

ARTICLES OF LIMITED PARTNERSHIP

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OF IDAHO
MILL RUN DEVELOPMENT, LTD.
LIMITED PARTNERSHIP
1989 AUG 21 PM 3 37

AGREEMENT of Limited Partnership made August 16, 1989, between Robert W. Utterbeck, 645 W. 25th Street, Idaho Falls, Idaho and Charles Kelly, 2142 Brandon Drive, Idaho Falls, Idaho as general partners, and Lloyd C. Brown, 218 Troy Avenue, Idaho Falls, Idaho, herein referred to as a limited partner.

RECITALS

1. General and limited partners desire to enter into the business of acquiring real estate and developing housing lots for sale to prospective buyers.

2. General partners desire to manage and operate the business.

3. Limited partner desires to invest in the business and limit his liabilities.

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. General Provisions. This limited partnership is organized pursuant to Idaho State Title 53, Chapter 2, and in the rights and liabilities of the general and limited partners shall be as provided therein, except as herein otherwise expressly stated.

2. Name of Partnership. The name of this partnership shall be Mill Run Development, Ltd., herein referred to as the

Partnership.

3. Business of Partnership. The business purposes stated above shall be limited to development of all land currently encompassed in the preliminary plat known as Mill Run, an addition to the City of Idaho Falls, Bonneville County, Idaho consisting of a portion of the S.W. 1/2 of the S.E. 1/4 of Section 22 T. 2 N., R. 37 E.B.M., all encompassing approximately 80 acres.

4. Principal Place of Business. The principal place of business of the partnership will be 2142 Brandon Drive, Idaho Falls, Idaho. The registered agent is Charles Kelly, 2142 Brandon Drive, Idaho Falls, Idaho, 83402. The partnership shall have other places of business, including the housing lots at the development itself, as from time to time shall be determined by general partners.

5. Capital Contribution of General Partners. General partner, R. W. Utterbeck, has contributed Sixty-Five Thousand Dollars (\$65,000.00) for the original capital of the partnership. Limited partner, Lloyd C. Brown, has contributed Sixty-Five Thousand Dollars (\$65,000.00) for the original capital of the partnership. The \$130,000.00 has been/will be used for the acquisition of land for the development. The land itself shall be considered the initial capital contribution, (valued for these purposes at \$130,000.00).

Receipt of the capital contributions of the partners as indicated above is acknowledged by the partnership. Subsequent to the development of Mill Run Division 1 and 2, the initial

contribution by Robert Utterbeck and Lloyd C. Brown shall be reduced to \$50,000.00 each unless otherwise agreed in writing. The new reduced capital contribution shall become the new maximum limit of liability to limited partner. The limited partner has not agreed to contribute any additional cash or property as capital for the use of the partnership.

6. Duties and Rights of Partners. General partners, R. W. Utterbeck and Charles Kelly, shall diligently apply themselves in and about the business of the partnership to the utmost of their skill and on a full time basis as required.

The limited partner shall not have any right to be active in the conduct of the partnership's business nor have power to bind the partnership in any contract, agreement, promise, or undertaking.

Based upon the initial capital contributions as specified above, and the management, labor, and skills provided by the general partners respectively, profits and losses of the partnership shall be divided as set forth below:

After payment for all costs and materials, which payments shall include a payment of \$2046.15 per lot sold, for recapture of investment for land costs such payment to be divided equally between R.W. Utterbeck and Lloyd Brown, profits shall be divided as follows:

- i) 50% to R. W. Utterbeck, General Partner.
- ii) 25% to Charles Kelly, General Partner.
- iii) 25 % to Lloyd Brown, Limited Partner.

The payment of \$2,046.15 per lot sold will be adjusted, as required, periodically during the development effort to account for land costs per lot with the concurrence of all partners. Limited partner shall bear a share of the losses of the partnership equal to the share of profits to which the limited partner is entitled. The share of losses of the limited partner shall be charged against the limited partner's capital contributions.

Limited partner shall at no time become liable for any obligation or losses of the partnership beyond the amount of his initial capital contribution.

7. Books of Accounts. There shall be maintained during the continuance of this partnership an accurate set of books of accounts of all transactions, assets, and liabilities of the partnership. The books shall be balanced and closed at the end of each year, and at any time on reasonable request of either the general partners or limited partner. The books are to be kept at the principal place of business of the partnership and are to be opened for inspection by any partner at all reasonable times. The profits and losses of the partnership and its books of account shall be maintained on a fiscal year basis, terminating annually on December 31, unless otherwise determined by general partners.

8. Substitutions, Assignments, Admission of Additional Partners. No general partner shall substitute a partner in his place, or sell or assign all or any part of his interest in the partnership business without the written consent of all other

partners, including limited partner. The remaining original partner and limited partner shall have the first option of purchasing the share of the partnership offered by the general partner for sale at the same asking price. If agreement cannot be reached on purchase price of the substitution of a partner, the partnership shall be dissolved and assets divided.

Additional limited partners may be admitted to this partnership on terms that may be agreed on in writing between the general partners and the limited partner. The terms so stipulated shall constitute an amendment to this partnership agreement.

No limited partner may substitute an assignee as a limited partner in his place; but the person or persons entitled by rule or by intestate laws, as the case may be, shall succeed to all the rights of limited partner as a substituted limited partner.

9. Termination of Interest of Limited Partner; Return of Capital Contribution. The interest of the limited partner may be terminated by (1) dissolution of the partnership for any reason as provided herein, (2) the agreement of all partners, or (3) the consent of the personal representative of the deceased limited partner and the partnership.

On the early termination of the interest, if ever, of the limited partner there shall be payable to the limited partner, or his estate, as the case may be, a sum to be determined by all partners, which sum shall not be less than \$65,000.00 (less any earlier profits earned and disbursed to date).

10. Term of Partnership and Dissolution. This partnership


shall terminate on (1) the dissolution of the partnership by operation of law, (2) dissolution at any time by mutual agreement of the partners, (3) dissolution at the close of the month following completion of development of all land encompassed in the preliminary plat known as Mill Run, an addition to the City of Idaho Falls, Bonneville County, Idaho consisting of a portion of the S.W. 1/2 of the S.E. 1/4 of Section 22 T. 2 N., R. 37 E.B.M., all encompassing approximately 80 acres.

This agreement shall be binding on the parties hereto and their respective heirs, executors, administrators, successors, assigns.

IN WITNESS WHEREOF the parties have executed this agreement at Idaho Falls, Idaho the day and year first above written.


Robert W. Utterbeck
General Partner


Charles Kelly
General Partner


Lloyd C. Brown
Limited Partner