

**FILED EFFECTIVE**

**ARTICLES OF INCORPORATION** 2016 OCT 13 PM 2:31  
**OF**  
**RS 2 GATEWAY MANAGEMENT, INC.** SECRETARY OF STATE  
STATE OF IDAHO

The undersigned, acting as the incorporator of the corporation ("**Corporation**") under the Idaho Business Corporation Act, hereby adopts the following Articles of Incorporation ("**Articles**").

**ARTICLE I**  
**NAME OF THE CORPORATION AND ADDRESS**

The name of the Corporation is **RS 2 Gateway Management, Inc.** with a physical and mailing address of 479 W. 1500 N., Cedar City, UT 84720.

**ARTICLE II**  
**STATUS**

The Corporation is a domestic profit corporation.

**ARTICLE III**  
**PERIOD OF DURATION**

The period of duration of the Corporation is perpetual.

**ARTICLE IV**  
**REGISTERED AGENT**

The registered agent is Herbert J. Heimerl III, 217 S. Main St., Victor, ID 83455. (and US Mail address of PO Box 499, Victor, ID 83455)

**ARTICLE V**  
**SPECIAL PURPOSE ENTITY/SEPARATENESS COVENANTS**

The Corporation will comply with the following requirements, and shall comply with such requirements for so long as the Corporation has an outstanding loan originated by Cantor Commercial Real Estate, LP ("**Loan**"). Capitalized words in this Article V not otherwise defined herein shall have the meaning ascribed to them in that certain Loan Agreement by and between Cantor Commercial Real Estate, LP, as lender, and VCG Rock Springs, LLC and VCG Rock Springs 2, LLC, collectively as borrower. The Corporation:

(a) was, is and will be organized solely for the purpose of owning an interest in VCG Rock Springs 2, LLC and acting as the manager of VCG Rock Springs 2, LLC, and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing;

c 211394

(b) has not been, is not, and will not be engaged, in any business unrelated to the foregoing purposes;

(c) has not had, does not have, and will not have, any assets other than ownership in VCG Rock Springs 2, LLC;

(d) has not engaged, sought or consented to, and will not engage in, seek or consent to, any dissolution, winding up, liquidation, consolidation, merger, sale of all or substantially all of its assets, transfer of membership interests with respect to the matters set forth in this Article;

(e) has been, is and intends to remain solvent and has paid and shall pay its debts and liabilities from its then available assets (including a fairly-allocated portion of any personnel and overhead expenses that it shares with any affiliate) from its assets as the same shall become due, and has maintained and shall maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(f) has not failed, and will not fail, to correct any known misunderstanding regarding the separate identity of such entity and has not and shall not identify itself as a division of any other person;

(g) has maintained and will maintain its accounts, books and records separate from any other Person and has filed and will file its own tax returns, except to the extent that it has been or is required to file consolidated tax returns by law and, if it is a corporation, has not filed and shall not file a consolidated Federal income tax return with any other corporation, except to the extent that it is required by law to file consolidated tax returns;

(h) has maintained and will maintain its own records, books, resolutions and agreements;

(i) has not commingled, and will not commingle, its funds or assets with those of any other person;

(j) has held and will hold its assets in its own name;

(k) has conducted and shall conduct its business in its name, except for business conducted on behalf of itself by another person under a business management services agreement that is on commercially reasonable terms, so long as the manager, or equivalent thereof, under such business management services agreement holds itself out as an agent of the Corporation;

(l) has maintained and will maintain its books, bank accounts, balance sheets, financial statements, accounting records and other entity documents separate from any other person and has not permitted, and will not permit, its assets to be listed as assets on the financial statement of any other entity except as required by GAAP;

provided, however, that appropriate notation shall be made on any such consolidated statements to indicate its separateness from such affiliate and to indicate that its assets and credit are not available to satisfy the debt and other obligations of such affiliate or any other person and such assets shall be listed on its own separate balance sheet;

(m) has paid and will pay its own liabilities and expenses, including the salaries of its own employees, out of its own funds and assets, and has maintained and will maintain a sufficient number of employees in light of its contemplated business operations;

(n) has observed and will observe all partnership, corporate or limited liability company formalities, as applicable;

(o) has had no and will have no indebtedness (including loans, whether or not such loans are evidenced by a written agreement);

(p) has not assumed or guaranteed or become obligated for, and will not assume or guarantee or become obligated for, the debts of any other person and has not held out and will not hold out its credit as being available to satisfy the obligations of any other person except as permitted pursuant to this charter;

(q) has not acquired and will not acquire obligations or securities of its partners, members or shareholders or any other affiliate;

(r) has allocated and will allocate, fairly and reasonably, any overhead expenses that are shared with any affiliate, including, but not limited to, paying for shared office space and services performed by any employee of an affiliate;

(s) has maintained and used, now maintains and uses, and will maintain and use, separate stationery, invoices and checks bearing its name, which stationery, invoices, and checks utilized by the Corporation or utilized to collect its funds or pay its expenses have borne, shall bear its own name and have not borne and shall not bear the name of any other entity unless such entity is clearly designated as being the Corporation's agent;

(t) has not pledged and will not pledge its assets for the benefit of any other person;

(u) has held itself out and identified itself, and will hold itself out and identify itself, as a separate and distinct entity under its own name or in a name franchised or licensed to it by an entity other than an affiliate of the corporation and not as a division or part of any other person, except for services rendered under a business management services agreement with an affiliate that complies with the terms contained below, so long as the manager, or equivalent thereof, under such business management services agreement holds itself out as an agent of the applicable company;

(v) has maintained and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other person;

(w) has not made and will not make loans to any person or hold evidence of indebtedness issued by any other person or entity (other than cash and investment-grade securities issued by an entity that is not an affiliate of or subject to common ownership with such entity);

(x) has not identified and will not identify its partners, members or shareholders, or any affiliate of any of them, as a division or part of it, and has not identified itself, and shall not identify itself, as a division of any other person;

(y) has not entered into or been a party to, and will not enter into or be a party to, any transaction with its partners, members, shareholders or affiliates except (i) in the ordinary course of its business and on terms which are intrinsically fair, commercially reasonable and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party, and (ii) in connection with this Agreement;

(z) other than capital contributions and distributions permitted under the terms of its organizational documents, has not entered into or been a party to, and shall not enter into or be a party to, any transaction with any of its partners, members, shareholders or affiliates except in the ordinary course of its business and on terms which are commercially reasonable terms comparable to those of an arm's length transaction with an unrelated third party;

(aa) has not had and shall not have any obligation to, and has not indemnified and shall not indemnify its partners, officers, directors or members, as the case may be, in each case unless such an obligation or indemnification is fully subordinated to the loan originated by Cantor Commercial Real Estate, L.P and shall not constitute a claim against it in the event that its cash flow is insufficient to pay such loan;

(bb) if such entity is a corporation, it shall consider the interests of its creditors in connection with all corporate actions;

(cc) does not and will not have any of its obligations guaranteed by any affiliate except as provided in the Loan Documents;

(dd) has complied and will comply with all of the terms and provisions contained in its organizational documents and cause statements of facts contained in its organizational documents to be and to remain true and correct; and

(ee) has not permitted and shall not permit any affiliate or constituent party independent access to its bank accounts.

After the Loan is finally and irrevocably paid in full, the Corporation shall then have unlimited power to engage in and do any lawful act concerning any and all lawful business for which corporations may be organized under the Utah Business Corporation Act and any amendments thereto.

#### **ARTICLE VI SHARES**

The Corporation shall have the authority to issue **One Hundred (100) shares** of stock, which stock shall be of one class only, which shall be common voting stock.


#### **ARTICLE VII DIRECTORS AND OFFICERS**

NAME	ADDRESS
Danny Newberry, Director and President	479 W. 1500 N., Cedar City, UT 84720
Alan Schnur, Director	PO Box 738, Pasadena, TX 77501

#### **ARTICLE VIII INCORPORATOR**

The name and street address of the incorporator is Herbert J. Heimerl III, Heimerl Law Firm, PC, 217 South Main St., Victor, ID 83455.

IN WITNESS WHEREOF, I, Herbert J. Heimerl III, have executed these Articles of Incorporation this 12<sup>th</sup> day of October, 2016:

  
\_\_\_\_\_  
Herbert J. Heimerl III

IDAHO SECRETARY OF STATE

10/13/2016 05:00

CK:4280098 CT:172099 BH:1550671

1@ 100.00 = 100.00 CORP #2

1@ 20.00 = 20.00 EXPEDITE C #3