Exhibit A

Articles of Incorporation and Certificate of Good Standing

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State of California
Secretary of State

CERTIFICATE OF STATUS

ENTITY NAME: ATHERTON FIBER LLC

REGISTERED IN CALIFORNIA AS: ATHERTON FIBER LLC

FILE NUMBER.	201607010157
REGISTRATION DATE:	03/04/2016
TYPE:	FOREIGN LIMITED LIABILITY COMPANY
JURISDICTION:	DELAWARE
STATUS:	ACTIVE (GOOD STANDING)

I, ALEX PADILLA, Secretary of State of the State of California, hereby certify:

The records of this office indicate the entity is qualified to transact intrastate business in the State of California.

No information is available from this office regarding the financial condition, business activities or practices of the entity.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of June 7, 2016.

ALEX PADILLA
Secretary of State

NP-25 (REV 01/2015)

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THE OFFERING AND SALE OF THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). ANY TRANSFER OF SUCH SECURITIES WILL BE INVALID UNLESS A REGISTRATION STATEMENT UNDER THE SECURITIES ACT IS IN EFFECT AS TO SUCH TRANSFER OR IN THE OPINION OF COUNSEL FOR THE COMPANY SUCH REGISTRATION IS UNNECESSARY IN ORDER FOR SUCH TRANSFER TO COMPLY WITH THE SECURITIES ACT.

THE SECURITIES REPRESENTED HEREBY ARE SUBJECT TO RESTRICTIONS ON TRANSFER PURSUANT TO THIS LIMITED LIABILITY COMPANY AGREEMENT OF THE COMPANY, AND MAY NOT BE SOLD OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE TERMS OF THIS AGREEMENT.

LIMITED LIABILITY COMPANY

AGREEMENT

OF

ATHERTON FIBER LLC

a Delaware Limited Liability Company

Dated as of April 7, 2016

LIMITED LIABILITY COMPANY AGREEMENT
OF
ATHERTON FIBER LLC

THIS LIMITED LIABILITY COMPANY AGREEMENT (this **"Agreement"**) of Atherton Fiber LLC (the **"Company"**) a limited liability company organized under the Delaware Limited Liability Company Act (the "**Act**"), is made and entered into as of _____, 2016.

WHEREAS, the Members desire to enter into this Agreement to set forth the terms governing the operation of the Company;

WHEREAS, the Members intend that the Restricted Units (granted pursuant to the Plan) represent "profits interests" in the Company, as that term is defined in Revenue Procedure 93-27, 1993-2 C.B. 343, as clarified by Revenue Procedure 2001-43, 2001-2 C.B. 191.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1
ORGANIZATIONAL MATTERS

1.1 Formation. The Company was formed under the Act for the purposes and upon the terms and conditions hereinafter set forth. The rights and liabilities of the Members of the Company shall be as provided in the Act, except as otherwise expressly provided herein. In the event of any inconsistency between any terms and conditions contained in this Agreement and any non-mandatory provisions of the Act, the terms and conditions contained in this Agreement shall govern. Each Person identified as a Member on Exhibit A on the date hereof is admitted to the Company as a Member upon his, her or its execution of this Agreement.

1.2 Name. The name of the Company shall be Atherton Fiber LLC. The Company may also conduct business at the same time under one or more fictitious names if the Board of Managers determines that such is in the best interests of the Company. The Board of Managers may change the name of the Company, from time to time, in accordance with applicable law.

1.3 Principal Place of Business; Other Places of Business. The principal place of business of the Company is located at 260 Oak Grove Avenue, Atherton, CA 94027 or such other place within or outside the State of Delaware as the Board of Managers may from time to time designate. The Company may maintain offices and places of business at such other place or places within or outside the State of Delaware as the Board of Managers deems advisable.

1.4 Business Purpose. The Company may engage in any and all lawful business, purpose or activity in which a limited liability company may be engaged under applicable law (including, without limitation, the Act).

1.5 Certificate of Formation; Filings. The Certificate (as defined in Article 2) was previously filed by Brian Lewis as an "authorized person" within the meaning of the Act, in the Office of the Delaware Secretary of State as required by the Act. Upon the filing of the Certificate with the Delaware Secretary of State, his powers as an "authorized person" ceased, and each of the Managers thereupon became a designated "authorized person" within the meaning of the Act. Any Manager may execute and file any duly authorized amendments to the Certificate from time to time in a form prescribed by the Act. The Board of Managers shall also cause to be made, on behalf of the Company, such additional filings and recordings as the Board of Managers shall deem necessary or advisable.

1.6 Fictitious Business Name Statements. Fictitious business name statements shall be filed and published when and if the Board of Managers determines it necessary. Any such statement shall be renewed as required by applicable law.

1.7 Designated Agent for Service of Process. The address of the Company's registered office in the State of Delaware is 1209 N. Orange Street in the City of Wilmington, County of New Castle. The name of the Company's registered agent at such address is The Corporation Trust Company.

1.8 Term. The Company commenced on the date that the Certificate was filed with the Office of the Delaware Secretary of State, and shall continue until terminated pursuant to this Agreement. Notwithstanding the dissolution of the Company, the existence of the Company shall continue until termination in accordance with Article 8.

ARTICLE 2
DEFINITIONS

Capitalized words and phrases used and not otherwise defined elsewhere in this Agreement shall have the following meanings:

2.1 "Act" is defined in the Preamble.

2.2 "Additional Members" means those Persons admitted to the Company pursuant to Paragraph 3.4 of the Agreement.

2.3 "Adjusted Capital Account" means, with respect to any Member, the balance in such Member's Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments:

2.3.1 Add to such Capital Account the following items:

(a) The amount, if any, that such Member is obligated to contribute to the Company upon liquidation of such Member's Interest, treating for this purpose an obligation to repay any debt owed to the Company as an obligation to contribute such amount to the Company; and

(b) The amount that such Member is obligated to restore or is deemed to be obligated to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(*c*) or the penultimate sentence of each of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

2.3.2 Subtract from such Capital Account such Member's share of the items described in Regulations Sections 1.704-1(b)(2)(ii)(*d*)(*4*), (*5*) and (*6*).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(*d*) and shall be interpreted consistently therewith.

2.4 "Adjusted Capital Account Deficit" Means, with respect to any Member, the negative balance, if any, with respect to such Member's Adjusted Capital Account.

2.5 "Affiliate" means, with reference to a specified Person: (a) a Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the specified Person; (b) any Person that is an officer, partner, member or trustee of, or serves in a similar capacity with respect to, the specified Person, or for which the specified Person is an officer, partner or trustee, or serves in a similar capacity; or (c) any member of the Immediate Family of the specified Person.

2.6 "Agreement" is defined in the Preamble.

2.7 "Applicable Percentage" means 40%, or such other percentage as the Board of Managers determines to be a reasonable approximation of the effective state and federal income taxation rates, based on the rates then in effect in California and taking into account the deductibility of state income taxes for federal income tax purposes, unless otherwise determined by the Board of Managers, generally payable by Members with respect to their allocations of taxable income of the Company.

2.8 "Assignee" means any Person (a) to whom a Member (or assignee thereof) Transfers all or any part of its Interest, and (b) which has not been admitted to the Company as a Substitute Member pursuant to Paragraph 7.5 of this Agreement.

2.9 "**Benchmark Amount**" is defined in Paragraph 3.1.3.

2.10 "Board of Managers" means the Board of Managers of the Company, consisting of the Managers designated in accordance with Paragraph 6.1 and having the powers set forth in Article 6.

2.11 "Capital Account" means the Capital Account maintained for each Member on the Company's books and records in accordance with the following provisions:

2.11.1 To each Member's Capital Account there shall be added (a) such Member's Capital Contributions, (b) such Member's allocable share of Net Profits and any items in the nature of income or gain that are specially allocated to such Member pursuant to Article 5 hereof or other provisions of this Agreement, and (c) the amount of any Company liabilities assumed by such Member or which are secured by any property distributed to such Member.

2.11.2 From each Member's Capital Account there shall be subtracted (a) the amount of (i) cash and (ii) the Gross Asset Value of any Company Assets (other than cash) distributed to such Member (other than any payment of principal and/or interest to such Member pursuant to the terms of a loan made by the Member to the Company) pursuant to any provision of this Agreement, (b) such Member's allocable share of Net Losses and any other items in the nature of expenses or losses that are specially allocated to such Member pursuant to Article 5 or other provisions of this Agreement, and (c) liabilities of such Member assumed by the Company or which are secured by any property contributed by such Member to the Company.

2.11.3 In the event any Interest is Transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the Transferred Interest.

2.11.4 In determining the amount of any liability for purposes of Paragraphs 2.11.1 and 2.11.2 hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

2.11.5 The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Sections 1.704-1(b) and 1.704-2 and shall be interpreted and applied in a manner consistent with such Regulations. In the event that the Board of Managers shall determine that it is prudent to modify the manner in which the Capital Accounts, or any additions or subtractions thereto, are computed in order to comply with such Regulations, the Board of Managers may make such modification. The Board of Managers shall also make (a) any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(*q*), and (b) any appropriate modifications in the event that unanticipated events might otherwise cause this Agreement not to comply with Regulations Sections 1.704-1(b) and 1.704-2.

2.12 "Capital Contributions" means, with respect to any Member, the total amount of money and the initial Gross Asset Value of property (other than money) contributed to the capital of the Company by such Member, whether as an initial Capital Contribution or as an additional Capital Contribution.

2.13 "Cash Available for Distribution" means, with respect to any fiscal year, all Company cash receipts, after deducting payments for operating expenses, payments required to be made in connection with any loan to the Company or any other loan secured by a lien on any Company Assets, capital expenditures and any other amounts set aside for the restoration, increase or creation of reasonable Reserves.

2.14 "Certificate" means the Certificate of Formation of the Company filed under the Act in the Office of the Delaware Secretary of State for the purpose of forming the Company as a Delaware limited liability company, and any duly authorized, executed and filed amendments or restatements thereof.

2.15 "Code" means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

2.16 "Company" is defined in the Preamble.

2.17 "Company Assets" means all direct and indirect interests in real and personal property owned by the Company from time to time, and shall include both tangible and intangible property (including cash).

2.18 "Company Minimum Gain" has the meaning set forth in Regulations Sections 1.704-2(b)(2) and 1.704-2(d)(1) for the phrase "partnership minimum gain."

2.19 "Depreciation" means, for each fiscal year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; *provided, however*, that if the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Board of Managers.

2.20 "Economic Interest" means a Person's right to share in the Net Profits, Net Losses, or similar items of, and to receive distributions from, the Company, but does not include any other rights of a Member including, without limitation, the right to vote or to participate in the management of the Company, or, except as specifically provided in this Agreement or required under the Act, any right to information concerning the business and affairs of the Company.

2.21 "Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

2.21.1 The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as determined by the Board of Managers and the contributing Member.

2.21.2 The Gross Asset Values of all Company Assets immediately prior to the occurrence of any event described in subsection (a), subsection (b), subsection (c) or subsection (d) hereof shall be adjusted to equal their respective gross fair market values, as determined by the Board of Managers using such reasonable method of valuation as it may adopt, as of the following times:

(a) the acquisition of an additional interest in the Company by a new or existing Member in exchange for more than a *de minimis* Capital Contribution, if the Board of Managers reasonably determines that such adjustment is necessary or appropriate to reflect the relative Economic Interests of the Members in the Company;

(b) the distribution by the Company to a Member of more than a *de minimis* amount of Company Assets as consideration for an interest in the Company, if the Board of Managers reasonably determines that such adjustment is necessary or appropriate to reflect the relative Economic Interests of the Members in the Company;

(c) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(*g*);

(d) the grant of an Interest in the Company (other than a *de minimis* interest) as consideration for the provision of services to or for the benefit of the Company by an existing Member acting in a member capacity, or by a new Member acting in a partner capacity or in anticipation of becoming a Member of the Company, if the Board of Managers reasonably determines that such adjustment is necessary or appropriate to reflect the relative Interests of the Members in the Company; and

(e) at such other times as the Board of Managers shall reasonably determine necessary or advisable in order to comply with Regulations Sections 1.704-1(b) and 1.704-2 (including, without limitation, the issuance of Restricted Units by the Company pursuant to the Plan).

2.21.3 The Gross Asset Value of any Company Asset distributed to a Member shall be the gross fair market value of such asset on the date of distribution as determined by the Board of Managers.

2.21.4 The Gross Asset Values of Company Assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(*m*); *provided, however*, that Gross Asset Values shall not be adjusted pursuant to this Paragraph 2.21.4 to the extent that the Board of Managers reasonably determine that an adjustment pursuant to Paragraph 2.21.2 above is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this Paragraph 2.21.4.

2.21.5 If the Gross Asset Value of a Company asset has been determined or adjusted pursuant to Paragraph 2.21.1, Paragraph 2.21.2 or Paragraph 2.21.4 hereof, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such Company Asset for purposes of computing Net Profits and Net Losses.

2.22 "Immediate Family" means, and is limited to, an individual Person's parents, current spouse, parents-in-law, grandparents, children, siblings, and grandchildren, or a trust or estate, all of the beneficiaries of which consist of such Person or members of such Person's Immediate Family.

2.23 "Incapacity" means the entry of an order for relief in bankruptcy or of incompetence or of insanity, or the death, dissolution or termination (other than by merger or consolidation) of any Person. "Incapacitated" shall have the correlative meaning.

2.24 "Indemnitee" is defined in Paragraph 6.7.1.

2.25 "Manager" means any of the individuals designated to the Board of Managers pursuant to Paragraph 6.1.

2.26 "Majority in Interest" means Members holding, in the aggregate, a majority of the Percentage Interests held by all (or any applicable subset of) Members of the Company.

2.27 "Member Minimum Gain" means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i) with respect to "partner minimum gain."

2.28 "Member Nonrecourse Debt" has the meaning set forth in Regulations Section 1.704-2(b)(4) for the phrase "partner nonrecourse debt."

2.29 "Member Nonrecourse Deductions" has the meaning set forth in Regulations Section 1.704-2(i) for the phrase "partner nonrecourse deductions."

2.30 "Members" means the Persons owning Membership Interests, and any Additional Members and Substitute Members, with each Member being referred to, individually, as a **"Member."**

2.31 "Membership Interest" or "Interest" means the entire ownership interest (or, as the context may require, any portion thereof) of a Member in the Company at any particular time, including, without limitation, the Member's Economic Interest, any and all rights to vote and otherwise participate in the Company's affairs, and the rights to any and all benefits to which a Member may be entitled as provided in this Agreement, together with the obligations of such Member to comply with all of the terms and provisions of this Agreement.

2.32 "Net Profits" or "Net Losses" means, for each fiscal year or other period, an amount equal to the Company's taxable income or loss for such year or period determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

2.32.1 Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Profits or Net Losses pursuant to this Paragraph 2.32 shall be added to such taxable income or loss;

2.32.2 Any expenditure of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(*i*), and not otherwise taken into account in computing Net Profits or Net Losses pursuant to this Paragraph 2.32, shall be subtracted from such taxable income or loss;

2.32.3 Gain or loss resulting from any disposition of Company Assets where such gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the Company Assets disposed of, notwithstanding that the adjusted tax basis of such Company Assets differs from its Gross Asset Value;

2.32.4 In lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year;

2.32.5 To the extent an adjustment to the adjusted tax basis of any asset included in Company Assets pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)*(m)(4)* to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member's Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for the purposes of computing Net Profits and Net Losses;

2.32.6 If the Gross Asset Value of any Company Asset is adjusted in accordance with Paragraph 2.21.2 or Paragraph 2.21.3 of this Agreement, the amount of such adjustment shall be taken into account in the taxable year of such adjustment as gain or loss from the disposition of such asset for purposes of computing Net Profits or Net Losses; and

2.32.7 Notwithstanding any other provision of this Paragraph 2.32, any items of Company income, gain, loss or deduction that are specially allocated pursuant to Article 5 hereof shall not be taken into account in computing Net Profits or Net Losses. The amount of the items of Company income, gain, loss or deduction available to be specially allocated pursuant to Article 5 hereof shall be determined pursuant to rules analogous to those set forth in this Paragraph 2.32.

2.33 "Nonrecourse Deductions" has the meaning set forth in Regulations Sections 1.704-2(b)(1) and 1.704-2(c).

2.34 "Nonrecourse Liability" has the meaning set forth in Regulations Sections 1.704-2(b)(3) and 1.752-1(a)(2).

2.35 "Percentage Interest" means with respect to each Member the fraction expressed as a percentage, the numerator of which is the number of Units held by such Member and the denominator of which is the total number of Units held by all Members. Each Member's Percentage Interest shall be as set forth opposite such Member's name on Exhibit A attached hereto as it may be modified or supplemented from time to time.

2.36 "Person" means and includes an individual, a corporation, a partnership, a limited liability company, a trust, an unincorporated organization, a government or any department or agency thereof, or any entity similar to any of the foregoing.

2.37 "Plan" means the equity participation plan of the Company as adopted by the Board of Managers from time to time.

2.38 "Preferred Contributions" means those Capital Contributions made by Preferred Unit Holders with respect to their Preferred Units.

2.39 "Preferred Distribution Amount" means, with respect to any Preferred Unit Holder at any time, the excess, if any, of (a) the amount of such Preferred Unit Holder's

Preferred Contributions minus (b) any amounts previously distributed to such Preferred Unit Holder under Paragraph 4.1.2(a) with respect to its Preferred Contributions.

2.40 "**Preferred Unit Holder**" means a Person holding Preferred Units.

2.41 "**Preferred Units**" means the Units denominated as such on Exhibit A hereto, having such rights, privileges and obligations as are ascribed in this Agreement to the Preferred Units.

2.42 **"Recourse Liability"** has the meaning set forth in Regulations Section 1.752-1(a)(1).

2.43 **"Regulations"** means proposed, temporary and final Treasury Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding Treasury Regulations).

2.44 **"Regulatory Allocations"** is defined in Paragraph 5.2.8.

2.45 **"Reserves"** means funds set aside or amounts allocated to reserves that shall be maintained in amounts deemed sufficient by the Board of Managers for working capital, to pay taxes, insurance, debt service, and other costs or expenses incident to the conduct of business by the Company as contemplated hereunder.

2.46 "**Residual Value**" means, at the time of issuance of any Restricted Unit(s), the aggregate amount that the holder of a single previously issued Restricted Unit with no Benchmark Amount would receive pursuant to Paragraphs 4.1.2 in respect of such previously issued Restricted Unit if all assets of the Company as of such time were sold immediately prior to the issuance of the to-be-issued Restricted Unit(s) for their fair market value (as determined by the Board of Managers), all liabilities of the Company were satisfied in cash in accordance with their terms (taking into account the non-recourse nature of any liability), and all remaining cash was distributed to the Members under Paragraph 4.1.2.

2.47 **"Responsible Party"** is defined in Paragraph 6.7.6.

2.48 **"Restricted Unit"** shall have the meaning assigned in the Plan.

2.49 **"Securities Act"** is defined in Paragraph 9.16(a).

2.50 **"Substitute Member"** means any Person (a) to whom a Member (or assignee thereof) Transfers all or any part of its interest in the Company, and (b) which has been admitted to the Company as a Substitute Member pursuant to Paragraph 7.5 of this Agreement.

2.51 **"Tax Liability Deficiency"** means, with respect to the Company, the excess (if any) of (a) the product of (i) the Company's Taxable Income multiplied by (ii) the Applicable Percentage over (b) the cumulative amount of cash distributed pursuant to Article 4 for the current and all prior fiscal years.

2.52 "Taxable Income" means the cumulative allocations of Company federal taxable income (net of federal taxable losses) made to the Members pursuant to Article 5 for the current and all prior fiscal years.

2.53 "Terminated Employee Member" is defined in Paragraph 7.7.

2.54 "Termination Payment" is defined in Paragraph 7.4.1.

2.55 "Transfer" means, with respect to any Interest, a sale, conveyance, exchange, assignment, pledge, encumbrance, gift, bequest, hypothecation or other transfer or disposition by any other means, whether for value or no value and whether voluntary or involuntary (including, without limitation, by operation of law), or an agreement to do any of the foregoing. "Transferred" shall have the correlative meaning.

2.56 "Units" means with respect to any Member, the units evidencing the rights to receive distributions and allocations of Net Profits and Net Losses (and items thereof) of the Company issued to such Member in the numbers set forth opposite such Member's name on Exhibit A attached hereto as it may be amended or supplemented from time to time.

2.57 "Unsatisfied Benchmark Amount" means, with respect to each Restricted Unit, the difference between: (a) such Restricted Unit's Benchmark Amount (if any), minus (b) the distributions otherwise attributable to such Restricted Unit that are not made to the holder of such Restricted Unit as a result of the operation of Paragraph 4.5.2, *provided that*, in no event shall such Unsatisfied Benchmark Amount be less than zero.

ARTICLE 3
CAPITAL; CAPITAL ACCOUNTS AND MEMBERS

3.1 Generally; Initial Capital Contributions.

3.1.1 General. The names, addresses, initial Capital Contributions, number of Units and Percentage Interests of the Members are set forth on Exhibit A attached hereto and incorporated herein. The Members acknowledge and agree that the initial Capital Contributions set forth in Exhibit A , if any, represent the amount of money and the Gross Asset Value of all property (other than money) initially contributed by the Members. As indicated on Exhibit A, certain of the Members acquired Restricted Units pursuant to the Plan on the date hereof.

3.1.2 Initial Capital Contributions. The initial Capital Contributions of the initial Preferred Unit Holder was in the form of cash in the amount set forth on Exhibit A in exchange for the initial Interest issued to such initial Preferred Unit Holder on the date hereof.

3.1.3 Restricted Units. The initial Capital Contributions and the initial Capital Account balance of any Member (including any Additional Member) acquiring Restricted Units directly from the Company at any time (whether on or after the date hereof) shall be zero. Except as otherwise required by any non-waivable provision of applicable law, Restricted Units shall not have any voting rights with respect to any matter requiring a vote of the Members (or any subgroup thereof). Each Restricted Unit issued shall, unless otherwise determined by the Board of Managers, have an amount (a "**Benchmark Amount**") attributed to it by the Board of

Managers, which Benchmark Amount shall be reflected on Exhibit A, and, unless otherwise expressly approved by the Board of Managers, shall not be less than the Residual Value at the time such Restricted Unit is issued. The Restricted Units represent "profits interests" in the Company, as that term is defined in Revenue Procedure 93-27, 1993-2 C.B. 343, as clarified by Revenue Procedure 2001-43, 2001-2 C.B. 191, and the provisions in this Agreement shall be interpreted consistently with such intent. The Company and the holders of Restricted Units shall file all U.S. federal income tax returns consistent with such characterization to the extent allowed by law. Within thirty (30) days following the receipt of any Restricted Unit, each recipient of any such Restricted Unit shall file with the Internal Revenue Service an election authorized by Section 83(b) of the Code with respect to such Restricted Unit, as applicable, and will deliver to the Company a copy of such election promptly after its filing.

3.2 Additional Capital Contributions by Members.

3.2.1 Except as provided in Paragraph 3.2.2, no Member shall (i) be permitted to make any additional Capital Contributions to the Company without the consent of the Board of Managers or (ii) be required to make any additional Capital Contributions to the Company without the consent of such Member and the Board of Managers.

3.2.2 The Board of Managers may accept additional Capital Contributions to the Company from Members on such terms and conditions as the Board of Managers may determine in its sole and absolute discretion.

3.3 Capital Accounts. A Capital Account shall be established and maintained for each Member in accordance with the terms of this Agreement.

3.4 Additional Members. Following formation of the Company, the Board of Managers is hereby authorized to issue Interests (including, without limitation, Units) directly from the Company, and to admit one or more recipients of such Interests as additional Members (**"Additional Members"**) from time to time, on such terms and conditions and for such Capital Contributions, if any, as the Board of Managers may determine. No action or consent by any Member (in its capacity as such) shall be required in connection with the admission of an Additional Member. As a condition to being admitted to the Company, each Additional Member shall execute an agreement to be bound by the terms and conditions of this Agreement. Upon the admission of any Additional Member, Exhibit A shall be amended to reflect the name, address, number of Units and Percentage Interest of such Additional Member and to make any necessary adjustments to the number of Units and Percentage Interests of the other Members, and such Additional Member shall execute a countersignature to this Agreement in the form attached hereto as Annex A.

3.5 Member Capital. Except as otherwise provided in this Agreement or with the prior written consent of the Board of Managers: (a) no Member shall demand or be entitled to receive a return of or interest on its Capital Contributions or Capital Account, (b) no Member shall withdraw any portion of its Capital Contributions or receive any distributions from the Company as a return of capital on account of such Capital Contributions, and (c) the Company shall not redeem or repurchase the Interest of any Member.

3.6 Member Loans. No Member shall be required or permitted to make any loans or otherwise lend any funds to the Company, except with the consent of the Board of Managers. No loans made by any Member to the Company shall have any effect on such Member's Interest or its Percentage Interest, such loans representing a debt of the Company payable or collectible solely from the assets of the Company in accordance with the terms and conditions upon which such loans were made.

3.7 Liability of Members. Except as otherwise required by any non-waivable provision of the Act or other applicable law: (a) no Member shall be personally liable in any manner whatsoever for any debt, liability or other obligation of the Company, whether such debt, liability or other obligation arises in contract, tort, or otherwise; and (b) no Member shall in any event have any liability whatsoever in excess of the following (without duplication): (i) the amount of its Capital Contributions, (ii) its share of any assets and undistributed profits of the Company, (iii) the amount of any unconditional obligation of such Member to make additional Capital Contributions to the Company pursuant to this Agreement, and (iv) the amount of any wrongful distribution to such Member, if, and only to the extent, that the return of such distribution is required by a non-waivable provision of the Act.

ARTICLE 4
DISTRIBUTIONS

4.1 Distributions of Cash Available for Distribution.

4.1.1 Generally. Except as otherwise provided in Article 8, Cash Available for Distribution shall be distributed to the Members only at such times as may be reasonably determined by the Board of Managers. The Board of Managers shall use its commercially reasonable efforts to distribute annually Cash Available for Distribution pursuant to Paragraph 4.1.2 in an amount equal to the Tax Liability Deficiency of the Company, if any.

4.1.2 Distributions. Subject to Article 8 hereof, all distributions of Cash Available for Distribution shall be distributed to the Members as follows:

(a) First, to the Preferred Unit Holders, in proportion to and to the extent of their then current Preferred Distribution Amount; and

(b) Thereafter, pro rata to all Members (including the Preferred Unit Holders) in proportion to their respective Percentage Interests (but taking into account Paragraph 4.5.2); *provided that* no Member shall receive any amount pursuant to this Paragraph 4.1.2(b) in excess of its positive Adjusted Capital Account balance, and any amount that would otherwise have been distributed to such Member but for this proviso shall instead be distributed to the remaining Members in accordance with this paragraph until the Adjusted Capital Account balances of all such Members have been reduced to zero.

4.1.3 Post-Adjustment Event Adjustment. In the event a Member (the "**Affected Member**") holding any Restricted Units withdraws or is removed as a member of the Company in accordance to Paragraph 7.3 (a "**Trigger Event**"), then any and all "Excess Distributions" (as defined below) received by the Affected Member prior to the date on which such Trigger Event occurred shall as soon as possible be recouped from distributions, if any,

otherwise to be received by such Affected Member pursuant to this Paragraph 4.1 or Paragraph 8.5.2 at any time following the occurrence of such Trigger Event. The phrase "**Excess Distributions**" with respect to any Affected Member shall mean, as of the date a Trigger Event occurs with respect to such Affected Member, the excess, if any, of (a) the aggregate distributions received by such Affected Member prior to the occurrence of the Trigger Event, over (b) the aggregate distributions such Affected Member would have received prior to the occurrence of the Trigger Event if the number of such Affected Member's Restricted Units at all times prior to the Trigger Event equaled such Affected Member's Restricted Units following the occurrence of the Trigger Event (taking into account adjustments made in connection with the Trigger Event pursuant to this Agreement and/or any other agreement to which the Restricted Units are subject).

4.1.4 The provisions of this Paragraph 4.1 are subject to the provisions of Paragraph 4.5.

4.2 Distributions Upon Liquidation. Distributions made in conjunction with the final liquidation of the Company shall be applied or distributed as provided in Article 8 hereof.

4.3 Withholding. The Company may withhold distributions or portions thereof if it is required to do so by any applicable rule, regulation, or law, and each Member hereby authorizes the Company to withhold from or pay on behalf of or with respect to such Member any amount of federal, state, local or foreign taxes that the Board of Managers determines that the Company is required to withhold or pay with respect to any amount distributable or allocable to such Member pursuant to this Agreement. Any amount paid on behalf of or with respect to a Member pursuant to this Paragraph 4.3 shall constitute a loan by the Company to such Member, which loan shall be repaid by such Member within fifteen (15) days after notice from the Company that such payment must be made unless: (i) the Company withholds such payment from a distribution which would otherwise be made to the Member or (ii) the Board of Managers determines, in its sole and absolute discretion, that such payment may be satisfied out of Cash Available for Distribution which would, but for such payment, be distributed to the Member. Any amounts withheld pursuant to this Paragraph 4.3 shall be treated as having been distributed to such Member. Each Member hereby unconditionally and irrevocably grants to the Company a security interest in such Member's Interest to secure such Member's obligation to pay to the Company any amounts required to be paid pursuant to this Paragraph 4.3. In the event that a Member fails to pay any amounts owed to the Company pursuant to this Paragraph 4.3 when due, the remaining Members may, in their respective sole and absolute discretion, elect to make the payment to the Company on behalf of such defaulting Member, and in such event shall be deemed to have loaned such amount to such defaulting Member and shall succeed to all rights and remedies of the Company as against such defaulting Member (including, without limitation, the right to receive distributions). Any amounts payable by a Member under this Paragraph 4.3 shall bear interest at the prime rate as published from time to time in the Wall Street Journal (but not higher than the maximum lawful rate) from the date such amount is due (*i.e.*, 15 days after demand) until such amount is paid in full. Each Member shall take such actions as the Company shall request in order to perfect or enforce the security interest created under this Paragraph 4.3. A Member's obligations under this Paragraph 4.3 shall survive the dissolution, liquidation, or winding up of the Company. Each Member hereby submits to the jurisdiction of any state or

federal court sitting in the state of California in any action arising out of or relating to this Agreement or the transactions contemplated herein.

4.4 Distributions in Kind. No right is given to any Member to demand or receive property other than cash as provided in this Agreement. The Board of Managers may determine, in its sole and absolute discretion, to make a distribution in kind of Company Assets to the Members, and such Company Assets shall be distributed in such a fashion as to ensure that the fair market value thereof is distributed and allocated in accordance with this Article 4 and Articles 5 and 8 hereof; *provided, however*, that no Member may be compelled to accept a distribution consisting, in whole or in part, of any Company Assets in kind unless the ratio that the fair market value of such distribution in kind bears to such Member's total distribution does not exceed the ratio that the fair market value of similar distributions in kind bears to the total distributions of other Members receiving distributions concurrently therewith (if any), except upon a dissolution and winding up of the Company.

4.5 Limitations on Distributions.

4.5.1 Notwithstanding any provision to the contrary contained in this Agreement, neither the Company nor the Board of Managers, on behalf of the Company, shall knowingly make a distribution to any Member or the holder of any Economic Interest on account of its Membership Interest or Economic Interest in the Company (as applicable) in violation of the Act.

4.5.2 Notwithstanding anything to the contrary in this Agreement, for purposes of Paragraph 4.1.2, no Restricted Unit that has a positive Unsatisfied Benchmark Amount shall be treated as outstanding, and no distributions will be made in respect of such Restricted Unit. Distributions shall be bifurcated if necessary to enable a Restricted Unit to participate with respect to a portion of any applicable distribution that exceeds the amount necessary to reduce such Unsatisfied Benchmark Amount to zero. The intent of this provision is to ensure that each Restricted Unit is treated as a "profits interest" as that term is defined in Revenue Procedure 93-27, 1993-2 C.B. 343, as clarified by Revenue Procedure 2001-43, 2001-2 C.B. 191, and, as such, would not be entitled to receive any amounts upon a hypothetical liquidation of the Company immediately after such Restricted Unit is granted and this provision shall be interpreted consistent with such intent. This Agreement may be amended by the Board of Managers in order to make such changes to this Agreement as the Board of Managers determines in its reasonable discretion is necessary to reflect the intent set forth in this Paragraph 4.5.2. Nothing in this Paragraph 4.5.2 will limit the right of the holder of any Restricted Unit to receive distributions made in respect of the last sentence of Paragraph 4.1.1 relating to any Tax Liability Deficiency or the ability of the Company to treat a Restricted Unit as outstanding for purposes of applying the allocation provisions of Article 5.

ARTICLE 5
ALLOCATIONS OF NET PROFITS AND NET LOSSES

5.1 General Allocation of Net Profits and Losses.

5.1.1 Net Profits and Net Losses of the Company shall be determined and allocated with respect to each fiscal year of the Company as of the end of each such year, at such times as the Gross Asset Value of any Company Asset is adjusted pursuant to the definition thereof, and more often as determined by the Board of Managers. Subject to the other provisions of this Agreement, an allocation to a Member of a share of Net Profits or Net Losses shall be treated as an allocation of the same share of each item of income, gain, loss or deduction that is taken into account in computing Net Profits or Net Losses.

5.1.2 Except as otherwise provided in this Article 5, Net Profits and Net Losses of the Company be allocated for each fiscal year or other period to the Members such that the positive balance of the Adjusted Capital Account of each Member immediately following such allocation is, as closely as possible, equal (proportionately) to the amount of the distributions that would be made to such Member if the Company sold all of its assets for their Gross Asset Values, all Company liabilities were satisfied (limited with respect to each nonrecourse liability to the book value of the asset securing such liability), and the remaining cash was distributed in accordance with the priority set forth in Paragraph 4.1.2 (taking into account Paragraph 4.5.2).

5.2 Regulatory Allocations. Notwithstanding the foregoing provisions of this Article 5, the following special allocations shall be made in the following order of priority:

5.2.1 If there is a net decrease in Company Minimum Gain during a Company taxable year, then each Member shall be allocated items of Company income and gain for such taxable year (and, if necessary, for subsequent years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g)(2). This Paragraph 5.2.1 is intended to comply with the minimum gain chargeback requirement of Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

5.2.2 If there is a net decrease in Member Minimum Gain attributable to a Member Nonrecourse Debt during any Company taxable year, each Member who has a share of the Member Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such taxable year (and, if necessary, subsequent years) in an amount equal to such Member's share of the net decrease in Member Minimum Gain attributable to such Member Nonrecourse Debt, determined in a manner consistent with the provisions of Regulations Section 1.704-2(g)(2). This Paragraph 5.2.2 is intended to comply with the partner nonrecourse debt minimum gain chargeback requirement of Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

5.2.3 If any Member unexpectedly receives an adjustment, allocation, or distribution of the type contemplated by Regulations Section 1.704-1(b)(2)(ii)(*d*)(*4*), (*5*) or (*6*), items of income and gain shall be allocated to all such Members (in proportion to the amounts of their respective Adjusted Capital Account Deficits) in an amount and manner sufficient to eliminate the Adjusted Capital Account Deficit of such Member as quickly as possible. It is intended that this Paragraph 5.2.3 qualify and be construed as a "qualified income offset" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(*d*).

5.2.4 If the allocation of Net Loss to a Member as provided in Paragraph 5.1 hereof would create or increase an Adjusted Capital Account Deficit, there shall be allocated to such Member only that amount of Net Loss as will not create or increase an Adjusted Capital Account Deficit. The Net Loss that would, absent the application of the preceding sentence, otherwise be allocated to such Member shall be allocated to the other Members in proportion to their relative Percentage Interests, subject to the limitations of this Paragraph 5.2.4.

5.2.5 To the extent that an adjustment to the adjusted tax basis of any Company Asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(*m*)(*2*) or Regulations Section 1.704-1(b)(2)(iv)(*m*)(*4*), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of its Interest in the Company, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such gain or loss shall be specially allocated to the Members in accordance with their interests in the Company in the event that Regulations Section 1.704-1(b)(2)(iv)(*m*)(*2*) applies, or to the Members to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(*m*)(*4*) applies.

5.2.6 The Nonrecourse Deductions for each taxable year of the Company shall be allocated to the Members in proportion to their Percentage Interests.

5.2.7 The Member Nonrecourse Deductions shall be allocated each year to the Member that bears the economic risk of loss (within the meaning of Regulations Section 1.752-2) for the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable.

5.2.8 The allocations set forth in Paragraphs 5.2.1, 5.2.2, 5.2.3, 5.2.4, 5.2.5, 5.2.6 and 5.2.7 hereof (the "**Regulatory Allocations**") are intended to comply with certain requirements of Regulations Sections 1.704-1(b) and 1.704-2(i). Notwithstanding the provisions of Paragraph 5.1.2 , the Regulatory Allocations shall be taken into account in allocating other items of income, gain, loss and deduction among the Members so that, to the extent possible, the net amount of such allocations of other items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to each such Member if the Regulatory Allocations had not occurred.

5.3 Tax Allocations.

5.3.1 Except as provided in Paragraph 5.3.2 hereof, for income tax purposes under the Code and the Regulations, each Company item of income, gain, loss and deduction shall be allocated between the Members in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to this Article 5.

5.3.2 Tax items with respect to Company Assets that are contributed to the Company with a Gross Asset Value that varies from its basis in the hands of the contributing Member immediately preceding the date of contribution shall be allocated between the Members for income tax purposes pursuant to Regulations promulgated under Code Section 704(c) so as to take into account such variation. The Company shall account for such variation under any

method approved under Code Section 704(c) and the applicable Regulations as chosen by the Board of Managers. If the Gross Asset Value of any Company Asset is adjusted pursuant to the definition of Gross Asset Value, subsequent allocations of income, gain, loss and deduction with respect to such Company Asset shall take account of any variation between the adjusted basis of such Company Asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations promulgated thereunder under any method approved under Code Section 704(c) and the applicable Regulations as chosen by the Board of Managers. Allocations pursuant to this Paragraph 5.3.2 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Profits, Net Losses and any other items or distributions pursuant to any provision of this Agreement.

5.4 Other Provisions.

5.4.1 For any fiscal year during which any part of a Membership Interest or Economic Interest is Transferred between the Members or to another Person, the portion of the Net Profits, Net Losses and other items of income, gain, loss, deduction and credit that are allocable with respect to such part of a Membership Interest or Economic Interest shall be apportioned between the transferor and the transferee under any method allowed pursuant to Section 706 of the Code and the applicable Regulations as determined by the Board of Managers.

5.4.2 In the event that the Code or any Regulations require allocations of items of income, gain, loss, deduction or credit different from those set forth in this Article 5, the Board of Managers is hereby authorized to make new allocations in reliance on the Code and such Regulations, and no such new allocation shall give rise to any claim or cause of action by any Member.

5.4.3 For purposes of determining a Member's proportional share of the Company's "excess nonrecourse liabilities" within the meaning of Regulations Section 1.752-3(a)(3), each Member's interest in Net Profits shall be such Member's Percentage Interest.

5.4.4 The Members acknowledge and are aware of the income tax consequences of the allocations made by this Article 5 and hereby agree to be bound by the provisions of this Article 5 in reporting their shares of Net Profits, Net Losses and other items of income, gain, loss, deduction and credit for federal, state and local income tax purposes.

5.4.5 Notwithstanding the other provisions of this Article 5, the Board of Managers may, in its sole discretion, make equitable adjustments to the Capital Accounts of some or all of the Members in such proportions and amounts as the Board of Managers shall determine appropriate to correct inequities which may from time to time arise under this Agreement, including, without limitation, any of those resulting from the existence of multiple allocation periods during the term of this Agreement rather than a single allocation period.

ARTICLE 6
OPERATIONS

6.1 Designation of Managers. The Board of Managers shall be comprised of such number of individuals as are designated and approved, from time to time, by the holders of a

majority of all Preferred Units held by the Preferred Unit Holders, if any. Each initial Manager and each subsequent Manager shall execute a counterpart signature page to this Agreement in the form attached hereto as Annex B.

6.2 Management.

6.2.1 Except as otherwise expressly provided in this Agreement, the Board of Managers shall have sole and complete charge and management of all the affairs and business of the Company, in all respects and in all matters. Except as otherwise expressly provided herein, the Board of Managers shall act, as such, upon the vote or approval of a majority of Managers then designated and approved. A vote or approval may be written, so long as executed by a number of Managers equal to the number of Managers required to exercise such vote or provide such approval at a duly called meeting at which all Managers are present. The Board of Managers shall be the agents of the Company's business, and the actions of the Board of Managers taken in such capacity and in accordance with this Agreement shall bind the Company. Managers need not be Members of the Company. Except as otherwise expressly provided in this Agreement, the Members shall not participate in the control of the Company, and shall have no right, power or authority to act for or on behalf of, or otherwise bind, the Company. Except as expressly provided in this Agreement or required by any non-waivable provisions of applicable law, Members shall have no right to vote on or consent to any other matter, act, decision, or document involving the Company or its business.

6.2.2 The Board of Managers shall have exclusive and complete discretion to manage and control the business and affairs of the Company, to make all decisions affecting the business and affairs of the Company and to take all such actions as it deems necessary or appropriate to accomplish the purposes and direct the affairs of the Company. The Board of Managers shall have the sole power and authority to bind the Company; provided however, the Board of Managers may expressly delegate in writing to any other Person the power and authority to bind the Company, to act as an agent for the Company, to transact business in the name of the Company or otherwise to act for or on behalf of or to bind the Company, as an agent or otherwise, either generally or with respect to a specific matter, for a limited or unlimited period of time and with such other qualifications, limitations or restrictions as the Board of Managers may set forth from time to time with respect to such delegation. Any such delegation may be amended, broadened, qualified, limited, restricted or revoked at any time or from time to time in writing by the Board of Managers, and no such delegation shall preclude or otherwise limit the Board of Managers or its power or authority hereunder, including from acting, either generally or with respect to a specific matter that was the subject of such delegation. The Board of Managers acting in accordance with Paragraph 6.2.1 shall have all the rights and powers of a "manager" under the Act.

6.2.3 The Board of Managers shall also have the exclusive right, power and authority, in the management of the business and affairs of the Company, to do or cause to be done any and all acts, at the expense of the Company, deemed by the Board of Managers, to be necessary or appropriate to effectuate the business of the Company. Without limiting the generality of the foregoing, the Board of Managers shall have sole, full and complete power and authority, without the approval of any Member:

(a) to conduct any business, and exercise any rights and powers, permitted of a limited liability company organized under the laws of the state of Delaware, in any state, territory, district or foreign country;

(b) to acquire by purchase, lease, contribution or otherwise, and/or to otherwise own, hold, operate, maintain, finance, improve, lease, sell, convey, mortgage, transfer or dispose of any property or other assets (real or personal, tangible or intangible);

(c) to negotiate, enter into, perform, modify, extend, terminate, amend, waive, renegotiate and/or carry out any contracts and agreements of any kind and nature, including, without limitation, contracts and agreements with any Member or Affiliate thereof, or any other agent of the Company;

(d) to lend money, to invest and reinvest its funds, and to take and hold real and/or personal property for the payment of funds so loaned or invested;

(e) to sue and be sued, complain and defend, and participate in administrative, judicial and other proceedings, in the name of, and behalf of, the Company;

(f) to pay, collect, compromise, arbitrate or otherwise adjust or settle any and all claims or demands of or against the Company, in any amount and upon any terms;

(g) to, from time to time, employ, engage, hire or otherwise secure the services of such Persons for or on behalf of the Company, including any Member or Assignee, or any Persons related thereto or Affiliates thereof, as the Board of Managers may deem necessary or advisable;

(h) to, from time to time, appoint such officers and agents of the Company (including, without limitation, a President, Chief Executive Officer, Chief Operating Officer and/or Chief Financial Officer) as the Board of Managers may deem necessary or advisable, and define and modify, from time to time, such officers' and agents' duties, and fix and adjust, as appropriate, such officers' and agents' compensation;

(i) to cause the Company to indemnify any Person in accordance with, and to the fullest extent permitted by, applicable law, and to obtain, for or on behalf of the Company, any and all types of insurance deemed necessary or advisable by the Board of Managers;

(j) to borrow money and issue evidences of indebtedness necessary, convenient or incidental to the business of the Company, and secure the same by mortgage, pledge or other lien on any Company Assets or other assets of the Company;

(k) to prepare, execute, file, record, publish and deliver any and all instruments, documents or statements necessary or convenient to effectuate any and all actions that the Board of Managers is authorized to take on behalf of the Company;

(l) to merge the Company with, or consolidate the Company with or into, any other corporation, partnership, limited liability company or other Person (whether domestic or foreign);

(m) to deal with, or otherwise engage in business with, or provide services to and receive compensation therefor from, any Person who has provided or may in the future provide services to, lend money to, sell property to, or purchase property from the Company, the Members, any Affiliate of the Members or any Manager;

(n) to establish and maintain Reserves for such purposes and in such amounts as the Board of Managers deems appropriate from time to time;

(o) issue any additional Units or Restricted Units (in accordance with the provisions of Article 3); and

(p) take any other action that would require the approval of the board of directors of a corporation incorporated under the laws of the State of Delaware if the Company were such a corporation and were taking such action.

6.2.4 Except as otherwise expressly provided in this Agreement or required by any non-waivable provision of the Act or other applicable law, no Member shall (a) have any right to vote on or consent to any other matter, act, decision or document involving the Company or its business, or (b) take part in the day-to-day management, or the operation or control, of the business and affairs of the Company. Except to the extent expressly delegated by the Board of Managers, no other Member or Person other than the Board of Managers shall be an agent for the Company or have any right, power or authority to transact any business in the name of the Company or to act for or on behalf of or to bind the Company.

6.3 Limitations on Authority of Board of Managers.

6.3.1 Notwithstanding any contrary provision of this Agreement, without the written consent of the holders of two-thirds (66 2/3%) of the Preferred Units, the Board of Managers shall not have the authority to:

(a) Alter or change the rights, preferences or privileges of the Preferred Unit Holders or of the Preferred Units;

(b) Provide any Member with, or create any new class of Units having, rights, preferences or privileges senior to or on a parity with Preferred Unit Holders or the Preferred Units;

(c) Effect (i) a merger or consolidation of the Company by means of any transaction or series of related transactions, unless the Company's Members constituted immediately prior to such transaction hold more than 50% of the voting power of the surviving or acquiring entity; or (ii) a sale of all or substantially all of the assets of the Company; or

(d) Dissolve the Company.

6.3.2 Notwithstanding any contrary provision of this Agreement, without the written consent of the Members required to approve the amendment of the applicable provisions of this Agreement, the Board of Managers shall not have the authority to take any action in contravention of this Agreement.

6.3.3 Notwithstanding any contrary provision of this Agreement, the Board of Managers shall not have the authority to take any action that would subject any Member to liability for the debts, liabilities or obligations of the Company without the written consent of each such Member.

6.4 Reliance by Third Parties. Any Person dealing with the Company, the Board of Managers, any Manager or any officer of the Company may rely upon a certificate signed by any two Managers as to:

6.4.1 the identity of the Board of Managers (or any one or more Managers) or any Member or officer of the Company;

6.4.2 the existence or non-existence of any fact or facts which constitute a condition precedent to acts by the Board of Managers or in any other manner germane to the affairs of the Company;

6.4.3 the Persons who are authorized to execute and deliver any instrument or document for or on behalf of the Company; or

6.4.4 any act or failure to act by the Company or as to any other matter whatsoever involving the Company, the Board of Managers or any Member.

6.5 Compensation of Managers.

6.5.1 The Managers shall not receive any fees for their services in administering the Company.

6.5.2 The Managers shall be entitled to reimbursement on a monthly basis from the Company for all out-of-pocket costs and expenses incurred by them, in their reasonable discretion, for or on behalf of the Company.

6.6 Records and Reports. The Board of Managers shall cause to be kept, at the principal place of business of the Company, or at such other location as the Board of Managers shall reasonably deem appropriate, full and proper ledgers, other books of account, and records of all receipts and disbursements, other financial activities, and the internal affairs of the Company.

6.7 Indemnification and Liability of the Board of Managers.

6.7.1 The Company shall indemnify and hold harmless each Manager, his/her Affiliates, and, in the discretion of the Board of Managers, each officer, employee or agent of the Company (individually, an "**Indemnitee**") to the full extent permitted by law from and against any and all losses, claims, demands, costs, damages, liabilities, joint and several, expenses of any

nature (including attorneys' fees and disbursements), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, in which the Indemnitee may be involved, or threatened to be involved as a party or otherwise, relating to the performance or nonperformance of any act concerning the activities of the Company, if (i) the Indemnitee acted in good faith and in a manner it believed to be in, or not contrary to, the best interests of the Company, (ii) the Indemnitee's conduct did not constitute gross negligence or willful misconduct and (iii) the Indemnitee acted in a manner it believed to be within the scope of its duties. The termination of an action, suit or proceeding by judgment, order, settlement, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption or otherwise constitute evidence that the Indemnitee acted in a manner contrary to that specified in clauses (i), (ii) or (iii) above. In addition, the Company shall be entitled, in the sole and absolute discretion of the Board of Managers, to indemnify and hold harmless, in whole or in part, any of the Company's Affiliates, subsidiaries, officers, employees, and agents, and if the Board of Managers determines to provide such indemnification, such party shall be treated as an Indemnitee for all purposes hereunder.

6.7.2 Expenses incurred by Managers and his/her Affiliates in defending any claim, demand, action, suit or proceeding subject to this Paragraph 6.7 shall be advanced by the Company, and, at the discretion of the Board of Managers, expenses incurred by officers, employees and agents of the Company in defending any claim, demand, action, suit or proceeding subject to this Paragraph 6.7 may be advanced by the Company, prior to the final disposition of such claim, demand, action, suit, or proceeding upon receipt by the Company of a written commitment by or on behalf of such Indemnitee to repay such amount if it shall be determined that such Indemnitee is not entitled to be indemnified as authorized in this Paragraph 6.7.

6.7.3 Any indemnification provided hereunder shall be satisfied solely out of Company Assets, as an expense of the Company. No Member shall be subject to personal liability by reason of these indemnification provisions.

6.7.4 The provisions of this Paragraph 6.7 are for the benefit of the Indemnitees and shall not be deemed to create any rights for the benefit of any other Person.

6.7.5 Neither the Managers nor their Affiliates shall be liable to the Company or to any Member for any losses sustained or liabilities incurred as a result of any act or omission of any Manager or any such other Person if (i) the act or failure to act of such Person was in good faith and in a manner it believed to be in, or not contrary to, the best interests of the Company, (ii) the conduct of such Person did not constitute gross negligence or willful misconduct and (iii) such Person acted in a manner such Person believed to be within the scope of such Person's duties.

6.7.6 The provisions of this Agreement, to the extent that they expand or restrict or eliminate the duties and liabilities of any Manager or any Affiliate thereof (each, a "**Responsible Party**") otherwise existing at law or in equity, are agreed by the Members to modify to that extent such other duties and liabilities of the Responsible Party to the extent permitted by law. Except where it is expressly provided in this Agreement that a separate

standard (such as "reasonable") is required with respect to a particular act or obligation, notwithstanding any other provision of law or equity or any other provision of this Agreement, any Manager shall, to the maximum extent permitted by the Act, have no duties (including fiduciary duties) to the Members other than the duty to act in accordance with the implied contractual covenant of good faith and fair dealing.

6.7.7 To the fullest extent permitted by law and notwithstanding any other provision of this Agreement or applicable provisions of law or equity, whenever in this Agreement a Responsible Party is permitted or required to make a decision or take an action or omit to do any of the foregoing: (a) in its "sole discretion" or "discretion" or under a similar grant of authority or latitude, such Responsible Party shall be entitled to consider only such interests and factors, including its own, as it desires, and shall have no duty or obligation to consider any other interests or factors affecting the Company or any other Person, or (b) with an express standard of behavior (including, without limitation, standards such as "reasonable" or "good faith"), then the Responsible Party shall comply with such express standard and shall not be subject to any other or different standard.

6.7.8 Whenever the Board of Managers is entitled to act in its sole or absolute discretion under this Agreement, each Manager shall be entitled to act under the same standard in giving its vote or consent.

6.8 Removal and Withdrawal of Managers.

6.8.1 A Manager may not be removed as a Manager at any time except upon the vote (or written consent) for removal of the Member(s) entitled to designate and approve such Manager pursuant to Paragraph 6.1. A Manager may withdraw at any time upon 30 days' written notice to the Board of Managers. Upon (a) the removal of a Manager pursuant to this Paragraph 6.8, (b) the withdrawal of a Manager, or (c) the Incapacity of a Manager, each of the Members entitled to designate and approve such Manager pursuant to Paragraph 6.1, shall be entitled to designate and approve a successor to such Manager and upon such designation and approval, such successor shall become a Manager. If all Managers are removed, withdraw or are subject to Incapacity, the Company shall be managed by the Members, with all actions requiring the affirmative vote of a Majority in Interest, including a majority of the Preferred Units (except to the extent a greater percentage is expressly required under this Agreement or any non-waivable provision of the Act), unless and until a new Board of Managers may be designated and approved in accordance with Paragraph 6.1.

6.9 Other Activities. The Members and the Managers may engage or invest in, and devote their time to, any other business venture or activity of any nature and description (independently or with others), whether or not such other activity may be deemed or construed to be in competition with the Company. Neither the Company nor any other Member or Manager shall have any right by virtue of this Agreement or the relationship created hereby in or to such other venture or activity of any Member or Manager (or to the income or proceeds derived therefrom), and the pursuit thereof, even if competitive with the business of the Company, shall not be deemed wrongful or improper. Notwithstanding the foregoing, each Manager shall devote such time to the Company as he/she deems reasonably necessary for the proper performance of his/her obligations and duties hereunder.

ARTICLE 7
INTERESTS AND TRANSFERS OF INTERESTS

7.1 Transfers. No Member or Assignee may Transfer all or any portion of its Membership Interest or Economic Interest (or beneficial interest therein) without the prior written consent of the Board of Managers, which consent may be given or withheld in the Board of Managers' sole and absolute discretion.

7.2 Further Restrictions. Notwithstanding any contrary provision in this Agreement, unless waived in writing by the Board of Managers, any otherwise permitted Transfer shall be null and void if:

(a) such Transfer could cause a termination of the Company for federal or state income tax purposes;

(b) such Transfer could, in the opinion of counsel to the Company, cause the Company to cease to be classified as a partnership for federal or state income tax purposes;

(c) such Transfer could require the registration of such Transferred Interest pursuant to any applicable federal or state securities laws;

(d) such Transfer could cause the Company to become a "Publicly Traded Partnership," as such term is defined in Sections 469(k)(2) or 7704(b) of the Code;

(e) such Transfer could subject the Company to regulation under the Investment Company Act of 1940, the Investment Advisers Act of 1940 or the Employee Retirement Income Security Act of 1974, each as amended, or such Transfer could constitute a non-exempt prohibited transaction under the "plan asset" regulations of the Employee Retirement Income Security Act of 1974, as amended;

(f) such Transfer could result in a violation of applicable laws;

(g) such Transfer could involve Interests being traded on an "established securities market" or "secondary market or the substantial equivalent thereof" as those terms are defined in Treasury Regulations Section 1.7704-1 (in addition, such Transfers shall not be "recognized" as that term is defined in Treasury Regulations Section 1.7704-1(d)(2) by the Company);

(h) such Transfer could cause the revaluation or reassessment of the Gross Asset Value of any asset contributed to the Company;

(i) such Transfer is made to any Person who may lack the legal right, power or capacity to own such Interest; or

(j) the Company does not receive written instruments (including, without limitation, copies of any instruments of Transfer and such Assignee's consent to be

bound by this Agreement as an Assignee) that are in a form satisfactory to the Board of Managers (as determined in the Board of Managers' sole and absolute discretion).

7.3 Admissions, Withdrawals and Removals. No Person shall be admitted to the Company as a Member except in accordance with Paragraph 1.1 or 3.4 (in the case of Persons obtaining an interest in the Company directly from the Company) or Paragraph 7.5 (in the case of transferees of a permitted Transfer of an interest in the Company from another Person). Except as otherwise specifically set forth in Paragraph 7.6, no Member shall be entitled to retire or withdraw from being a Member of the Company without the written consent of the Board of Managers, which consent may be given or withheld in the Board of Managers' sole and absolute discretion. Any Member can be removed, with or without good cause, as determined by the Board of Managers. Any purported admission, withdrawal or removal which is not in accordance with this Agreement shall be null and void.

7.4 Payment Upon Withdrawal or Removal of Member.

7.4.1 If any Member withdraws from the Company with the consent of the Board of Managers (other than pursuant to Paragraph 7.6), or if any Member is removed pursuant to Paragraph 7.3, then such Member shall be treated as an Incapacitated Member pursuant to Paragraph 7.7 and shall thereafter only be entitled to receive the benefits of such Member's Economic Interest, as adjusted pursuant to, and otherwise subject to the terms of, this Agreement, and with respect to any Restricted Units, pursuant to, and otherwise subject to the terms of, any other agreement governing such Restricted Units or to which such Restricted Units are subject (including, without limitation, the forfeiture of all unvested Restricted Units and any portion of the Member's Capital Account attributable thereto, as determined in good faith by the Board of Managers). In addition, at the election of the Company, the Company may redeem the interest of any such former Member by providing to such former Member a payment equal to such Member's Capital Account balance (as adjusted as of the effective date of the written election of withdrawal or the effective date of removal, as applicable, including as provided in the immediately preceding sentence) (the **"Termination Payment"**). The Termination Payment shall be paid within thirty days after the end of the Company's then current fiscal quarter in which such withdrawal or removal occurs. Notwithstanding the foregoing, in the event of a removal, the Company shall have the right to withhold from, and set off against, the Termination Payment of any removed Member such damages as the Board of Managers may reasonably determine was suffered by the Company and/or its Members in connection with the matter(s) or event(s) resulting in such removal. If any Member attempts to withdraw from the Company (other than pursuant to Paragraph 7.6) without the consent of the Board of Managers, then, notwithstanding the last sentence of Paragraph 7.3, the Board of Managers may, in its sole and absolute discretion, permit such withdrawal (without waiving, in any manner, any other rights available to it or the Company at law or in equity and in addition to, and not in lieu of, any other remedies to which it or the Company may be entitled); *provided*, that such withdrawing Member's Membership Interest shall be terminated and such Member shall not be entitled to any Termination Payment or any other compensation whatsoever in consideration for its terminated Membership Interest.

7.5 Admission of Assignees as Substitute Members.

7.5.1 An Assignee shall become a Substitute Member only if and when each of the following conditions are satisfied:

(a) the assignor of the Interest Transferred sends written notice to the Company requesting the admission of the Assignee as a Substitute Member and setting forth the name and address of the Assignee, the number and type of Units and Percentage Interest and Capital Account balance Transferred, and the effective date of the Transfer; and

(b) the Company receives from the Assignee (i) such information concerning the Assignee's financial capacities and investment experience as may reasonably be requested by the Board of Managers and (ii) written instruments (including, without limitation, copies of any instruments of Transfer and such Assignee's consent to be bound by this Agreement as a Substitute Member) that are in a form satisfactory to the Board of Managers, in its sole and absolute discretion.

7.5.2 Upon the admission of any Substitute Member, Exhibit A shall be amended to reflect the name, address, number of Units and Percentage Interest of such Substitute Member and to eliminate or adjust, if necessary, the name, address, number of Units and Percentage Interest of the predecessor of such Substitute Member.

7.6 Withdrawal of Members. If a Member has Transferred all of its Membership Interest to one or more Assignees, then such Member shall withdraw from the Company if and when all such Assignees have been admitted as Substitute Members in accordance with this Agreement.

7.7 Conversion of Membership Interest. Upon the Incapacity of a Member, such Incapacitated Member's Membership Interest shall automatically be converted to an Economic Interest only, and such Incapacitated Member (or its executor, administrator, trustee or receiver, as applicable) shall thereafter be deemed an Assignee for all purposes hereunder, with the same Economic Interest as was held by such Incapacitated Member prior to its Incapacity, but without any other rights of a Member unless the holder of such Economic Interest is admitted as a Substitute Member pursuant to Paragraph 7.5. With the unanimous approval of the Board of Managers, upon the termination of an employee or consultant of the Company who is also a Member or who is affiliated with a Member that is an entity (such Member, a "**Terminated Employee Member**"), whether or not for cause, such Terminated Employee Member's Membership Interest may be converted to an Economic Interest only, and such Terminated Employee Member shall thereafter be deemed an Assignee for all purposes hereunder, with the same Economic Interest as was held by such Terminated Employee Member prior to such termination, but without any other rights of a Member. Subject to the foregoing, unless determined by the Board of Managers in its sole and absolute discretion, a Terminated Employee Member will remain a Member and no termination of a Terminated Employee Member, in and of itself, will result in a Termination Payment.

ARTICLE 8
DISSOLUTION, LIQUIDATION, AND TERMINATION OF THE COMPANY

8.1 Limitations. The Company may be dissolved, liquidated, and terminated only pursuant to the provisions of this Article 8, and the parties hereto do hereby irrevocably waive any and all other rights they may have to cause a dissolution of the Company or a sale or partition of any or all of the Company Assets.

8.2 Exclusive Causes. Notwithstanding any non-mandatory provisions of the Act, the following and only the following events shall cause the Company to be dissolved, liquidated, and terminated:

(a) The election of all of the following: (i) the Board of Managers; and (ii) the holders of a majority of the Preferred Units; or

(b) Judicial dissolution.

Any dissolution of the Company other than as provided in this Paragraph 8.2 shall be a dissolution in contravention of this Agreement.

8.3 Effect of Dissolution. The dissolution of the Company shall be effective on the day on which the event occurs giving rise to the dissolution, but the Company shall not terminate until it has been wound up and its assets have been distributed as provided in Paragraph 8.5 of this Agreement. Notwithstanding the dissolution of the Company, prior to the termination of the Company, the business of the Company and the affairs of the Members, as such, shall continue to be governed by this Agreement.

8.4 No Capital Contribution Upon Dissolution. Each Member shall look solely to the assets of the Company for all distributions with respect to the Company, its Capital Contribution thereto, its Capital Account and its share of Net Profits or Net Losses, and shall have no recourse therefor (upon dissolution or otherwise) against any other Member or any Manager. Accordingly, if any Member has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which the liquidation occurs), then such Member shall have no obligation to make any Capital Contribution with respect to such deficit, and such deficit shall not be considered a debt owed to the Company or to any other person for any purpose whatsoever.

8.5 Liquidation. Upon dissolution of the Company, the Board of Managers shall liquidate the assets of the Company or shall appoint a Liquidator, and after allocating (pursuant to Article 5 of this Agreement) all income, gain, loss and deductions resulting therefrom, the proceeds thereof shall be applied and distributed as follows:

8.5.1 First, to the payment of the obligations of the Company, to the expenses of liquidation, and to the setting up of any Reserves for contingencies which the Board of Managers or the Liquidator, as applicable, may consider necessary.

8.5.2 Thereafter, to the Members in proportion to the positive balances in the Members' respective Capital Accounts, determined after taking into account all Capital Account

adjustments for the Company taxable year during which such liquidation occurs (other than those made as a result of the distributions set forth in this Paragraph 8.5.2), by the end of the taxable year in which such liquidation occurs or, if later, within 90 days after the date of the liquidation.

In the event that the Board of Managers or other liquidator determines that an immediate sale of all or any portion of the Company Assets would cause undue loss to the Members, the Board of Managers or other liquidator, in order to avoid such loss to the extent not then prohibited by the Act, may either defer liquidation of and withhold from distribution for a reasonable time any Company Assets except those necessary to satisfy the Company's debts and obligations, or distribute such Company Assets to the Members in kind (subject to the priorities set forth in this Paragraph 8.5).

ARTICLE 9
MISCELLANEOUS

9.1 Appointment of Board of Managers as Attorney-in-Fact.

9.1.1 Each Member, including each Additional Member and Substitute Member, by its execution of this Agreement, irrevocably constitutes and appoints the Board of Managers (and each Manager acting on behalf of the Board of Managers) as its true and lawful attorney-in-fact with full power and authority in its name, place and stead to execute, acknowledge, deliver, swear to, file and record at the appropriate public offices such documents as may be necessary or appropriate to carry out the provisions of this Agreement, including but not limited to:

(a) All certificates and other instruments (including counterparts of this Agreement), and all amendments thereto, which the Board of Managers deems appropriate to form, qualify, continue or otherwise operate the Company as a limited liability company (or other entity in which the Members will have limited liability comparable to that provided in the Act), in the jurisdictions in which the Company may conduct business or in which such formation, qualification or continuation is, in the opinion of the Board of Managers, necessary or desirable to protect the limited liability of the Members.

(b) All amendments to this Agreement adopted in accordance with the terms hereof, and all instruments which the Board of Managers deems appropriate to reflect a change or modification of the Company in accordance with the terms of this Agreement.

(c) All conveyances of Company Assets, and other instruments which the Board of Managers reasonably deems necessary in order to complete a dissolution and termination of the Company pursuant to this Agreement.

9.1.2 The appointment by all Members of the Board of Managers (and each Manager acting on behalf of the Board of Managers) as attorney-in-fact shall be deemed to be a power coupled with an interest, in recognition of the fact that each of the Members under this Agreement will be relying upon the power of the Board of Managers (and each Manager acting on behalf of the Board of Managers) to act as contemplated by this Agreement in any filing and other action by it on behalf of the Company, shall survive the Incapacity of any Person hereby giving such power, and the transfer or assignment of all or any portion of the Interest of such

Person in the Company; *provided, however*, that in the event of the assignment by a Member of all of its Interest in the Company, the foregoing power of attorney of an assignor Member shall survive such assignment only until such time as the Assignee shall have been admitted to the Company as a Substitute Member and all required documents and instruments shall have been duly executed, filed and recorded to effect such substitution.

9.2 Amendments.

9.2.1 Each Additional Member and Substitute Member shall become a signatory hereto by signing such number of counterpart signature pages to this Agreement and such other instruments, in such manner, as the Board of Managers shall determine. By so signing, each Additional Member and Substitute Member, as the case may be, shall be deemed to have adopted and to have agreed to be bound by all of the provisions of this Agreement.

9.2.2 In addition to amendments specifically authorized herein, any and all amendments to this Agreement may be made from time to time by the written consent of a Majority in Interest; *except that*, without the consent of a Majority in Interest of the Members to be adversely affected, this Agreement may not be amended so as to (a) modify the limited liability of a Member, (b) materially adversely affect the voting and approval rights of a Member specifically set forth in this Agreement, including those rights set forth in Paragraphs 6.1, 6.3 and 8.2; or (c) adversely affect the interest of a Member in Net Profits, Net Losses or Cash Available for Distribution (other than to reflect the admission of an Additional Member or additional issuance of Units and/or otherwise pursuant to Paragraph 4.5.2).

9.2.3 In addition to other amendments authorized herein, amendments may be made to this Agreement from time to time by the Board of Managers without the consent of any other Member: (a) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Agreement that are not inconsistent with the provisions of this Agreement; (b) to delete or add any provision of this Agreement required to be so deleted or added by any federal or state law, rule or regulation; and (c) to take such actions as may be necessary (if any) to insure that the Company will be treated as a partnership for federal income tax purposes.

9.2.4 Each Member authorizes the Board of Managers to elect to apply the safe harbor set forth in Proposed Treasury Regulation § 1.83-3(l) (under which the fair market value of a Membership Interest that is transferred in connection with the performance of services is treated as being equal to the liquidation value of that interest) if such proposed Treasury Regulation or a similar Treasury Regulation becomes a Regulation. If the Board of Managers determines that the Company should make such election, the Members hereby authorize the Board of Managers to amend this Agreement to provide (i) the Company is authorized and directed to elect the safe harbor, (ii) the Company and each of its Members (including any person to whom a Membership Interest is transferred in connection with the performance of services) agrees to comply with all requirements of the safe harbor with respect to all Membership Interests transferred in connection with the performance of services while such election remains in effect and (iii) the Company and each of its Members agrees to take all actions necessary, including providing the Company with any required information, to permit the Company to

comply with the requirements set forth or referred to in the applicable Regulations for such election to be effective until such time (if any) as the Board of Managers determines, in its discretion, that the Company should terminate such election. The Members authorize the Board of Managers to amend this Agreement to the extent the Board of Managers determines in its discretion that such modification is necessary or desirable as a result of the issuance of Regulations relating to the tax treatment of the transfer of a Membership Interest in connection with the performance of services. Notwithstanding anything to the contrary in this Agreement, the Board of Managers shall not be required to obtain the Members' consent to amend the agreement in accordance with this Paragraph 9.2.4 and each Member agrees by its signature hereto that it Member will be legally bound by any such amendment.

9.2.5 In making any amendments, there shall be prepared and filed by, or for, the Board of Managers such documents and certificates as may be required under the Act and under the laws of any other jurisdiction applicable to the Company.

9.3 Accounting and Fiscal Year. Subject to Code Section 448, the books of the Company shall be kept on such method of accounting for tax and financial reporting purposes as may be determined by the Board of Managers. The fiscal year of the Company shall end on December 31 of each year, or on such other date permitted under the Code as the Board of Managers shall determine.

9.4 Meetings. At any time, and from time to time, the Board of Managers may, but shall not be required to, call meetings of the Members. Written notice of any such meeting shall be given to all Members not less than two (2) nor more than forty-five (45) days prior to the date of such meeting. Each meeting of the Members shall be conducted by the Board of Managers or any designee thereof. Each Member may authorize any other Person (whether or not such other Person is a Member) to act for it or on its behalf on all matters in which the Member is entitled to participate. Each proxy must be signed by the Member or such Member's attorney-in-fact. All other provisions governing, or otherwise relating to, the holding of meetings of the Members, shall from time to time be established in the sole discretion of the Board of Managers.

9.5 Entire Agreement. This Agreement (together with the Plan and any other agreement governing Restricted Units or to which such Restricted Units are subject) constitutes the entire agreement among the parties hereto and thereto pertaining to the subject matter hereof and thereof and fully supersedes any and all prior or contemporaneous agreements or understandings among the parties hereto and thereto pertaining to the subject matter hereof and thereof.

9.6 Further Assurances. Each of the parties hereto does hereby covenant and agree on behalf of itself, its successors, and its assigns, without further consideration, to prepare, execute, acknowledge, file, record, publish, and deliver such other instruments, documents and statements, and to take such other action as may be required by law or reasonably necessary to effectively carry out the purposes of this Agreement.

9.7 Notices. Any notice, consent, payment, demand, or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be (a) delivered personally to the Person or to an officer of the Person to whom the same is directed, or

(b) sent by facsimile or registered or certified mail, return receipt requested, postage prepaid, addressed as follows: if to the Company, to the Company at the address set forth in Paragraph 1.3 hereof, or to such other address as the Company may from time to time specify by notice to the Members in accordance herewith; if to a Member, to such Member at the address set forth in Exhibit A, or to such other address as such Member may from time to time specify by notice to the Company in accordance herewith. Any such notice shall be deemed to be delivered, given and received for all purposes as of: (i) the date so delivered, if delivered personally, (ii) upon receipt, if sent by facsimile, or (iii) on the date of receipt or refusal indicated on the return receipt, if sent by registered or certified mail, return receipt requested, postage and charges prepaid and properly addressed.

9.8 Tax Matters.

9.8.1 Robert A. Hayes shall be designated and shall operate as "Tax Matters Partner" (as defined in Code Section 6231), to oversee or handle matters relating to the taxation of the Company. Robert A. Hayes may make all elections for federal income and all other tax purposes (including, without limitation, pursuant to Section 754 of the Code).

9.8.2 Income tax returns of the Company shall be prepared by such certified public accountant(s) as the Board of Managers shall retain at the expense of the Company.

9.9 Governing Law. This Agreement, including its existence, validity, construction, and operating effect, and the rights of each of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Delaware without regard to otherwise governing conflicts of law or choice of laws principles.

9.10 Construction. This Agreement shall be construed as if all parties prepared this Agreement.

9.11 Captions - Pronouns. Any titles or captions contained in this Agreement are for convenience only and shall not be deemed part of the text of this Agreement. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as appropriate.

9.12 Binding Effect. Except as otherwise expressly provided herein, this Agreement shall be binding on and inure to the benefit of the Members, their heirs, executors, administrators, successors and all other Persons hereafter holding, having or receiving an interest in the Company, whether as Assignees, Substitute Members or otherwise.

9.13 Severability. In the event that any provision of this Agreement as applied to any party or to any circumstance, shall be adjudged by a court to be void, unenforceable or inoperative as a matter of law, then the same shall in no way affect any other provision in this Agreement, the application of such provision in any other circumstance or with respect to any other party, or the validity or enforceability of the Agreement as a whole.

9.14 Confidentiality. Each party hereto agrees that the provisions of this Agreement, all understandings, agreements and other arrangements between and among the parties, and all other non-public information received from or otherwise relating to, the Company shall be

confidential, and shall not be disclosed or otherwise released to any other Person (other than another party hereto), without the written consent of the Board of Managers. The confidentiality obligations of the Parties hereunder shall not apply to the extent that the disclosure of information otherwise determined to be confidential is required by applicable law; *provided*, that prior to disclosing such confidential information, a party shall notify the Company thereof, which notice shall include the basis upon which such party believes the information is required to be disclosed.

9.15 Counterparts. This Agreement may be executed in any number of multiple counterparts, and signatures may be delivered by facsimile, each of which shall be deemed to be an original copy and all of which shall constitute one agreement, binding on all parties hereto.

9.16 Securities Laws Matters. Each Member hereby represents and warrants that:

(a) Such Member is acquiring its Interest for its own account and not for the account of any other Person. Such Member is acquiring its Interest solely for investment and not with a view to, or for resale in connection with, the distribution or other disposition thereof. Such Member understands that the sale and issuance of the Interests has not been registered under the Securities Act of 1933, as amended (the "**Securities Act**"), applicable state securities laws or the securities or similar laws of any other jurisdiction whatsoever, and, therefore, the Interests cannot be sold, resold, pledged, assigned or otherwise disposed of unless they are subsequently registered under the securities and similar laws of each applicable jurisdiction, or unless exemptions from such registration requirements are available. Such Member understands that dispositions of its Interest can be made only (A) as explicitly permitted or contemplated under the terms of this Agreement and (B) in compliance with the Securities Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder and all applicable state securities and "blue sky" laws; and such Member understands that the Company is under no obligation to register the offer or sale of any Interests in any jurisdiction whatsoever or to assist Members in complying with any exemption from registration under the securities or similar laws of any jurisdiction whatsoever.

(b) Such Member understands that it may bear the economic risk of an investment in an Interest for an indefinite period of time, and such Member's financial situation is such that it can afford to bear the economic risk of holding its Interest for an indefinite period of time and suffer a complete loss of its investment in the Company.

(c) Such Member's investment in the Company represented by its Interest is highly speculative in nature and is subject to a high degree of risk of loss in whole or in part. The amount of such investment is within such Member's risk capital means and is not so great in relation to such Member's total financial resources as would jeopardize the financial needs of such Member in the event such investment were lost in whole or in part.

(d) Such Member's knowledge and experience in financial and business matters are such that it is capable of evaluating the merits and risks of its purchase and acquisition of its Interest, or it has been advised by representatives possessing such knowledge and experience.

(e) Such Member has had the opportunity to ask questions of, and has received satisfactory answers from, appropriate representatives of the Company with respect to the terms and conditions of the transactions contemplated hereby, with respect to the business, affairs, financial conditions, and results of operations of the Company and with respect to any other matters pertaining to this investment. Such Member has had access to such financial and other information as it deemed necessary or appropriate in order for it to make a fully-informed decision as to the transactions contemplated by this Agreement and its Interest, and such Member has had the opportunity to obtain any additional information which it deemed necessary or appropriate to verify any such information to which the Member has had access.

(f) Such Member is an "accredited investor" as defined in Rule 501 of Regulation D promulgated under the Securities Act.

9.17 COMPANY COUNSEL. THE BOARD OF MANAGERS MAY, WITHOUT THE CONSENT OF ANY MEMBER, EXECUTE ON BEHALF OF THE COMPANY ANY CONSENT TO THE REPRESENTATION OF THE COMPANY THAT COUNSEL MAY REQUEST PURSUANT TO THE RULES OF PROFESSIONAL CONDUCT OR SIMILAR RULES FOR CALIFORNIA OR ANY OTHER JURISDICTION. THE COMPANY HAS INITIALLY SELECTED LATHAM & WATKINS LLP ("**COMPANY COUNSEL**") AS LEGAL COUNSEL TO THE COMPANY. EACH MEMBER ACKNOWLEDGES THAT COMPANY COUNSEL DOES NOT REPRESENT ANY MEMBER IN ITS CAPACITY AS SUCH IN THE ABSENCE OF A CLEAR AND EXPLICIT WRITTEN AGREEMENT TO SUCH EFFECT BETWEEN SUCH MEMBER AND COMPANY COUNSEL (AND THEN ONLY TO THE EXTENT SPECIFICALLY SET FORTH IN SUCH AGREEMENT), AND THAT IN THE ABSENCE OF ANY SUCH AGREEMENT COMPANY COUNSEL SHALL OWE NO DUTIES TO ANY MEMBER. EACH MEMBER FURTHER ACKNOWLEDGES THAT, WHETHER OR NOT COMPANY COUNSEL HAS IN THE PAST REPRESENTED OR IS CURRENTLY REPRESENTING SUCH MEMBER WITH RESPECT TO OTHER MATTERS, COMPANY COUNSEL HAS NOT REPRESENTED THE INTERESTS OF ANY MEMBER IN THE PREPARATION AND/OR NEGOTIATION OF THIS AGREEMENT.

9.18 Waivers. No waiver by any Member or Manager of any default with respect to any provision, condition or requirement hereof shall be deemed to be a waiver of any other provision, condition or requirement hereof; nor shall any delay or omission of any Member or Manager to exercise any right hereunder in any manner impair the exercise of any such right accruing to it hereafter.

9.19 Certain Rules of Construction. To the fullest extent permitted by law, the parties hereto intend that any ambiguities shall be resolved without reference to which party may have drafted this Agreement. All Paragraph, Article or Section titles or other captions in this Agreement are for convenience only, and they shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof. Unless the context otherwise requires: (a) a term has the meaning assigned to it; (b) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles; (c) "or" is not exclusive; (d) words in the singular include the plural, and words in the plural include the singular; (e) provisions apply to successive events and transactions; (f) "herein," "hereof," "hereunder" and other words of similar import refer to this

Agreement as a whole and not to any particular Paragraph, Article, Section or other subdivision; (g) all references to "clauses," "Paragraphs," "Sections," "Articles," "Exhibits" or "Schedules" refer to clauses, Paragraphs, Sections or Articles of, or Exhibits or Schedules to, this Agreement; (h) any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms; and (i) all references to "$" or "dollar(s)" shall mean United States dollars unless the context specifically otherwise provides.

9.20 Third Party Beneficiaries. This Agreement shall be binding upon and, except with respect to Indemnitees as provided in Paragraph 6.7, shall inure solely to the benefit of the parties hereto and their respective successors and assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Limited Liability Company Agreement.

MEMBER:

Skymoon Ventures Management Company LLC

By: _____
Name: Michael Farmwald
Title: Manager

ANNEX A

COUNTERSIGNATURE PAGE FOR ADDITIONAL MEMBERS

Dated as of: APRIL 7, 2016

LIMITED LIABILITY AGREEMENT OF ATHERTON FIBER LLC

IN WITNESS WHEREOF, the undersigned Member has caused this counterpart signature page to the Limited Liability Company Agreement of Atherton Fiber LLC, dated as of APRIL 7, 2016, 2016 to be duly executed as of the date first above written.

"MEMBER"

Robert Hayes

By: Robert N. Hayes

Name: Robert Hayes

ANNEX B

COUNTERSIGNATURE PAGE FOR MANAGERS

Dated as of: Apr. 7, 2016

LIMITED LIABILITY AGREEMENT OF ATHERTON FIBER LLC

IN WITNESS WHEREOF, the undersigned Manager has caused this counterpart signature page to the Limited Liability Company Agreement of Atherton Fiber LLC, dated as of Apr. 7, 2016, 2016 to be duly executed as of the date first above written.

"MANAGER"

Skymoon Ventures Management Company LLC

By: _____

Name: Michael Farmwald

Title: Manager

EXHIBIT A
MEMBERS, INITIAL CAPITAL CONTRIBUTIONS, UNITS AND PERCENTAGE INTERESTS

Name of Members	Cash Contribution(s)	Gross Asset Value of Initial Contributed Property	Less Debt Assumed or Taken Subject to by Company	Current Capital Account Balance	Number of Units	Percentage Interest
Skymoon Ventures Management Company LLC	$511,000	$0	$0	$511,000	900,000	90%
Robert Hayes*	$0	$0	$0	$0	100,000	10%

* Individual has acquired Restricted Units pursuant to the Plan.

TABLE OF CONTENTS

Page

TABLE OF CONTENTS

Page

TABLE OF CONTENTS

TABLE OF CONTENTS

TABLE OF CONTENTS

Page

Exhibit B

Applicant's Initial Fiber Build Map

A1606014

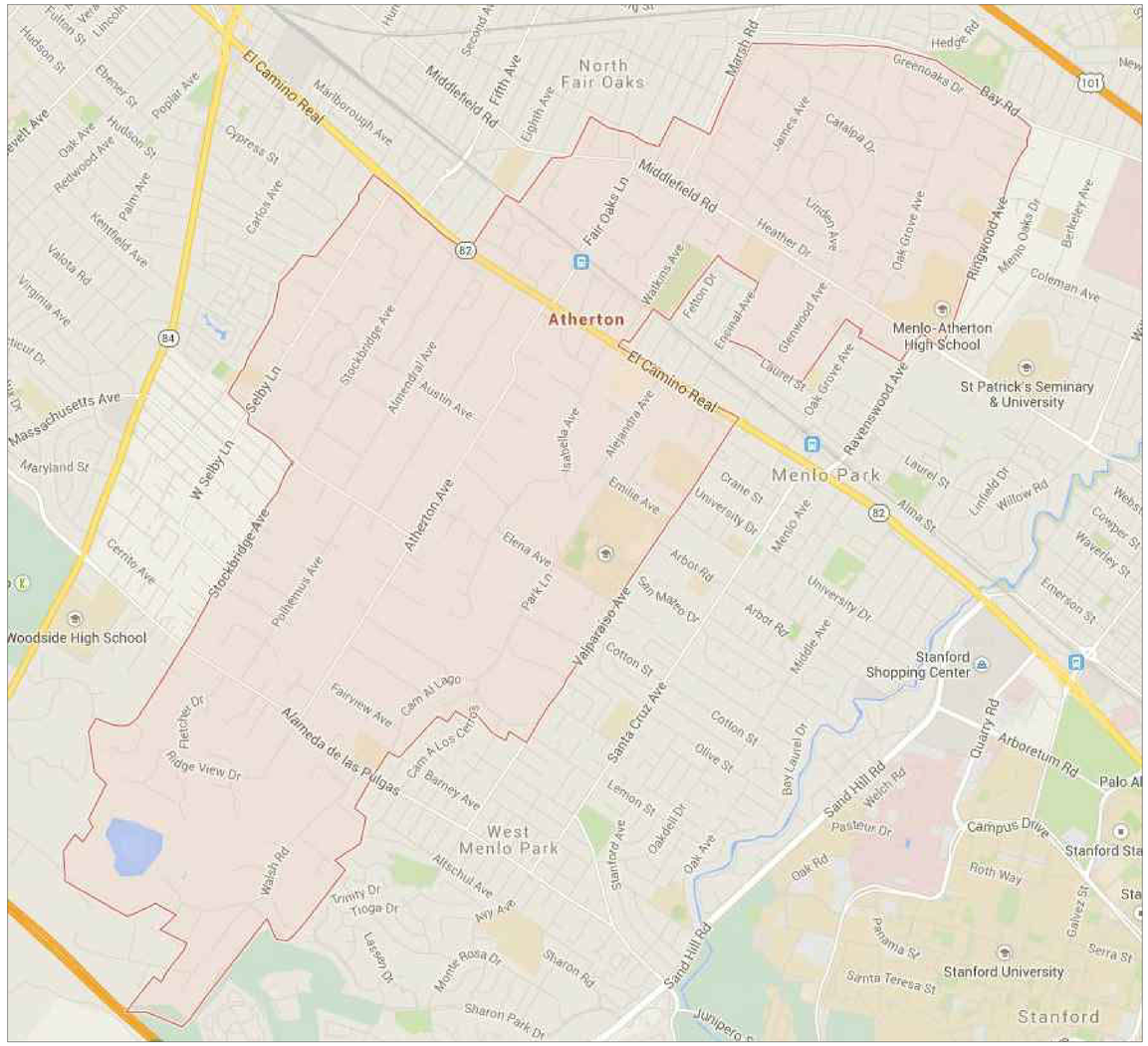
ATHERTON OPEN ACCESS DARK FIBER
RESIDENTIAL FIBER-OPTIC NETWORK

OUTSIDE PLANT SYMBOLS

PROPOSED ROUTE

CITY BOUNDARY

VICINITY MAP



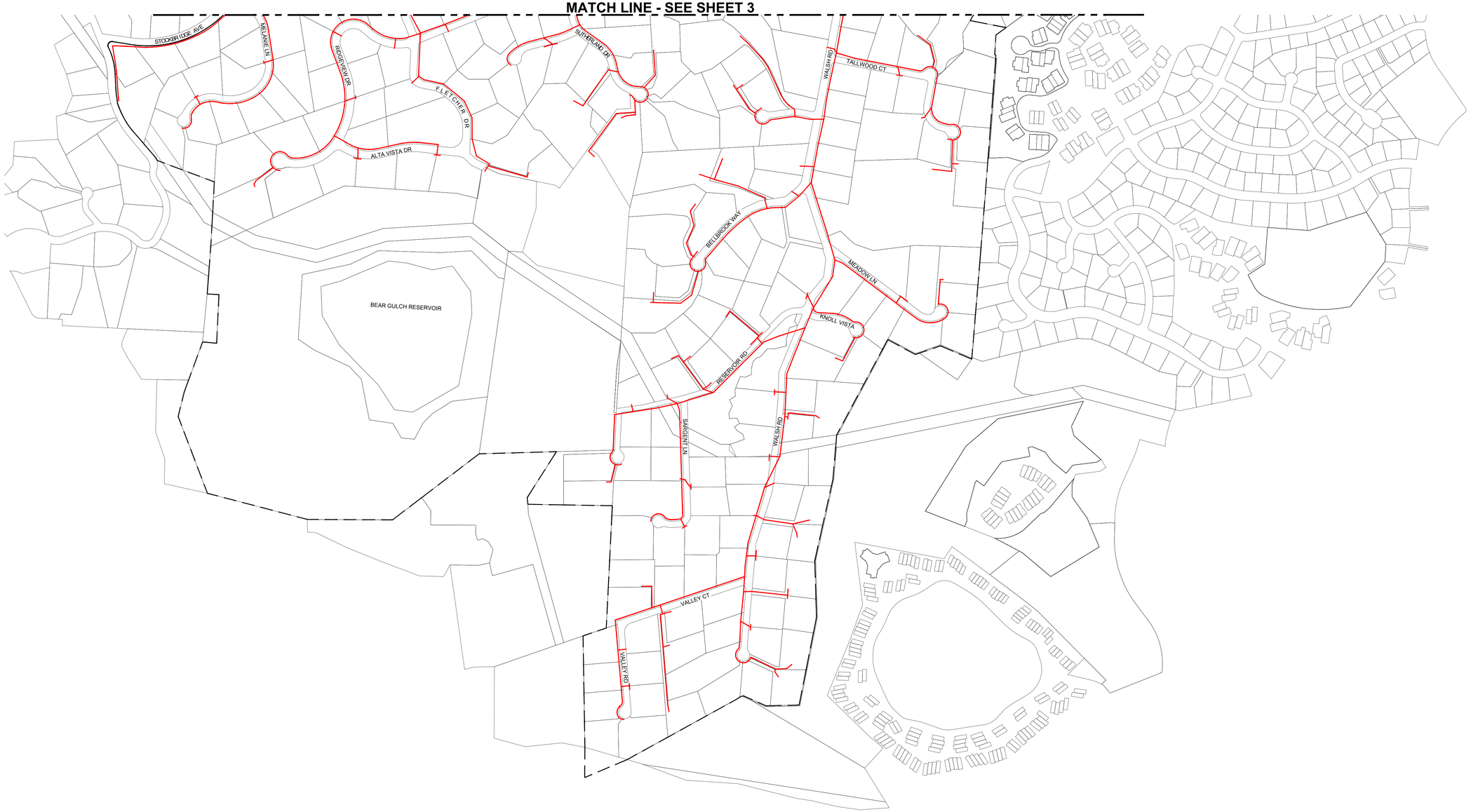
DRAWING INDEX

PROJECT CONTACTS

ATHERTON FIBER LLC:
ROBERT HAYES, CEO
888-963-9230

BYERS ENGINEERING:
JOANNE CIAFARDINI
925-398-6023

ADDRESS: ATHERTON, CA , 94507	ENGINEER: BYERS ENGINEERING COMPANY, 4780 CHABOT, SUITE 104, PLEASANTON, CA 94588, (925) 398-6010	SHEET TITLE: COVER SHEET,SYMBOLS ,INDEX	PROJECT NAME: ATHERTON JOB NO. DESIGNED BY: D.T. DRAWN BY: V.F. DATE: 3-16-16 SCALE: NONE	SHEET NO: 1 SHEET X OF X: 1 OF 5



OUTSIDE PLANT SYMBOLS

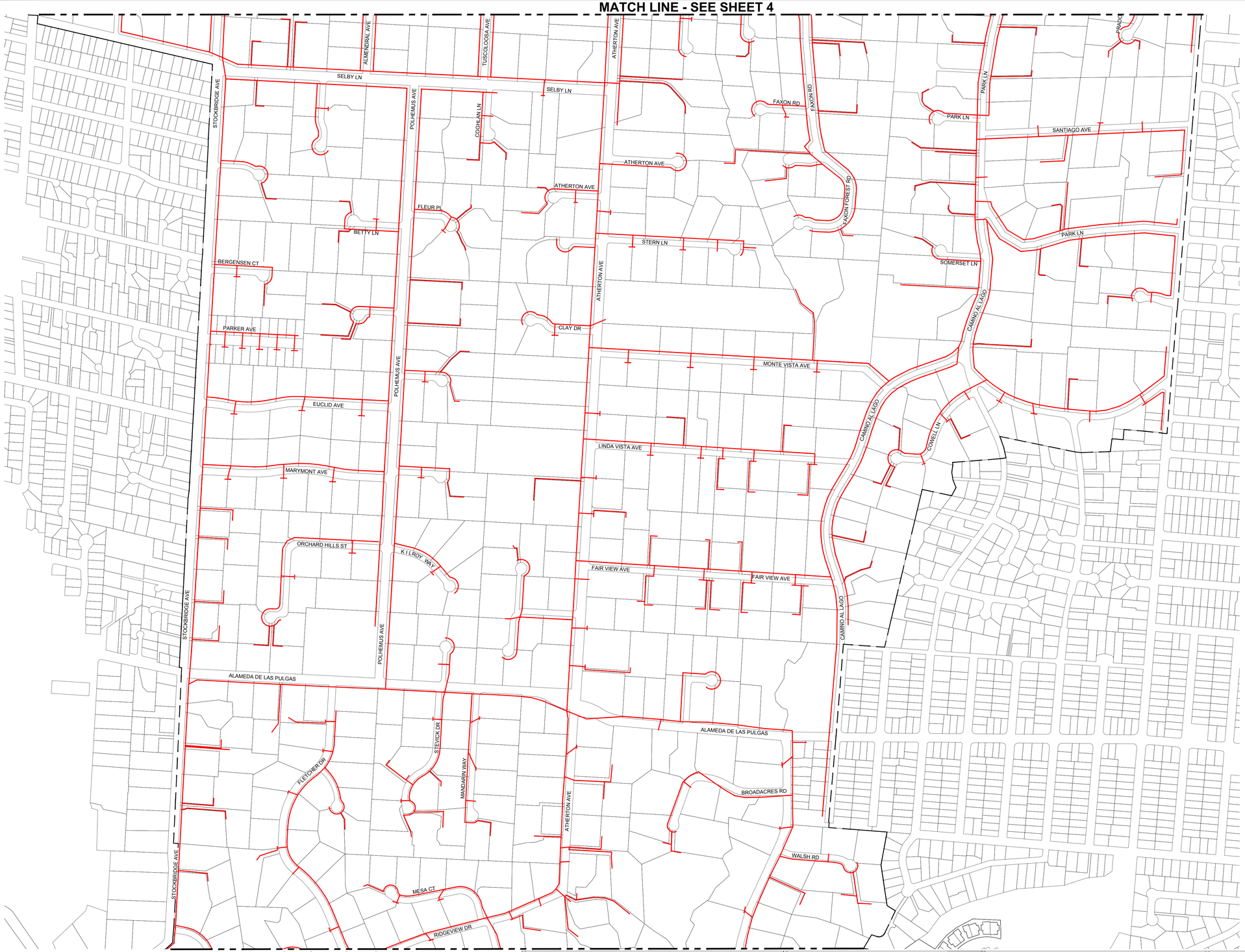
PROPOSED ROUTE

CITY BOUNDARY

SCALE: NTS

ADDRESS:	ATHERTON, CA , 94507
ENGINEER	BYERS ENGINEERING COMPANY 4780 CHABOT, SUITE 104 PLEASANTON, CA 94588 (925) 398-6010
SHEET TITLE	PROPOSED ROUTE MAP
PROJECT NAME:	ATHERTON
JOB NO.	
DESIGNED BY:	D.T.
DRAWN BY:	V.F.
DATE:	3-16-16
SCALE:	NONE
SHEET NO:	2
SHEET X OF X:	2 OF 5

MATCH LINE - SEE SHEET 4



MATCH LINE - SEE SHEET 2

OUTSIDE PLANT SYMBOLS

PROPOSED ROUTE

CITY BOUNDARY

SCALE: NTS

ADDRESS:

ATHERTON, CA , 94507

ENGINEER

BYERS ENGINEERING COMPANY
4780 CHABOT, SUITE 104
PLEASANTON, CA 94588
(925) 398-6010

SHEET TITLE

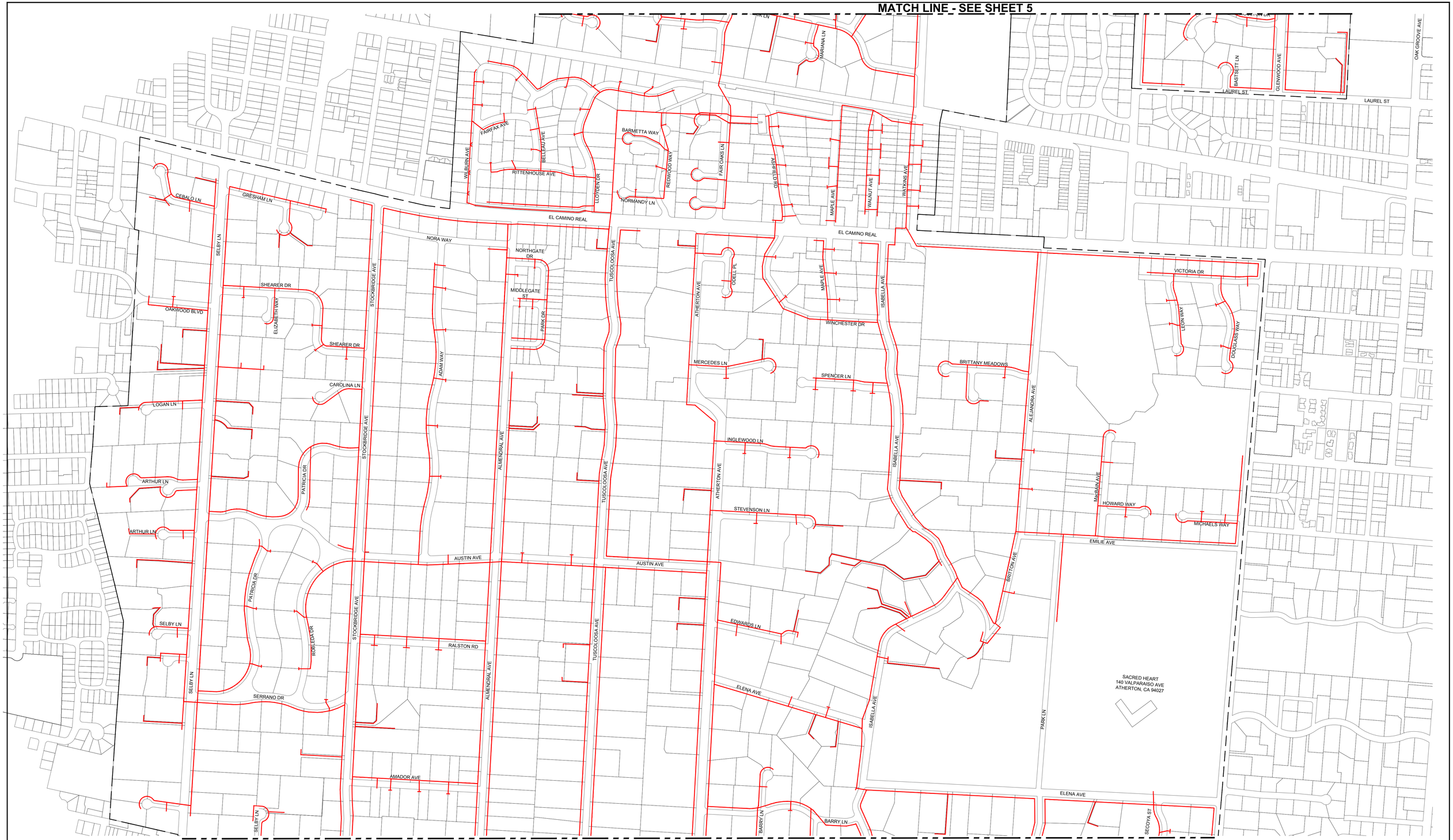
PROPOSED ROUTE MAP

PROJECT NAME:	ATHERTON
JOB NO.	
DESIGNED BY:	D.T.
DRAWN BY:	V.F.
DATE:	3-16-16
SCALE:	NONE

SHEET NO: 3

SHEET X OF X: 3 OF 5

MATCH LINE - SEE SHEET 5



MATCH LINE - SEE SHEET 3

OUTSIDE PLANT SYMBOLS

PROPOSED ROUTE

CITY BOUNDARY

SCALE: NTS

ADDRESS: ATHERTON, CA , 94507

ENGINEER

BYERS ENGINEERING COMPANY
4780 CHABOT, SUITE 104
PLEASANTON, CA 94588
(925) 398-6010

SHEET TITLE: PROPOSED ROUTE MAP

PROJECT NAME:	ATHERTON
JOB NO.	
DESIGNED BY:	D.T.
DRAWN BY:	V.F.
DATE:	3-16-16
SCALE:	NONE

SHEET NO: 4

SHEET X OF X: 4 OF 5

GREENOAKS DR
GREENOAKS DR
MOSSWOOD WAY
LUPIN LN
ROSEWOOD DR
WISTERIA WAY
FREDRICK AVE
QUAIL CT
GREENOAKS DR
PARKWOOD DR
ALTREE CT
RINGWOOD AVE
JAMES AVE
IRVING AVE
LILAC DR
DEODORA DR
LARCH DR
GREEN OAKS DR
CATALPA DR
CATALPA DR
OAK GROVE AVE
MANZANITA RD
LOWER DR
EDGE RD
ENCINO RD
TOYON RD
TOYON RD
MADRONE RD
DE BELL DR
MAPLE LEAF WAY
OAK GROVE AVE
MENLO-ATHERTON HIGHS SCHOOL
555 MIDDLEFIELD RD
ATHERTON, CA 94027
JUNIPER DR
LABURNUM RD
IRVING AVE
MAGNOLIA DR
JAMES AVE
MAGNOLIA DR
FLOOD DR
CATALPA DR
LINDEN AVE
CATALPA DR
IRVING AVE
JAMES AVE
IRVING AVE
HAWTHORNE DR
HAWTHORNE DR
LINDEN AVE
HEATHER DR
HEATHER DR
JAMES AVE
MARSH RD
HOLBROOK LN
HERITAGE CT
PALMER LN
SAN BENITO AVE
PLACITAS AVE
ENCINA AVE
MIDDLEFIELD RD
MIDDLEFIELD RD
FAIR OAKS LN
LANE PL
LANE PL
LANE PL
PRIOR LN
ENCINAL AVE
SURREY LN
REBECCA LN
FERNWOOD DR
GLENWOOD AVE
OAK GROVE AVE
BURNS AVE
BURNS AVE
WATKINS AVE
FAIR OAKS LN
FAIR OAKS LN
VIRGINIA LN
JENNINGS LN
MT VERNON LN
McCORMICK

MATCH LINE - SEE SHEET 4

OUTSIDE PLANT SYMBOLS

PROPOSED ROUTE

CITY BOUNDARY

N E S W

SCALE: NTS

ADDRESS:

ATHERTON, CA , 94507

ENGINEER

BYERS ENGINEERING COMPANY
4780 CHABOT, SUITE 104
PLEASANTON, CA 94588
(925) 398-6010

SHEET TITLE

PROPOSED ROUTE MAP

PROJECT NAME:	ATHERTON
JOB NO.	
DESIGNED BY:	D.T.
DRAWN BY:	V.F.
DATE:	3-16-16
SCALE:	NONE

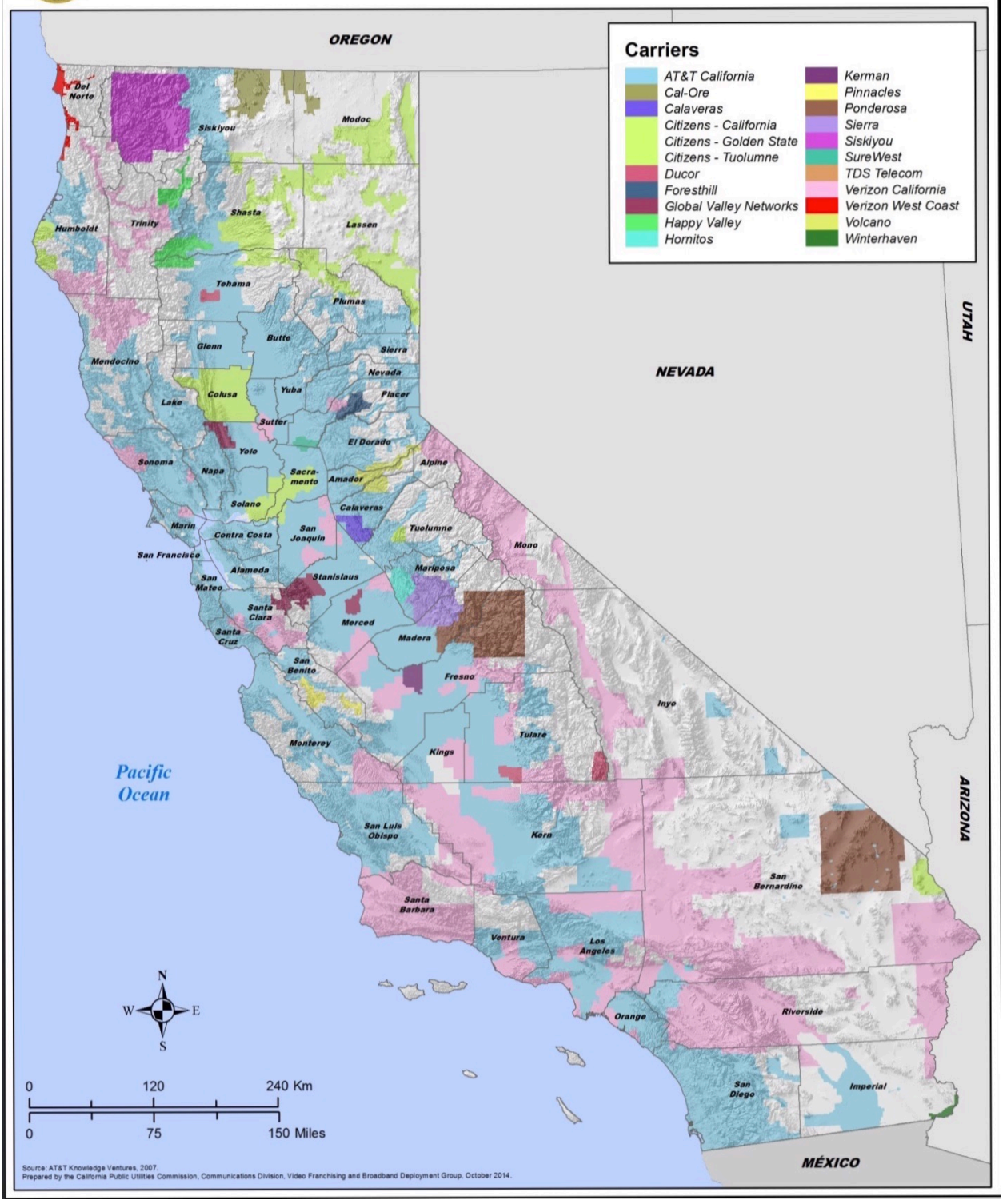
SHEET NO: 5

SHEET X OF X: 5 OF 5

Exhibit C

Service Area Map

INCUMBENT LOCAL EXCHANGE CARRIER TERRITORY IN CALIFORNIA - 2014



Source: AT&T Knowledge Ventures, 2007.
Prepared by the California Public Utilities Commission, Communications Division, Video Franchising and Broadband Deployment Group, October 2014.

EXHIBIT D

Financial Model for a Fiber Distribution Nework for the Town of Atherton

ASSUMPTIONS

Miles of road	50	
Households	2500	
Area (sq.mi)	5.017	
Household density	498	Households/sq.mi
Installation charge	$300	
Average monthly revenue per customer	$40	
Cost to Pass per Household	$1,100	
Incremental cost to connect a household	$900	doesn't include cost on ONT
Capital cost contingency	10%	
Fiber backhaul	$5,000	per month
Data	$2,600	per month for 10 Gbps
Lease for land for PoP	$2,000	per month
Utilities	$1,500	per month
Maintenance	$10,000	per month
Administration	$9,000	per month
Depreciation rate	10%	per year
Tax rate	35%	per year

Year	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
ISP sign-up percentage	0%	50%	60%	70%	70%	70%	70%	70%	70%	70%
2-fiber IRU sign-up percentage	10%	8%	4%	0%	0%	0%	0%	0%	0%	0%
4-fiber IRU sign-up percentage	1%	1%	1%	0%	0%	0%	0%	0%	0%	0%
Charge for IRU for 2 fibers	$7,500	$7,500	$9,000							
Charge for IRU for 4 fibers	$10,000	$10,000	$12,000							
REVENUE										
Houses Passed by end of year	1000	2500	2500	2500	2500	2500	2500	2500	2500	2500
Newly connected during the year	0	1250	250	250	0	0	0	0	0	0
Total connected at the end of the yea	0	1250	1500	1750	1750	1750	1750	1750	1750	1750
Average paying subs during year	0	937.5	1375	1625	1750	1750	1750	1750	1750	1750
Average Take Rate	0	0.375	0.55	0.65	0.7	0.7	0.7	0.7	0.7	0.7
Revenue from ISPs	0	$450,000	$660,000	$780,000	$840,000	$840,000	$840,000	$840,000	$840,000	$840,000
Revenue from 2-fiber IRUs	$1,875,000	$1,500,000	$900,000	$0	$0	$0	$0	$0	$0	$0
Revenue from 4-fiber IRUs	$250,000	$250,000	$300,000	$0	$0	$0	$0	$0	$0	$0

Total Revenue	$2,125,000	$2,200,000	$1,860,000	$780,000	$840,000	$840,000	$840,000	$840,000	$840,000	$840,000
EXPENDITURES										
Capital Expenditures										
Cost to pass all Households	$2,750,000									
Cost to connect Households		$1,125,000	$225,000	$225,000	$0	$0	$0	$0	$0	$0
Contingency	$275,000	$112,500	$22,500	$22,500	$0	$0	$0	$0	$0	$0
TOTAL CAPITAL EXPENDITURE (incl 1	$3,025,000	$1,237,500	$247,500	$247,500	$0	$0	$0	$0	$0	$0
Operating expenses (incl 15% contingency)										
Fiber backhaul to Data Centers	($60,000)	($60,000)	($60,000)	($60,000)	($60,000)	($60,000)	($60,000)	($60,000)	($60,000)	($60,000)
Internet data connection (10 GB)	($62,400)	($62,400)	($62,400)	($62,400)	($62,400)	($62,400)	($62,400)	($62,400)	($62,400)	($62,400)
Lease	($24,000)	($24,000)	($24,000)	($24,000)	($24,000)	($24,000)	($24,000)	($24,000)	($24,000)	($24,000)
Utilities	($18,000)	($18,000)	($18,000)	($18,000)	($18,000)	($18,000)	($18,000)	($18,000)	($18,000)	($18,000)
Maintenance	($120,000)	($120,000)	($120,000)	($120,000)	($120,000)	($120,000)	($120,000)	($120,000)	($120,000)	($120,000)
Administration	($108,000)	($108,000)	($108,000)	($108,000)	($108,000)	($108,000)	($108,000)	($108,000)	($108,000)	($108,000)
Contingency (15%)	($58,860)	($58,860)	($58,860)	($58,860)	($58,860)	($58,860)	($58,860)	($58,860)	($58,860)	($58,860)
Total Operating Expense	($451,260)	($451,260)	($451,260)	($451,260)	($451,260)	($451,260)	($451,260)	($451,260)	($451,260)	($451,260)
EBITDA	$1,673,740	$1,748,740	$1,408,740	$328,740	$388,740	$388,740	$388,740	$388,740	$388,740	$388,740
Depreciation	($302,500)	($426,250)	($451,000)	($475,750)	($475,750)	($475,750)	($475,750)	($1,674,750)	$0	$0
Tax	($479,934)	($462,872)	($335,209)	$0	$0	$0	$0	$0	($136,059)	($136,059)
Net Profit	$891,306	$859,619	$622,531	($147,010)	($87,010)	($87,010)	($87,010)	($1,286,010)	$252,681	$252,681
Starting Cash	$2,000,000	$168,806	$217,175	$1,043,206	$1,124,446	$1,513,186	$1,901,926	$2,290,666	$2,679,406	$2,932,087
Capital Expenditure	($3,025,000)	($1,237,500)	($247,500)	($247,500)	$0	$0	$0	$0	$0	$0
EBITDA	$1,673,740	$1,748,740	$1,408,740	$328,740	$388,740	$388,740	$388,740	$388,740	$388,740	$388,740
Tax	($479,934)	($462,872)	($335,209)	$0	$0	$0	$0	$0	($136,059)	($136,059)
Cash Flow	$168,806	$48,369	$826,031	$81,240	$388,740	$388,740	$388,740	$388,740	$252,681	$252,681
Ending Cash	$168,806	$217,175	$1,043,206	$1,124,446	$1,513,186	$1,901,926	$2,290,666	$2,679,406	$2,932,087	$3,184,768
NPV	$2,000,000.00	0.10500008								
ROI	9.07%									

Exhibit E

Financial Statements/Proof of Funds

A1606014

```
                  ____ N534 2 DDA   ACCOUNT STATUS INQUIRY    116/02/03 18.44.54
ACPR       CO 10048 OP                  MS       ACTION SUCCESSFUL
ACTION INQ        COID 10048             ACCT COND MEMO CR TDY
PROD CODE  DDA    ACCT       9416614296   SHORT NAME ATHERTON FIBER LLC
SUB PROD   8B     COST CENTER   95837 OFFICER  OFF00   STATUS  99    ACTIVE
OWNER/SUBOWNER  02 13 ZBA CODE  0     BRANCH  80859    OD/NSF      BK-LINK
SVC TYPE CODE   25    ARP CODE  0     OPENED       116/01/25           100.00
INTEREST CODE   7B    W/H CODE  PC    RE-OPENED                 DRMT
STMT CYCLE CODE EM    MAIL CODE 00    CTD INT EARN 116/02/03          .00073764
OD PROC LMT                   .00     CTD AVERAGE COLL BAL              100.00
LEDGER BALANCE              100.00    PREV CYC AVG COLL BAL             100.00
   MEMO CR     +        400,000.00    CLOSED                              .00
   MEMO DR     -              .00     LAST STMT    116/01/31            100.00
   RESTRAINTS  -              .00     LAST DEPOSIT 116/01/25            100.00
AVAILABLE BAL           400,100.00    LAST WITHDRL                        .00
   FLOAT       -              .00     -->HARD HOLDS 0   PLEDGES 0   STOP PAYS 0
COLLECTED BAL           400,100.00    DATE OVERDRWN                OBP CODE  66
   EARNED INT  +              .00     CTD ITEMS NSF         0 CTD TIMES OD   0
   SVC FEE     -              .00     ORIG AOP ACCT:                1894671567
   WH          -              .00     YTD INTEREST PAID                   .00
   FLOAT       +              .00     YTD FEDERAL WITHHOLDING             .00
CLOSE-OUT BAL           400,100.00    CREDIT LINE-1
FUNDS MAY BE AVAILABLE VIA DRIVER
PF: 2-XD$0 4-DDMU 6-INQ 9-NXT 10-OFFR  OTHER PF:  7-AOP ORIG ACCT
```

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Comerica Bank – Palo Alto
Banking Center Manager

ComericA Bank
comerica.com

Mehran Farahani
Banking Center Manager
Vice President

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250 LYTTON AVENUE, PALO ALTO, CA 94301

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Exhibit F

Customer Estimates
A1606014

Customer Estimates

Year	2016	2017	2018	2019	2020	2021
ISP sign-up percentage	0%	50%	60%	70%	70%	70%
2-fiber IRU sign-up percentage	10%	8%	4%	0%	0%	0%
4-fiber IRU sign-up percentage	1%	1%	1%	0%	0%	0%
Charge for IRU for 2 fibers	$7,500	$7,500	$9,000			
Charge for IRU for 4 fibers	$10,000	$10,000	$12,000			
REVENUE						
Houses Passed by end of year	1000	2500	2500	2500	2500	2500
Newly connected during the year	0	1250	250	250	0	0
Total connected at the end of the ye	0	1250	1500	1750	1750	1750
Average paying subs during year	0	937.5	1375	1625	1750	1750
Average Take Rate	0	0.375	0.55	0.65	0.7	0.7

Exhibit G- Managerial and Technical Competence

Mike Farmwald – CEO of Atherton Fiber

Mike holds a doctorate in Computer Science from Stanford University where he was a Hertz Foundation Fellow. He co-founded Rambus in 1991, and a co-founded a number of other companies including Matrix Semiconductor, Dash Navigation, FTL and Chromatic Research. For about 10 years, Mike was a Venture Partner at Benchmark Capital.

Robert Hayes – Chief Operating Officer of Atherton Fiber

Robert has senior management experience in a variety of fields, including wireless access networks, monitoring and control systems, pattern recognition, medical devices, and remote telemetry. He was most recently president and CEO of Purfresh, a company specializing in atmospheric control and monitoring of refrigerated containers. Prior to that he served as President of Veraloft, an internet service provides specializing in city-wide wireless deployments.

The Fibersmith Company

FiberSmith is a fiber engineering company excelling in Inside and Outside Plant design, evaluation, mapping (including GIS), construction, implementation and testing. We handle Private, Public, and Public-Private Partnership projects. FiberSmith is familiar with most facets of regulatory procedures including Environmental Assessments and State Historical Agency reports, government grants, and loan applications.

Byers Engineering Company

Byers Engineering Company was founded in 1971 to be an effective technical services firm in the telecommunications and utility industries. The company's first client was New York Telephone Company (now Verizon), which remains a client today. This longevity is evidence of Byers' long-term business commitment to providing clients with high-quality, high-value products and services that exceed their expectations. A customer-focused approach has been a constant at Byers -- just as the president and core management group have been.

Headquartered in Atlanta, Byers has 1,000 employees including PMs, PEs, OSP and ISP Design Engineers, RCDDs, SW Developers, GIS Techs, Permitting and ROW specialists, Inspectors, and CAD Operators supporting both wireline and wireless providers. We are proud to count such companies as Atlanta Gas Light, AT&T, ATMC, Centurylink, Entergy, Hardy Telephone, Level (3), Progress Energy, Verizon, and Zayo among our client list.

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EXHIBIT H

DEMONSTRATION OF COMPLIANCE WITH THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE

A1606014

CPUC RULE	REQUIREMENT	APPLICATION REFERENCE
2.1(a)	Identification of Applicant	Section I
2.1(b)	Correspondence or Communications	Section II
2.2	Articles of Incorporation; Certificate of Qualification for California	Exhibit A
3.1(e)	Description of Services to be Provided	Section III
3.1(a)	Description of Proposed Construction	Section V; Exhibit B
2.4	CEQA Compliance	Section VI
3.1(b)	Names of Competitors and Counties	Section VII
3.1(c)	Map of Service Areas	Section VIII; Exhibit C
3.1(d)	Franchises, Health and Safety Permits Required for Construction	Section IX
3.1(e)	Facts Showing Public Convenience and Necessity	Section X
3.1(f)	Estimated Cost of Construction	Section XI
3.1(g)	Financial Ability And Rates Sections	XII; Exhibit E
3.1(h)	Proposed Rates Sections	XIII
3.1(i)	Statement of Material Financial Interests (General Order 104-A Statement)	Section XIV
3.1(j)	Estimated Number of Customers for the First and the Fifth Year	Section XV; Exhibit E
2.1(d)	Technical and Managerial Competence	Section XVI; Exhibit F