l) Whenever the corporation purchases or acquires Equity Securities of a small business concern, such concern shall have the right, exercisable in whole or in such part as such concern may elect, at the time of the issuance of such Equity Securities, to become a stockholder-proprietor by investing in the capital stock of the corporation in an amount not more than five per centum of the Equity Securities purchased or acquired by the corporation. The price of such stock sold by the corporation to the small business concern under this section shall not be more than the higher of (1) the

book value determined on conformity with generally accepted accounting principles, or (2) the fair market value. Factors which may be taken into consideration in determining fair market value may include, among others, market quotations, recent public or private sales, and the liquidating value, earnings, and dividend record of the corporation's stock.

#### ARTICLE XIV

LONG-TERM LOANS TO SMALL BUSINESS CONCERNS. The corporation shall provide long-term loans to small business concerns, both incorporated and unincorporated, under the following terms and conditions:

1. The purpose of such long-term loans shall be to provide sound financing for the operation, expansion and modernization of small business concerns.
2. Such loans shall not provide any right in the corporation to acquire any stock or other proprietary interest in the borrower, except through the medium of collateral security.
3. Any such loan made by the corporation to a small business concern shall provide for a maturity of not less than five (5) years, and the corporation shall make no loan to any small business concern, if the purpose of such loan is to furnish small business concerns with financing of less than five (5) years' duration, provided, however, that loans for terms of less than five (5) years may be made to a borrower which has

previously received a long-term loan or has issued Equity Securities as defined in Article XIII, to the corporation, when necessary to protect the interests of the corporation in such long-term loan or Equity Securities.

4. Payment of all or any part of such loans may be anticipated by the borrower on any interest payment date.

5. Any such loan shall have a maturity of not exceeding twenty (20) years; and such loans shall be of such sound value, or so secured, as reasonably to assure repayment. The corporation may extend the maturity of or renew any such loan for additional periods, not exceeding ten (10) years, if the corporation finds that such extension or renewal will aid in the orderly liquidation of such loan.

#### ARTICLE XV

##### LIMITATIONS.

1. The corporation shall acquire and make commitments for obligations and securities of a single enterprise only to the extent that the aggregate amount of obligations and Equity Securities of any single enterprise held, or for which commitments may be made, by the corporation, shall not exceed twenty per cent (20%) of the combined capital and surplus of such corporation (including in such capital and surplus the amount of any subordinated agreed to be purchased by Small Business Administration in connection with the raising of initial capital or issued to Small Business Administration thereafter and remaining unpaid, or FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), whichever is the lesser; provided that the FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) limitation



shall not apply so long as fifty per cent (50%), (amount invested, disbursed or committed) of the Equity Securities acquired and loans made by the corporation meet such FIVE HUNDRED THOUSAND DOLLAR (\$500,000.00) limitation.

2. Self dealing to the prejudice of the corporation, its shareholders or its creditors, is prohibited. The corporation shall not purchase Equity Securities, as defined in Article XIII, of, or make a loan to, an officer, director or owner of ten or more per cent of the stock of the corporation or any close relative of such officer, director, or owner, or any company in which such officer or director or owner or his close relative is an officer or director or owns ten or more per cent of the stock, or is a partner; provided, that nothing herein contained is intended to preclude a corporation from permitting an officer, employee or representative from serving as a director, officer, or in any other capacity in the management of a small business concern for the purpose of protecting its investment in, or loan to, such concerns.

3. Neither the corporation nor any officer or director thereof, shall borrow money from a small business concern or from any officer, director or owner thereof, which has sold Equity Securities as defined in Article XIII, to the corporation, or has borrowed money from the corporation.

#### ARTICLE XVI

CAPITALIZATION. The total authorized capital stock of the corporation is hereby determined and declared to be as follows: This corporation shall have but one class of stock, common stock, consisting of thirty thousand (30,000) shares of the par value of

Ten Dollars (\$10.00) each for a total authorized capital of Three Hundred Thousand Dollars (\$300,000.00). The corporation shall commence business with fifteen thousand five hundred (15,500) shares issued and outstanding for which it will have received cash in the sum of One Hundred Fifty Five Thousand Dollars (\$155,000.00).

#### ARTICLE XVII

BOARD OF DIRECTORS AND OFFICERS. The governing power of this corporation shall be vested in a Board of Directors of not less than nine (9) nor more than twenty-five (25) members, who shall serve for a period of one year or until their successors are duly elected and qualify.

At stockholders' meetings for the election of directors each stockholder shall be entitled to one (1) vote, either in person or by proxy in writing, for each share of common stock held by him, and each director shall be elected separately, it being the intention that no director shall be elected by cumulative voting.

After their election, the Board of Directors shall meet and select a president, one or more vice presidents, and a secretary and treasurer. The same person may at the same time act as both secretary and treasurer. Any officer may resign by filing with the Board of Directors his resignation in writing. Any director may be removed for misconduct providing that at least fifty per cent (50%) of the outstanding stock votes in favor of such removal at a stockholders' meeting called for such purpose. All vacancies shall be filled by the Board of

Directors by appointment and the person thus appointed shall serve until his successor shall be duly elected and qualified.

All members of the Board of Directors must be stockholders of record of this corporation and all officers except the secretary and treasurer must be members of the Board of Directors.

The number of directors may be changed at any time, within the limits above provided, by resolution of the Board of Directors.

#### ARTICLE XVIII

FIRST OFFICERS AND DIRECTORS. The officers and directors who shall serve until the first annual meeting of stockholders are as follows:

| <u>NAME</u>       | <u>ADDRESS</u>                               | <u>TITLE</u>                            |
|-------------------|--|---|
| Coad C. Shaw      | 5230 Eastmoor Road<br>Salt Lake City, Utah   | President and<br>Director               |
| John M. Whiteley  | 2676 Skyline Drive<br>Salt Lake City, Utah   | Executive Vice-<br>President & Director |
| Merril J. Ostler  | 1232 Harrison Avenue<br>Salt Lake City, Utah | Secretary-Treasurer<br>and Director     |
| W. B. Whiteley    | Oakley, Idaho                                | Director                                |
| Preston L. Norton | 2416 Kentucky Avenue<br>Salt Lake City, Utah | Director                                |
| J. Reed Whiteley  | Oakley, Idaho                                | Director                                |
| J. Owen Evert     | Worland, Wyoming                             | Director                                |
| Emery G. Nelson   | 1139 Herbert Avenue<br>Salt Lake City, Utah  | Director                                |
| Ray C. Bedke      | Oakley, Idaho                                | Director                                |
| DeMar Nielson     | Worland, Wyoming                             | Director                                |
| Wayne N. Mason    | 1136 South 15th East<br>Salt Lake City, Utah | Director                                |

## ARTICLE XIX

BOARD OF DIRECTORS -- MEETINGS AND DUTIES. A majority of the Board of Directors elected or appointed shall be authorized to transact the business and exercise the corporate powers of this corporation and for such purpose shall form and constitute a quorum. The Board of Directors may appoint agents and employees, fix their salaries and duties, and remove them at will.

The Board of Directors shall have the further power to make, alter, and repeal bylaws, provided however, that such bylaws shall not be in conflict with these Articles or the laws of the State of Utah.

A general meeting of the Board of Directors shall be held immediately following each annual stockholders' meeting for the purpose of electing officers of the corporation for the ensuing year. Regular meetings of the Board of Directors shall be held at such intervals or at such times and places as the Board of Directors may determine.

Special meetings of the Board of Directors may be called from time to time by the president; in his absence by the vice-president, or by a majority of the directors. Notice of all directors' meetings shall be given a reasonable time in advance to each director. Meetings may be held at the principal place of business of the corporation or at such other place or places as the Board of Directors may determine.

A resolution in writing signed by all of the directors and filed with the records of the corporation shall be as valid and binding as if it had been passed at a meeting of the Board

of Directors duly called and constituted.

#### ARTICLE XX

STOCKHOLDERS' MEETINGS. The first annual meeting of the stockholders for election of directors shall be held at the place provided in the bylaws or by resolution of the Board of Directors, on the third Monday in May, 1964, at the hour of 10:00 o'clock A.M., and there shall be an annual meeting of said stockholders for the purpose of electing directors and for the purpose of attending to any other business that may lawfully come before said meeting at the same hour and day of each succeeding year thereafter unless the date is otherwise fixed in the bylaws of the corporation.

Special stockholders' meetings may be called at any time by a majority of the Board of Directors. Notice of said special stockholders' meetings shall be given to each stockholder of record by depositing a notice giving the time and place of said special meeting in the United States Mails, postage prepaid, addressed to the last known address of said stockholders. Such mailing of notice of special meetings shall be given at least ten (10) days prior to the date set for said meeting.

#### ARTICLE XXI

AMENDMENTS. The right is expressly reserved to amend these Articles of Incorporation or any Article herein by a two-thirds (2/3) majority vote of the issued and outstanding common

capital stock of the corporation in any respect conformable with the laws of the State of Utah, subject to the prior approval of the Small Business Administration and the Secretary of State of the State of Utah and the rights of all stockholders are expressly made subject to such power of amendment.

#### ARTICLE XXII


PRE-EMPTIVE RIGHTS. The stockholders of this corporation shall have no pre-emptive rights or preferred rights to acquire any of the authorized but unissued capital stock of the corporation, treasury shares or securities of the corporation converted into shares of stock.

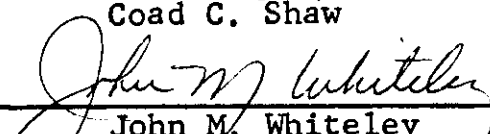
#### ARTICLE XXIII

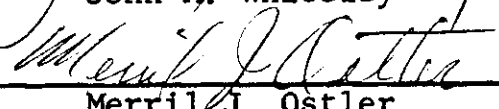
INCORPORATORS. The following are the names and addresses of the incorporators:

| <u>NAME</u>      | <u>ADDRESS</u>                               |
|------------------|--|
| Coad C. Shaw     | 5230 Eastmoor Road<br>Salt Lake City, Utah   |
| John M. Whiteley | 2676 Skyline Drive<br>Salt Lake City, Utah   |
| Merril J. Ostler | 1232 Harrison Avenue<br>Salt Lake City, Utah |

IN WITNESS WHEREOF, the incorporators have hereunto set their hands this 25th day of March, 1963.

  
Coad C. Shaw

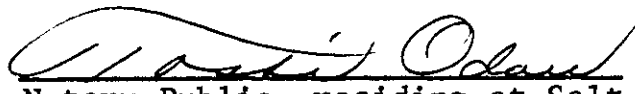
  
John M. Whiteley

  
Merril J. Ostler

STATE OF UTAH            )  
                              : ss.  
County of Salt Lake )

I, TOSHI ODOW, a Notary Public, hereby certify that on the 25<sup>th</sup> day of March, 1963, personally appeared before me COAD C. SHAW, JOHN M. WHITELEY and MERRIL J. OSTLER, who being by me first duly sworn, severally declared that they are the persons who signed the foregoing document as incorporators and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 25<sup>th</sup> day of March, 1963.

  
Notary Public, residing at Salt  
Lake City, Utah

My Commission Expires:

April 16, 1965

ARTICLES OF AMENDMENT TO THE ARTICLES OF INCORPORATION

OF

ENTERMOUNTAIN CAPITAL CORPORATION OF UTAH

Pursuant to the provisions of the Utah Business Corporation Act, the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

ARTICLE I: The name of the corporation is ENTERMOUNTAIN CAPITAL CORPORATION OF UTAH.

ARTICLE II: The following Amendment of the Articles of Incorporation was adopted by the shareholders of the corporation on the 6th day of May, 1968 in the manner prescribed by the Utah Business Corporation Act:

Article XV of the Articles of Incorporation is hereby amended to add thereto the following additional paragraphs:

4. The corporation shall not surrender its license from the Small Business Administration without first adopting a plan of dissolution providing for the liquidation of the corporation's assets, distribution thereof to its shareholders, the surrender of its corporate power and the termination of the corporation's existence as a corporate body, said plan of dissolution to be accomplished within a reasonable period of time after surrender of its license to operate as a Small Business Investment Company.



5. The Corporation shall not voluntarily reduce its paid-in capital and paid-in surplus when such reduction is greater than ten per cent (10%) in any one fiscal year.

6. No funds may be provided by the corporation for:

(a) Relending by the small business concern to which said funds are provided; nor may funds be provided to a small business concern if the business activity of such concern involves the investing, lending, or other providing of funds to others in exchange for an equity interest or monetary obligation.

(b) For purposes contrary to the public interest, including but not limited to gambling enterprises and activities, and any purpose which would be inconsistent with accepted standards of free competitive enterprise.

(c) Financing land speculations of small business concerns; provided however, that small business concerns may use funds for the acquisition and prompt development of land.

(d) Any corporation, individual, partnership or any other entity that is not engaged in a business operation conducted as a regular and continuous activity. The mere ownership of property and the collection of rents, income or profits therefrom, shall not constitute a business operation. Buying

and selling property on a regular and continuous basis may constitute operation of a business; but leasing of property shall not constitute a business operation unless the lessor is regularly and continuously engaged in performing services in connection with the operation or maintenance of such leased property.

(c) A small business concern which is a customer of a vendor, which vendor or any controlling person or group thereof controls this corporation, if fifty per cent (50%) or more of the funds (or funds of the small business concern released by such financing) are used by the small business concern to purchase items or services sold to the small business concern by such vendor. As used hereunder, the term "controls" or "controlling" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a vendor or this corporation, whether through the ownership of voting securities, by contract, or otherwise. Any person, corporation, or any other entity which owns beneficially, either directly or indirectly, twenty-five per cent (25%) or more of the voting securities of a vendor or this corporation shall be presumed to control such company."

Article XV, subparagraph 1, is hereby amended to insert in the seventh line thereof following the word "subordinated" the word "debenture."

THIRD: The number of shares of the corporation outstanding at the time of the adoption of said Amendment was fifteen thousand five hundred (15,500) shares of common stock and the number of shares entitled to vote thereon was fifteen thousand five hundred (15,500). The corporation has only one class of stock.

FOURTH: A total of 15,500 shares voted for such amendment and no shares voted against same.

FIFTH: Said Amendment does not involve the exchange, reclassification or cancellation of issued shares and does not effect a change in the amount of stated capital of the corporation.

IN WITNESS WHEREOF, we have herunto set our hands and affixed the seal of this Corporation the 6th day of May, 1963.

INTERMOUNTAIN CAPITAL CORPORATION OF UTAH

ATTEST:

[Signature] Secretary By John M. Whiteley  
Its Executive Vice-President

STATE OF UTAH )  
: ss.  
County of Salt Lake )

I, ROSHE ODOW, a Notary Public, do hereby certify that on this 6th day of May, 1963, personally appeared before me, JOHN M. WHITELEY, who being by me first duly sworn declared that he is the Executive Vice-President of INTERMOUNTAIN CAPITAL CORPORATION OF UTAH and that he signed the foregoing document as Executive Vice-President of the corporation and that the statements contained therein are true.

My Commission Expires:  
April 16, 1965

[Signature]  
Notary Public, residing at Salt  
Lake City, Utah