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**FIRST AMENDMENT TO
DECLARATION OF SUBMISSION OF PROPERTY
TO HORIZONTAL PROPERTY REGIME
FOR JORDAN CREEK CONDOMINIUMS, *l/k/a*
BELLA SOUTH CONDOMINIUMS**

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Declarant:

Jordan Creek Condominiums, L.L.C.

Legal Description: Lot 1, Bella South Plat 1, an Official Plat, included in and forming a part of the City of West Des Moines, Dallas County, Iowa.

Previously Recorded Document: Book 2006, Page 7289

**FIRST AMENDMENT TO
DECLARATION OF SUBMISSION OF PROPERTY
TO HORIZONTAL PROPERTY REGIME
FOR JORDAN CREEK CONDOMINIUMS, f/k/a
BELLA SOUTH CONDOMINIUMS**

This First Amendment to Declaration is made on January 11, 200¹⁰~~9~~, by Jordan Creek Condominiums, LLC, as successor in interest to Bella South, L.L.C. (hereinafter referred to as "Declarant").

RECITALS

Bella South, L.L.C. has previously caused a Declaration of Submission of Property to Horizontal Property Regime for Bella South Condominiums dated May 3, 2006 to be filed on May 15, 2006, and recorded in Book 2006 at Page 7289 in the Dallas County, Iowa Recorder's Office (the "Declaration"). Subsequent to the filing of the Declaration, Bell South, L.L.C. did quit claim and convey to Jordan Creek Condominiums, LLC, a/k/a Jordan Creek Condominiums, L.L.C., all of its rights as "Declarant" under the Declaration. Jordan Creek Condominiums, LLC, as Declarant, now wishes to amend the Declaration in certain respects, all as more fully set forth herein.

THEREFORE, IT IS AGREED AS FOLLOWS:

Section 1

Articles I through XVI as set forth in the Declaration are hereby deleted in their entirety and the following inserted in lieu thereof:

I. Definitions.

As used in this Declaration, unless the context otherwise requires, the terms hereinafter set forth shall have the following meanings:

"Act" means the Horizontal Property Act, Chapter 499B, Code of Iowa.

"Agencies" means and collectively refers to the Federal National Mortgage Association ("**FNMA**"), the Government National Mortgage Association ("**GNMA**"), the Federal Home Loan Mortgage Corporation ("**FHLMC**"), the Department of Housing and Urban Development ("**HUD**"), the Veterans Administration ("**VA**"), the "Iowa Finance Authority" ("**IFA**") and any other governmental or quasi-governmental agency and any other public, quasi-public, or private entity which performs (or may perform in the future) functions similar to those currently performed by such entities.

"Allocated Interest(s)" means, with respect to each Condominium Unit, the appurtenant undivided interest in the General Common Elements, the Common Expense liability and votes in the Association allocated to said Condominium Unit.

"Articles" means the Articles of Incorporation of the Association, as the same may be amended, modified, and/or restated from time-to-time.

"Assessments" means and includes all assessments for Common Expenses provided for in this Declaration. Assessments are classified as Common Expense Assessments, Special Assessments and Reimbursement Assessments, as provided in paragraph 20.

"Association" means Bella South Owners' Association, Inc., an Iowa nonprofit corporation, its successors and assigns, the Articles and Bylaws of which, along with this Declaration, shall govern the administration of the Project, and the members of which shall be all of the Owners. The term is synonymous with "Owners' Association" and "Council of Co-owners."

"Board of Directors" or **"Board"** means the governing body of the Association.

"Budget" shall mean the then-current annual budget for the operations of the Association prepared by the Board pursuant to paragraph 20.c.

"Buildings" means the buildings structure(s) and improvements erected on the Real Estate and located at the intersection of 64th Street and Coachlight Drive in West Des Moines, Iowa.

"Bylaws" means the bylaws of the Association as the same may be amended, modified and/or restated from time-to-time, and as established in Exhibit A attached hereto.

"Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with allocations for reserves, and shall include, without limitation, the following items:

- (1) all unpaid sums lawfully assessed against any Owner by the Board and amounts incurred or expended to collect the same;
- (2) expenses of general administration, management, and operation of the Project, and for maintenance, repair, alteration, renovation, reconstruction, restoration, and replacement of, and for additions to, the General Common Elements;
- (3) expenses declared Common Expenses by provisions of this Declaration or the Act; and
- (4) other expenses relating to the use and enjoyment of the Project agreed upon as Common Expenses by a vote of the Owners representing an aggregate ownership interest of at least fifty-one percent (51%) of the General Common Elements.

"Condemnation Award" is defined as set forth in paragraph 30.b.

"Condominium Survey" is defined as set forth in paragraph 2.

"Condominium Instruments" means, collectively, this Declaration, and the Articles, Bylaws and Rules and Regulations of the Association, all as amended from time-to-time.

"Condominium Unit" means the fee simple title in and to a Residential Unit, and the Garage Unit(s) assigned thereto, as designated on attached Exhibit "C", together with the corresponding, undivided interest in the General Common Elements, including the Owner's rights with respect to any Limited Common Elements appurtenant to a Unit, and all other rights and burdens created by this Declaration.

"Declarant" means Jordan Creek Condominiums, L.L.C. (as successor in interest to Bella South, L.L.C.), and any successor or assignee designated by written notice or assignment duly executed and recorded by Declarant or by any successor or assignee so designated. Declarant is the successor in interest to the Declarant identified in the original Declaration, filed in Book 2006 at Page 7289.

"Declaration" means this Declaration, together with any supplements or amendments hereto recorded in the Records.

"Development Rights" means those rights granted or reserved to the Declarant as set forth in the Condominium Instruments or the Act including, without limitation, the rights set forth in subparagraph 3.a(7) hereof.

"Development Rights Period" means the period of time commencing on the date of this Declaration and ending on the earlier of: (i) the sale of all of the Condominium Units within the Project to third-party purchasers; (ii) January 1, 2015; or (iii) the date that Declarant waives all remaining Development Rights pursuant to an express written waiver executed and acknowledged by Declarant and recorded in the Records.

"Eligible Mortgagee" is defined as set forth in paragraph 32.

"First Mortgage" means and includes a Mortgage on a Condominium Unit which has first and paramount priority under applicable law over all other Mortgages encumbering said Unit. A vendor under a Contract for Deed on a Unit shall be deemed a First Mortgagee unless said Unit is encumbered by the interest of a prior Mortgagee or prior contract vendor.

"Garage Unit" means any one of the Units located in a Building and designated as a Garage Unit on the Condominium Survey with a "G" followed by a number. Each Garage Unit shall include the garage door on such Unit.

"General Common Elements" means all of the Project except the portions thereof which constitute Units, and shall include, without limitation, all parts of the Buildings or any facilities, improvements, and fixtures located within a Unit which are or may be necessary or convenient to the support, existence, use, occupation, operation, maintenance, repair, or safety of the Buildings or any part thereof or any other Unit therein. The term is synonymous with "Common Elements." Without limiting the generality of the foregoing, the following shall constitute General Common Elements:

- (1) all of the land, appurtenances, and beneficial easements which are part of the Real Estate;
- (2) all foundations, columns, girders, beams, and supports of the Buildings;
- (3) all deck areas, balconies and patios (subject to reservation for individual Owner use as Limited Common Elements, as hereafter defined and provided);
- (4) the exterior walls of the Buildings, the main or bearing walls within the Buildings, the main or bearing sub-flooring, and the roof of the Buildings (subject to the corresponding easements for support and access as hereafter defined and provided);
- (5) the unfinished surfaces of the floors, ceilings, and perimeter walls of the Units, as well as non-weight bearing walls and building structures within the Units;
- (6) all entrances, exits, vestibules, halls, corridors, lobbies, lounges, and related facilities, stairways, elevators and fire escapes, if any, not within any Unit;
- (7) all driveways and parking areas (excluding Garage Units);

- (8) all other parts of the Project necessary in common use or convenient to its existence, maintenance, and safety;
- (9) any roof deck now or hereafter constructed;
- (10) all landscaping;
- (11) equipment, piping, conduits, and installations used in connection with the provision of sewer, water, electrical, and any other common utilities serving the Project; fixtures and decorating in common areas; and sprinkler, fire, alarm, and security system components; and
- (12) those areas and things within the definition of "General Common Elements" as set forth in the Act.

"Guest" means any tenant of a Unit Owner, and any family member, guest, or invitee or such Owner or of such tenant, PROVIDED that the Association Board reserves the right to exclude from the Project any non-Owner as hereinafter provided.

"Junior Mortgage" is defined as set forth in paragraph 27.

"Land" means the real property described in Schedule I attached hereto.

"Limited Common Elements" means those General Common Elements which are limited to and reserved for the use of one or more but less than all of the Owners, as designated on the Condominium Survey, in this Declaration or in the deed from Declarant to the initial third-party purchaser of a Unit, including but not limited to: (i) the delineated, individual balcony, patio, and deck areas, as well as equipment rooms or spaces, and air conditioning and heating equipment associated with or providing service to one or more but fewer than all Condominium Units; (ii) those portions of the Project treated as Limited Common Elements by operation of the Act; (iii) those portions of the Project expressly designated by the Association Board as Limited Common Elements either temporarily or permanently.

"Managing Agent" means a person or entity selected by the Board to perform the management and operational functions of the Association, and so designated.

"Mortgage" means an interest in real estate created by contract or conveyance which secures payment or performance of an obligation including, without limitation, a mortgage, deed of trust, trust deed, security deed, contract for deed, and any other consensual lien or title retention contract intended as security for an obligation. The term includes the interest of any holder, insurer, or guarantor of a Mortgage, and that of any grantee, beneficiary, successor, or assign of a Mortgagee, as well as the interest of a vendor under a Contract for Deed on a Unit and that of such vendor's successors and assigns.

"Mortgagee" shall include any holder, grantee, or beneficiary of a Mortgage, and any successor or assign thereof, and any insurer or guarantor of a Mortgage. The term shall also include a vendor under a Contract for Deed.

"Occupancy" means the actual occupancy of any Condominium Unit in a manner consistent with the normal usage and purposes of the Condominium Unit or the right to so occupy the Condominium Unit, regardless of whether such right is ever exercised. It shall be presumed from the exercise of rights of a landlord even though actual occupancy is by a tenant. The terms "occupy", "occupancy", and "use" are synonymous for the purposes of this Declaration and any other Condominium Instruments.

"Owner" means the Person or Persons owning a Condominium Unit in fee simple. As to Units owned by Declarant, and except as otherwise provided for herein, Declarant shall enjoy the same rights and shall be subject to the same obligations as other Owners (except for the payment of dues and assessments). If a Condominium Unit is sold under a Contract for Deed, the vendee, as the equitable owner while the Contract for Deed remains executory, shall be deemed the Owner of the Condominium Unit for purposes of this definition. The term shall be deemed synonymous with the term "member" as used in the Act.

"Parking Lot" means the areas so depicted on the Condominium Survey.

"Person" means a natural person, corporation, partnership, limited liability company, association, trust, or any other legally cognizable entity, or combination thereof.

"Project" means all of the Real Estate, including specifically the Buildings, grounds, and improvements submitted to this Declaration.

"Real Estate" has the same meaning as Project.

"Records" means the real property records of the Recorder of Polk County, Iowa, and any and all other official public records relating to the ownership, use, and transfer of real estate located in Polk County, Iowa.

"Reimbursement Assessment" is defined as set forth in paragraph 20.g.

"Residential Unit" means any one of the Units designated on the Condominium Survey as a "Residential Unit." A Residential Unit shall consist of the airspace within one or more rooms occupying all or part of a floor or floors in the Building, which enclosed space is not owned in common with the Unit Owners of other Units, and which airspace is bounded by the unfinished floors, ceilings, and interior and perimeter walls thereof as shown on the Condominium Survey. A Residential Unit shall include the doors and windows serving the respective designated Residential Units. A Residential Unit shall include both the portion of the Building so described and the airspace so encompassed, excepting General Common Elements and Limited Common Elements, and shall be consistent with the meaning of the term "Apartment" as used in the Act.

"Rules and Regulations" means the content of any instrument, however denominated, which is adopted and/or promulgated by the Association pursuant to the Condominium Instruments or the Act and relating directly or indirectly to the operation and management of the Project or any portion thereof.

"Special Assessment" is defined as set forth in paragraph 20.f.

"Units" means those spaces within the Building as depicted on the Condominium Survey and identified by an identifying number as a Unit. It is synonymous with Condominium Unit as herein defined and with "Apartment" as used in the Act. The term includes Residential Units, and Garage Units.

Notwithstanding anything herein, no General Common Element or Limited Common Element located within a Unit as described above shall be considered part of the Unit.

"Use" means the use of any Condominium Unit or the General Common Elements in a manner consistent with the normal usage and purposes of the Condominium Unit or the right to so use the Condominium Unit, regardless of whether such right is ever exercised. The terms "occupy",

"occupancy", and "use" are synonymous for the purposes of this Declaration and any other Condominium Instruments.

"Utility Easement(s)" shall be as defined in paragraph 15.f.

2. Condominium Survey.

A Condominium Map of the Project complying with the requirements of Section 499B.6 of the Act, and augmenting compliance with the requirements of Section 499B.4 of the Act, is attached hereto as Exhibit B (the "Condominium Survey"). Additionally, the Condominium Survey designates each Unit as a Residential Unit, or a Garage Unit.

Except as otherwise provided in this Declaration or as otherwise required by the Act, the Condominium Survey may not be amended or supplemented except with the vote or agreement of the Owners owning at least a 67% interest in and to the Common Elements.

Notwithstanding the foregoing, Declarant, in its sole and absolute discretion, at any time prior to the expiration of the Development Rights Period, shall be entitled to amend and/or supplement Condominium Survey, without the approval of the Unit Owners or any Mortgagees as necessary or desirable to allow the exercise of the Development Rights. After said period, the Association, in its sole and absolute discretion, shall be entitled to amend and/or supplement the Condominium Survey without the approval of the Owners or any Mortgagees, but subject to any restrictions set forth in this Declaration, as necessary in connection with any amendments to the Declaration. In interpreting any and all provisions of this Declaration, and in interpreting any deeds to or Mortgages of any Condominium Units, the actual physical boundaries of a Unit as constructed (or, in the case of Garage Units, the actual boundaries as shown on the Condominium Survey) shall be conclusively presumed to be its boundaries.

3. Required Elements of Declaration/Division Into Units.

a. Requirements of Act. In compliance with certain of the requirements set forth in Section 499B.4 of the Act, Declarant hereby states as follows:

- (1) The Land that is the subject of this Declaration is legally described on Schedule I.
- (2) The Three (3) Buildings containing the Residential Units are each three (3) story structures and each contain twenty-four (24) Residential Units; the fifteen (15) Buildings containing the Garage Units are each in one (1) story structures. The Buildings are constructed of concrete, brick, masonry, metal, wood, gypsum board, and other building materials typical in the state of Iowa.
- (3) The Condominium Survey ("Exhibit B") and the Fractional Allocation Chart ("Exhibit C") depict the location and number of each Condominium Unit. The Condominium Survey and Fractional Allocation Chart and this Declaration shall govern for the purposes of the Act as meeting the following requirements.
 - (a) A description of the General Common Elements or Limited Common Elements affording access to each Condominium Unit;

- (b) The location of General Common Elements and Limited Common Elements reflecting the Condominium Units for which said Limited Common Elements are reserved; and
 - (c) The Unit number of each Condominium Unit, the relative location of each, approximate area of Units, number of rooms encompassed by each Unit, and other data necessary for proper identification of Units, General Common Elements, and Limited Common Elements.
- (4) The description of the boundaries of each Unit created by this Declaration is set forth on the Condominium Survey and in the definitions of terms herein, and each Unit's identifying number is shown on the Condominium Survey.
- (5) A depiction of Limited Common Elements is shown on the Condominium Survey and is set forth in the definition of the terms "General Common Elements" and "Limited Common Elements" herein.
- (6) Portions of the Project may be allocated subsequently as Limited Common Elements pursuant to the deed from Declarant to an initial third-party owner of any Condominium Unit.
- (7) In addition to the rights reserved by the Declarant as set forth elsewhere in this Declaration, Declarant reserves the absolute and unrestricted right without any further authorization or consent (unless expressly provided for herein) to:
 - (a) Create General Common Elements or Limited Common Elements from portions of Units owned by it;
 - (b) Subdivide or combine Units, or portions thereof, or convert Units into General Common Elements or Limited Common Elements;
 - (c) Complete any improvements to the Project whether or not indicated on the Condominium Survey;
 - (d) Maintain sales offices, management and leasing offices, and signage advertising the Project, all as more fully described in paragraph 34.h;
 - (e) Make any improvements, alterations, or additions to the Project, at Declarant's expense, as Declarant may deem necessary or desirable for the marketing of the Units, and in connection therewith to allow the use of easements through the General Common Elements and other Units by Declarant and Declarant's agents and contractors;
 - (f) Designate, appoint, or remove any officer of the Association or any member of the Board as specified in paragraph 18, the Articles, or the Bylaws;

- (g) Create Units from General Common Elements or Limited Common Elements as set forth in paragraph 4.a;
- (h) Redesignate any: i) General Common Elements to Limited Common Elements; ii) Limited Common Elements to General Common Elements provided the consent of any Unit Owner and Mortgagee whose Unit is affected is first obtained; iii) General Common Elements to a Unit provided the consent of any Unit Owner and Mortgagee whose Unit is affected is first obtained; iv) Limited Common Elements to a Unit provided the consent of any Unit Owner and Mortgagee whose Unit is affected is first obtained; or v) Unit to General Common Elements or Limited Common Element provided the consent of any Unit Owner and Mortgagee whose Unit is affected is first obtained; and
- (i) Amend this Declaration, the Condominium Survey, the Articles, and/or Bylaws in order to obtain approvals from one or more of the Agencies or to exercise any Development Rights or to assign to a Condominium Unit any Garage Unit that had been previously unassigned.

The rights specified in this subparagraph 3.a.(7) are included in the Development Rights, apply to the Project, and must be exercised prior to the expiration of the Development Rights Period.

- (8) Each Unit's Allocated Interest is shown on the Fractional Allocation Chart ("Exhibit C") and governs in establishing each Unit's undivided interest in the General Common Elements as set forth in paragraph 3.b, the allocation to each Unit of Common Expenses as set forth in paragraph 20.a, the allocation to each Unit of votes in the association as set forth in paragraph 18.c, and the allocation of Garage Units.
- (9) Restrictions on the use and occupancy of Units are set forth throughout this Declaration and in the Bylaws, and in Rules and Regulations, as amended from time-to-time.
- (10) The percentage of votes by Owners which shall be determinative of whether to rebuild, repair, restore, or sell the Project in the event of damage or destruction of all or part of the Project is set forth in paragraph 29. The amount that a Unit Owner is entitled to receive upon any condemnation of, or casualty loss to, such Owner's Unit or the Project or upon termination of the condominium regime is set forth in paragraphs 29 and 30.
- (11) The recording data for recorded easements and licenses appurtenant to, or included in the Project, or to which any portion of the Project is or may become subject by virtue of a reservation in this Declaration, is set forth on the Condominium Survey.

(12) Notice of matters affecting the Project shall be given to Owners in accordance with paragraph 34.c, and to Mortgagees in accordance with paragraphs 30.f and 32.

(13) The method by which the Declaration may be amended is set forth in paragraphs 7, 31, and 32.

- b. **Creation of Condominium Units.** Declarant does hereby submit the Project to condominium ownership pursuant to the Act, and the Project is hereby divided into seventy-two (72) Residential Units and seventy-six (76) Garage Units, consisting of a separate fee simple estate in a particular Unit, and an appurtenant undivided interest in the General Common Elements. The undivided interest in the General Common Elements and Garage Unit(s) appurtenant to each Residential Unit is determined by the Allocated Interests set forth on the Fractional Allocation Chart ("Exhibit C"). Notwithstanding anything else set forth herein to the contrary, unallocated or assigned Garage Units may be assigned or allocated to a Residential Unit by the Board of Directors or by the Declarant during the Development Period.

4. **Intentionally Deleted.**

5. **Limited Common Elements.**

Subject to the definition thereof and the Development Rights, the Limited Common Elements, except those specified under the Act, shall be designated herein, in the Condominium Survey, or in a deed from Declarant as appurtenant to one or more particular Condominium Units. Any balcony, patio, or deck that is accessible from, associated with, or which adjoin(s) a Unit and which is identified as a Limited Common Element in the Condominium survey and designated as appurtenant to a particular Condominium Unit or Condominium Units shall, without further reference thereto, be used in connection with the Unit or Units to which the feature is appurtenant to the exclusion of the use thereof by the other Owners, except by invitation or by reason of easement rights herein created.

6. **Inseparability of a Condominium Unit and Ownership of Common Elements.**

An Owner's undivided interest in the General Common Elements, including such Owner's interest in any appurtenant Limited Common Elements, shall not be separated from the Unit to which such interest is appurtenant, and shall be deemed to be conveyed or encumbered with the Unit even though the interest is not expressly mentioned or described in a deed or other instrument. Any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the General Common Elements made without a like transfer of the Unit to which that interest is allocated shall be void.

7. **Description of Condominium Units.**

- a. **Reference to Declaration.** Every deed, lease, Mortgage, and other instrument affecting title to a Condominium Unit shall legally describe a Condominium Unit as required by the Iowa Horizontal Property Act. Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber, or otherwise affect not only the Unit, but also the Allocated Interest appurtenant thereto, as well as the right to the use of the Limited Common Elements appurtenant thereto. Each such description shall be construed to include a non-exclusive easement for ingress and egress throughout and for

use of the General Common Elements which are not Limited Common Elements; the right to the use of the appurtenant Limited Common Elements; and the other easements, obligations, limitations, rights, encumbrances, covenants, conditions, and restrictions created by the Act, Declaration, Bylaws, or Rules and Regulations.

- b. **Reference Includes Amendments.** The reference to the Condominium Survey, Articles, Declaration, Bylaws, and Rules and Regulations, shall be deemed to include any supplement(s) or amendment(s) thereto without specific reference.

8. **No Partition.**

The General Common Elements shall be owned as tenants-in-common by all of the Owners and shall remain undivided, and no Owner or other Person shall bring any action for partition or division of the General Common Elements. Similarly, no action shall be brought for partition of a Unit between or among the Owners thereof. Each Owner, by virtue of ownership of a Condominium Unit, hereby expressly waives any and all rights that might otherwise exist to institute or maintain an action for partition or any other division of a Condominium Unit or the General Common Elements, except as otherwise expressly permitted by this Declaration or the Act.

9. **Separate Taxation.**

Each Condominium Unit shall be deemed to be a parcel and shall be subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, including ad valorem levies and special assessments. The lien for such taxes assessed to any Condominium Unit shall be confined to that Condominium Unit. No forfeiture or sale of any Condominium Unit for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Condominium Unit or appurtenant interest in the General Common Elements. If such taxes or assessments for any year are not separately assessed to each Owner, but rather are assessed on the Project as a whole, then each Owner shall pay the proportionate share thereof in accordance with their Allocated Interests in the General Common Elements, and in said event such taxes or assessments shall be a Common Expense. Without limiting the authority of the Board provided for elsewhere herein, the Board shall have the authority to collect from the Owners their proportionate share of taxes or assessments for any year in which taxes are assessed or payable on the Project as a whole.

10. **Title.**

A Condominium Unit may be held and owned by more than one Person as joint tenants or tenants-in-common, and any real property tenancy relationship that is recognized under the laws of the State of Iowa may be created and maintained with respect thereto.

11. **Certain Work Prohibited.**

- a. No Owner shall undertake any work, improvements, or alterations in a Unit which would jeopardize the soundness or safety of the Project, impair the structural integrity of the Building, the electrical systems, or the mechanical systems, or lessen the support of any portion of the Project, or impair an easement or hereditament thereon or thereto. No Owner shall enclose, by means of screening or otherwise, any balcony, deck, or patio which is accessible from, associated with, and which adjoins a Unit, nor shall any Owner enclose or otherwise partition any Garage Unit, without having first obtained the prior

written approval of the Board (which approval may be withheld for any reason, or made subject to conditions or qualifications imposed in the sole discretion of the Board) for such enclosure or partition and for the materials, plans and specifications for such enclosure or partition. Structural alterations shall not be made by an Owner to the exterior portions of a Unit or to a Building, nor shall an Owner make any changes to the water, gas or steam pipes, electric conduits, plumbing, or other fixtures, nor shall an Owner remove any additions, improvements, or fixtures from a Building, without in any such case having first obtained the prior written approval of the Board (which approval may be withheld for any reason or made subject to conditions or qualifications imposed in the sole discretion of the Board). No Owner may change the appearance of any of the General Common Elements, including any Limited Common Elements appurtenant to such Owner's Unit, which are visible from the exterior of a Building or such Unit without the Board's approval, nor may any Owner in any way alter the appearance of any Garage Unit without the Board's approval. The foregoing restrictions shall not be applicable to Declarant during the Development Rights Period.

- b. The Association shall have the right to make attachments to a Building and to penetrate the Common Elements for the purpose of installing antennas and conduits for power, broadcasting, and related purposes, and shall have corresponding easements for those purposes and easements for access to and support of all such facilities.

12. **Liens Against Condominium Units – Removal Of Lien – Effect of Part Payment.**

- a. **Limitation on Units Affected.** No labor performed or materials furnished with the consent or at the request of an Owner of a particular Condominium Unit, or his agent, contractor, or subcontractor, shall be the basis for the filing of a lien pursuant to applicable law against the Condominium Unit or other property of another Owner not expressly consenting to or requesting the same, except that express consent shall be deemed to be given by the Owner of any Condominium Unit to the Managing Agent or the Board in the case of emergency repairs. Labor performed or materials furnished for the General Common Elements, if duly authorized by the Managing Agent or the Board in accordance with the Declaration or Bylaws, shall be deemed to be performed or furnished with the express consent of each Owner and shall be the basis for filing of a lien pursuant to applicable law against each of the Condominium Units in the Project.
- b. **Partial Release.** If a lien is effected against one or more Condominium Units, the Owners of the separate Condominium Units may remove their Condominium Units from said lien by payment of the amount attributable to each of the Condominium Units affected. The amount of the payments allocable to the affected Condominium Units shall be apportioned based upon their respective Allocated Interests. Subsequent to payment, discharge, or other satisfaction, the Condominium Unit shall be released from the lien thus paid, satisfied, or discharged. Partial payment, satisfaction, or discharge shall not prevent the lien or from proceeding to enforce rights against any Condominium Unit not so released or discharged.
- c. **Indemnity.** Each Owner shall indemnify and hold each of the other Owners and the Association harmless from and against liability or loss arising from any claim resulting from or any lien for labor performed or materials furnished in connection with any work on such Owner's Condominium Unit. At the written request of any Owner, or upon action by the Board of Directors on its own initiative, the Association shall enforce such indemnity by collecting from the Owner of the Condominium Unit on which the labor

was performed or materials furnished the amount necessary to discharge any such lien assessed against the Condominium Unit of another Owner or against the General Common Elements, and all costs incidental thereto, including reasonable attorney's fees. If not paid within ten days after the Association's request for payment, the Association may proceed to collect such amounts in the manner provided herein for collection of assessments for the purpose of discharging the lien.

13. **Use and Occupancy of Units.**

a. **Residential Units.**

- (1) **Transferability of Residential Units.** The Residential Units are individual Condominium Units that may be sold, leased, or licensed by the Owner thereof, including without limitation Declarant, subject to the terms of this Declaration, the Bylaws, the Rules and Regulations, and applicable laws. Each Owner of a Residential Unit, including Declarant, shall have the right to sell, lease, license, or otherwise transfer such Residential Unit(s) upon such terms as the Owner, in the Owner's sole and absolute discretion, deems appropriate, except that no lease or license shall be for a period of less than six (6) months and the total number of leases or licensed Residential Units may not exceed ten percent (10%) of the total number of Residential Units in the Project.
- (2) **Use and Operation of Residential Units.** Except as otherwise permitted by this paragraph 13.a, each Residential Unit shall be used for residential purposes only, and no such Unit shall be occupied for living or sleeping purposes by more persons than it was designed to accommodate safely. For the purposes of the foregoing sentence, each Residential Unit shall be deemed to have been designed to accommodate safely a maximum of two occupants per bedroom. No Residential Unit shall be used at any time for any business or commercial activity, except as follows: (i) the Owner thereof may lease or rent such Unit for private residential or living purposes (subject to paragraph 28.i); (ii) the Owner or tenant thereof may use a portion of the Unit as a home office if and to the extent permitted by applicable law; (iii) Declarant or its nominee or agents may use any Unit(s) for such purposes as may be authorized by paragraph 34.h below; and (iv) the Association shall have the right, but not the obligation, to purchase, own, or lease one or more Condominium Units for a manager's residence and/or office, a building superintendent or engineer's residence and/or office, a guest suite as overnight sleeping accommodations upon terms and conditions approved by the Board or for such other purposes as the Association may deem appropriate. Further, the Association and/or Managing Agent may maintain offices within the General Common Elements, provided the Association's right to do so during the Development Rights Period shall be subject to Declarant's prior written approval.
- (3) An Owner desiring to lease or license the Owner's Residential Unit to a third-party must promptly notify the Association (and the Declarant if during the Development Rights Period) of such proposed lease or license and the term thereof. Notwithstanding anything herein to the contrary, the Owner will not be allowed to enter into any such lease or license if such lease or license would result in more than ten percent (10%) of the Residential Units in the Project being leased or the use thereof licensed to non-Owners.

b. **Garage Units.**

- (1) **Transferability of Garage Units.** Except for the right of the Declarant to sell unassigned Garage Units during the Development Period to one or more Unit Owners, a Garage Unit may not be sold except in connection with the sale of the Condominium Unit to which it is appurtenant.
- (2) **Use and Operation of Garage Units.** Subject to paragraph 28.j, Garage Units shall be used for the parking and storage of automobiles, motorcycles, and similar vehicles. The Association may adopt Rules and Regulations restricting or regulating storage uses including, but not limited to, property that may be stored, storage locations, and storage containers. The Rules and Regulations may differentiate between Garage Units and other existing or acquired parking spaces.

c. **Building Attachments and Improvements.** Subject to the provisions of paragraph 11.b hereof, the Association shall have the right to attach, maintain, replace, and remove satellite dishes and antennas and related transformers and equipment of whatever type and nature within the outside perimeter of the Building or elsewhere within the condominium regime, including on the roof of the Building; to install, maintain, replace, and remove conduits to and from such dishes and antennas for power and broadcast signals over, across, under, and through the General Common Elements; and to construct, maintain, replace, and remove structures in the outside parking area east of the Building that may be auxiliary to the use and functional efficiency of such dishes and antennas or related transformers and equipment. The Association shall have easement rights necessary to effectuate the foregoing and rights of ingress and egress for those and related purposes.

Unit Owners may only install dishes or antennas with the prior, written consent of the Association Board of Directors, subject to reasonable regulation of location, manner of attachment, appearance, and connection. Recognizing that dishes and antennas are typically, by their very nature, visible, the color of the dishes and antennas will be as unobtrusive as can be, consistent with their effective, efficient use and enjoyment, and all related transformers, equipment, wires, conduits, and structures will be screened where feasible and otherwise installed and maintained as unobtrusively as reasonably possible.

d. **General Provisions.** Each Owner shall be entitled to the exclusive ownership and possession of the one or more Units owned by such Owner. The use of all Units shall be subject to: (i) all applicable governmental rules, regulations, laws, ordinances, and restrictions, and (ii) such reasonable usage and signage Rules and Regulations as may be adopted by the Association from time-to-time.

14. **Use of General Common Elements and Limited Common Elements.**

- a. **Use of General Common Elements.** Subject to this Declaration and the Rules and Regulations, each Owner and each Owner's Guests may use the General Common Elements in accordance with the purposes for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners or their Guests.
- b. **Limited Common Elements.** Certain portions of the General Common Elements are reserved for the exclusive use of certain Owners and their Guests, and such items and areas are referred to as Limited Common Elements. The Limited Common Elements

shall be appurtenant to the Units to which they have been reserved pursuant to this Declaration, the Condominium Survey, or in a deed from Declarant, and no reference thereto need be made in any subsequent deed or in any Mortgage, instrument of conveyance, or other instrument describing any Unit.

- c. **Use of Limited Common Elements.** Subject to this Declaration and the Rules and Regulations, only the Owner of a Unit, and such Owner's Guests, shall have the right to use the Limited Common Elements appurtenant to such Owner's Unit, and all such use shall be without hindering or encroaching upon the lawful rights of the other Owners or their Guests.
- d. **Rules and Regulations.** Subject to the procedures set forth in paragraph 19.i below, the Association Board of Directors may from time-to-time adopt Rules and Regulations governing the use of the General Common Elements, but such Rules and Regulations shall be uniform and non-discriminatory among Unit Owners in both intent and effect except as expressly allowed in this Declaration, the Bylaws, or as may be reasonably necessary to ensure the safety and security of Owners and their Guests, or to protect rights herein granted. Each Owner, by accepting a deed or other instrument of conveyance for a Unit, agrees to be bound by any Rules and Regulations so adopted.
- e. **Hallways, Stairways and Elevators.** Except as shown on the Condominium Survey, each "Stairway," "Hallway," "Elevator" and other common areas and features as shown on the Condominium Survey, which service or enhance the Units or the Project shall be General Common Elements. Access and use of the Hallways on each floor in a Building containing Residential Units shall be provided only to the Owners of the Units on such floor, such Owners' Guests, the Association and its agents, and emergency personnel. Said Hallways are designated as Limited Common Elements on the Condominium Survey.

The Board shall have the right to adopt reasonable Rules and Regulations governing use of the Hallways, Stairways, Elevators and other common areas and features. Use of the Hallways, Stairways, Elevators and other common areas and features located in the Building or elsewhere within the Project, however, shall also be subject to the easements created pursuant to paragraph 15.

15. **Various Rights and Easements.**

- a. **Owners' Easements for Access, Support and Utilities.** Except as otherwise expressly provided in this Declaration, each Owner and each Owner's Guests shall have a non-exclusive easement for access between such Unit and the roads and streets adjacent to the Project and the roadways and driveways within the Project. Further, each Owner and each Owner's Guests shall have a non-exclusive easement to use the halls on the floor on which such Owner's Unit is located, and to use the corridors, stairs, walkways and elevators within and adjacent to the Project which are shown on the Condominium Survey as General Common Elements or Limited Common Elements appurtenant to such Owner's Unit, and to use the exterior access and other easements which are part of the General Common Elements subject to the rights of the Board to adopt Rules and Regulations governing access and use as set forth in paragraph 14. The Board shall have the right to adopt such reasonable rules restricting use of the easements as it deems necessary to ensure the safety and security of other Owners and their Guests. Each Owner shall have a non-exclusive easement in, on, and over the General Common

Elements, including the General Common Elements within the Unit of another Owner, for horizontal and lateral support of their Unit, for utility service to that Unit, including but not limited to water, sewer, gas, electricity, telephone, cable, and television service, and for the release of smoke arising from any fireplace within a Unit through the flue or chimney leading therefrom.

- b. **Certain Association Rights.** The Association, the Board, and the Managing Agent, and their respective agents and contractors, shall have a non-exclusive right and easement to make such use of and to enter into or upon the General Common Elements, the Limited Common Elements, and the Units as may be necessary or appropriate for the performance of the duties and functions which they are obligated or permitted to perform under this Declaration and/or the Bylaws. The foregoing shall include the right to install satellite dishes and antennas. The Association shall likewise have a right to an easement for unfettered access to the roof for the purpose of repair and maintenance of the roof and related purposes, and for the purpose of installing, repairing, maintaining, and replacing facilities of whatever nature for general services to and the common good of all Unit Owners.
- c. **Recorded Easements.** The Project is now or may hereafter be subject to the easements, licenses, and other recorded documents, or any of them, which may be set forth on the Condominium Survey.
- d. **Easements for Encroachments.** If any part of the General Common Elements encroaches or shall hereafter encroach upon a Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the General Common Elements, or upon another Unit, the Owner of that Unit shall and does have an easement for such encroachment and for the maintenance of same. Such encroachments shall not be considered to be encumbrances either on the General Common Elements or on a Condominium Unit for purposes of marketability of title or otherwise and shall exist as long as the physical boundaries of the Unit are in substantial accord with the boundary that appears in the Condominium Survey. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the Building, by error in the Condominium Survey, by settling, rising or shifting of the earth or other movement of any portion of the Project, or by changes in position caused by repair or reconstruction of the Project or any part thereof.
- e. **Easements for Units for Repair, Maintenance, and Emergencies.** Some of the Common Elements are or may be located within a Unit or may be conveniently accessible only through a particular Unit. The Association, Board, and Managing Agent shall have a non-exclusive right and easement for access through each Unit and to all General Common Elements, from time-to-time, during such reasonable hours as may be reasonably necessary for the maintenance, repair, or replacement of any of the General Common Elements located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the General Common Elements or to another Unit. When access to or through a Unit is required, at least twenty-four (24) hours prior notice shall be provided to the Owners/occupants of such Unit, except when said Owners/occupants have no objection to earlier entry and except in the case of an emergency. Access permitted by any one Owner of a Unit will be deemed conclusively to be permitted by all Owners of that Unit. The cost to repair damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair, or

replacement of any of the General Common Elements, or as a result of repairs within another Unit, at the instance of the Association, the Board, or the Managing Agent, shall be a Common Expense of all of the Owners. No diminution or abatement of Common Expense assessments shall be claimed or allowed for inconvenience or discomfort arising from the exercise of the foregoing rights, the making of repairs or improvements, or from action taken to comply with any law, ordinance, or order of any governmental authority. Restoration or repair of the damaged improvements shall be to substantially the same condition as they existed prior to the damage. Notwithstanding the foregoing, if any such damage is the result of the activities of any Owner, or said Owner's Guest(s), then the Owner shall be responsible for all costs and losses incurred as a result of such damage, including any expenses incurred to avoid or repair such damage and any losses suffered by other Owners as a result of such damage.

- f. **Utilities.** There is hereby created a blanket easement upon, across, and through the General Common Elements and any Unit for the installation, replacement, repair, and maintenance of utilities (herein "Utilities"), including but not limited to water, sewer, gas, telephone, electricity, heating, ventilating, air conditioning, computer, cable, and master television antenna or cable or satellite television systems, if any. By virtue of this blanket easement, it shall be expressly permissible to erect and maintain the facilities, equipment, and appurtenances on the General Common Elements necessary to operate, repair, and maintain the Utilities. The foregoing easements shall also apply to the Garage Units, provided that no Utilities may be placed within any Garage Unit (except temporarily for purposes of installation) in a manner that would unreasonably interfere with its use for the parking of an automobile, motorcycle, or similar vehicle. Further, Declarant, during the Development Rights Period, or the Association, after the expiration of the Development Rights Period, may grant easements over the General Common Elements for the installation, operation, maintenance, repair, renovation, and reconstruction of any Utilities necessary or desirable for the Project or desirable to cross any portion of the Project, without the need for any further approval from the Owners or any Mortgagee. The easements provided for in this paragraph 15.f shall not affect, avoid, extinguish, or modify any other recorded easement(s) affecting the General Common Elements, nor shall these easements unreasonably interfere with the use and enjoyment of any Unit by the Owner/occupant thereof.
- g. **Declarant's Rights Incident to Completion of the Project and Sale of Units.** Declarant hereby retains a right to use, and an easement for ingress and egress over, in, upon, under, and across, the General Common Elements and Units, including the right to store materials in the General Common Elements and the right to make such other use of the General Common Elements as may be reasonably necessary or incidental to: (i) any proposed construction or renovation of the Project and the sale or lease of the Units; (ii) the exercise of Declarant's Development Rights; and (iii) discharge of Declarant's obligations; provided, however, no such rights shall be exercised by Declarant in such a way as to interfere unreasonably with any Owner's or Guest's occupancy, use, or enjoyment of, or access to, such Owner's Unit or the General Common Elements. The rights of Declarant under this paragraph shall terminate upon expiration of the Development Rights Period.
- h. **Maintenance Easement.** An easement is hereby granted to the Association, its officers, directors, agents, employees, contractors and assigns, and to the Managing Agent, upon, across, over, in, and under the General Common Elements, together with the right to make such use of the General Common Elements as may be necessary or appropriate to

perform the duties and functions which the Association is obligated or permitted to perform pursuant to this Declaration, including the right to construct, reconstruct, relocate, and maintain on the General Common Elements maintenance and storage facilities for use by the Association or others.

- i. **Emergency Easement.** A non-exclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, and to any security personnel now or hereafter employed by the Association to provide services to the Project (without implying any obligation on the part of Declarant or the Association to provide for such security services), to enter upon all common areas, streets, roads, and driveways and General Common Elements located in the Project in the performance of their duties.
- j. **Parking Lot and Driveway Easements.** The parking lots and driveways located within the Project shall be subject to a non-exclusive easement in favor of all Owners and their respective Guests to allow access to the General Common Elements located in or adjacent to the parking lots and driveways, provided all Persons shall exercise their rights pursuant to such easement in a manner which will not interfere unreasonably with use of the Garage Units by Owners thereof or their respective Guests, or the Rules and Regulations adopted by the Association Board of Directors.
- k. **Easement Deemed Appurtenances.** The easements, uses, and rights herein created for an Owner shall be appurtenant to the Condominium Unit of that Owner, and all conveyances of and other instruments affecting title to a Condominium Unit shall be deemed to grant and reserve the easements, uses, and rights provided for herein, even though no specific reference to such easements, uses, and rights appears in any such conveyance or instrument. All such easement rights of a Person as an Owner shall terminate when such Person ceases to be an Owner.

16. **Owners' Maintenance Responsibility.**

- a. Except as otherwise provided in this Declaration and subject to paragraphs 16.b and 16.c, each Owner shall be responsible for the maintenance, repair, alteration, remodeling, and replacement of said Owner's Unit. For purposes of maintenance, repair, replacement, alteration, and remodeling, an Owner shall have the right and obligation to maintain, repair, alter, and remodel the electrical and plumbing equipment that exclusively serves the Unit, the interior non-supporting walls, and the materials (such as, but not limited to, plaster, gypsum dry wall, paneling, wallpaper, paint, wall and floor tile, and flooring, but not including the subflooring) making up the finished surfaces of the walls, ceilings, and floors within the Unit, and the doors and windows included in the Unit. Repair and maintenance of the patios, balconies, and decks and any other Limited Common Elements shall be performed solely by the Association, and the expense thereof shall be a Common Expense unless the repair or replacement is required as a result of the negligence of a Unit Owner or Guests, in which event the Unit Owner shall be responsible for the expense. Further, repair or replacement of the electrical and plumbing systems of a Unit shall be performed solely by the Association, and the expense thereof shall be assessed to the Owner of the affected Unit(s) as a Reimbursement Assessment, and shall be due within 30 days after notice to the affected Owner(s) of the amount of such assessment.

No Owner shall make any changes or alterations of any type or kind to the exterior surfaces of the perimeter doors or windows to a Unit nor to any General Common Elements, nor shall any Owner make any changes or alterations to any patio, balcony, or deck appurtenant to such Owner's Unit without the prior consent of the Association and, during the Development Rights Period, by Declarant.

The Owner shall not be deemed to own the Utilities running through the Owner's Unit that serve one or more other Units. Each Owner shall have the obligation to replace any finishing or other materials removed with materials of similar quality or better quality than those removed. An Owner shall maintain and keep the Owner's Unit in good repair and in a clean, safe, attractive, and sightly condition, including the fixtures and the surfaces of the doors and windows of the Unit. Also, an Owner shall keep in a neat and clean condition the interior surfaces of any deck, balcony, and/or patio areas adjoining and/or leading to the Owner's Unit that are Limited Common Elements appurtenant to such Owner's Unit. The Association shall be responsible for repair, replacement, and maintenance of all Limited Common Elements. All fixtures, appliances, and equipment installed within a Unit, commencing at a point where they connect to the Utilities, shall be maintained and kept in repair by the Owner thereof. The HVAC equipment serving the Unit shall be repaired and maintained solely by the Association; however, the expense thereof shall be assessed to the Owner of the affected Unit(s) as a Reimbursement Assessment and shall be due within thirty (30) days after notice to the affected Owner of the amount of such assessment. If any Owner fails to carry out or neglects the responsibilities set forth in this paragraph, the Board or the Managing Agent may fulfill the same and charge such Owner therefor. Any expense incurred by an Owner under this paragraph shall be the sole responsibility of said Owner.

- b. Any work performed by an Owner as provided by paragraph 16.a will be completed within a reasonable period of time after commencement; shall be completed in a good and workman-like manner, free of liens and encumbrances; and shall be completed in conformity with all applicable codes and ordinances.
- c. No work by an Owner as contemplated by paragraph 16.a shall be undertaken without sixty (60) days prior written notice to the Association or Managing Agent and without the approval of the Board. Such notice shall identify in detail all work proposed and those proposed to do the work. The approval of the Board may be made subject to such conditions as the Board may deem appropriate.

17. Compliance With Provisions of Declaration, Articles, and Bylaws of the Association.

Each Owner shall comply strictly with, and shall cause each of such Owner's Guests to comply strictly with, all of the provisions of this Declaration, the Articles and Bylaws, and the Rules and Regulations, decisions, and resolutions of the Association or the Board, as the same may be lawfully enacted or amended from time-to-time. Failure to comply with any of the same shall be grounds for an action or actions to recover sums due, for damages, and/or for injunctive relief, along with costs of suit and reasonable attorneys' fees, maintainable by the Managing Agent or Board of Directors in the name of the Association on behalf of the Owners, or, in a proper case, by an aggrieved Owner. Such failure also may result in the imposition of a Reimbursement Assessment pursuant to paragraph 20.

18. The Association.

- a. **General Purposes.** The Association is an Iowa non-profit corporation formed to manage the General Common Elements and to perform its functions as provided in this Declaration and the Bylaws in furtherance of the interests of the Owners.
- b. **Membership.** The Owner of a Condominium Unit shall automatically become a member of the Association. Said membership is appurtenant to the Condominium Unit of said Owner and shall automatically pass with fee simple title to the Condominium Unit. Each Owner automatically shall be entitled to the benefits and shall be subject to the burdens of such membership. If the fee simple title to a Condominium Unit is held by more than one Person, each such Person shall be a member of the Association. Memberships in the Association shall be limited to Owners of Condominium Units in the Project or, following termination of the Project, all former Owners entitled to distributions of proceeds under the Act or this Declaration and their respective heirs, personal representatives, successors, or assigns.
- c. **Voting.** Each Owner shall be entitled to vote on all matters that are subject to a vote by the Owners. The size of each Owner's vote shall be equal to the Allocated Interests as shown on Exhibit C. The vote for each particular Condominium Unit shall be cast as one collective vote, as the Owners of the Unit agree. If the Owners do not agree when called upon to vote, the Owners will be treated as having abstained. No split vote may be cast. No votes allocated to any Condominium Unit(s) owned by the Association may be cast.
- d. **Board of Directors.** The affairs of the Association shall be managed by a Board of Directors in accordance with the provisions of this Declaration, the Articles, and the Bylaws.
- (1) **Number of Directors.** The Board of Directors shall initially consist of three (3) members.
- (2) **Election of Directors.** Members of the Board of Directors shall be elected as provided in the Bylaws as the same may exist from time to time. The Bylaws currently in effect are attached hereto as Exhibit A.
- e. **Managing Agent.** The Association may employ a Managing Agent to administer and manage the affairs of the Association. Any contract with a Managing Agent shall not exceed three years and shall provide for the right of the Association to terminate such contract without penalty at any time upon 90 days notice.
- f. **Duty to Keep Association Records.** The Association shall keep books, records, and financial statements sufficiently detailed to enable the Association to comply with the Act, including, but not limited to, financial records sufficiently detailed to provide a statement setting forth the amount of any unpaid Assessments currently levied against an Owner. The Association additionally shall cause a reviewed financial statement to be available annually within 120 days after the end of each fiscal year. In addition, the Association shall maintain current copies of this Declaration, the Condominium Survey, Articles, Bylaws, and Rules and Regulations, and of all amendments to any of said documents. The foregoing items shall be available for inspection by any Owner, mortgagee, or prospective purchaser of a Unit upon advance arrangements during normal business hours.

- g. **Bylaws and Articles.** The purposes and powers of the Association and the rights and obligations with respect to Owners set forth in this Declaration may and shall be amplified, but not modified, by provisions of the Articles and Bylaws of the Association. The current Bylaws are attached hereto as **Exhibit A**.

19. **Certain Rights and Obligations of the Association.**

- a. **Association as Attorney-in-Fact for Owners.** The Association is hereby irrevocably appointed attorney-in-fact for each of the Owners (except for the Declarant during the Development Rights Period) to manage, control, and deal with the interest of each Owner in the General Common Elements so as to permit the Association to fulfill all of its duties and obligations, and to exercise all of its rights hereunder, and to deal with the Project as may be deemed expedient and/or upon its destruction or obsolescence. The acceptance by any Person of any interest in any Condominium Unit shall constitute an appointment of the Association as attorney-in-fact as provided above and hereinafter. The Association shall have all rights expressly granted by this declaration, the Articles, the Bylaws, or the Act, and shall have and may exercise all of the powers necessary to govern, manage, maintain, repair, rebuild, administer, and regulate the Project, and to perform all of the duties required of it subject to the restrictions set forth in this Declaration.
- b. **General Common Elements and Limited Common Elements.** The Association shall provide for the care, operation, management, maintenance, repair, and replacement of the General Common Elements and Limited Common Elements, except as provided in paragraph 16. Without limiting the generality of the foregoing, said obligations shall include the keeping of such General Common Elements and Limited Common Elements in good, clean, attractive, and sanitary condition, order, and repair; removing snow and any other materials from such General Common Elements (except patios, balconies, or decks of Units) which might impair access to the Project or the Units; keeping the Project safe, attractive, and desirable; and making necessary or desirable alterations, additions, betterments, or improvements to or on the General Common Elements and Limited Common Elements.
- c. **Other Association Functions.** The Association may undertake any activity, function, or service in connection with the use and enjoyment of the Project for the benefit of or to further the interests of all, some, or any Owners on a self-supporting, special assessment, reimbursement assessment, or common assessment basis, but any assessments levied pursuant to this paragraph 19.c shall be subject to the limitations and provisions of paragraph 20.
- d. **Labor and Services.** The Association may: (i) obtain and pay for the services of a Managing Agent to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any Person with whom or with which it contracts; (ii) obtain and pay for legal and accounting services and other professional services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration except as limited by the provisions of paragraph 17; and (iii) arrange with others to furnish lighting, heating, water, trash collection, sewer service, and other common services and facilities.

- e. **Property of Association.** The Association may pay for, acquire, hold or lease real property and tangible and intangible personal property, and may dispose of the same by sale or otherwise. Subject to the Rules and Regulations, each Owner and each Owner's Guests may use such property as may be designated by the Association for such use. Upon termination of condominium ownership of the Project and dissolution of the Association, if ever, such property shall be deemed to be owned by the then-Owners as tenants-in-common in the same proportion as their respective interests in the General Common Elements. A transfer of a Condominium Unit, including a transfer resulting from a mortgage foreclosure, shall transfer to the transferee the transferor's interest in such property as above-described without any reference thereto. Each Owner may use such property in accordance with the purposes for which it is intended so long as such use does not hinder or encroach upon the lawful rights of the other Owners and is in keeping with the duly enacted Rules and Regulations promulgated by the Board.
- f. **Association Right to Lease and License Condominium Unit or General Common Elements.** The Association shall have the right to lease, license, grant easements or concessions, or permit the use of any portion of the General Common Elements or any Condominium Unit owned by the Association (including any Condominium Unit purchased from the Declarant). The rights of the Association under this paragraph shall not be deemed an encumbrance or transfer within the meaning of paragraph 19.a.
- g. **Enforcement by Association.** Subject to the restrictions contained in paragraph 17, the Association may take judicial action against any Owner to enforce compliance with the Rules and Regulations and all other obligations arising under this Declaration or the Bylaws, or to obtain damages and/or injunctive relief for any noncompliance therewith, all to the extent permitted at law or in equity. The Association may levy reasonable fines against any Owner for violations of this Declaration, the Bylaws, and/or the Rules and Regulations. In any action or proceeding commenced pursuant to this subparagraph, the Association shall have the right to recover reasonable attorneys' fees and costs from any Owner who violates this Declaration, the Bylaws, or the Rules and Regulations. The Association, however, shall not have the power to suspend any Owner's voting rights in the Association or the right of an Owner and said Owner's Guests to use the amenities due to such Owner's failure to comply with any obligation arising under this Declaration. The foregoing shall not be deemed a limitation upon a court of competent jurisdiction from issuing a negative or affirmative injunction against an Owner and Owner's Guests, without bond.
- h. **Certificate.** The Board of Directors may, from time-to-time, record a certificate of the identity and the mailing addresses of the persons then-comprising the Board of Directors, together with the identity and address of the Managing Agent, if any. Such certificate shall be conclusive in favor of any Person relying thereon reasonably and in good faith.
- i. **Rules and Regulations.** The Association shall have the right to promulgate such reasonable rules and regulations (the "Rules and Regulations") as it deems necessary or desirable to effectuate the intent and to enforce the duties and obligations set forth in this Declaration, the Articles, and Bylaws.
- j. **Acquisition/Encumbrance of General Common Elements.** The Association may acquire, hold, encumber, carry in its own name, and transfer any right, title, or interest to real or personal property.

- k. **Assignment of Income.** The Association may assign, as collateral or otherwise, its rights to future income, including the right to receive any type of assessment.
- l. **Right to Exclude Persons.** There is reserved to the Association the continuing right to exclude from the Project any Person who is not an Owner subject, however, to all laws and ordinances prohibiting various forms of discrimination.

20. **Assessment for Common Expenses and Other Items.**

- a. **Common Expense Assessments.** All Owners, excluding Declarant, shall be obligated to pay the assessments imposed by the Association to meet Common Expenses. Common Expenses shall be assessed against such Units on an equal per Unit basis based on the number of Units from time to time owned by Owners other than the Declarant. The Limited Common Elements shall be maintained in the same manner as other General Common Elements, except as otherwise expressly provided in paragraph 16 above. Owners having exclusive use thereof shall be assessed, as a Reimbursement Assessment, for the repair or maintenance thereof if necessitated by the actions of that particular Owner or such Owner's Guests, or the failure of the Owner to fulfill the Owner's maintenance responsibilities. Assessments for Common Expenses shall be due and payable monthly in advance on the first day of each calendar month.
- b. **Budget.** The Board of Directors shall cause to be prepared an estimated budget for such fiscal year (a "Budget"). The Budget shall show, in reasonable detail, the categories and estimated amounts of expenses for Common Expenses, any expected income of the Association for the coming fiscal year, any expected surplus from the prior year and any existing surplus held by the Association. The Budget shall include an amount for contingencies and amounts deemed necessary or desirable for capital and/or replacement reserves to provide for the repair, renovation, reconstruction, or replacement of, or for any additions to, the General Common Elements, and such other expenditures permitted hereunder. After the adoption of any Budget by the Board of Directors, the Board shall set a date for a meeting of the Owners to consider ratification of the Budget. Unless at that meeting a majority of all of the Owners present or voting by proxy reject the Budget, the Budget shall be deemed ratified, whether or not a quorum is present. No further approval of the Owners shall be required for any expenditure contemplated by the Budget irrespective of the amount thereof. If the Budget is rejected, the periodic Budget last ratified by the Owners shall constitute the Budget adopted by the Owners and shall remain in effect until such time as the Owners ratify a subsequent Budget proposed by the Board.
- c. **Amount of Assessments.** Assessments for Common Expenses shall be based upon the cash requirements of the Association which shall be deemed to be such aggregate sum as the Board of Directors shall from time-to-time determine is to be paid by the Owners to provide for the payment of all estimated expenses of ownership, maintenance, repair, alteration, addition, improvement, and operation of the General Common Elements, as reflected in the Budget. Such sums may include, but shall not be limited to, expenses of management; taxes and special assessments; premiums for insurance; landscaping and care of grounds; common lighting and heating and other common utility charges; cable television charges; trash and garbage collections; wages; common water and sewer charges; legal and accounting fees (subject to the limitations of paragraph 17); management fees; fees and charges for the amenities; expenditures for repair, replacement, renovation, reconstruction, or alteration of, or for additions to, the General

Common Elements; expenses and liabilities incurred by the Association or the Managing Agent on behalf of the Unit Owners under or by reason of this Declaration, the Articles, or the Bylaws; any deficit remaining from a previous period; the creation of a reasonable contingency reserve and working capital; and all other costs and expenses related to the General Common Elements. Further, provision shall be made for an adequate reserve fund to provide for repair, reconstruction, and replacement of the General Common Elements and for a general operating reserve.

- d. **Assessments/Utilities.** In addition, the Assessments for Common Expenses shall include each Owner's pro rata share of common sewer, water, and building electricity expenses and charges. Charges for Utilities separately metered to Units shall be the separate responsibility of each Owner and shall not be deemed a Common Expense; provided, however, that the Association or the Managing Agent shall have the right (but not the obligation) to pay for such Utilities on behalf of a delinquent Owner, as an advance in favor of such Owner for the purpose of preventing damage to any portion of the Project or avoid or remove a lien or claim against the Association or General Common Elements. The amount of any such advance shall be due upon demand from such Owner, together with interest on the amount advanced at the rate provided for delinquent assessments from the date of advance until paid, and such advance shall be deemed to be in the nature of a Reimbursement Assessment.
- e. **Special Assessments.** The Board of Directors shall have the further right during any fiscal year to levy and assess against the Owners, other than the Declarant, in a manner similar to Assessments for Common Expenses, a special assessment ("**Special Assessment**") for such purpose or purposes as may be necessary or appropriate to maintain the Project to such standard as the Board deems appropriate. Special Assessments may include, without limitation, assessments for the cost of any construction, reconstruction, repair, or replacement of any General Common Elements, real or personal property owned by the Association, including fixtures and personal property, to the extent such cost is in excess of the amount contemplated by the approved Budget for such fiscal year. The Board to levy any such special assessment, the Board shall set a date for a meeting of the Owners to approve or disapprove of such proposed Special Assessment. At such meeting, the proposed Special Assessment(s) may be vetoed by a majority vote of the Owners. If not so vetoed the Special Assessment shall be deemed ratified.
- f. **Reimbursement Assessments.** The Board of Directors may, subject to the provisions hereof, levy an assessment against any Owner of a Unit (except the Declarant) if the failure of the Owner or such Owner's Guests to comply with this Declaration, the Articles, the Bylaws, or the Rules and Regulations causes the Association to incur any expenses, liability, or potential claim, including any such sums expended for attorneys' fees and any sums expended to pursue appropriate compliance ("**Reimbursement Assessment**"). The amount of the Reimbursement Assessment imposed pursuant to this paragraph shall be due and payable to the Association ten (10) days after notice to the Owner of the decision of the Board of Directors that the Reimbursement Assessment is owing. The Association shall have the power to enforce Reimbursement Assessments in accordance with the provisions of paragraph 24. If any such Reimbursement Assessment results from the need to provide reimbursement for any expenditure of funds by the Association, the amount of such assessment shall bear interest from the date the expenditure was made at a rate equal to the lesser of eighteen percent (18%) per annum or the maximum rate permitted by law.

- g. **Failure to Fix Assessment.** The omission or failure to establish any Assessment or deliver or mail a statement for any period shall not be deemed a waiver, modification, or release of the Owners from their obligations to pay the same.
- h. **Surplus Funds.** The Association shall not be required to credit any surplus funds of the Association remaining after payment of, or provision for, the Common Expenses against any future Assessments to be levied by the Association.
- i. **Late Charges/Interest.** Assessments shall be due on the due date established by the Board from time-to-time. If any Assessment, fine, or penalty shall remain unpaid after the due date thereof, the Association shall be entitled to collect from the defaulting Owner: (i) a late charge in an amount the Board determines from time-to-time to be sufficient to cover the extra costs and expenses involved in handling such delinquent payment; (ii) interest at the rate of eighteen percent (18%) per annum or the highest lawful rate, whichever is less on the amount of any delinquent Assessment, fine, or penalty from the due date thereof; and (iii) all costs and expenses incurred by the Association in connection with the collection of the same, including reasonable attorneys' fees. The rate of default interest specified above may be changed by the Board from time-to-time by resolution, but may not exceed the maximum rate permitted by law. Amounts charged under this paragraph shall constitute a lien as set forth in paragraph 24.
21. **Assessment Reserves.**
- Upon each sale of a Unit, the purchaser shall deposit at closing with the Association an amount determined by the Association, which sum shall not exceed two times the amount of the monthly Common Expense assessment then allocable to such Unit. Such sum shall be non-refundable and shall be held, with or without interest, by the Association or Managing Agent in a segregated account as a reserve for working capital, and may be used for such purposes as the Association or the Board deems necessary or appropriate, except as restrictions by the provisions of paragraph 17 hereof. Such payment shall not be considered an advance payment of regular assessments or relieve an Owner from making the regular monthly payment of the monthly Common Expense Assessments or other assessments as the same come due. While Declarant is in control of the Association, it cannot use any of the working capital funds of the Association to defray Declarant's expenses or reserve contributions, or non-Association construction costs, or to make up any non-Association budget deficits. For the purpose of this paragraph 21, "sale" means the conveyance of an ownership interest of more than fifty-one percent (51%) of ownership, coupled with a present possessory interest, excluding any such transfers between and among Persons already have some ownership and possessory interest in a common Unit.
22. **Additions, Alterations, and Improvements – General and Limited Common Elements.**
- The Association may make such capital additions, alterations, or improvements of or to the General Common Elements during any fiscal year as may be provided for or contemplated pursuant to the Budget for such year. Further, if the Board determines that any alterations, additions, or replacements of or to any General Common Elements are required in excess of the amounts provided for or contemplated pursuant to the current year's Budget, such expenditure may be approved as a Special Assessment. Such procedures, however, shall not apply to expenditures for repair or replacement upon any damage, destruction, or condemnation governed by paragraphs 29 or 30.
23. **Insurance.**

- a. **Required Coverage.** The Association shall maintain at all times, to the extent available upon commercially reasonable terms, policies of insurance, written with companies licensed to do business in Iowa having a "B" general policy holder's rating or a financial performance index of "6" or better in the Best's Key Rating Guide, or an "A" or better rating from Demotech, Inc. (or equivalent rating agency), covering the risks set forth below, or if said ratings are no longer available, a comparable rating from a comparable rating agency. The types of coverages to be obtained, risks to be covered, and policy provisions shall at a minimum comply with the requirements of the Agencies, and further shall provide to the extent available upon commercially reasonable terms for the following:

- (1) **Casualty.** Property insurance on broad form covered causes of loss, under extended coverage and all risk endorsements. Said insurance shall insure the General Common Elements and all real or personal property owned by the Association, together with all service equipment contained therein in an amount equal to the full replacement value at the time the insurance is purchased and at each renewal date, without deduction for depreciation. Such policy shall include an agreed amount endorsement, an inflation guard endorsement and building ordinance or law enforcement endorsement, to the extent same are available on commercially reasonable terms. All policies shall contain a standard non-contributory mortgage clause in favor of each First Mortgagee, which shall provide that the insurance proceeds shall be payable to the Association for the use and benefit of the Owners and the First Mortgagees, as their interests may appear. Such policy shall provide for a maximum deductible amount equal to Ten Thousand Dollars (\$10,000.00).
- (2) **Liability.** Commercial general liability and property damage insurance covering all of the General Common Elements, real and personal property owned or leased by the Association, and public ways in and about the Project in such limits as the Board of Managing Agent may from time-to-time determine, but not in an amount less than One Million Dollars (\$1,000,000.00) per injury, per person, per occurrence, and with umbrella liability limits of Two Million Dollars (\$2,000,000.00) per occurrence, covering all claims for bodily injury or property damage. Coverage shall include, without limitation, legal liability of the insureds for property damage, bodily injuries, and death of persons in connection with the operation, maintenance, or use of the General Common Elements, legal liability arising out of lawsuits related to employment or independent contractor contracts of the Association, and operation of automobiles on behalf of the Association. Such liability insurance shall name the Owners, the members of the Board of Directors, the Managing Agent and the Declarant, and their respective employees, agents, and all persons acting as agents as additional insureds.
- (3) **Boilers.** If there are steam boilers in operation on the Project, there must be in force boiler explosion insurance providing for coverage of not less than Fifty Thousand Dollars (\$50,000.00) per accident per location.
- (4) **Worker's Compensation.** Worker's Compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association, in the amounts and in the forms now or hereafter required by law.

- (5) **Fidelity Bond.** Fidelity coverage against dishonesty of employees, the Managing Agent, and any other Person receiving, controlling, or disbursing funds of other Association, and against destruction or disappearance of money or securities, and forgery. Said policy shall also contain endorsements covering any persons who serve the Association without compensation. The fidelity insurance coverage must at least equal the maximum amount of funds that will be in the custody of the Association or the Managing Agent at any time while the policy is in force, but in no event in an amount less than that required by any of the Agencies. Each policy shall include a waiver by the issuer of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions.
- (6) **Flood.** If the Project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the Project in an amount which is the lesser of the maximum amount of insurance available under the National Flood Insurance Act of 1968 or the aggregate of the unpaid principal balances of the First Mortgages on the Condominium Units comprising the Project.
- (7) **Others.** The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Project, including insurance against loss or damage to plate or other glass and to any real or personal property of the Association.

b. **Policies and Procedures.**

- (1) **Deductibles; Requirements.** Except as provided in paragraph 23.a above, insurance obtained by the Association may contain such deductible provisions as the Board may deem appropriate. If the insurance described is not available upon commercially reasonable terms, or if any policy of insurance is cancelled or expires without a replacement policy therefor having been obtained by it, the Association shall promptly cause notice of that fact to be delivered to all Owners. The Association may carry any other type of insurance it considers appropriate, in amounts it deems appropriate, to insure the interests of the Association or the Project.
- (2) **Procedures for Claims.** The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters relating to claims. Provided Declarant reimburses the Association for any additional premium payable on account thereof, insurance obtained by the Association shall, to the extent reasonably possible, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant.

- c. **General Provisions Required.** All policies of insurance, to the extent obtainable, shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner, and shall provide that such policies may not be cancelled or modified, and that the insurer may not refuse to renew the same, without at least thirty (30) days' prior written notice thereof to all of the Owners, First Mortgagees, the

Association, and any other parties entitled to notice thereof under applicable law. Certificates of insurance shall be issued to each Owner and Mortgagee upon request. Duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered at least ten (10) days prior to expiration of the then-current policies to all First Mortgagees requesting the same. All casualty insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the Owners and First Mortgagees, as their interests may appear, which policy or policies shall identify the interest of each Owner (by the Owner's name and Unit number designation) and First Mortgagee.

- d. **Required Valuations.** Prior to obtaining any policy of casualty insurance or renewal thereof pursuant to the provisions of subparagraph 23.a(1) above, the Board or Managing Agent shall obtain an opinion from one or more qualified consultants knowledgeable in determining replacement cost, who shall reasonably estimate the full replacement value of the entire Project, without deduction for depreciation, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions of subparagraph 23.a(1) above. Such determination of full replacement value shall be made annually, and each First Mortgagee, upon request, shall be furnished with a copy thereof within thirty (30) days after receipt of such written appraisals. Such amounts of insurance shall be updated annually in accordance with the currently determined full replacement value.
- e. **Owner Policies.** Insurance policies issued to the Association do not eliminate the need for Unit Owners to obtain insurance for their own benefit. Individual Owners may carry such other insurance for their own benefit and at their own expense as they may deem appropriate, provided that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Owner. Insurance coverage on improvements and fixtures installed by an Owner and on furnishings, including carpeting and other floor coverings, draperies, oven, range, refrigerator, wallpaper, disposal, light fixtures and other items of personal property belonging to an Owner, and public liability coverage within each Unit (including Garage Units) shall be the sole and direct responsibility of the Owner thereof, and the Board of Directors, the Association, Declarant, and/or the Managing Agent shall have no responsibility therefor. Similarly, Owners shall be responsible for insuring any automobiles, motorcycles, or other vehicles, any bicycles, any parts and contents of any of the foregoing and any other personal property, which are parked or stored in any Garage Units, the handicapped parking space, or elsewhere within the Common Elements, and the Board of Directors, the Association, Declarant, and/or the Managing Agent shall have no responsibility therefor.
- f. **Owner's Actions.** All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only with respect to the interest of any particular Owner that is guilty of a willful act or omission, or non-compliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest. Furthermore, if a particular Owner permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of a policy would otherwise invalidate or suspend the entire policy, the insurance under any such policy attributable to the interests of all other insured Owners, First Mortgagees, and other Persons who are named insureds and who are not guilty of any such act or omission shall not be invalidated or suspended and shall remain in full force and effect.

24. **Lien for Non-Payment of Assessments.**

a. **Lien.**

- (1) All due and unpaid Assessments chargeable to any Owner, including Special and Reimbursement Assessments, and all fines, late charges, penalties, or interest assessed but unpaid in accordance with this Declaration or by the Bylaws, and all costs and expenses, including reasonable attorneys' fees, incurred in collecting such amounts, shall constitute a lien on such Owner's Unit with the priority granted to a condominium assessment lien pursuant to Section 499B.17 of the Act.
- (2) To evidence such lien the Board of Directors or Managing Agent may (but shall not be obligated to) prepare a written notice setting forth the amount of such unpaid indebtedness, the amount of late charges and accrued interest, the name of the Owner of the Condominium Unit and a description of the Condominium Unit. If prepared, such notice shall be signed by one of the members of the Board of Directors or by the Managing Agent, and shall be recorded in the Records. Such lien for Assessments shall attach upon the failure of payment of the Assessment on the date it became due. The Board of Directors or Managing Agent may (but shall not be obligated to) provide a copy of any such notice to the Mortgagee having an interest in the Unit upon which the lien is imposed.

b. **Enforcement of Lien.** Such lien may be enforced at the election of the Association by:

- (1) Foreclosure of the lien against the defaulting Owner's Condominium Unit by the Association in like manner as a mortgage on real estate, upon the recording of a notice or claim thereof. During the period of such foreclosure action, the Owner shall also be required to pay to the Association when due all Assessments for the Condominium Unit. The Managing Agent, the Board of Directors, and other Owners shall have the power to bid on the Condominium Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same;
- (2) Such other action or proceeding as may be available at law or in equity, all remedies being cumulative and none being deemed exclusive of others;
- (3) In any proceedings under this paragraph 24 or under paragraph 25 below, the Owner shall be required to pay, and the Owner's obligations shall be deemed to include, all costs, expenses, and reasonable attorneys' fees incurred in connection with collecting such Assessments. The Association shall be entitled to the appointment of a receiver during the pendency of any action brought under this paragraph 24 or under paragraph 25 below to collect all sums alleged to be due from the Owner prior to or during the pending action.

c. **Encumbrancer's Rights.** Any lienholder of a Condominium Unit may pay, but shall not be required to pay, any unpaid Assessments payable with respect to such Condominium Unit, and upon such payment the lienholder shall have an additional lien on such Condominium Unit for the amounts paid of the same lien priority as the lienholder's original lien in the manner of a protective disbursement. Except as expressly provided under the Act, any First Mortgagee who acquires a Condominium Unit by foreclosure or by a deed in lieu thereof shall acquire title to such Condominium Unit free and clear of

any lien for unpaid Assessments arising prior thereto, and shall only be responsible for Assessments arising after the date upon which such First Mortgagee receives a deed to the Condominium Unit or takes possession thereof, whichever first occurs. All amounts not recovered by the Association under this paragraph 24.c shall remain a personal or individual obligation of the prior Owner of such Unit.

- d. **Homestead Exemption.** Each Owner by accepting a conveyance of their Unit shall be deemed to have agreed that the Association's lien on such Unit for Assessments as hereinbefore described shall be superior to any homestead exemption provided by applicable law, and each Owner shall further be deemed to have agreed that the acceptance of a deed or other instrument of conveyance for any Condominium Unit within the Project shall signify such grantee's waiver of the homestead exemption that might otherwise exist under law.
- e. **Release of Lien.** Any recorded lien for Assessments may be released by recording a Release of Lien executed by a member of the Board of Directors or by the Managing Agent on behalf of the Association.

25. **Owners' Obligations for Payment of Assessments.**

The amount of the Assessments assessed against each Condominium Unit, plus all fines, late charges, penalties, interest, costs, and expenses, including reasonable attorneys' fees, shall be the personal and individual debt of the Owner or Owners of such Unit at the time the Assessment is made or the other costs are incurred. In the case of multiple Owners, such liability shall be joint and several. Suit to recover a money judgment for unpaid Assessments, fines, late charges, penalties, interest, costs, and expenses, including attorney's fees, shall be maintainable without foreclosing or waiving the lien securing the same. No Owner shall be exempt from liability for contribution toward the Assessments due by waiver of the use or enjoyment of any of the General Common Elements and/or amenities, or by abandonment of the Unit.

26. **Liability for Common Expenses Upon Transfer of Condominium Unit is Joint.**

- a. **Ascertainability of Unpaid Assessments; Financial Statements.** Upon written request for a statement of account by an Owner, Mortgagee, prospective Mortgagee, or prospective grantee of a Unit, or by a holder of a security interest in a Unit, or by a Person authorized in writing to make such request, or the attorney for any of the foregoing, the Association or the Managing Agent shall deliver in accordance with the Act a copy of the most recent financial statement of the Association, if any, and a written statement of (i) the amount of any unpaid Assessments, including but not limited to any Special or Reimbursement Assessments, (ii) the amount of the current levied Assessments, (iii) the dates that Assessments are due, (iv) the amount of any advance payments made, (v) the amount of any prepaid items such as insurance premiums and reserves therefor, and (vi) deficiencies in reserve accounts. Such statements shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Any such statement shall be delivered within fourteen (14) days after the receipt of the request and shall be binding on the Association, the Board of Directors, and all Unit Owners. If no such statement is furnished upon request of an Owner or Mortgagee, or other authorized party, made by personal delivery or by certified mail, first-class postage prepaid, return receipt requested, then the Association shall have no right to assert a lien upon the Unit for unpaid Assessments which were due as of the date of the request.

- b. **Grantee Liability.** The grantee of a Condominium Unit, except a First Mortgagee who acquires a Condominium Unit by foreclosure or a deed in lieu of foreclosure, shall be jointly and severally liable with the grantor for all unpaid Assessments against the latter up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

27. **Mortgaging a Condominium Unit – Priority.**

Any Owner shall have the right from time-to-time to mortgage or encumber the Owner's Condominium Unit by deed of trust, mortgage, or other security instrument. The Owner of a Condominium Unit may encumber such Unit with a Mortgage or Mortgages junior to the lien of the First Mortgage (collectively, the "Junior Mortgage") on the following conditions: (a) any such Junior Mortgage shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for Assessments, and other obligations created by this Declaration; and (b) the Mortgagee under any Junior Mortgage shall release, for the purpose of restoration of any improvements upon the encumbered Condominium Unit, all of its right, title, and interest in and to the proceeds under all insurance policies upon said Condominium Unit which were effected or obtained by the Association. Such release shall be furnished forthwith by the holder of the Junior Mortgage upon written request of the Managing Agent or the Association, and if not furnished may be executed by the Association as attorney-in-fact for such holder of a Junior Mortgage.

28. **Restrictive Covenants and Obligations.**

- a. **No Imperiling of Insurance.** No Owner and no Owner's Guest(s) shall do anything or cause anything to be kept in or on the Project which might: (i) result in an increase in the premiums of insurance obtained for the Project unless the Owner pays the full amount of such increase upon demand of the Association; or (ii) cause cancellation of such insurance.
- b. **No Violation of Law.** No Owner and no Owner's Guest(s) shall do anything or keep anything in or on the Project which would be in violation of any statute, rule, ordinance, regulation, permit, or other requirement of any governmental body.
- c. **No Noxious, Offensive, Hazardous, or Annoying Activities.** No noxious or offensive activity shall be carried on upon any part of the Project, nor shall anything be done or placed on or in any part of the Project that is or may become a nuisance or cause embarrassment, disturbance, or annoyance to others. No activity shall be conducted on any part of the Project and no improvements shall be made or constructed on any part of the Project that are or might be unsafe or hazardous to any Person or property. No sound shall be emitted from any part of the Project that is unreasonably loud or annoying. No odor shall be emitted from any part of the Project that is noxious or offensive to others. No light shall be emitted from any part of the Project that is unreasonably bright, causes unreasonable glare, or flashes in an annoying or obtrusive manner.
- d. **No Unsightliness.** No unsightliness or waste shall be permitted on or in any part of the Project. Without limiting the generality of the foregoing, no Owner shall keep or store anything (except in designated storage areas) on or in any of the General Common Elements outside their Unit. No Owner shall hang, erect, affix, or place anything upon any of the General Common Elements outside their Unit (except for decorative items located within the Unit or as may be authorized by the Board), and no Owner shall place

anything on or in window or doors of Units which would or might create an unsightly appearance or create an unsafe condition. No Owner shall place any signage or decorations in or about their Garage Unit except with the prior and continuing approval of the Board. Only drapes, curtains, sheers and shutters may be used in Unit windows which are lined so that they appear white from the outside of the building with the exception of wood stained blinds. Nothing shall be hung between the interior surfaces of the window and the drapes, curtains, sheers or shutters used.

- e. **Restriction on Animals.** Except as otherwise provided in this paragraph, no animals, livestock, reptiles, or birds shall be kept on any part of the Project. No domesticated dog or cat weighing more than twenty-five (25) pounds at full growth may be kept in a Unit. Under no circumstances shall more than two animals be kept in any Unit. The keeping of animals in the Project shall also be subject to all governmental animal ordinances and laws and subject to any Rules and Regulations promulgated by the Association. Pets outside of a Residential Unit must be on a leash and accompanied by an adult. The Association may further restrict the types of animals that may be kept on any part of the Project by means of Rules and Regulations promulgated pursuant to paragraph 19.i above. In no event, however, may any Owner keep animals on any part of the Project for any commercial purposes. An Owner is responsible for any damage caused by the Owner's animal(s) and shall be obligated to clean up after such animal(s) on and about the Project. No animals shall be allowed to remain tied or chained to any balconies, patios, or other parts of the Project, and any such animal(s) so tied or chained may be removed by the Association or its agents.
- f. **Restriction on Signs.** Except as provided in paragraph 13.d above, and except as hereafter provided, no signs or advertising devices of any nature shall be erected or maintained on any part of the Project without the prior written consent of the Board. The foregoing restrictions shall not apply to the Declarant during the Development Rights Period. The Board shall permit and maintain at least one sign of reasonable size and suitable design to identify the Project and the Condominium Units therein. During the Development Rights Period, no modifications or additions to the signage criteria shall have any force or effect unless approved in writing by Declarant. Further, no modifications or additions to the signage criteria may be enforced to the extent that such enforcement would require the removal or alteration of any signage that complied with all applicable requirements at the time the sign was installed.
- g. **No Violation of Rules.** No Owner and no Owner's Guest(s) shall violate any of the Rules and Regulations adopted from time-to-time by the Association, whether relating to the use of Units, the use of General Common Elements, or otherwise. The Board may impose a reasonable fine on any Owner for each violation by such Owner and/or such Owner's Guest(s).
- h. **Owner Caused Damages.** If any loss or damage shall be caused to any Person or property, including the Project or any Unit therein, due to the act or neglect of any Owner or such Owner's Guest(s), such Owner shall be liable and responsible for the same except to the extent that such damage or loss is covered by insurance obtained by the Association and the carrier of the insurance has waived its rights of subrogation against such Owner. The amount of any uninsured loss or damage may be collected by the Association from such Owner as an assessment against such Owner, by legal proceedings or otherwise, and such amount (including reasonable attorneys' fees) shall be secured by a lien on the Condominium Unit of such Owner as provided herein for Assessments.

- i. **Leasing of a Condominium Unit or Licensing the Use of Them.** Subject to the provisions of paragraph 13 hereof, the Owner of a Unit shall have the right to lease such Owner's Condominium Unit under the following conditions:

- (1) No Owner may lease or license the use of less than an entire Unit;
- (2) All leases shall be in writing and be for a period of six (6) months or more;
- (3) All leases shall provide that the term of the lease and the lessee's occupancy of the Unit shall be subject in all respects to the provisions of this Declaration and to the provisions of the Articles, Bylaws, and Rules and Regulations. It must be provided in the lease that any failure by the lessee to comply with the Declaration, Articles, Bylaws, and Rules and Regulations shall be a default under the lease. Any Owner who leases a Unit shall, within ten days after the execution of such lease, forward a copy of the same to the Board or the Managing Agent;
- (4) The right to lease a Unit shall be and remain subject to the provisions of paragraphs 13. and 19.1 of this Declaration and, accordingly, any Owner intending to enter into a lease of a Unit shall provide the Association with notice at least five (5) business days prior to signing a lease. Such notice shall contain the full name of each proposed occupant; the proposed commencement date and lease term; and the social security account number of each adult occupant and/or the tax identification number of any occupying entity. The notice must be signed by each proposed adult occupant and/or on behalf of each occupying entity certifying to the accuracy of all information in the notice and authorizing a search of background records and credit records. If the rights of the Association pursuant to said paragraphs 13. and 19.1 of this Declaration are not initiated as therein provided within the notice period, approval of the proposed lease shall be presumed.

- j. **Vehicle Restrictions.** No trailer, camper, mobile home, commercial vehicle, truck (other than a standard size pickup truck or van), boat, or similar equipment shall be permitted to remain upon any area within the Project, including without limitation any Garage Unit(s), other than temporarily (which is defined as a period of less than two calendar days and less than four total days in any calendar month). Storage of any personal property not equipped with wheels may be prohibited by the Rules and Regulations. Commercial vehicles shall not be deemed to include sedans, standard size pickup trucks, or vans that are used for both business and personal use. Vehicles displaying a business name or advertising, other than the customary indication of the manufacturer and/or dealer of the vehicle, shall be deemed to be commercial vehicles. No vehicle may be parked or stored in any Garage Unit that cannot fit within the boundaries of such Garage Unit. No vehicles may be operated on the Project which are unreasonably noisy or which emit an unreasonable amount of smoke or other emissions. No off-road unlicensed motor vehicles may be operated upon the Project. No maintenance, repair, rebuilding, dismantling, painting, or servicing of any kind of motor vehicle shall take place anywhere within the Project, including without limitation within any parking space. This restriction shall not be deemed to prohibit bucket-washing or polishing of vehicles. In addition to any other remedies it may have for any such violation, the Association shall be entitled to tow or cause to be towed, and/or may impound or cause to be impounded, any item of property or vehicle that is operated, parked, or stored in violation of the restrictions set forth in this Declaration, the Bylaws, or any applicable provision of the Rules and

Regulations. The Association may also obtain injunctive relief without requirement of bond. The costs and expenses incurred in connection with any such remedial activity shall be assessed against the applicable Owner as an Assessment or Reimbursement Assessment.

- k. **Parking of Vehicles.** In addition to the foregoing restrictions, parking of any and all automobiles, motorcycles, or similar vehicles and of any bicycles in the Garage Units shall be subject to such reasonable Rules and Regulations as the Association may promulgate. Further, the Association shall have the right to regulate and establish reasonable Rules and Regulations relating to the use and operation of the portions of the parking lot consisting of General Common Elements. All Persons authorized to use any Garage Unit, having the right to use the parking lot, shall have a non-exclusive access easement over and upon the General Common Elements as may be necessary for access between their respective Garage Unit and the Unit that they rightfully occupy as well as any road, street, or walkway adjacent to the Project.
- l. **Final Determination.** Determination with respect to whether or not a particular activity or occurrence shall constitute a violation of this paragraph 28 shall be made by the Board of Directors and shall be final.

29. **Association at Attorney-in-Fact – Damage and Destruction – Obsolescence.**

This Declaration makes mandatory the irrevocable appointment of an attorney-in-fact to deal with the Project upon the occasion of its damage, destruction, repair, reconstruction, or obsolescence. Title to any Condominium Unit is declared and expressly made subject to the following terms and conditions, and acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute appointment of the attorney-in-fact as herein provided. All of the Owners and holders of any interest in the Project irrevocably constitute and appoint the Association as their attorney-in-fact, in their name, place and stead, to act for the purpose of dealing with the Project upon any occasion of its damage, destruction, repair, reconstruction, or obsolescence as hereinafter provided. As attorney-in-fact, the Association, by its duly authorized officers, shall have full and complete authority, right, and power to vote for and on behalf of each Owner to authorize it to determine the proper course of action as provided herein and in the Act, EXCEPT with respect to the circumstances described in subparagraphs c, d, e, and f below. Without limiting the foregoing, the Association shall have full and complete authority, right, and power to negotiate, settle, make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding paragraphs means restoring the improvement(s) to substantially the same condition in which they existed prior to the damage, with each Unit and the General Common Elements having substantially the same vertical and horizontal boundaries as before. In no event shall any such reconstruction make the Commercial Unit less viable than prior to such damage or destruction. Except as otherwise herein provided, the proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration, reconstruction, or replacement unless the Owners and the First Mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter. Assessments for Common Expenses shall not be abated during the period of insurance adjustment, or during the course of the repair, restoration, and reconstruction.

- a. **Less Than Two-Thirds Destroyed; Fully Insured.** Upon damage or destruction to the Project to the extent of not more than sixty-six and two-thirds percent (66-2/3%) of the total replacement cost thereof, not including land, due to fire or other casualty, the

insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney-in-fact, to such repair and reconstruction, which shall be completed promptly. The Association shall have full authority, right, and power, as attorney-in-fact, to enter into contracts and otherwise to cause the repair and reconstruction of the improvement(s) to be accomplished using insurance proceeds for same.

- b. **Less Than Two-Thirds Destroyed; Not Fully Insured.** If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is to the extent of not more than sixty-six and two-thirds percent (66-2/3%) of the total replacement cost of the Project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of an Assessment to be made against all of the Owners and their Condominium Units. Such deficiency Assessment shall be a Common Expense, shall not require the consent or approval of the Owners, shall be made pro rata according to each Owner's Allocated Interest and shall be due and payable within 30 days after written notice thereof. The Association shall have full authority, right, and power, as attorney-in-fact, to cause the repair or reconstruction of the improvements using all of the insurance proceeds and such Assessment. The Assessment provided for herein shall be a debt of each Owner and a lien on such Owner's Condominium Unit, and may be enforced and collected as otherwise provided for collection of Assessments. In addition, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such Assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association, as attorney-in-fact. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

- (1) for payment of taxes and special assessment liens in favor of any assessing authority;
- (2) for payment of any unpaid Assessments having priority over a First Mortgage pursuant to the Act;
- (3) for payment of the balance of the lien of any First Mortgage;
- (4) for payment of unpaid Assessments;
- (5) for payment of Junior Mortgages and encumbrances in the order of and to the extent of their priority; and
- (6) the balance remaining, if any, shall be paid to the Owner.

- c. **More Than Two-Thirds Destroyed; No Reconstruction Plan.** If the Project is damaged or destroyed to the extent of more than sixty-six and two-thirds percent (66-2/3%) of the total replacement cost thereof, not including land, and if the Owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the General Common Elements do not voluntarily, within 30 days thereafter, make provisions for reconstruction, which plan must have the approval or consent of at least seventy-five percent (75%) of the First Mortgagees (based upon one vote for each Unit

encumbered), the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's duly authorized officers, the entire remaining Project shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Condominium Survey, the Articles, and the Bylaws. The insurance settlement proceeds and sale proceeds shall be collected by the Association and such proceeds shall be divided by the Association according to each Owner's Allocated Interests, and such divided proceeds shall be paid into separate accounts, each such account representing one of the Condominium Units. Each such account shall be in the name of the Association, and shall be further identified by the Condominium Unit designation and the name of the Owner and any Mortgagee thereof. The total funds in each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraphs b (1) through (6) of this paragraph. The provisions contained in this paragraph shall not hinder the protection given to a First Mortgagee under a mortgagee endorsement.

- d. **More than Two-Thirds Destroyed; Reconstruction Plan.** If the Project is destroyed or damaged to the extent of more than sixty-six and two-thirds percent (66-2/3%) of the total replacement cost thereof, not including land, and if the Owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the General Common Elements adopt, within 30 days thereafter a plan for reconstruction, which plan must have the approval or consent of at least seventy-five percent (75%) of the First Mortgagees (based upon one vote for each Unit encumbered), then all of the Owners shall be bound by the terms and other provisions of such plan. The Association shall have the right to use, in accordance with such plan, all proceeds of insurance relating to such destruction or damage, as well as the proceeds of any necessary assessment to be made against all of the Owners and their Condominium Units. Any assessment made in connection with such plan shall be a Common Expense and shall be made pro-rata according to each Owner's Allocated Interest and shall be due and payable as provided by the terms of such plan, but not sooner than 30 days after written notice thereof. The Association shall have full authority, right, and power, as attorney-in-fact, to cause the repair or restoration of the improvements, using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the Assessment. The Assessment provided for herein shall be a debt of each Owner and a lien on that Owner's Condominium Unit and may be enforced and collected as provided herein for Assessments. In addition, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such Assessment within the time provided, and if not so paid the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraphs b (1) through (6) of this paragraph.
- e. **Project Obsolete; Renewal Plan.** The Owners representing an aggregate ownership interest of eighty-five percent (85%), or more of the Allocated Interests may agree that the Condominium Units are obsolete and adopt a plan for the renewal and reconstruction of the Project, which plan shall have the approval or consent of at least eighty-five percent (85%) of the First Mortgagees (based upon one vote for each Unit encumbered). If a plan for the renewal or reconstruction of the Project is adopted, notice of such plan shall be recorded, and the expenses thereof shall be payable as a Special Assessment by

all of the Owners pro-rata according to each Owner's percentage interest in the General Common Elements. Any Owner not a party to such a plan for renewal or reconstruction may give written notice to the Association within 15 days after the adoption of such plan that such Owner's Condominium Unit shall be purchased by the Association for the fair market value thereof. The Association shall then have 15 days within which to cancel such plan. If such plan is not cancelled, the Condominium Unit(s) of such Owner(s) shall be purchased by the Association according to the following procedures. If any such Owner and the Association can agree on the fair market value thereof, then the sale of such Owner's Condominium Unit shall be consummated within 30 days thereafter. If the parties are unable to agree, the date when either party notifies the other of the inability to agree shall be the "commencement date" from which all periods of time mentioned in this paragraph shall be measured. Within ten days following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party) an independent appraiser. If one party fails to make such a nomination, the appraiser nominated by the other party shall, within five days after such failure, appoint and associate with another independent appraiser. If the two appraisers designated by the parties, or selected pursuant to this paragraph in the event of the default of one party, are unable to agree upon the fair market value of the Unit prior to the expiration of ten days following the appointment of the second appraiser, they shall, within five days thereafter, appoint another independent appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire within such five-day period, then each appraiser previously appointed shall nominate two independent appraisers, and from the names of the four persons so nominated one shall be drawn by lot by any judge of any court of record in Iowa, and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within ten days after the failure of the two appraisers to agree, which, in any event, shall not be later than 30 days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, then the decision of the umpire, shall be final and binding. The purchase price will be the fair market value as so determined, or the amount of any bona fide first Mortgage secured by the Unit, whichever is greater. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner. The sale shall be consummated within 30 days thereafter, and the Association, as attorney-in-fact, shall disburse the proceeds of such sale as is provided in subparagraphs b (1) through (6) of this paragraph.

- f. **Project Obsolete; No Renewal Plan.** The Owners representing an aggregate ownership interest of eighty-five percent (85%) or more of the Allocated Interests may agree that the Condominium Units are obsolete and that the same should be sold. Such agreement must have the approval or consent of at least eighty-five percent (85%) of the First Mortgagees (based upon one vote for each Unit encumbered). In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by a duly authorized officer of the Association, the entire Project shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Condominium Survey, the Articles, and the Bylaws. The sales proceeds shall be apportioned between the Owners on the basis of each Owner's Allocated Interest and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium Unit. Each account shall be in the name of the Association, and shall be further identified by the Condominium Unit designation and the name of the Owner and any Mortgagee thereof. The Association, as attorney-in-fact, shall use and disburse the total amount of each of such accounts, without

contribution from one account to another, for the same purposes and in the same order as is provided in subparagraphs b (1) through (6) of this paragraph.

30. **Condemnation.**

- a. **Consequences of Condemnation.** If at any time or times during the continuance of condominium ownership pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance of any such proceeding, the provisions of this paragraph 30 shall apply.
- b. **Proceeds.** All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Association for the use and benefit of the Owners and the Mortgagees, as their interests may appear.
- c. **Complete Taking.** If the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance of any such proceeding, condominium ownership pursuant to this Declaration shall terminate. The Condemnation Award shall be apportioned among the Owners in proportion to their respective Allocated Interest, provided that if a standard different from the value of the Project as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such share the same standard shall be employed to the extent it is relevant and applicable.
- d. **Partial Taking.** If less than the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance of any such proceeding, the condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner. As soon as practicable the Association shall, reasonably and in good faith, allocate the Condemnation Award among compensation, damages, and other proceeds, and shall apportion the amounts so allocated among the Owners as follows: (i) the total amount allocated to taking of, or injury to, the General Common Elements separate and distinct from any of the Units shall be apportioned among the remaining Owners in proportion to their respective Allocated Interest; (ii) the total amount allocated to severance damages shall be apportioned to those Condominium Units which were not taken or condemned in proportion to their respective Allocated Interest; (iii) the respective amounts allocated to the taking of, or injury to, a particular Unit and/or improvements an Owner had made within the Owner's Unit shall be apportioned to the particular Condominium Unit involved; and (iv) the amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in the negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable. Any distribution of the Condemnation Award made to any Owners pursuant to this paragraph shall be made payable jointly to such Owners respectively and their Mortgagees.
- e. **Distribution.** The Association shall as soon as practicable determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable, provided that in the event of a complete taking such distribution shall be made in the same manner as is provided in paragraph 29.b(1)-(6).

- f. **Mortgagee Notice.** The Association shall give timely notice to each Eligible Mortgagee of the commencement of any condemnation or eminent domain proceedings and shall notify said Eligible Mortgagees in the event of an initiated taking of all or any part of the General Common Elements, if the value of the General Common Elements subject to threatened taking exceeds \$10,000.00.
- g. **Reorganization.** If a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be a member of the Association, and such Owner's interest in the General Common Elements shall thereupon terminate, and the Association, as attorney-in-fact for such Owner, may take whatever action is necessary and execute such documents as are necessary to reflect such termination. Thereafter the Association shall reallocate the ownership and assessment ratios determined in accordance with this Declaration according to the same principles employed in this Declaration at its inception, and shall submit such reallocation to the Owners and Mortgagees of the remaining Condominium Units and, as their attorney-in-fact, shall record a corresponding amendment to this Declaration.

31. **Amendment and Termination of Declaration.**

- a. **Duration of Declaration.** All of the provisions contained in this Declaration shall continue and remain in full force and effect until condominium ownership of the Project and this Declaration are terminated, revoked, or amended as hereinafter provided.
- b. **Amendment and Termination.**
- (1) Except as otherwise expressly provided by this Declaration or the Act, any provision contained in this Declaration may be amended, or additional provisions may be added to this Declaration, only by a vote or written agreement of the Owners, as shown by the Records, representing an aggregate ownership interest of sixty-seven percent (67%), or more, of the Allocated Interests. Without limiting the generality of the foregoing, such vote or written agreement of the Owners shall be required for any of the Amendments referenced in paragraph 32.a below. Further, so long as Declarant continues to own five (5) or more Residential or Commercial Units that it is holding for lease or sale, no rights of Declarant contained in this Declaration may be amended or modified without the consent of Declarant, including specifically this sentence. The consent(s) of any Junior Mortgagees shall not be required under the provisions of this paragraph.
- (2) Notwithstanding anything in subparagraph (1) above to the contrary, if Declarant determines that any amendments to this Declaration or any amendments to the Articles or Bylaws shall be necessary: (a) in order for existing or future Mortgages to be acceptable to any Agencies; (b) in order to clarify any apparently conflicting provisions; (c) to correct any mistakes or errors of a clerical nature resulting from typographical or similar errors; or (d) to correct technical errors for clarification, Declarant shall have and hereby specifically reserves the right and power to make and execute any such amendments without obtaining the approval of any Owners or Mortgagees. At least ten (10) days prior to the effective date of any such Declarant-dictated amendment to this Declaration, Declarant shall notify all First Mortgagees of record of such amendment. Each such Declarant-dictated amendment shall be made, if at all, prior to the expiration of the Development Rights Period.

- (3) Notwithstanding anything in subparagraph (1) to the contrary, no consent or agreement of Owners or Mortgagees generally shall be required in order to allow: (a) Declarant to exercise its Development Rights provided it complies with the applicable provisions as set forth in this Declaration; or (b) the Owners to exercise their respective rights under paragraph 4.
- (4) All amendments to this Declaration must be prepared and recorded in the Records.
- (5) The Condominium Regime and Declaration can be terminated as provided in the Act.

c. **Effect of Provisions of Declaration.** Each provision of this Declaration, and any agreement, promise, covenant, and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right, or interest to effectuate any provision of this Declaration, shall:

- (1) Be deemed incorporated in each deed or other instrument by which any right, title, or interest in the Project or in any Condominium Unit is granted, devised, or conveyed, whether or not set forth or referenced in such deed or instrument;
- (2) By virtue of acceptance of any right, title, or interest in the Project or in any Condominium Unit by an Owner, be deemed accepted, ratified, adopted, and declared as a personal covenant, shall be binding on such Owner and such Owner's heirs, personal representatives, successors, and assigns and shall be deemed a personal covenant to, with, and for the benefit of the Association but not to, with, or for the benefit of any other Owner;
- (3) Be deemed a real covenant by Declarant, for itself, its successors and assigns, and also an equitable servitude, running, in each case, as a burden with and upon the title to the Project and each Condominium Unit and, as a real covenant and also as an equitable servitude, shall be deemed a covenant and servitude for the benefit of the Project and each Condominium Unit; and
- (4) Be deemed a covenant, obligation, and restriction burdening and encumbering the title to the Project and each Condominium Unit in favor of the Association.

32. **Rights of First Mortgagees.**

For purposes of this paragraph 32, Mortgagees requesting notice from the Association shall be referred to as "Eligible Mortgagees." In order to qualify as a proper request for notice and, therefore, to qualify as an "Eligible Mortgagee", the request must include the name and contact information of an officer or agent with full authority to act on behalf of the Mortgagee and to consent or withhold consent to amendments or other actions requiring input from Eligible Mortgagees. The name and contact information must be kept current within ten (10) days of any change in order for the request for notice to remain effective. Subject to paragraphs 4 and 31.b and the rights of Declarant provided for in this Declaration, but notwithstanding any other provisions in this Declaration to the contrary:

- a. **Amendments of Condominium Instruments.** No material amendments shall be made to the Declaration, Articles, or Bylaws of the Association (collectively, the

"Condominium Instruments"), and no material action by the Association will be taken, without prior written notice of such amendment or action to all Eligible Mortgagees, and without the approval of Eligible Mortgagees representing at least fifty-one percent (51%) of the votes of the Units that are subject to Mortgages held by Eligible Mortgagees. The following actions or changes to any of the provisions governing the following in the Condominium Instruments shall be considered "material" for purposes of this paragraph 32.a: (i) changing voting rights; (ii) increases in regular Assessments for Common Expenses that raise the previously assessed amount by more than 25%; (iii) changes in the provisions governing Assessment liens or the priority of Assessment liens; (iv) elimination of reserves for maintenance, repair, and replacement of General Common Elements, or changes in the provision for contributions to reserves upon the sale of a Unit; (v) changes in assigned responsibility for maintenance and repairs; (vi) reallocation of interests in the General Common Elements or rights to their use except as allowed in paragraph 3.a.(7); (vii) redefinition of any Unit boundaries except as allowed in paragraph 3.a.(7); (viii) convertibility of Units into General Common Elements or Limited Common Elements or vice versa except as allowed in paragraph 3.a.(7); (ix) expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project; (x) changes in the requirements for hazard or fidelity insurance; (xi) imposition of any restrictions on the leasing of Units; (xii) imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit; (xiii) a decision by the Association to establish self-management when professional management has previously been required by this Declaration or by any Eligible Mortgagee; (xiv) restoration or repair of the Project or Building (after damage or partial condemnation) in a manner other than that specified in the Condominium Instruments; (xv) any action to terminate the legal status of the Project after substantial destruction or condemnation occurs; or (xvi) any provisions that expressly benefit First Mortgagees. Any addition, deletion, or amendment shall not be considered material if it is for the purpose of correcting technical errors, of clarification only, or to comply with the requirements of any of the Agencies. If an Eligible Mortgagee fails to submit a response to any written proposal for any such material amendment or action within 30 days after notice of the proposal is given by certified or registered mail, return receipt requested, such Mortgagee's approval shall conclusively be deemed to have been given.

- b. **Inspection; Notices of Meetings.** Any First Mortgagee shall be entitled to inspect the Condominium Instruments, books, records, and financial statements relating to the Project during normal business hours, and upon written request shall be entitled to: (i) receive an audited financial statement of the Association for the preceding fiscal year of the Association; and (ii) written notice of all meetings of the Association, as well as the right to designate a representative to attend all such meetings.
- c. **Other Notices.** The Association shall provide timely written notice to any Eligible Mortgagee of: (i) any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing its Mortgage; (ii) any 60-day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds the Mortgage; (iii) a lapse, cancellation, or material modification or any insurance policy or fidelity bond maintained by the Association which is not replaced by a policy satisfying the requirements of this Declaration prior to the effective date of such lapse, cancellation, or modification; and (iv) any proposed action that requires the consent of a specified percentage of the First Mortgagees. No provision in the Condominium Instruments shall be construed to give a Unit Owner or any other party priority over the rights of any First Mortgagee of a Unit with respect to distribution by the Association of insurance proceeds

or a condemnation award for losses to or a taking of Units and/or General Common Elements.

The provisions of this paragraph 32 are in addition to any other rights of Mortgagees herein contained or provided under law. If any other paragraph of this Declaration requires the approval of a higher percentage of the First Mortgagees than are required by this paragraph 32, the percentage required by such other paragraph shall control.

33. **Protection of Encumbrancer.**

Subject to the provisions of paragraph 27, no violation or breach of or failure to comply with any provision of this Declaration, and no action to enforce any such provision, shall affect, defeat, render invalid, or impair the lien of any First Mortgage or any other lien on any Condominium Unit taken in good faith and for value and perfected by recording in the Records, prior to the time of the recording of an instrument setting forth the following: (a) a description of the Condominium Unit; (b) the name(s) of the Owner(s) of fee simple title to the Condominium Unit; and (c) notice of such violation, breach, or failure to comply or action to enforce, affect, defeat, render invalid, or impair either the title or interest of the holder of any such First Mortgage or other lien or the title or interest acquired by any purchaser upon foreclosure of any such First Mortgage or other lien. Any such purchaser on foreclosure shall take subject to this Declaration; provided, however, that violation or breach of, or failure to comply with, any provisions of this Declaration which occurred prior to the vesting of fee simple title in such purchaser shall not be deemed breaches or violations hereof or failures to comply herewith with respect to such purchaser, or such purchaser's heirs, personal representatives, successors or assigns.

34. **Miscellaneous.**

- a. **Supplemental to Law.** The provisions of this Declaration shall be in addition and supplemental to the Act and to all other provisions of law.
- b. **Numbers and Genders.** Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.
- c. **Registration by Owner of Mailing Address.** Each Owner shall register a mailing address with the Association. All notices or demands intended to be sent to or served upon an Owner shall be delivered personally or sent by first class mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. If an Owner of a Residential Unit fails to register a mailing address, such Owner's mailing address shall be deemed to be the mailing address of such Unit. All notices, demands, or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent by certified mail, postage prepaid, in care of the Registered Agent of the Association according to the records of the Iowa Secretary of State, Attention: President, until such address is changed by a notice of a different address that is given by notice to Owners and Eligible Mortgagees.
- d. **Successors and Assigns.** This Declaration shall be binding upon and shall inure to the benefit of Declarant, the Association, and each Owner, and the heirs, personal representatives, successors, and assigns of each of them, except as otherwise expressly provided herein.

- e. **Severability.** All provisions of this Declaration are severable. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration. If the invalidity or unenforceability of any such provision is because of its scope or breadth then any court of competent jurisdiction shall have the power to reform the provision such that it will be valid and enforceable to the fullest scope and breadth permitted by law.
- f. **Captions.** The captions and headings in this Declaration are primarily for convenience only.
- g. **No Waiver.** Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision or of any other provision(s) of this Declaration no matter how many violations or breaches occur.
- h. **Sales and Construction Facilities and Activities of Declarant.**
- (1) **Construction and Marketing Activities.** Notwithstanding any provision to the contrary contained herein, during the period of any renovation, construction, and sale of the Condominium Units in the Project by Declarant (but until no later than the expiration of the Development Rights Period), Declarant, its agents, employees, and contractors shall be permitted to maintain upon such portion of the Project as Declarant may choose such facilities and to conduct such activities as, in the sole discretion of Declarant, may be reasonably required or convenient for or incidental to the renovation, construction, sale, or rental of the Condominium Units. Such facilities may include, without limitation, a business office; construction management office; storage areas; construction storage areas; signs, model Units; sales office; construction office; parking areas; and temporary lighting and parking facilities for all prospective tenants or purchasers of Units, and for all contractors and laborers. In addition, Declarant, its agents, employees, and contractors shall have the right of ingress and egress over any and all Units and all of the General Common Elements as in Declarant's discretion may be necessary with regard to the foregoing. Further, Declarant, its agents, employees, and contractors shall have the right of ingress and egress in and through all Units owned by Declarant and all of the General Common Elements during the period of the renovation, construction, and/or sale of the Units for the purpose of any required or desired refurbishment, construction, maintenance, or repair of such Units, the Building, Common Elements, or any part thereof.
- (2) **Sales, Leasing and Management Activities.** Notwithstanding any provision to the contrary contained herein, for so long as Declarant owns any Units in the Project (but until no later than the expiration of the Development Rights Period), Declarant may use such Units owned by it within the Project as a sales office or otherwise for the marketing of the Condominium Units, and/or as a management office and/or a leasing office for the Project, and/or as model Units for the marketing of the Project. Declarant reserves the right from time-to-time to relocate any or all of such offices and/or activities between and among those designated areas and Units owned by Declarant.

- i. **Conflict.** In the event of a conflict between the provisions of the Declaration the Bylaws, the Declaration shall prevail except to the extent the Declaration is inconsistent with the Act. In the event of a conflict between provisions relating to the exercise of Development Rights by Declarant and provisions relating to Owners, including specifically restrictions on rights of Owners, provisions relating to the exercise of Development Rights shall prevail notwithstanding that Declarant is also an Owner of one or more Units.
- j. **Act and Paragraph References.** All references to particular sections of the Act shall be to the corresponding section of Chapter 499B of the Iowa Code. Unless the context otherwise clearly indicates, references in this Declaration to particular paragraphs or subparagraphs shall refer to the corresponding provision of this Declaration.
- k. **Mediation.** Prior to the filing of any litigation by an Owner against the Declarant, the Association or any other Owner relating to any claim, controversy or dispute based in whole or in part on any provision of the Condominium Instrument, such Owner shall, at the request of the Declarant, the Association or any other Owner, as appropriate based upon the nature of the claim, controversy or dispute, agree to submit such matter to mediation by a third-party mediator who is mutually acceptable to all parties or, if no such mediator can be found, to a mediator designated by the current chair of the Iowa State Bar Association Alternative Dispute Resolution Committee. The cost of such mediation shall be born equally by the parties to such mediation.
- l. **Assignment of Development Rights.** Declarant shall have the unrestricted right to assign from time-to-time any one or more of the Development Rights.
- m. **Adaptability of Units for the Handicapped.** Residential Units can be made handicapped accessible in accordance with the state and city building codes. Any modification(s) for handicapped accessibility or adaptability must be approved in advance by the Association and shall be completed at the expense of the Unit Owner whose Unit is modified, free of liens and encumbrance, in conformity with all applicable codes and ordinances, and in a good and workmanlike manner.

Section 2

Exhibit A to the Declaration is hereby deleted in its entirety and Exhibit A attached hereto shall be in substitution and replacement for such Exhibit A. All references to the Bylaws in the Declaration shall hereafter be deemed references to Bylaws in the form of Exhibit A attached hereto.

Section 3

Exhibit "B" attached to the Declaration is hereby supplemented by adding thereto Exhibits B-1, B-2 and B-3 attached hereto. All references in the Declaration to Exhibit "B" shall be deemed to include, without limitation, Exhibits B-1, B-2 and B-3 attached hereto.

Section 4

Exhibit "C" attached to the Declaration is hereby deleted in its entirety and Exhibit "C" attached hereto shall be in substitution for and replacement of such Exhibit "C." All references to Exhibit "C" in the Declaration shall hereafter be deemed referenced to Exhibit "C" in the form attached hereto.

Section 5

Except as herein modified and amended, the Declaration remains unaltered and in full force and effect.

IN WITNESS WHEREOF, Declarant has executed this Declaration this 11th day of January, 2009.
10

JORDAN CREEK CONDOMINIUMS, L.L.C.,
an Iowa limited liability company,

By: Bill J. Lloyd

Bill J. Lloyd
Its: Manager

STATE OF Iowa)
COUNTY OF Polk)SS:

This instrument was acknowledged before me on this 11th day of January, 2009, by
Bill J. Lloyd, as the Manager of Jordan Creek Condominiums, L.L.C.

Paul R. Tyler
Notary Public in the State of Iowa

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SCHEDULE 1
Legal Description

Lot 1, Bella South Plat I, an Official Plat included in and forming a part of the City of West Des Moines,
Dallas County, Iowa.

EXHIBIT "A"
RESTATED BYLAWS OF
BELLA SOUTH OWNERS ASSOCIATION, INC.
AN IOWA NONPROFIT CORPORATION

ARTICLE I: NAME

The name of the corporation is "Bella South Owners Association, Inc." The Bella South Owners Association, Inc. is a nonprofit corporation existing under the provisions of Chapter 504 of the Code of Iowa (2009).

ARTICLE II: DEFINITIONS

1. "Association" shall mean and refer to Bella South Owners Association, Inc., an Iowa Non-Profit Corporation, its successors and assigns.

2. "Covenants" and/or "Declaration" shall mean and refer to the Declaration of Submission for Horizontal Property Regime, recorded in the office of the Recorder of Dallas County, Iowa for the property legally described as Lot 1, Bella South Plat 1, an Official Plat, now included in and forming a part of the City of West Des Moines, Dallas County, Iowa as the same may be amended from time to time.

3. "Declarant" shall refer to Jordan Creek Condominiums, L.L.C., and its successors and assigns.

4. "Garage Unit" shall have the same meaning as Garage Unit under the Declaration.

5. "Member" shall mean and refer to those persons entitled to membership in the Association as provided in the Declaration and in these Bylaws.

6. "Owner" shall mean and refer to the record owner or holder of the fee simple title, or the actual holder or holders of said fee simple title, or any contract vendee of any Unit.

7. "Property" shall mean and refer to Lot 1, Bella South Plat 1, an Official Plat, now included in and forming a part of the City of West Des Moines, Dallas County, Iowa.

8. "Unit" shall have the same meaning as Unit under the Declaration.

ARTICLE III: MEMBERSHIP AND VOTING RIGHTS

1. Eligibility. The members of the Association shall consist of every Owner of a Unit. If an Owner is a corporation or partnership, the member may be an officer, partner or employee of such Owner in accordance with a designation adopted by the appropriate resolution of such Owner and filed with the Association.

2. Succession. The membership of each Owner in the Association shall terminate when that person ceases to be an Owner, and, upon the sale, transfer or other disposition of an

ownership interest in the Property, membership in the Association shall automatically be transferred to the new Owner succeeding to such ownership interest.

3. Voting. The Association shall have two classes to voting membership.

a. Class A Members. Class A members shall be all Owners, with the exception of the Declarant, and each Member shall be entitled to one vote for each Unit owned. The Owner entitled to vote shall be the Owner of record in the office of the Recorder of Dallas County, Iowa. When more than one person holds an interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised as such Members determine among themselves, but in no event will a split vote be honored, and in no event shall more than one vote be cast with respect to a Unit. Votes may be by proxy.

b. Class B Member. The Class B member shall be the Declarant and it shall be entitled to three votes for each Unit owned. The Class B membership shall cease and be converted to Class A membership on the happening of the following events, whichever occurs earlier:

i. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or;

ii. January 1, 2015.

ARTICLE IV: MEETINGS OF THE ASSOCIATION

1. Regular Meetings. There shall be a regular annual meeting of Owners held in each fiscal year on a date occurring during the first ninety (90) days of such year fixed by resolution of the Board. The date, time and place for each such meeting of Owners shall be specified in the written notice of such meeting which shall be given to all Owners at least ten (10) days prior to the date of such meeting.

2. Special Meetings. Special meetings of the Owners may be called by the President or by a majority of the Directors then serving on the Board, or by Owners having at least one-fourth (1/4) of the votes entitled to be cast at such meeting. Each special meeting shall be called by delivering written notice to all Owners not less than ten (10) days prior to the date of said meeting, stating the date, time and place of said special meeting and the matters to be considered.

3. Delivery of Notice of Meetings. Notices of meetings may be delivered either personally, by U.S. mail or by email to an Owner. Notices sent by U.S. mail or by email shall be sent to the address given to the Board by said Owner for such purpose. If no other address for such purpose has been given to the Board, such notices may be sent by U.S. mail to the Owner's Unit.

4. Quorum. A quorum of Owners for any meeting shall be constituted by Owners represented in person or by proxy and holding 1/10 of the votes entitled to be cast at such meeting. At any meeting properly called where such a quorum is not present, those present may vote to recess for the purpose of obtaining such a quorum and, following such delay as a majority of those present may deem reasonable under the circumstances, reconvene. Such recess shall be a minimum of one half hour. At such reconvened meeting the quorum shall be one-half that

required at the meeting prior to recess. The foregoing process may be repeated until a quorum is achieved.

5. Presiding Officer and Rules of Order. The President, or, in his absence or disability, the Vice President shall preside at each members' meeting; if neither the President nor the Vice President is available to preside, a chairman shall be elected by the members present at such meeting. Meetings shall be conducted in accordance with Robert's Rules of Order.

6. Voting Rights. No Owner will be entitled to vote at any meeting of the Association if such Owner is, at the time of such meeting, delinquent in the payment of any sum due to the Association.

ARTICLE V: BOARD OF DIRECTORS

1. Number, Election and Term of Office. The Board of Directors of the Association (referred to herein as the "Board") shall consist of three (3) persons (hereinafter collectively referred to as the "Directors" and each as a "Director"). Directors shall be elected at the regular annual meeting of Association members by the vote of Owners. Those candidates for election as a Director receiving the greatest percentage of the votes cast either in person or by proxy at the meeting shall be elected. Initially, one Director shall be elected to a one year term, one shall be elected to a two year term and one shall be elected to a three year term. Thereafter, each Director shall be elected to a three year term. Each Director shall hold office until a successor shall be elected and qualified or until his or her earlier death or resignation.

2. Qualification. Directors must be Members of the Association, must be current with dues and assessments at the time of election, and may be elected to succeed themselves in office; provided, however, that during the period prior to the cessation of Class B membership said Directors need not be Members of the Association.

3. Nomination. Candidates for election to the Board may be nominated by the Board or may be self-nominated and may be nominated from the floor at the annual meeting of Members.

4. Vacancies. Any vacancy occurring in the Board shall be filled by majority vote of the remaining members thereof. Any Director so elected or appointed to fill a vacancy shall hold office for a term equal to the unexpired term of the Director that he or she succeeds.

5. Meetings and Quorum. A regular annual meeting of the Board shall be held within one month following the regular annual meeting of the Owners and may be held on the same day as the annual meeting of the Owners. The Board may, by resolution, set the dates, time and place for regular meetings of the Board and no notice thereof shall be required until such resolution is modified or rescinded. Special meetings of the Board shall be held upon a call by the President or by a majority of the Board on not less than forty-eight (48) hours notice in writing to each Director, delivered personally or by U.S. mail or email. Any Director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall constitute his waiver of notice of said meeting. A majority of the authorized number of Directors

shall constitute a quorum. So long as they conduct themselves with proper decorum, any member may attend any official Board meeting.

6. Removal. Any Director may be removed from office for cause by a 60% vote of the membership in the Association or by a majority vote of the other Directors.

7. Compensation. No Director shall receive compensation for his or her services as a Director unless expressly provided for in a resolution duly adopted by a majority vote of the Owners. Each Director may be reimbursed for actual, reasonable expenses incurred in the fulfillment of his or her duties or in furtherance of a Board resolution.

8. Powers and Duties. The Board shall have the following powers and duties:

- a. To elect and remove the officers of the Association as hereinafter provided;
- b. To administer the affairs of the Association, including without limitation the periodic investment, reinvestment and disbursement of reserves, surpluses and other funds of the Association;
- c. To engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair and replace the yard, driveways, sidewalks, and the joint water and sewer hookups servicing more than one Unit, upon such terms and for such compensation and with such authority as the Board may approve. The Board shall have authority to ratify and approve a management agreement between the Association and a management company to act as Managing Agent for the Association;
- d. To formulate policies for the administration, management and operation of the Association;
- e. To provide for the maintenance, repair, and replacement of the yards, sidewalks, driveways and all other Common Elements (as defined in the Declaration), all water and sewer hookups which service more than one Unit on the Property, and to make payments therefore; to borrow money for those purposes if necessary; and to approve payment vouchers or delegate such approval to the officers or the manager or Managing Agent.
- f. To provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair and replacement of the items described in Paragraph (f) above, and to delegate any such powers to the manager or Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent);
- g. To appoint committees of the Board from among the Owners and to delegate to such committees the Board's authority to carry out certain duties of the Board;
- h. To estimate the amount of the annual budget (including a reserve fund for the upkeep and replacement of the items for which the Association is responsible), and to provide the manner of assessing and collecting from the Owners their respective shares of such estimated expenses, as herein provided;

- i. To purchase, hold, sell, convey, mortgage or lease any one or more Units in the name of the Association or its designee;
- j. To bring, prosecute and settle litigation for itself, the Association and the property for which the Association is responsible;
- k. To obtain insurance, as required or deemed appropriate;
- l. To repair or restore the property for which the Association is responsible following damage or destruction;
- m. To own, purchase or lease, hold and sell, or otherwise dispose of, on behalf of the Owners, items of personal property necessary to or convenient in the management of the business and affairs of the Association and the Board, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies;
- n. To keep adequate books and records, including the minute book wherein the resolutions of the Association and the Board Minutes shall be kept;
- o. To provide for a procedure to approve ordinary and extraordinary expenditures, and to delegate authority to sign checks and issue payment vouchers;
- p. To pay off liens incurred by the Association against any portion of the Property;
- q. To exercise all other powers and duties of the Association as referred to in the Declaration, and all powers and duties of a Board referred to in the Declaration or these bylaws, including the power to delegate to one or more persons such of the foregoing powers as the Board may deem prudent for the efficient management of Association affairs.

9. Presiding Officer and Rules of Order. The President, or in his or her absence or disability, the Vice President, shall preside at each Board meeting. If neither the President nor Vice President is able to preside the Secretary shall preside. Meetings shall be conducted in accordance with Robert's Rules of Order.

ARTICLE VI: OFFICERS

1. Designation. At each annual meeting of the Board, the Directors present at said meeting shall elect the following officers of the Association by a majority vote:

a. President. The President shall preside over the meetings of the Board and of the Owners, and shall be the chief executive officer of the Association. The President shall sign written contracts of the Association pursuant to authorizing resolutions of the Board. The President must be a Director.

b. Vice President. The Vice President shall perform all of the duties of the President when the President is absent or disabled, as well as other duties assigned by the President or Board. The Vice President must be a Director.

c. Secretary. The Secretary shall keep the minutes of all meetings of the Board and of the Owners, and shall, in general, perform all the duties incident to the office of Secretary. The Secretary must be a Director.

d. Treasurer. The Treasurer shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported. The Treasurer shall prepare a list of members prior to each meeting for the Association identifying those members who are ineligible for election or to vote because of delinquent payments due to the Association. The Treasurer must be a Director.

e. Additional Officers. Such additional officers as the Board shall see fit to elect, and who need not be a Director or Member of the Association. The same person may hold more than one office for which they are qualified.

2. Powers. In addition to the foregoing, the respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

3. Term of Office. Each officer shall hold office for the term of one year and until a successor shall have been appointed or elected and qualified.

4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote at a regular or special meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he or she succeeds. Any officer may be removed for cause at any time by a vote of a majority of the total membership of the Board at a special meeting thereof.

5. Compensation. No officer shall receive any compensation for his or her services as an officer unless expressly provided for in a resolution duly adopted by a majority of the Owners. The Officers may be reimbursed for actual expenses incurred in fulfilling his or her duties of office.

ARTICLE VII: COMMITTEES

The Board shall appoint such committees as it deems appropriate in carrying out its purpose.

ARTICLE VIII: BOOKS AND RECORDS

The books, records and papers of the Association shall, at all times during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall likewise be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE IX: ASSESSMENTS AND LIENS

The Association shall have the right and obligation to make assessments against each Owner and such Owner's Unit as provided in the Declaration. Unpaid assessments shall be obligations of the Owner and a lien against the Owner's Unit as provided in the Declaration.

ARTICLE X: CONFLICT

These Bylaws may be amended, at a regular or special meeting of the Members of a majority vote of the Members present in person or by proxy at such meeting or as otherwise provided in the Declaration.

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XI: FISCAL YEAR

1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

2. NoCorporateSeal. The Association shall not have a corporate seal.

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EXHIBIT B
Condominium Survey

BOOK 2010
PAGE 714
54 OF 83

EXHIBIT "B"
SURVEYOR'S CERTIFICATION AND THE
PLANS, SURVEY AND DRAWINGS

The plans and drawings attached as Exhibit "B" illustrate and provide Unit Owners a general description of the building, the number of stories and basements, if any, the number of condominiums, the condominium numbers, identification of each condominium's location, approximate area, number of rooms and common areas in compliance with Iowa Code s. 499B.4 and B.6 (2002). The plans and specifications attached hereto should not be relied upon by any potential purchaser or Unit Owner for detailed specifics of any individual condominium unit as constructed. They are merely provided, in accordance with Iowa Code s. 499B.4 and B.6 (2002), to show graphically all particulars of the building including, but not limited to, the dimensions, area and location of common elements affording access to each condominium and to show graphically, insofar as possible, other common elements, both limited and general, shall be shown graphically insofar as possible and shall be certified to by an engineer, architect, or land surveyor, either of which is registered or licensed to practice that profession in this state.

BELLA SOUTH



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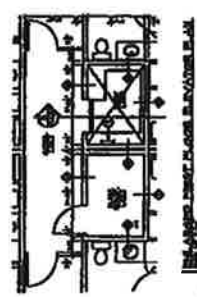
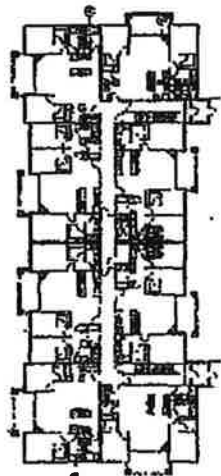
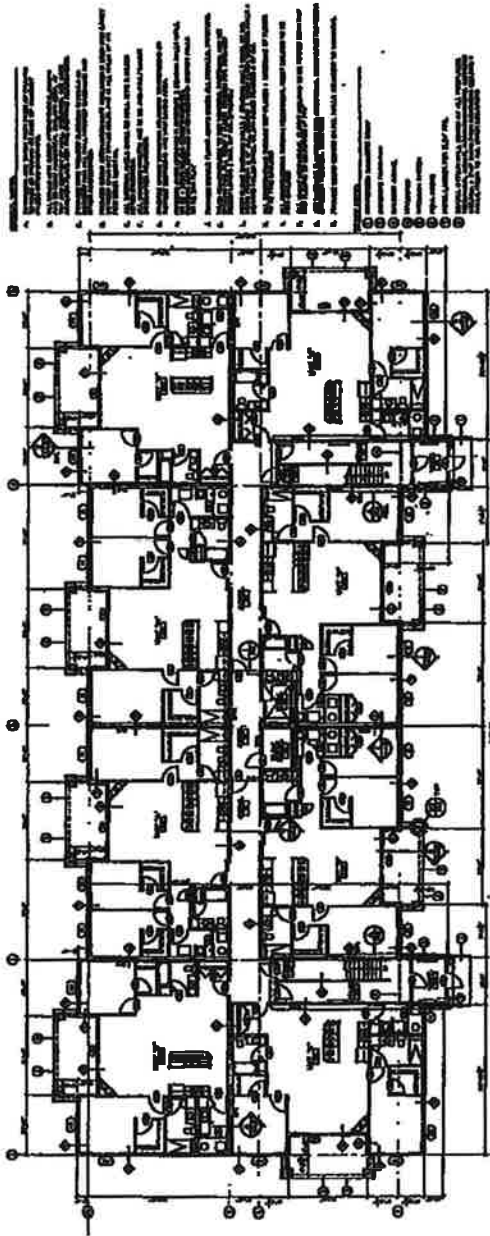
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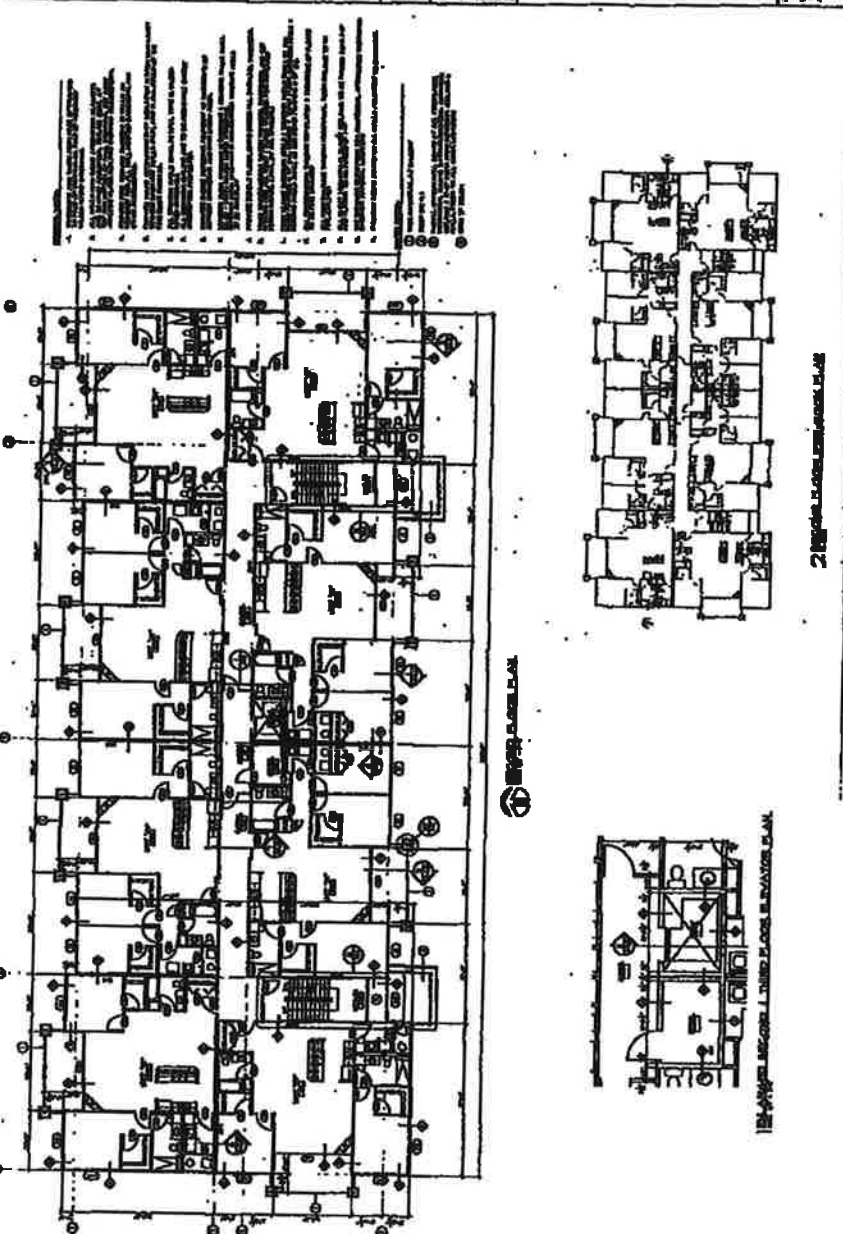
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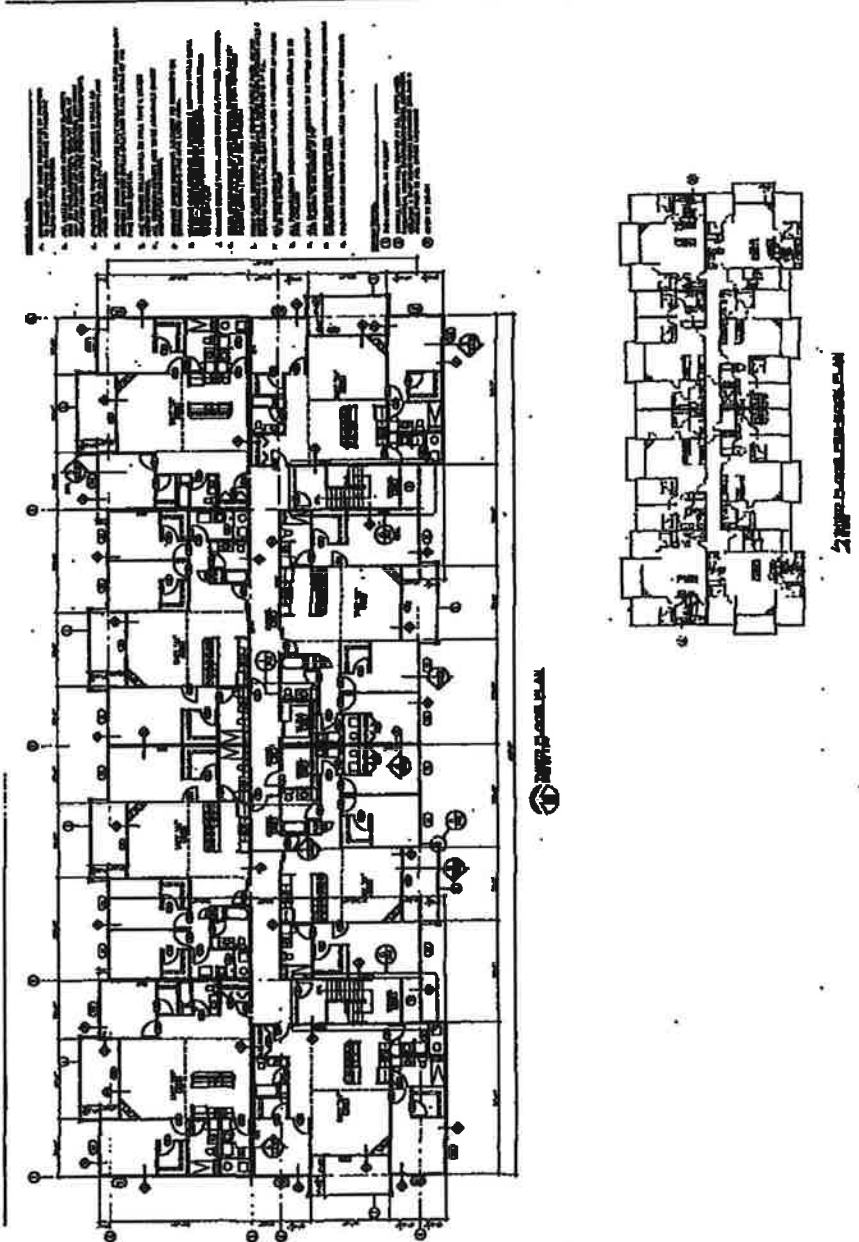
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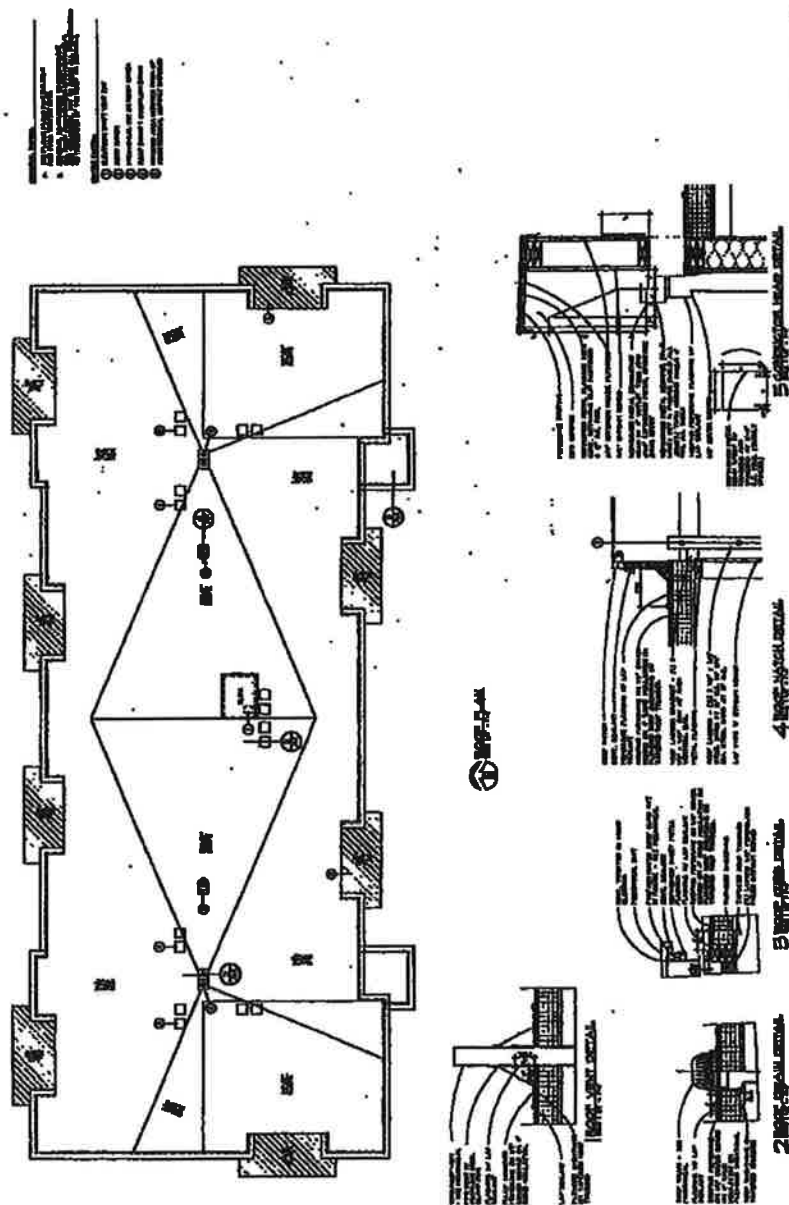


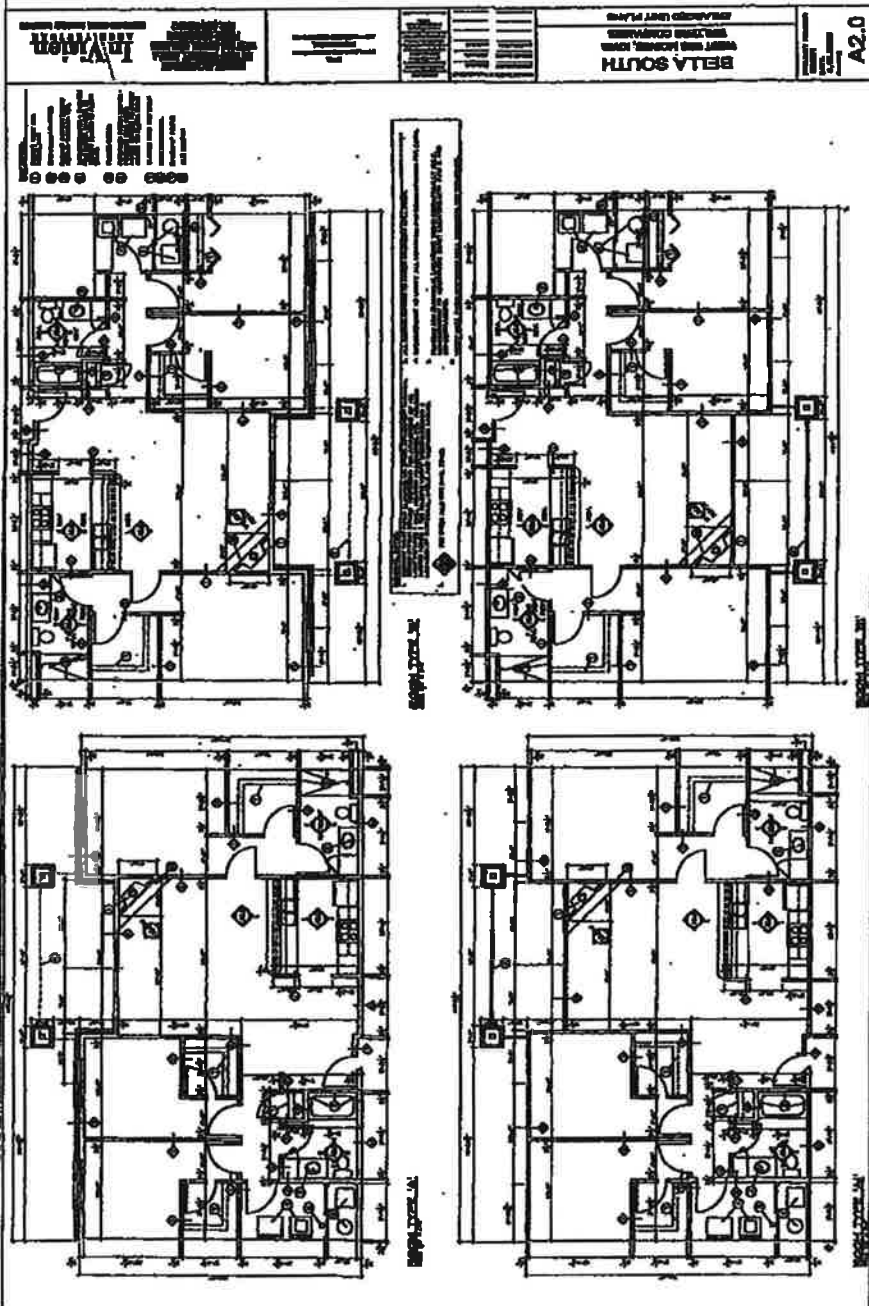
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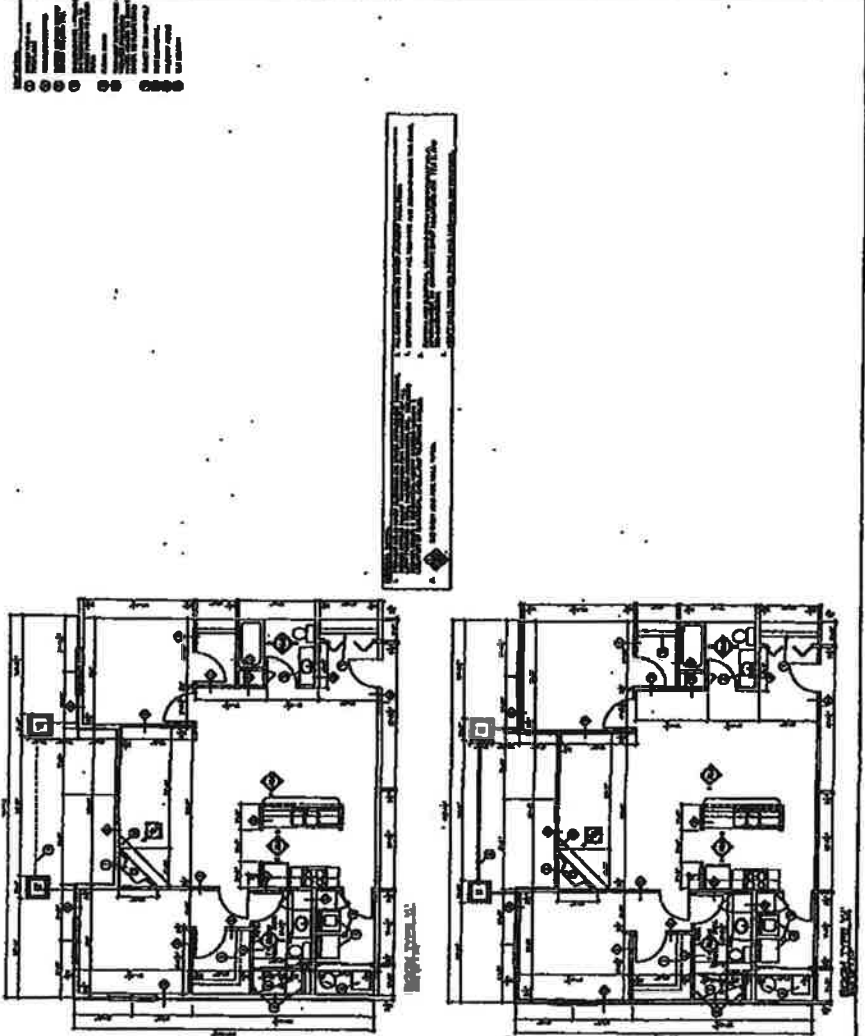


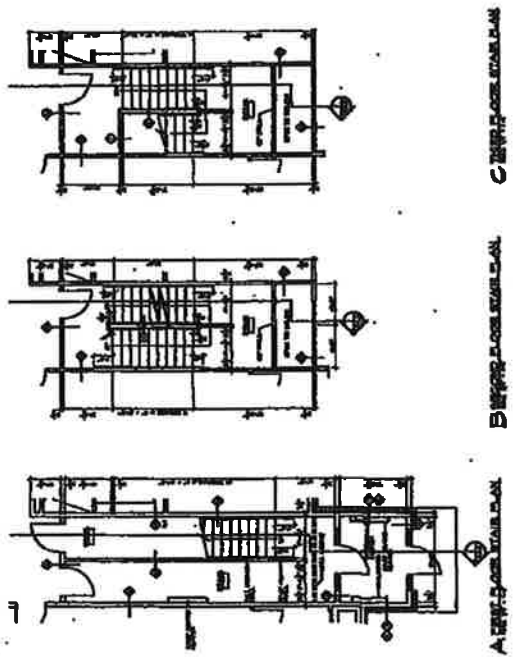


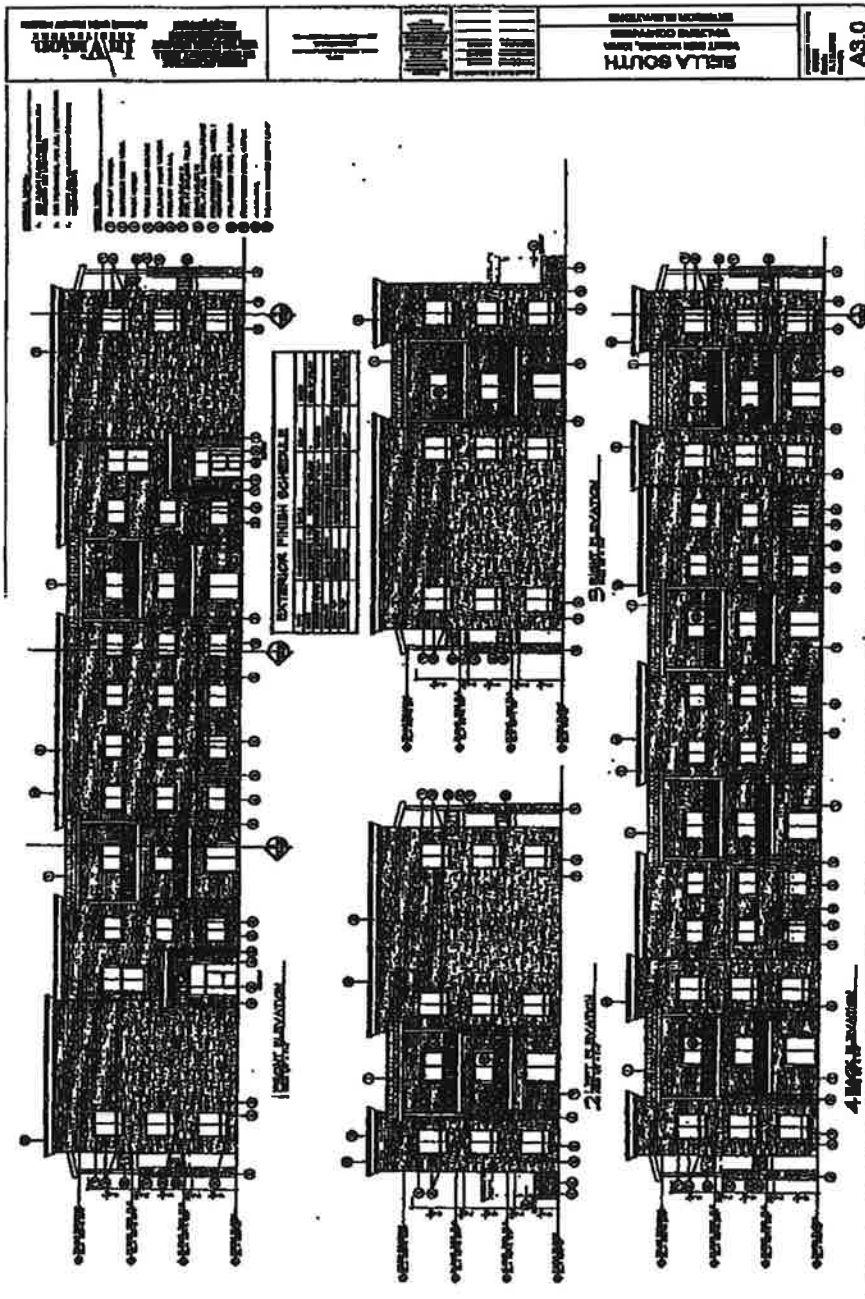


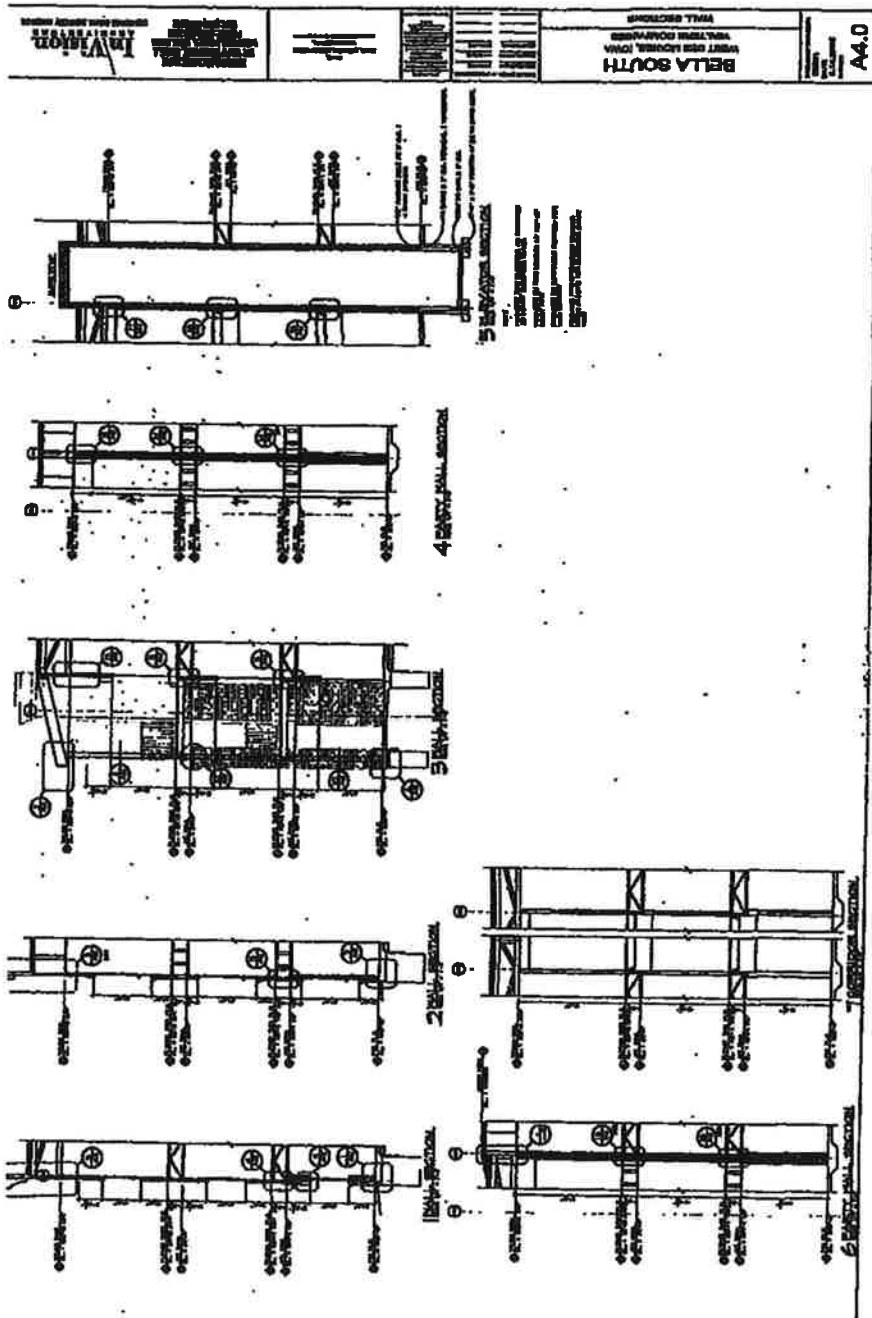


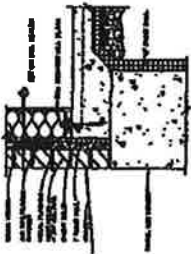
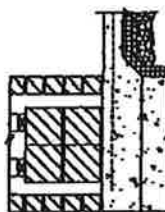
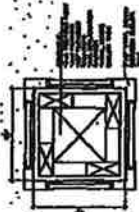
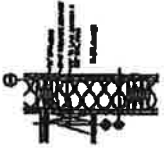
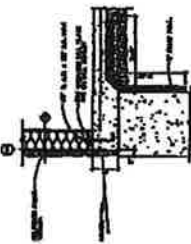
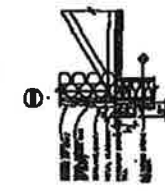
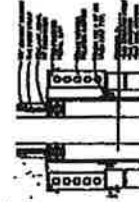
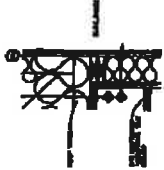
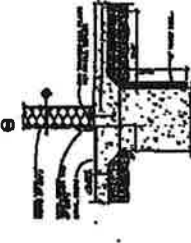
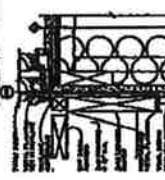
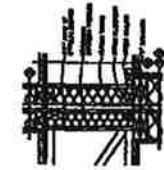
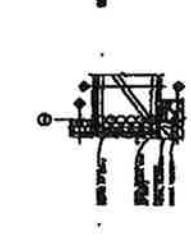
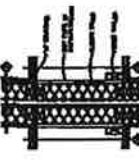
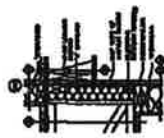
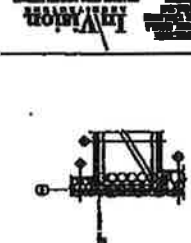
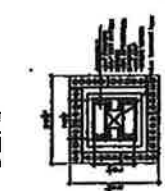
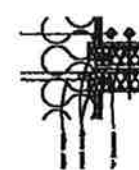
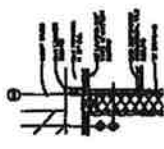


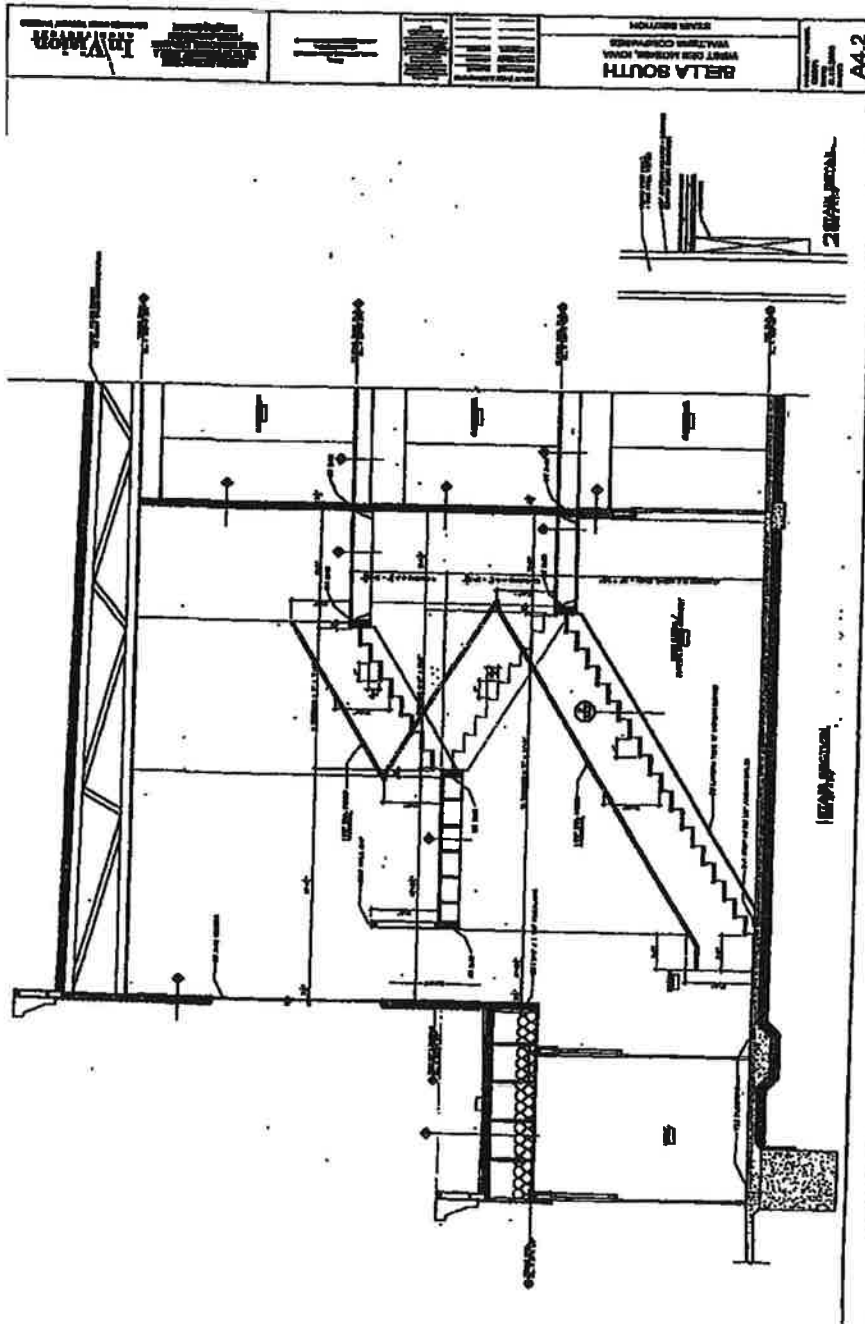


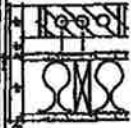
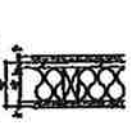
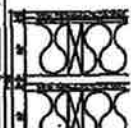
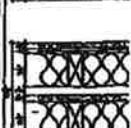
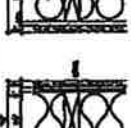
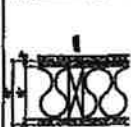
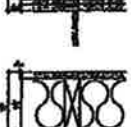
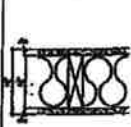
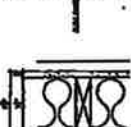
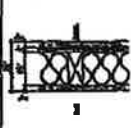
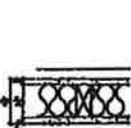
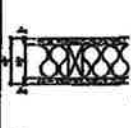
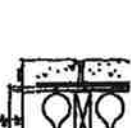
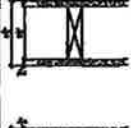
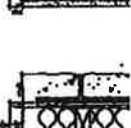
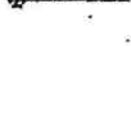






				BELLA SOUTH WATERSHED PROJECT WATER SUPPLY 1/2" = 1'		A4.1	
	1 DETAIL		2 DETAIL		3 DETAIL		4 DETAIL
	5 DETAIL		6 DETAIL		7 DETAIL		8 DETAIL
	9 DETAIL		10 DETAIL		11 DETAIL		12 DETAIL
	13 DETAIL		14 DETAIL		15 DETAIL		16 DETAIL
	17 DETAIL		18 DETAIL		19 DETAIL		20 DETAIL



BELLA SOUTH		BELLA TYPES & ASSOCIATES		A5.0	
					
					
					
					
					
					
					
					
					
					

RELA SOUTH
SOUTH COAST HIGHWAY, COVINA
SANTA ANITA COUNTRY CLUB

SECTION A5.1

PROPOSED SCHEDULE

ITEM	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
1	PAVING	100	SQ. YD.	1.10	110.00
2	PAVING	200	SQ. YD.	1.10	220.00
3	PAVING	300	SQ. YD.	1.10	330.00
4	PAVING	400	SQ. YD.	1.10	440.00
5	PAVING	500	SQ. YD.	1.10	550.00
6	PAVING	600	SQ. YD.	1.10	660.00
7	PAVING	700	SQ. YD.	1.10	770.00
8	PAVING	800	SQ. YD.	1.10	880.00
9	PAVING	900	SQ. YD.	1.10	990.00
10	PAVING	1000	SQ. YD.	1.10	1100.00

PROPOSED SCHEDULE

ITEM	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
1	PAVING	100	SQ. YD.	1.10	110.00
2	PAVING	200	SQ. YD.	1.10	220.00
3	PAVING	300	SQ. YD.	1.10	330.00
4	PAVING	400	SQ. YD.	1.10	440.00
5	PAVING	500	SQ. YD.	1.10	550.00
6	PAVING	600	SQ. YD.	1.10	660.00
7	PAVING	700	SQ. YD.	1.10	770.00
8	PAVING	800	SQ. YD.	1.10	880.00
9	PAVING	900	SQ. YD.	1.10	990.00
10	PAVING	1000	SQ. YD.	1.10	1100.00

PROPOSED SCHEDULE

ITEM	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
1	PAVING	100	SQ. YD.	1.10	110.00
2	PAVING	200	SQ. YD.	1.10	220.00
3	PAVING	300	SQ. YD.	1.10	330.00
4	PAVING	400	SQ. YD.	1.10	440.00
5	PAVING	500	SQ. YD.	1.10	550.00
6	PAVING	600	SQ. YD.	1.10	660.00
7	PAVING	700	SQ. YD.	1.10	770.00
8	PAVING	800	SQ. YD.	1.10	880.00
9	PAVING	900	SQ. YD.	1.10	990.00
10	PAVING	1000	SQ. YD.	1.10	1100.00

PROPOSED SCHEDULE

ITEM	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
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2	PAVING	200	SQ. YD.	1.10	220.00
3	PAVING	300	SQ. YD.	1.10	330.00
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5	PAVING	500	SQ. YD.	1.10	550.00
6	PAVING	600	SQ. YD.	1.10	660.00
7	PAVING	700	SQ. YD.	1.10	770.00
8	PAVING	800	SQ. YD.	1.10	880.00
9	PAVING	900	SQ. YD.	1.10	990.00
10	PAVING	1000	SQ. YD.	1.10	1100.00

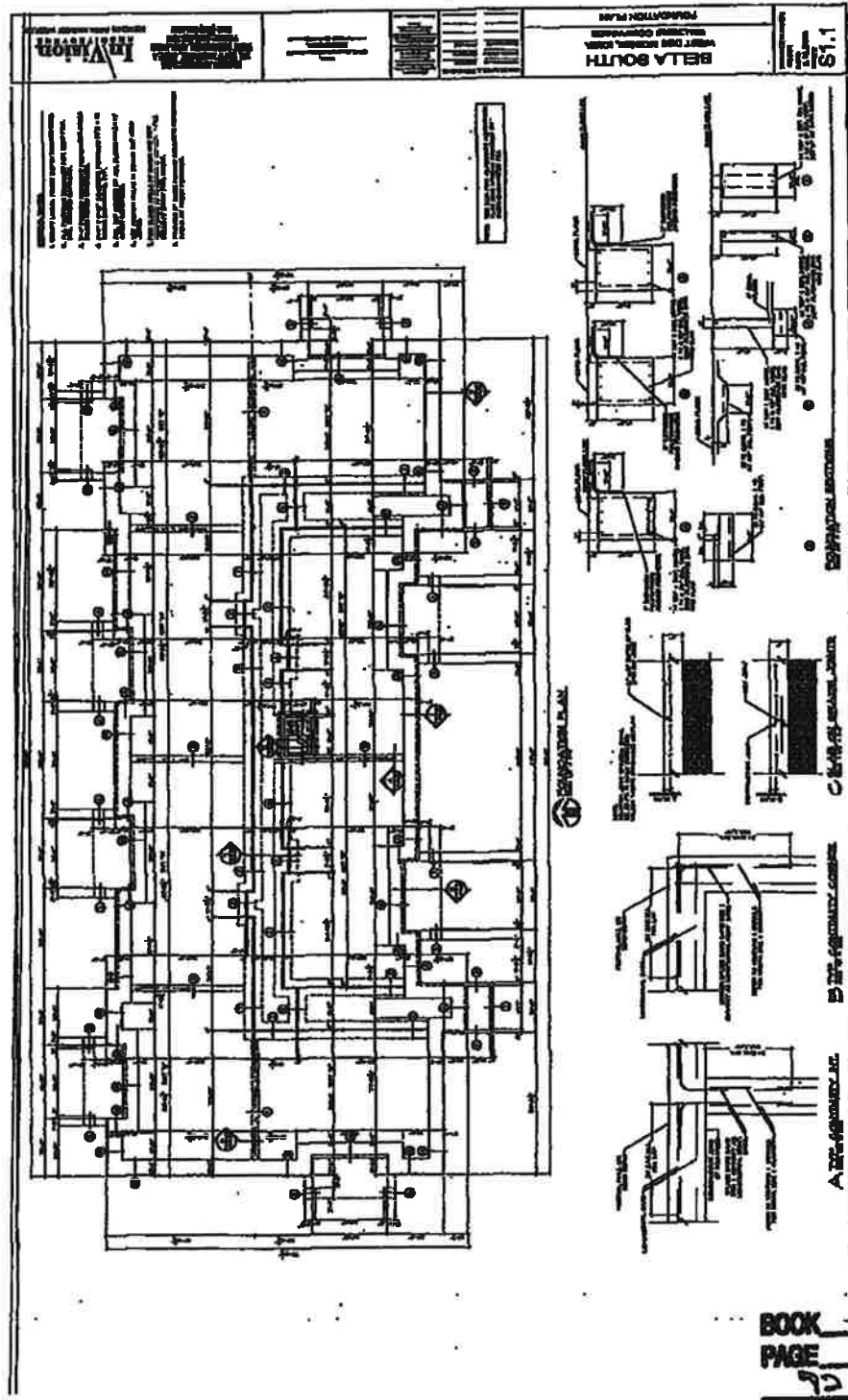
PROPOSED SCHEDULE

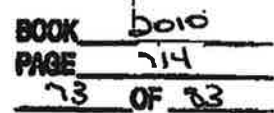
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2	PAVING	200	SQ. YD.	1.10	220.00
3	PAVING	300	SQ. YD.	1.10	330.00
4	PAVING	400	SQ. YD.	1.10	440.00
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7	PAVING	700	SQ. YD.	1.10	770.00
8	PAVING	800	SQ. YD.	1.10	880.00
9	PAVING	900	SQ. YD.	1.10	990.00
10	PAVING	1000	SQ. YD.	1.10	1100.00

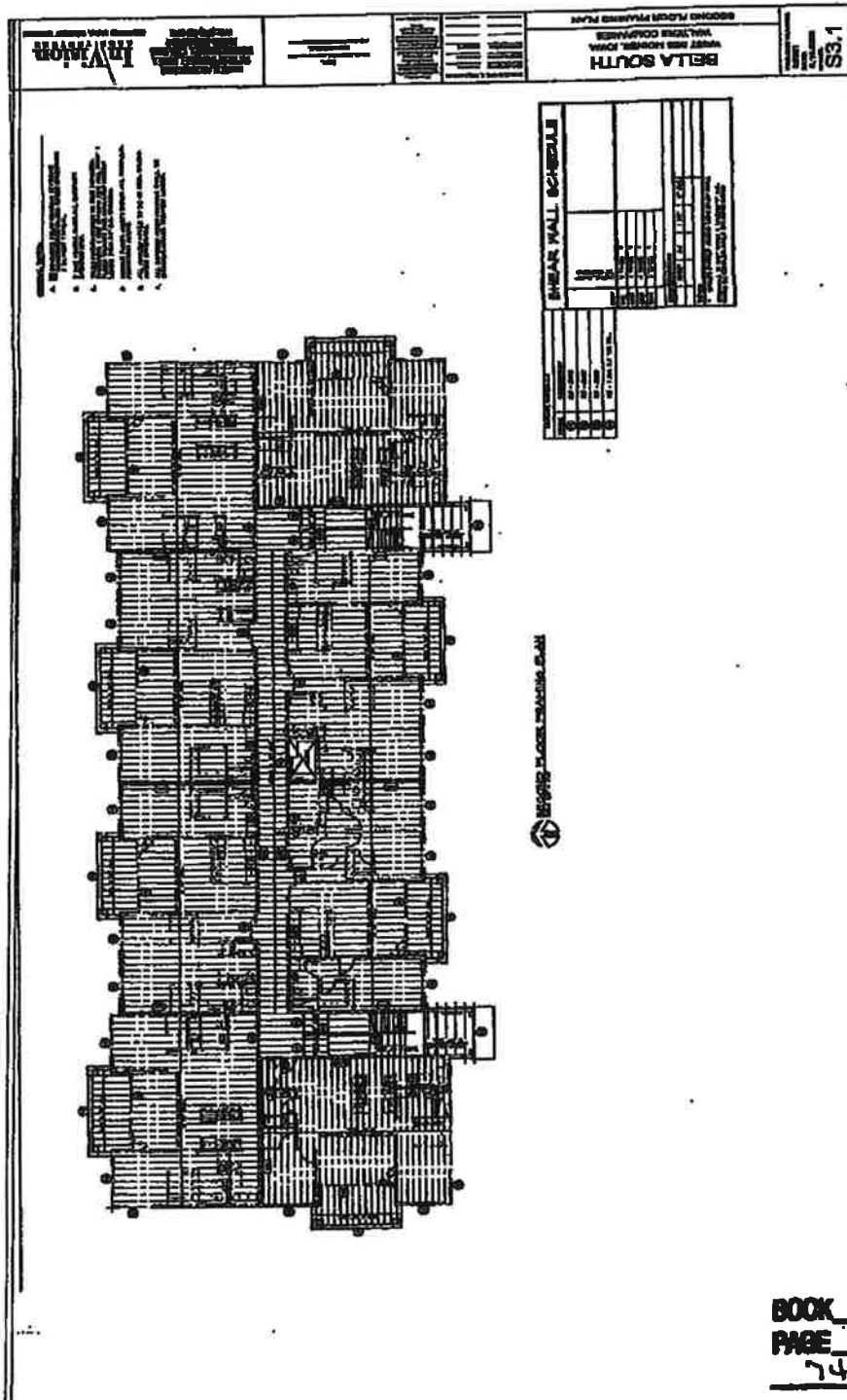
PROPOSED SCHEDULE

ITEM	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
1	PAVING	100	SQ. YD.	1.10	110.00
2	PAVING	200	SQ. YD.	1.10	220.00
3	PAVING	300	SQ. YD.	1.10	330.00
4	PAVING	400	SQ. YD.	1.10	440.00
5	PAVING	500	SQ. YD.	1.10	550.00
6	PAVING	600	SQ. YD.	1.10	660.00
7	PAVING	700	SQ. YD.	1.10	770.00
8	PAVING	800	SQ. YD.	1.10	880.00
9	PAVING	900	SQ. YD.	1.10	990.00
10	PAVING	1000	SQ. YD.	1.10	1100.00



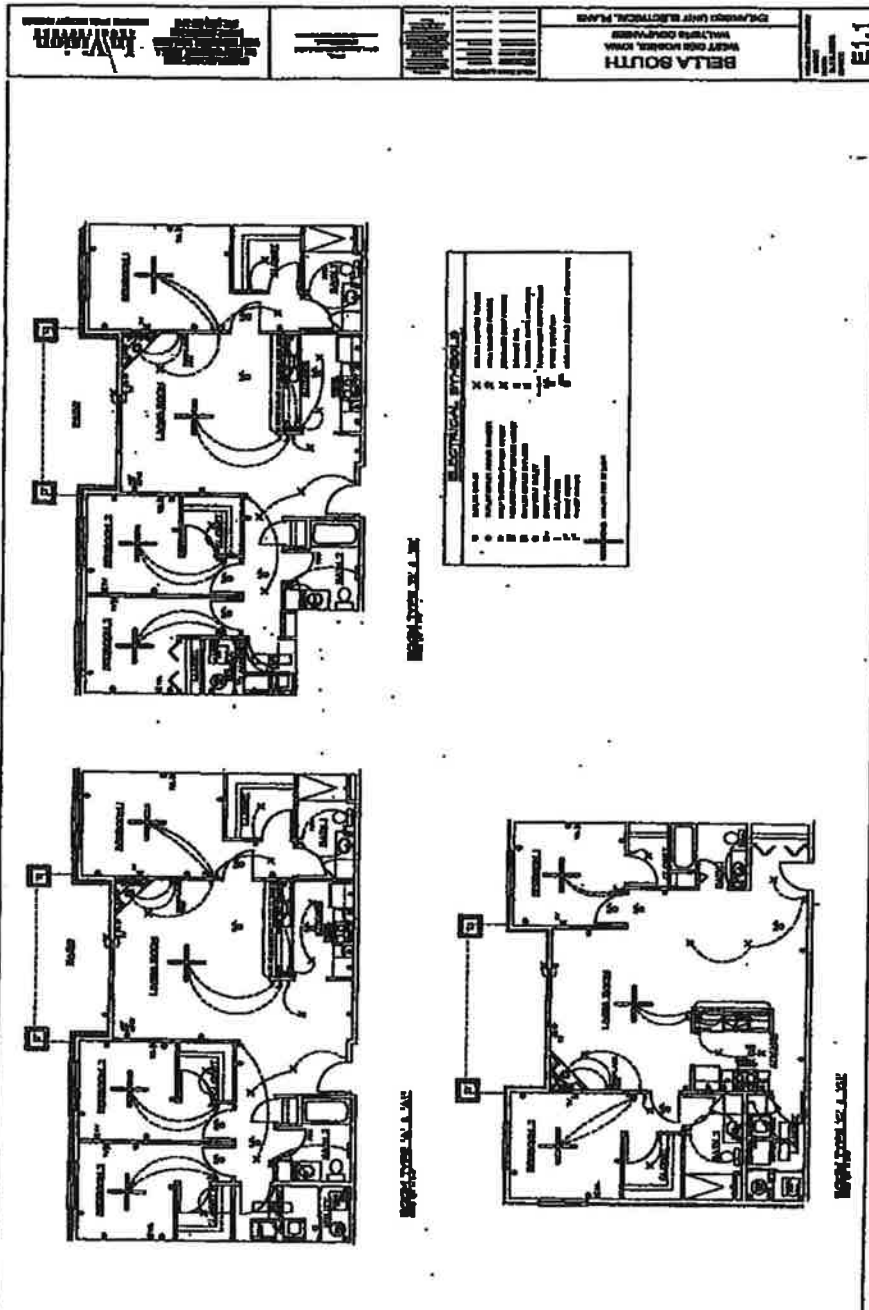












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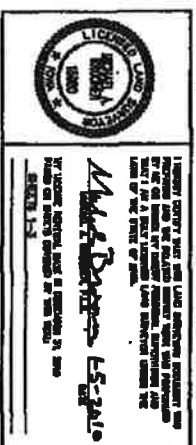


ENGINEER/SURVEYOR
CITY DESIGN ADVANTAGE
1405 E. COLUMBIA DR., SUITE 8
DENVER, CO 80218
303-733-4423

ZONING
BULKY SOUTH BROWARD PLAN

ADDRESS
1405 E. COLUMBIA DR. SUITE 8
DENVER, CO 80218

DATE OF SURVEY
OCTOBER, 2008



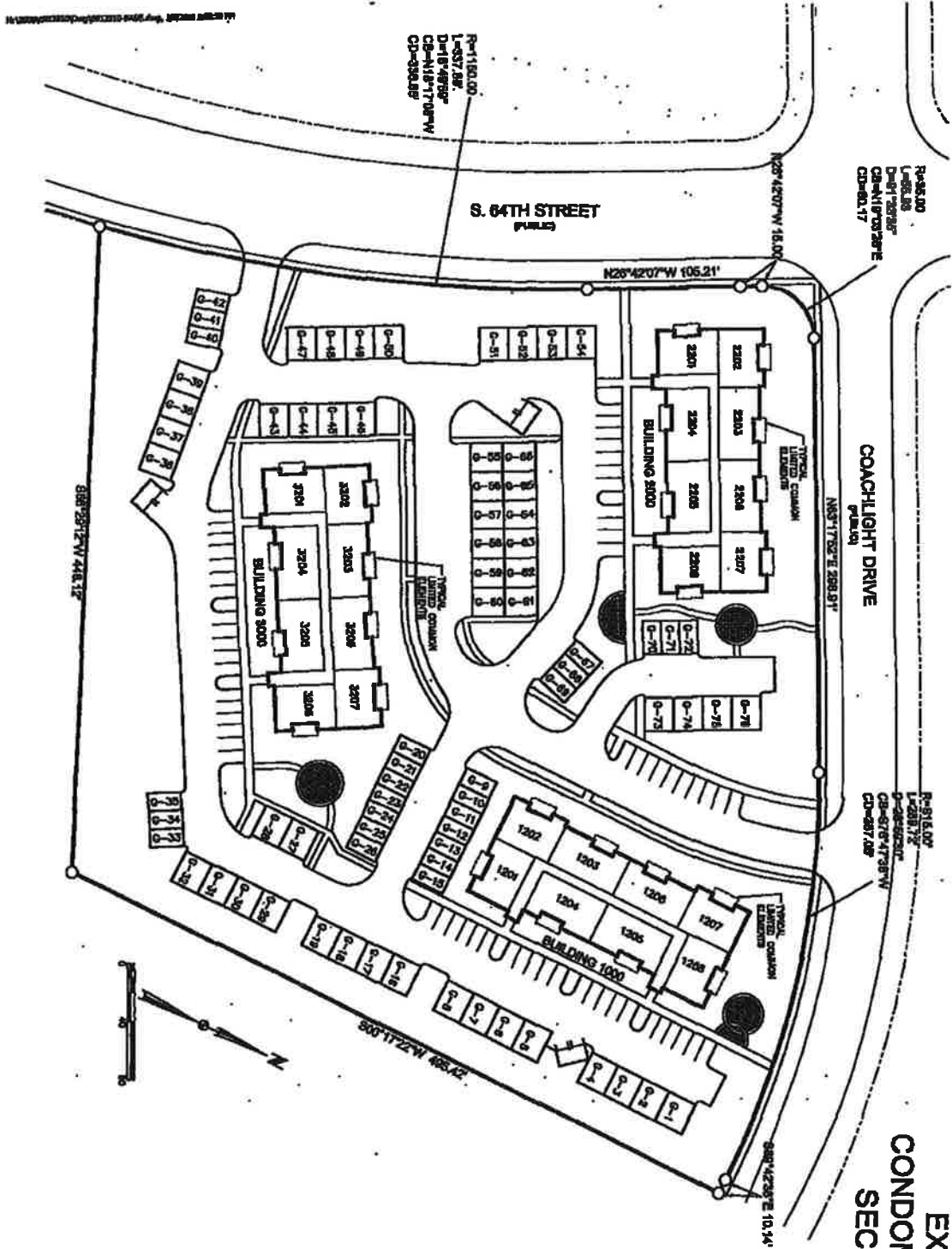


EXHIBIT "B-2"
CONDOMINIUM SURVEY
SECOND FLOOR

2 / 3	JORDAN CREEK CONDOMINIUMS SECOND FLOOR CONDO EXHIBIT		3405 SE CROSSROADS DR., SUITE G GRIMES, IOWA 50111 PH: (515) 382-4400 Fax: (515) 382-4410	
			CIVIL DESIGN ADVANTAGE	ENGINEER: _____

BOOK 2010
 PAGE 714
 20 OF 83

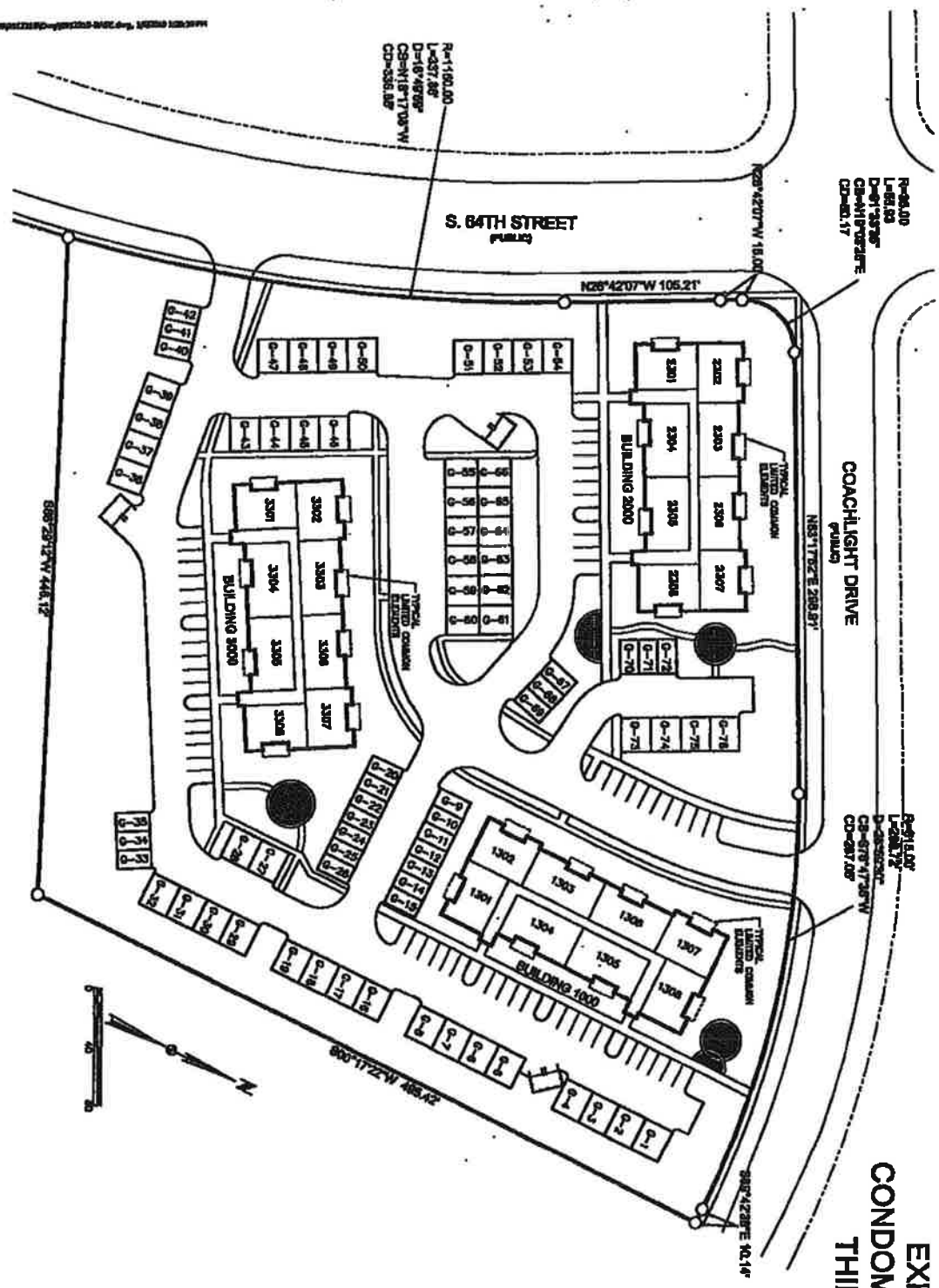


EXHIBIT "B-3"
CONDOMINIUM SURVEY
THIRD FLOOR

3 / 3 0912.3101	JORDAN CREEK CONDOMINIUMS THIRD FLOOR CONDO EXHIBIT WEST DES MOINES, IOWA	 CIVIL DESIGN ADVANTAGE	3405 SE CROSSROADS DR. SUITE G GRIMES, IOWA 50111 PH: (515) 388-4488 FAX: (515) 388-4416	ENGINEER:	TECH:
			BOOK 2010 PAGE 714 81 OF 88		

EXHIBIT "C"
FRACTIONAL ALLOCATION CHART

Address.	Unit No.	Unit Size Sq. Ft.	Garage No.	Interest in Common Area
6350 Coachlight Dr., West Des Moines, IA	1101	1130	G-21	1/72
6350 Coachlight Dr., West Des Moines, IA	1102	1130	G-22	1/72
6350 Coachlight Dr., West Des Moines, IA	1103	1300	G-6	1/72
6350 Coachlight Dr., West Des Moines, IA	1104	1255	G-19	1/72
6350 Coachlight Dr., West Des Moines, IA	1105	1255	G-29	1/72
6350 Coachlight Dr., West Des Moines, IA	1106	1300	G-18	1/72
6350 Coachlight Dr., West Des Moines, IA	1107	1130	G-13	1/72
6350 Coachlight Dr., West Des Moines, IA	1108	1130	G-12	1/72
6350 Coachlight Dr., West Des Moines, IA	1201	1130	G-23	1/72
6350 Coachlight Dr., West Des Moines, IA	1202	1130	G-11	1/72
6350 Coachlight Dr., West Des Moines, IA	1203	1300	G-3	1/72
6350 Coachlight Dr., West Des Moines, IA	1204	1255	G-16	1/72
6350 Coachlight Dr., West Des Moines, IA	1205	1255	G-2	1/72
6350 Coachlight Dr., West Des Moines, IA	1206	1300	G-1	1/72
6350 Coachlight Dr., West Des Moines, IA	1207	1130	G-14	1/72
6350 Coachlight Dr., West Des Moines, IA	1208	1130	G-25	1/72
6350 Coachlight Dr., West Des Moines, IA	1301	1130	G-15	1/72
6350 Coachlight Dr., West Des Moines, IA	1302	1130	G-7	1/72
6350 Coachlight Dr., West Des Moines, IA	1303	1300	G-8	1/72
6350 Coachlight Dr., West Des Moines, IA	1304	1255	G-17	1/72
6350 Coachlight Dr., West Des Moines, IA	1305	1255	G-5	1/72
6350 Coachlight Dr., West Des Moines, IA	1306	1300	G-4	1/72
6350 Coachlight Dr., West Des Moines, IA	1307	1130	G-10	1/72
6350 Coachlight Dr., West Des Moines, IA	1308	1130	G-26	1/72
6350 Coachlight Dr., West Des Moines, IA	2101	1130	G-67	1/72
6350 Coachlight Dr., West Des Moines, IA	2102	1130	G-68	1/72
6350 Coachlight Dr., West Des Moines, IA	2103	1300	G-54	1/72
6350 Coachlight Dr., West Des Moines, IA	2104	1255	G-52	1/72
6350 Coachlight Dr., West Des Moines, IA	2105	1255	G-60	1/72
6350 Coachlight Dr., West Des Moines, IA	2106	1300	G-61	1/72
6350 Coachlight Dr., West Des Moines, IA	2107	1130	G-71	1/72
6350 Coachlight Dr., West Des Moines, IA	2108	1130	G-64	1/72
6350 Coachlight Dr., West Des Moines, IA	2201	1130	G-72	1/72
6350 Coachlight Dr., West Des Moines, IA	2202	1130	G-69	1/72
6350 Coachlight Dr., West Des Moines, IA	2203	1300	G-51	1/72
6350 Coachlight Dr., West Des Moines, IA	2204	1255	G-55	1/72
6350 Coachlight Dr., West Des Moines, IA	2205	1255	G-56	1/72
6350 Coachlight Dr., West Des Moines, IA	2206	1300	G-62	1/72
6350 Coachlight Dr., West Des Moines, IA	2207	1130	G-9	1/72

Address	Unit No.	Unit Size Sq. Ft.	Garage No.	Interest in Common Area
6350 Coachlight Dr., West Des Moines, IA	2208	1130	G-74	1/72
6350 Coachlight Dr., West Des Moines, IA	2301	1130	G-53	1/72
6350 Coachlight Dr., West Des Moines, IA	2302	1130	G-20	1/72
6350 Coachlight Dr., West Des Moines, IA	2303	1300	G-65	1/72
6350 Coachlight Dr., West Des Moines, IA	2304	1255	G-66	1/72
6350 Coachlight Dr., West Des Moines, IA	2305	1255	G-73	1/72
6350 Coachlight Dr., West Des Moines, IA	2306	1300	G-75 & G-76	1/72
6350 Coachlight Dr., West Des Moines, IA	2307	1130	G-63	1/72
6350 Coachlight Dr., West Des Moines, IA	2308	1130	G-70	1/72
6350 Coachlight Dr., West Des Moines, IA	3101	1130	G-46	1/72
6350 Coachlight Dr., West Des Moines, IA	3102	1130	G-40	1/72
6350 Coachlight Dr., West Des Moines, IA	3103	1300	G-38	1/72
6350 Coachlight Dr., West Des Moines, IA	3104	1255	G-39	1/72
6350 Coachlight Dr., West Des Moines, IA	3105	1255	G-30	1/72
6350 Coachlight Dr., West Des Moines, IA	3106	1300	G-31	1/72
6350 Coachlight Dr., West Des Moines, IA	3107	1130	G-33	1/72
6350 Coachlight Dr., West Des Moines, IA	3108	1130	G-34	1/72
6350 Coachlight Dr., West Des Moines, IA	3201	1130	G-41	1/72
6350 Coachlight Dr., West Des Moines, IA	3202	1130	G-42	1/72
6350 Coachlight Dr., West Des Moines, IA	3203	1300	G-43	1/72
6350 Coachlight Dr., West Des Moines, IA	3204	1255	G-44	1/72
6350 Coachlight Dr., West Des Moines, IA	3205	1255	G-45	1/72
6350 Coachlight Dr., West Des Moines, IA	3206	1300	G-32	1/72
6350 Coachlight Dr., West Des Moines, IA	3207	1130	G-35	1/72
6350 Coachlight Dr., West Des Moines, IA	3208	1130	G-58	1/72
6350 Coachlight Dr., West Des Moines, IA	3301	1130	G-47	1/72
6350 Coachlight Dr., West Des Moines, IA	3302	1130	G-48	1/72
6350 Coachlight Dr., West Des Moines, IA	3303	1300	G-36	1/72
6350 Coachlight Dr., West Des Moines, IA	3304	1255	G-37	1/72
6350 Coachlight Dr., West Des Moines, IA	3305	1255	G-27	1/72
6350 Coachlight Dr., West Des Moines, IA	3306	1300	G-28	1/72
6350 Coachlight Dr., West Des Moines, IA	3307	1130	G-49	1/72
6350 Coachlight Dr., West Des Moines, IA	3308	1130	G-50	1/72

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