

**CONDOMINIUM DECLARATION
FOR
ROOD AVENUE PARKING PLAZA CONDOMINIUMS**

THIS DECLARATION is made this 28th day of May 2008 by Grand Junction, Colorado, Downtown Development Authority, City of Grand Junction, a home rule municipality, and Community Office Investors, Inc., a Colorado Corporation (the "Declarants").

RECITALS

A. Declarants are the owners of certain real property located in Grand Junction, Colorado, more particularly described as in the City of Grand Junction, County of Mesa, State of Colorado, Lot 1 of Rood Avenue Parking Plaza recorded in the Mesa County Clerk and Recorder's records in Book 4369 at Page 365 ("Property").

B. Declarants have constructed a parking garage on said property and choose to establish a commercial condominium project on the Property.

C. By this Condominium Declaration, Declarants establish a general plan for the ownership in fee title of real property estates, consisting of individual units created by this Declaration on the Property, plus the individual units owners' undivided co-ownership as tenants in common of all the remainder of the Property in order to impose a general plan for the improvement, development, and maintenance of the Property and to adopt covenants, conditions, and restrictions upon the Property for the purpose of enhancing, maintaining and protecting its desirability and value.

D. Declarants desire to create a condominium common interest community pursuant to the Colorado Common Interest Ownership Act ("Act") as set forth in the Colorado Revised Statutes § 38-33.3-101, *et seq.*, as it may be amended from time to time. The condominium shall be known as Rood Avenue Parking Plaza Condominiums. The maximum number of units created shall be 448.

NOW THEREFORE, the Declarant hereby declares that all of the Property shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, and easements which shall run with the land and shall be binding on all parties and heirs, successors and assigns of parties having any right, title, or interest in all or any part of the Property. Additionally, Declarants hereby submit the Property to the entire provisions of the Act.

ARTICLE ONE: DEFINITIONS

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

Each capitalized term not otherwise defined in this Declaration or on the Map shall have the same meanings specified or used in the Act.

1.1 ALLOCATED INTERESTS means the Votes, the percentage ownership interest in the Common Elements and the Common Expense Assessment Liability, which are allocated to each of the Units. The formulas used to establish the Allocated Interests are as follows:

- (a) Votes. Each Unit is entitled to one vote.
- (b) Interest in the Common Elements. The undivided ownership interest in the Common Elements appurtenant to a particular Unit has been determined by the Declarants on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units.
- (c) Common Expense Assessment Liability. All Common Expenses shall be assessed against Units on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number Units, except that for the first seven (7) years from the date that a Certificate of Occupancy is issued for the Building the Common Expenses shall be assessed against Units 272-287 and units 293-297 with a stipulated rate of \$100.00 per year per Unit or the amount that it would be if calculated using the formula the numerator of which is one (1) and the denominator of which is the total number Units whichever is less, and each of the remaining Units shall be assessed based on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units minus the total number of Units assessed at the stipulated rate.

1.2 ARTICLES means the Articles of Incorporation of the Association.

1.3 ASSESSMENT means any assessment levied against one or more Owner(s) or Unit(s) as permitted by this Declaration or applicable law, all of which shall be Common Expense Assessments for purposes of the Act and this Declaration, including without limitation any of the following:

- (a) "Regular Assessment" shall mean a charge against each Unit representing that portion of the Common Expense Assessments attributable to that Unit, including all fees, charges, late charges, attorney fees, fines and interest arising from failure to pay when due the principal amount of such assessment.
- (b) "Special Assessment" shall mean a charge against any Unit for costs incurred by the Association for materials or services furnished to the Owner or the Owner's Unit at the request of or on behalf of such Owner, or as a result of any

Owner failing to maintain the Owner's Unit in accordance with the provisions of this Declaration, or as a result of the negligence, recklessness, or willful misconduct of any Owner, the Owner's employees, guests or invitees, or for excessive use or special use of the services or facilities, if any, provided by the Association, or for any other purpose for which this Declaration or applicable law specifies or permits the imposition of a Special Assessment.

(c) "Capital Assessment" shall mean a charge against any Unit representing a portion of the Association's cost for the purchase, installation, construction, expected or unexpected repair or replacement, of any capital improvement (including the necessary fixtures and personal property related to it) that is a Common Expense of the Association, plus reserves for repair or replacement of existing capital items, and acquisition, construction and installation of new capital improvements. A Capital Assessment may also be a Special Assessment.

1.4 ASSESSMENT LIEN means the statutory lien on a Unit for any Assessment levied against that Unit, together with all Costs of Enforcement as herein defined, as provided in §4.7, below. All Costs of Enforcement are enforceable as Assessments. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first (1st) installment becomes due.

1.5 ASSOCIATION means the ROOD AVENUE PARKING PLAZA CONDOMINIUMS ASSOCIATION, INC., a nonprofit Colorado corporation, its successors and assigns.

1.6 BOARD OF DIRECTORS or BOARD means the Board of Directors of the Association duly elected pursuant to the Bylaws of the Association.

1.7 BUILDING means the structure designed as a parking garage located on the Property.

1.8 BYLAWS means the Bylaws of the Association adopted by the Board, as amended from time to time.

1.9 CITY means the City of Grand Junction, Colorado, a Colorado Municipal Corporation.

1.10 CLERK AND RECORDER means the office of the Clerk and Recorder in the County of Mesa, State of Colorado.

1.11 COMMON ELEMENTS means all of the Property and improvements now and subsequently located on the Property, and together with all fixtures, appurtenances, and facilities provided for the common use, utility, or benefit of Owners or Units, or necessary or convenient to the Property or its existence, use, maintenance, or safety; except the Common Elements do not include the Units.

1.12 COMMON EXPENSE ASSESSMENTS means the funds required to be paid by each Owner in payment of such Owner's Common Expense Assessment Liability as provided in §1.1(c), above.

1.13 COMMON EXPENSES means expenditures made by or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

1.14 COSTS OF ENFORCEMENT means all fees, late charges, interest, expenses, including reasonable attorneys' fees and costs incurred by the Association (a) in connection with the collection of the Assessments and Fines, or (b) in connection with the enforcement of the terms, conditions and obligations of the Association documents.

1.15 COUNTY means Mesa County, Colorado.

1.16 DECLARANTS means Grand Junction Downtown Development Authority, City of Grand Junction and Community Office Investors, Inc., their successors and assigns, or any one of them.

1.17 DECLARANT RIGHTS means the development, special Declarant rights and other rights granted to or reserved by the Declarants for the benefit of a Declarant as set forth in this Declaration and the Act.

1.18 DECLARATION means the CONDOMINIUM DECLARATION OF ROOD AVENUE PARKING PLAZA CONDOMINIUMS, including all Maps, as may be amended from time to time.

1.19 GUEST means (a) a guest or invitee of an Owner; (b) any members of the Owner's household, invitee or cohabitant of any such person; (c) a contract purchaser; and (d) employee of Owner or tenant of Owner.

1.20 LIMITED COMMON ELEMENTS means those parts (if any) of the Common Elements which are limited to or reserved for the exclusive use of one or more, but fewer than all, Owners or Units. The Limited Common Elements are identified on the MAP as LCEs.

1.21 MANAGER means any one (1) or more persons employed by the Association who is engaged to perform any of the duties or functions of the Association and may include, but not be limited to, a person or persons hired by the Declarants.

1.22 MAP means the map of the ROOD AVENUE PARKING PLAZA CONDOMINIUMS, which is a survey and any amendments thereto of the Property depicting and locating thereon the location of the Building, the Units with their identification numbers, the Common Elements, the floors and elevations with improvements thereon, which Map is incorporated herein and made a part of this Declaration by reference.

1.23 MEMBER means every person holding a membership in the Association as owner of a Unit.

1.24 NOTICE AND HEARING means a written notice and an opportunity for a hearing before the Board of Directors in the manner provided in the Bylaws, or the rules, regulations, policies and procedures of the Association.

1.25 OWNER means the owner of record to any Unit which is subject to this Declaration.

1.26 PERSON means a natural person, a corporation, a partnership, an association, a trustee, a limited liability company, a joint venture, or any other entity recognized as being capable of owning real property under Colorado law.

1.27 PUBLIC means all people. The Public shall be allowed to use all of the Units after 6:00 p.m. and before 6:00 a.m. A member of the Public is not a Guest.

1.28 RULES mean the rules and regulations adopted by the Board of Directors, if any, for the regulation and management of the Association as amended from time to time.

1.29 SECURITY INTEREST means an interest in real estate or personal property created by contract which secures payment of any obligation. The term includes a lien created by a deed of trust, contract for deed, land sales contract, or UCC-1.

1.30 UNIT or UNITS The interest in real property consisting of the individual airspace, fixtures and improvements located in the Building as designated on the Map.

ARTICLE TWO: CONDOMINIUM OWNERSHIP

2.1 Submission to Condominium Ownership. Declarants submit all of the Property, together with all its appurtenances and all improvements, now and subsequently located on the Property, to condominium ownership.

2.2 Division of Property into Units. The Property is hereby divided into Units the description of the boundaries for each is shown on the Map. Each Unit includes an undivided percentage interest in and to the Common Elements which shall be held by all of the Owners of Units as tenants in common. The interest in the Common Elements associated with a Unit shall be appurtenant to and inseparable from each such Unit.

2.3 Title to a Unit. A Unit may be held and owned in any real property capacity or tenancy relationship recognized under the laws of the State of Colorado.

2.4 Description of Unit. Any contract for the sale, deed, lease, will or other instrument affecting a Unit, shall describe a Unit followed by the words "ROOD AVENUE PARKING PLAZA CONDOMINIUMS", with further reference to the Map thereof filed for record and the recorded Declaration.

A sufficient description of a Unit shall be as follows:

UNIT NO. _____, ROOD AVENUE PARKING PLAZA CONDOMINIUMS, according to the ROOD AVENUE PARKING PLAZA CONDOMINIUMS MAP, recorded in Book 4677 at Page 300 and as defined by the CONDOMINIUM DECLARATION OF ROOD AVENUE PARKING PLAZA CONDOMINIUMS, recorded in Book _____ at Page _____, all recorded in the Office of the County Clerk and Recorder, Mesa County, Colorado.

Property descriptions for each and every Unit shall be good and sufficient for all purposes to assign, sell, convey, transfer, or otherwise affect not only the Unit, but also the Common Elements and the right to the use appurtenant thereto.

The undivided interest in the Common Elements appurtenant to any Unit shall be deemed conveyed with that Unit, even though the legal description and the instrument conveying or encumbering said Unit may only refer to the title to that Unit. The reference to the Map and/or Declaration in any instrument shall be deemed to include any supplements or amendments to the Map or Declaration without specific reference thereto.

2.5 Use of a Unit. Each unit shall be used and occupied only as a parking space for duly and lawfully registered motor vehicle(s). The Units on the first floor of the parking garage shall be used exclusively for public parking. All Units may be used by the public between the hours of 6:00 p.m. and 6:00 a.m.

2.6 Unit Boundaries. The unit boundaries are specifically set forth on the Map and consist only of the air space. All other areas of the Property are Common Elements. §38-33.3-202, C.R.S. does not apply.

Except when specifically included by other provisions of this Declaration or by the Map, the following are excluded from each Unit: the space and improvements lying outside of the boundaries described on the Map for a Unit, support walls, floors, ceilings, the exterior finished surface of the building in which Units are located and any element such as a chute, flue, duct, wire, conduit, bearing wall, bearing column, elevator, or any fixtures that lie partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit, such element is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one (1) Unit or any portion of the Common Elements such element is a part of the Common Elements.

2.7 Separate Taxation. Each Unit shall be deemed to be a parcel and shall be subject to separate assessment and taxation for all types of taxes authorized by law, including ad valorem levies and special assessments. The Declarants shall deliver a written notice to the Assessor of Mesa County, Colorado, as provided by law, setting forth the descriptions of the Units so that each Unit shall be assessed separately thereafter.

2.8 Inseparability of a Unit. An Owner's undivided interest in the Common Elements shall not be separated from the Unit to which it 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.

2.9 No Partition. The Common Elements shall remain undivided, and no Owner or any other person shall bring any action for partition or division of the Common Elements. Each Owner specifically waives the right to institute or maintain a partition action or any other action or proceeding designed to cause a division of the Common Elements. A violation of this provision shall entitle the Association to collect, jointly and severally from the parties violating this provision as part of any Assessment against the Owner(s),

the Association's reasonable attorney fees, costs, expenses, and other damages to the Association incurred in connection with the enforcement of this provision, in addition to any other relief that the Association may be entitled.

2.10 Compliance with Provisions of Declaration, Articles, and Bylaws of the Association. Each Owner shall comply strictly with, and shall cause each of the Owner's Guests to comply strictly with, all of the provisions of this Declaration and the Articles and Bylaws of the Association, and the decisions, Rules, and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages, or injunctive relief, or both, along with costs of suit and reasonable attorneys' fees, maintainable by the Board of Directors in the name of the Association on behalf of the Owners, or, in a proper case, by any aggrieved Owner.

2.11 Liens Against Unit and/or Common Elements. No labor performed or materials furnished, with the consent or at the request of an Owner or the Owner's agent, shall be the basis for the filing of a lien pursuant to law against any Common Elements or the Unit 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 Unit to the Board in the case of emergency repairs.

Neither the Units nor any of the Common Elements shall be used as security interest by any Owner for any purpose, except as otherwise specifically allowed under the terms of this Declaration.

Each Owner shall indemnify and hold each of the other Owners and the Association harmless from and against liability or loss arising from the claim of any lien against the Unit of the Owner, or any part thereof, for labor performed or for materials furnished in the course of work performed on such Owner's Unit.

At the written request of any Owner, the Board shall enforce such indemnity by collecting from the Owner of the Unit on which the labor was performed and materials furnished the amount necessary to discharge any such lien and all costs incidental thereto, including reasonable attorneys' fees by an Individual Assessment against such Owner.

2.12 Recording Data for Easements and Licenses. Other than those easements and licenses that are included in this Declaration, the following are the recorded easements and licenses appurtenant to or included on the Property:

See the attached Exhibit A which is incorporated herein.

ARTICLE THREE: THE ASSOCIATION

3.1 Name. The name of the Association is the ROOD AVENUE PARKING PLAZA CONDOMINIUMS ASSOCIATION, INC.

3.2 Purposes and Powers. The Association, through its Board of Directors, shall manage, operate, care for, insure, maintain, improve, repair and reconstruct all of the Common Elements and keep the same in an attractive and desirable condition for the use and enjoyment of all of the Owners and such Owners' Guests so as to protect the value and desirability of the condominium community. Any purchaser of a Unit shall be deemed to have assented to, ratified and approved such designations and management. The Association shall have all the power necessary or desirable to effectuate such purposes. The Board of Directors shall have all of the powers, authority and duties necessary and proper to manage the business and affairs of the Association as provided in this Declaration or by the Act.

3.3 Board of Directors. The affairs of the Association shall be managed by a Board of Directors which may by resolution delegate authority to a Manager for the Association as more fully provided for in the Bylaws, provided no such delegation shall relieve the Board of final responsibility.

3.4 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Members set forth in this Declaration may and shall be amplified by provisions of the Articles of Incorporation, Bylaws, rules, regulations, policies, and procedures of the Association. In the event the Articles, Bylaws, rules, regulations, policies or procedures conflict with the Declaration, the Declaration shall control. In the event the Articles conflict with the Bylaws or the rules, regulations, policies or procedures of the Association, the Articles shall control. In the event the rules, regulations, policies or procedures conflict with the Articles or the Bylaws, the Articles or Bylaws shall control.

3.5 Membership. Every person who has first been approved in writing by the Association for membership in the Association and is a record owner of a fee interest in any Unit shall be a member of the Association. Every Owner shall be entitled and required to be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit. Where more than one (1) person holds interest in any Unit, the membership shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which the title to the Unit is held.

3.6 Voting Rights. The Association shall have one (1) class of voting membership. Owners shall be entitled to one (1) vote for each Unit owned. Provided, however, in any election of Directors, each Owner shall have the number of votes equal to the number of Directors to be elected, one (1) vote to be cast for each Director. The vote for such Unit, the ownership of which is held by more than one (1) Owner, may be exercised by any of them unless an objection or protest by any other holder of an interest of the Unit is made prior to the completion of the vote, in which case the vote for such Unit shall be exercised as the persons holding such interest shall determine between themselves. Should the joint Owners of a Unit be unable, within a reasonable time, to agree upon how they will vote any issue, they shall be passed over and their right to vote on such issue shall be lost. Fractional voting is prohibited.

3.7 Declarants Control of the Association. There shall be a "Period of Declarants' Control" during which time the Declarants may appoint and remove officers and

members of the Board. The Period of Declarants' Control terminates no later than the earlier of sixty (60) days after conveyance of seventy-five percent (75%) of the Units that may be created to Unit Owners other than a Declarant, two (2) years after the last conveyance of a Unit by a Declarant in the ordinary course of business, two (2) years after any right to add new Units was last exercised, or such earlier time as the Declarants may, in their discretion, determine.

3.8 Indemnification. Each Officer, Director and committee member of the Association shall be indemnified by the Association against all expenses and liabilities including attorney fees, reasonably incurred by or imposed upon him or her in any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of him or her being or having been an Officer, Director or committee member of the Association, or any settlements thereof, whether or not he or she is an Officer, Director or committee member of the Association at the time such expenses are incurred, to the full extent permitted by Colorado law.

3.9 Authority of the Association. The Association shall have all rights, powers, and authority specified or permitted by this Declaration, the Articles of Incorporation, the Bylaws, the Act and any other applicable law.

3.10 Actions Against Owners. The Association may take judicial action against any Owner to enforce compliance with any provision of this Declaration or the Association documents or as otherwise required or allowed by applicable law. In so doing, the Association may seek and obtain specific performance or mandatory or injunctive relief, or obtain damages and the Association may exercise any other right or remedy for enforcement of this Declaration permitted by law.

ARTICLE FOUR: ASSESSMENTS

4.1 Obligation. Each Owner, including the Declarants, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association Common Expense Assessments, ad valorem taxes and Special Assessments related to the Common Elements, Individual Assessments, and Costs of Enforcement, including all fees, charges, late charges, attorney fees, fines, collection costs, interest and other sums charged pursuant to this Declaration or as allowed in connection with this Declaration, or against that Owner or that Owner's Unit(s) by the Act or by any other applicable law, which shall be a continuing lien upon the Unit against which each such Assessment is levied.

(a) The Association shall have the right, subject to the provisions of the Act and all other applicable laws, to impose Assessments and reasonable charges for late payment of Assessments, to recover reasonable Costs of Enforcement as provided in §1.14, above, and to take other actions to enforce the powers of the Association, regardless of whether or not suit was initiated, and, after notice and an opportunity to be heard, to levy and collect reasonable fines for violations of this Declaration or any of the Association documents, pursuant to a fine schedule developed or to be developed and adopted by the Board, as amended from time to time.

(b) The Assessment Liens, as provided in §4.7, below, shall have the priority specified in Section 38-33.3-316(2), C.R.S., or other applicable law.

(c) Each such Assessment, together with interest, costs, and reasonable attorney fees, shall also be the joint and several personal obligation of each person and entity who was an Owner of the Unit at the time when the item became due; provided that, this personal obligation shall not pass to the subsequent Owners of the Unit against which the Assessment is made unless expressly assumed by them. No Owner may exempt himself or herself from liability for Assessments by waiver of use or enjoyment of any Common Elements or other assets or benefits of the Association, or by abandonment of any Unit.

(d) Suit to recover a money judgment for unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, and all reasonable attorney's fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment Lien provided in this Declaration.

(e) Any charge set forth in this Article including without limitation all applicable Assessments, from the time such charge becomes due, shall be a charge on and covenant running with the land, and shall be a continuing lien on the Unit(s) against which each such item is assessed, subject to the Act and all other applicable laws. If an Assessment is payable in installments (which shall be at the discretion of the Board), each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations. The omission or failure of the Board of Directors to levy the Common Expense Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

(f) The Association's lien on a Unit for Assessments shall be superior to any homestead exemption now or later provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States, unless prohibited by applicable law. The acceptance of a deed to a Unit subject to this Declaration shall constitute a waiver of the homestead and any other such exemption as against any Assessment Lien.

4.2 Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the Owners of the Units and users of the Property; Common Expenses; and for any other purpose of the Association, as those purposes are specified in this Declaration, the Articles of Incorporation, or the Bylaws or any amendments to the documents, or as otherwise authorized or permitted by the Act or other applicable law. Such purposes shall include but not be limited to ad valorem taxes and Special Assessments and Capital Assessments related to the Common Elements, the improvement, repair, maintenance, reconstruction and insuring of the Common Elements, and any other purpose reasonable, necessary or incidental to such purposes.

Such Assessments shall include the establishment and maintenance of a reserve fund, the improvement, maintenance, reconstruction, and repair of the Common Elements on a periodic basis.

4.3 Date of Commencement of the Common Expense Assessment. The Common Expense Assessment shall commence as to all Units no later than thirty (30) days after the first (1st) Unit is conveyed by deed to an Owner other than the Declarant. Until the commencement of the collection of the Common Expense Assessments, the Declarants shall pay all of the expenses incurred and paid for by the Association.

4.4 Levy of Assessments and Fines.

(a) Regular Assessments. Common Expense Assessments shall be levied on all Units based upon a budget of the Association's cash requirements. The Regular Assessments against all Units shall be based upon an annual budget adopted by the Association to provide for the payment of all estimated expenses arising out of or connected with the performance of the Association purposes. The Common Expense Assessment Liability shall be allocated among the Units in accordance with that Unit's Common Expense Assessment Liability.

To the extent that any Common Expenses or a portion thereof benefit fewer than all of the Unit Owners, such expenses may be assessed exclusively against the Units benefited as provided in C.R.S. § 38-33.3-315(3)(b) of the Act.

The Board of Directors of the Association shall cause to be prepared from time to time, but no less frequently than annually, a budget to provide for the payment of all estimated expenses, costs, rents, and fees for the duties of the Association and for other costs, fees, and expenses related to or connected with the administration, maintenance, ownership, repair, operation, addition, alteration, and improvements for the Association, the Common Elements, and any other obligations which may be undertaken by the Association. The amount of said advance budget may include, but shall not be limited to: expenses of management; premiums for insurance; expenses for landscaping and care of the Common Elements; expenses of any common lighting; expenses of maintenance, repair, or replacement and/or renovation of the Common Elements; wages; charges for utilities for the Property which are not separately metered; taxes; legal and accounting fees; costs, expenses, and liabilities incurred by the Association's Board of Directors on behalf of the Owners or otherwise arising under this Declaration, the Articles of Incorporation, or Bylaws of the Association; and, any and all other costs and expenses relating to the Common Elements and/or any other obligation undertaken by the Association.

(b) Individual Assessments. The Board of Directors shall have the right to individually levy any Owner or Owners amounts as provided for by this Declaration. No Individual Assessment shall be levied until the Owner or Owners to be charged have been given a Notice and Hearing as provided for in the Bylaws of the Association. Individual Assessments shall be collected as part of the Cost of Enforcement. Individual Assessments may be levied at any time as required and are exempt from any voting requirements by the membership required for other assessments called for under the Declaration.

(c) Fines. The Board of Directors of the Association shall have the right to levy a Fine against an Owner or Owners for each violation of this Declaration, the Bylaws, the Articles and the Rules and Regulations of the Association. No such Fine shall be levied until the Owner or Owners to be charged have been given a Notice and Hearing. Fines may be levied in a reasonable amount as determined from time to time by the Board of Directors in its discretion and uniformly applied pursuant to a schedule of such fines. Fines shall be collected as part of the Costs of Enforcement. Fines may be levied at any time as required and are exempt from any voting requirements by the membership required for other assessments called for under the Declaration.

(d) Special Assessments and Capital Assessments. In addition to the Regular Assessments, the Association may levy Special Assessments and Capital Assessments, payable over such a period as the Association may determine, at any time and for any purpose, except as limited by this Declaration, the Act or other applicable law. For example, Special Assessments or Capital Assessments may be levied for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Elements, if any, or for any other expense incurred or to be incurred as provided in this Declaration or for any other purpose specified in this Declaration. Any amounts assessed pursuant to this Section shall be assessed to Owners in the same manner specified for Common Expense Assessments, subject to the right of the Association to assess (i) any extraordinary maintenance, repair or restoration work on fewer than all of the Units against the Owners of those affected Units only, and (ii) any extraordinary insurance costs incurred as a result of the value or use of a particular Owner's Unit or the act or omission of a particular Owner (or his or her agents, employees, guests, tenants, invitees or others under his or her direct or indirect control) against that Owner and (iii) as otherwise expressly provided in this Declaration or applicable law. Notice in writing of the amount of such Special Assessment or Capital Assessment and the time for payment of the Assessment shall be given promptly to the Owners, and no payment shall be due less than ten (10) days after such notice shall have been given.

4.5 Due Date. Fines and Individual Assessments shall be due and payable as established by the Board of Directors. Regular Assessments shall be levied on an annual basis and shall be due and payable in monthly installments in advance, provided that the first (1st) Assessment levied shall be adjusted to reflect the time remaining in the Association's first (1st) fiscal year. Any Owner purchasing a Unit between annual due dates shall pay a prorated share. Special Assessments and Capital Assessments shall be due and payable as established by the Board but may be payable on an installment basis as determined by the Board. Written notice of all Assessments shall be sent to each Owner subject thereto specifying the type of Assessment, the amount and the date such Assessment is due.

4.6 Remedies for Nonpayment of Assessments. If an Assessment or installment becomes delinquent, the Association, in its sole discretion, may exercise any rights and remedies available under this Declaration or applicable law, all of which shall be cumulative, nonexclusive and exercisable in any order. If any Assessment (to include Costs of Enforcement) is not fully paid within ten (10) days after the same becomes due and payable, then interest shall accrue at the maximum rate allowed by the Act

(presently 21%) or other applicable law or such other lawful rate as the Board of Directors of the Association may establish. In addition, the Association may:

- (a) Suspend the voting rights of the Owner during any period of delinquency;
- (b) Suspend the rights of the Owner, and the Owner's employees, guests, lessees and invitees, to use the Common Elements during any period of delinquency;
- (c) Accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;
- (d) Bring an action at law against any Owner personally obligated to pay the delinquent Assessments; and
- (e) Proceed with foreclosure of the Association's lien for Assessments as set forth in more detail below.

An action at law or in equity by the Association against an Owner to recover a judgment for unpaid Assessments may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments.

4.7 Assessment Lien. The Association is hereby granted an Assessment Lien against each Unit for any Assessment levied by the Board of Directors and for Costs of Enforcement when the Unit Owner fails to pay as required by the Declaration. All Costs of Enforcement incurred pursuant to this Declaration are enforceable as Assessments. The obligation of each Owner to pay Assessments to the Association is an independent covenant, with all amounts due from time to time payable in full without notice (except as otherwise expressly provided in this Declaration) or demand, and without setoff or deduction. The lien for each unpaid Assessment attaches to each Unit at the beginning of each Assessment period and shall continue to be a lien against such Unit until paid.

The interest of any Unit Owner, to which the lien of the Association may attach, includes the Unit, and any Common Elements. The Association's lien on a Unit for Assessments shall be superior to all other liens and encumbrances except as stated in §38-33.3- 316, C.R.S. and as amended.

Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments under this Article is required. However, the Board of Directors may prepare, and record in the Office of the County Clerk and Recorder, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Unit, and a description of the Unit. If a lien is filed, the cost thereof shall be considered a Cost of Enforcement.

Sale or transfer of any Unit shall not affect the lien for said Assessments except to the extent provided by Colorado law. No such sale or transfer shall relieve any Owner from continuing personal liability for any Assessment thereafter becoming due, nor from the lien thereof.

In any action by the Association to collect Assessments and Costs of Enforcement or to foreclose a lien for unpaid Assessments, the court may appoint a receiver for the Owner to collect all sums alleged to be due from the Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's Common Expense Assessments and Costs of Enforcement.

4.8 Working Capital Fund. Every Owner other than the Declarants shall, at the closing of the initial sale of a Unit, irrevocably deposit (without the right to a refund) with the Association and thereafter maintain and replenish as needed, an amount equal to two (2) times the amount of the estimated monthly Regular Assessments for such Owner's Unit, which amount shall be held as a reserve for paying such Owner's monthly Regular Assessment if it should become delinquent for any reason, or as a working capital fund to purchase equipment and supplies, or retain personnel as needed by the Association for the continued upkeep of the Common Elements. Said contribution shall be collected and transferred to the Association at the time of closing of the sale by a Declarant of a Unit and shall, until used by the Association, be maintained in a segregated account with other such working capital funds for the use and benefit of the Association to cover the costs of the initial period of the Association's operation, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services. Such contribution to the Working Capital Fund shall not relieve an Owner from making regular payments of Assessments as the same become due. Upon the later sale or transfer of the Owner's Unit, an Owner shall be entitled to a credit from the Owner's transferee, but shall NOT BE ENTITLED to a credit from the Association for the aforesaid contribution. The Declarants are prohibited from using the Working Capital Fund to defray any of Declarants' expenses, reserve contributions or construction costs, or to make up any budget deficits while it has control of the Association.

4.9 Certificate of Assessment Status. The Association shall furnish to an Owner or such Unit Owner's designee, or to a holder of security or its designee upon written request delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association's registered agent, a written statement setting forth the amount of unpaid Assessments with respect to the subject Unit, the current assessments and the amount of any credits for advance payments or for prepaid items.

The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding upon the Association, the Board of Directors, and every Owner. If no statement is furnished to the inquiring party, 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.

ARTICLE FIVE: RESTRICTIVE COVENANTS AND OBLIGATIONS

5.1 Delegation of Use. Any Owner may delegate the Owner's right of enjoyment to the Common Elements to the Owner's Guests. Each unit is delegated to the use of the public commencing at 6:00 p.m. and ending at 6:00 a.m.

5.2 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Association or Property, to enter upon all driveways located in the Property, in the performance of their duties.

5.3 Easements Deemed Appurtenant. The easements, uses and rights herein created for an Owner shall be perpetual and appurtenant to the Units owned by such Owner. All conveyances or any other instruments affecting title to a Unit shall be deemed to grant and reserve the easements, uses and rights as provided for herein, as though set forth in said document in full, even though no specific reference to such easements, uses or rights appear in such conveyance.

5.4 Use of the Common Elements. Each Owner and Owner's Guests may use the appurtenant Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners. The Board of Directors may adopt Rules governing the use of the Common Elements, but such Rules shall be uniform and nondiscriminatory. Each Owner, by the acceptance of the Owner's deed or other instrument of conveyance or assignment and such Owner's Guests occupying or utilizing the Unit agree to be bound by any such adopted Rules.

There shall be no obstruction of the Common Elements, nor shall anything be stored on any part of the Common Elements without the prior written consent of the Board of Directors. Nothing shall be altered, constructed on, or removed from the Common Elements except upon the prior written consent of the Board of Directors.

5.5 Parking Easement for the Public. The Declarants further reserve a perpetual easement for the public for ingress and egress on, over, across, and through the common elements and a perpetual easement for the public for the parking of duly and lawfully registered motor vehicles on, along, over, across and through any or all of the Units between the hours of 6:00 p.m. and 6:00 a.m.

5.6 No Unlawful Use. No unlawful, immoral, offensive or improper use shall be permitted or made within the Property. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction shall be observed.

5.7 Nuisances. No nuisance shall be permitted on, around or within the Building or on the Property, nor any use, activity or practice which is the source of annoyance to or which disturbs any Owners, or which interferes with the peaceful enjoyment or possession and proper use of, the Property or any portion thereof, by its Owners and their invitees and licensees. The term "nuisance" shall not include (i) activities of Declarants or their designees that are reasonably necessary to the development of the condominiums in accordance with the Declaration or applicable law; provided however, that such activities of a Declarant or their designees shall not unreasonably interfere with any Owner's use and enjoyment of the Owner's Unit or the Common Elements including the Limited Common Elements, or (ii) lawful actions which are legal and a reasonably necessary part of a permitted use.

5.8 Hazardous Activities. Owner shall use or permit the Owner's Unit(s) or any other part of the Property to be used for the manufacture, storage, use, or disposal of any

substance (“Hazardous Material”) classified or categorized as a hazardous material or substance by any applicable federal, state or local environmental safety law, regulation, order or ordinance (together “Environmental Regulations”), nor will any Owner do or permit any act or omission anywhere in the Owner’s Unit or elsewhere on the Property that is in violation of any Environmental Regulations.

(a) Each Owner shall indemnify and hold the Association and all other Owners harmless from and against all costs, expense, losses, liabilities and damages of any nature (including without limitation response and remediation costs, attorney’s fees, consultant’s and expert fees) incurred by or asserted against any of them in any way arising from or related to the use or storage in a Unit of Hazardous Material and its disposal, plus from and against any violation of this Section.

(b) The provisions of this Section are the personal obligations of each Owner and shall survive any transfer or conveyance of a Unit by its Owner(s), whether voluntary or involuntary. An Owner shall immediately provide to the Association a copy of any notice or order relative to the Owner’s Unit or its occupation or in any way relating to any Environmental Regulations or this Section.

(c) No Owner shall do or permit any act or omission in or about the Owner’s Unit associated with Hazardous Material or Environmental Regulations that would cause cancellation of insurance on any Unit, any Building or Property. Any related increase in insurance may be included in any Assessment against the Unit or any Owner causing or permitting such increase and shall be the personal obligation of the Owner of the affected Unit. No Owner shall conduct or permit any activity in a Unit or on the Property that would cause the Unit to become a hazardous waste manufacture, treatment, storage or disposal facility within the meaning of any Environmental Regulations or cause or permit any release or threat of release of Hazardous Material in or in the vicinity of a Unit, the Building, or the Property.

(d) The Association and all Owners are the intended third-party beneficiaries of this Section, each of which shall have all rights and remedies of the Association under this Declaration with regard to the protections and enforcement of this Section.

5.9 Signs. No signs shall be placed or permitted within the Property without written prior approval of the Board of Directors, except as otherwise set forth in §38-33.3-106.5, C.R.S..

5.10 Rental of a Unit. An Owner shall have the right to rent the Owner’s Unit upon such terms and conditions as the Owner may deem advisable, subject to the following:

- (a) any rental agreement shall be in compliance with all applicable local, state and federal laws;
- (b) any rental agreement shall be in writing on a form approved by the Board and the form shall provide that the rental agreement is subject to the

terms of this Declaration, the Articles of Incorporation and Bylaws of the Association, and the Rules of the Association;

- (c) the rental agreement shall state that the failure of the renter to comply with the terms of the Declaration, Articles of Incorporation, Bylaws of the Association, or the Rules of the Association shall constitute a default and such default shall be enforceable by either the Board of Directors or the Declarant, or by both of them to include, but not be limited to, eviction of the renter from the Unit;
- (d) the Board of Directors shall be furnished with a copy of the rental agreement within ten (10) days of execution: and
- (e) any rental agreements that are not on the approved form may be voided by the Board.

ARTICLE SIX: MAINTENANCE, REPAIR AND RECONSTRUCTION

6.1 By the Association. The Board of Directors shall provide for the repair, maintenance and/or reconstruction of all of the Common Elements. Without limiting the generality of the foregoing and by way of illustration, the Board shall keep the said Common Elements in safe, attractive, clean, functional and good repair. The maintenance obligation on the part of the Association shall apply to such maintenance required by ordinary wear and tear and shall not apply to maintenance, repair and/or reconstruction resulting from the act, omission, neglect or destruction by an Owner or such Owner's Guests. In the event repair, maintenance and/or reconstruction results from the act, neglect, omission or destruction by an Owner or such Owner's Guests, the Board of Directors shall have the right to charge the costs of such repair, maintenance and/or replacement, to such Owner by an Individual Assessment.

The Association shall have the irrevocable right to have access to each Unit from time to time as may be reasonably necessary for the inspection, operation, maintenance, repair, and replacement of any of the Common Elements in such Unit or accessible from it, for the protection of the structural integrity of the Building, for the maintenance, repair, inspection and protection of the Common Elements, in order to minimize or prevent damage to the Common Elements or to any Unit, and for every other purpose reasonably related to the rights or obligations of the Association, all of which rights of access may be exercised (i) without prior notice during regular business hours (provided such access shall not unreasonably interfere with operation of the business in that Unit), and (ii) upon reasonable prior notice outside of regular business hours, and (iii) without prior notice at any hour in an emergency.

Determination of whether such repair, maintenance and/or reconstruction is the obligation of the Association and the determination of when, the magnitude and the manner of the above described maintenance, repair and/or reconstruction shall rest solely with the Board of Directors, which will also have the sole responsibility for determining the kind and type of materials used in such repair and maintenance.

6.2 By the Owner. Each Owner shall keep the Owner's Unit in good order, condition and repair and in a clean and neat condition. In addition, each Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from the Owner's negligence to make any repairs required by this paragraph or the Owner or Owner's negligence in the use of the Unit. Each Owner shall perform the Owner's responsibility in such manner as shall not unreasonably disturb or interfere with the other Owners. Each Owner shall promptly report to the Board of Directors any defect or need for repairs for which the Association is responsible.

6.3 Additions, Alterations or Improvements by the Unit Owners. No Owner shall make any structural addition to the Owner's or other alteration to the Unit without the prior written consent of the Board of Directors.

ARTICLE SEVEN: DECLARANT RIGHTS

7.1 Reservation. The Declarants reserves the following Declarant Rights (the "Declarant Rights") which may be exercised, where applicable, anywhere within the Property, including Common Elements and Units:

- (a) To complete a roof on the Building and add a second elevator where indicated on the Map. The roof may include an enclosed structure or a nonenclosed structure, and/or which may include but not be limited to a solar array structure;
- (b) To exercise any Declarant Rights reserved herein;
- (c) To maintain signs and advertising on the Common Elements;
- (d) To have, to use and to permit others to have and to use easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarants' obligations under this Declaration;
- (e) To appoint or remove any officer of the Association or a member of the Board of Directors during the Period of Declarant Control;
- (f) To amend the Declaration and/or the Map in connection with the exercise of any Declarant Rights; and,
- (g) To exercise any other Declarant Rights created by any other provisions of this Declaration.

7.2 Rights Transferable. Any Declarant Rights created or reserved under this Article for the benefit of the Declarants may be transferred to any Person by an instrument describing the Declarant Rights transferred and recorded in the Office of the County Clerk and Recorder. Such instrument shall be executed by the transferor Declarant and the transferee.

7.3 Limitations. The Declarant Rights shall terminate at the option of the Declarants by their written notice to the Secretary of the Association, but in any event such Declarant

Rights shall terminate without further act or deed twenty (20) years after the recording of this Declaration.

7.4 Interference with Declarant Rights. Neither the Association nor any Owner may take any action or adopt any rule that will interfere with or diminish any Declarant Rights without the prior written consent of the Declarants.

7.5 Use by Declarant. The exercise of any Declarant Right by a Declarant shall not unreasonably interfere with the access, enjoyment or use of any Unit by any Owner nor the access, enjoyment or use of the Common Elements; nor shall any activity be conducted which might be unsafe, unhealthy, or hazardous to any person.

7.6 Declarants' Easements. The Declarants reserve the right to perform warranty work, and repairs and construction work on Units and Common Elements, to store materials in secure areas, on Units and Common Elements and the right to control such work and repairs and have the right of access thereto until completion of the work and/or repair. All work may be performed by a Declarant without the consent or approval of the Board of Directors or an Owner. The Declarants have an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarants' obligations or exercising any Declarant Rights.

7.7 Signs and Marketing. The Declarant reserves the right to post signs and advertising in the Common Elements to promote sales of Units and other advertising. The Declarant also reserves the right to conduct general sales activities in a manner which will not unreasonably disturb the rights of Owners.

7.8 Other Reserved Rights. Declarants reserve the right to maintain a management office on the Property and the right to remove said management office if a Declarant is no longer a Unit Owner. The rights reserved in this Article Seven are in addition to all other rights reserved by or granted to the Declarant in this Declaration or by the Act.

7.9 Exercise of Declarant Rights. The exercise of any or all of the Declarant Rights shall be at the sole option and discretion of a Declarant. Notwithstanding anything in this Declaration to the contrary, no consent or agreement of, or notice to, the Owners or shall be required to allow a Declarant to exercise any of the Declarant Rights, provided such exercise otherwise complies with the applicable provisions of this Declaration.

ARTICLE EIGHT: DURATION AND AMENDMENT OF THE DECLARATION

8.1 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property in perpetuity, subject to the termination provisions of the Act.

8.2 Amendment. The Declaration may be amended from time to time in accordance with the provisions for amending declarations in the Act.

ARTICLE NINE: GENERAL PROVISIONS

9.1 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Association and each Owner, and the heirs, personal representatives, successors and assigns of each of them.

9.2 Severability. Any portion of this Declaration invalidated in any manner whatsoever shall not be deemed to affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision has never been included herein.

9.3 No Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

9.4 Conflict. This Declaration is intended to comply with the requirements of the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101, *et seq.* in effect on the date of this Declaration. If any provision of this Declaration conflicts with the provisions of such Act, the conflicting provision will be deemed amended to the extent necessary to eliminate such conflict.

9.5 Registration by Owner of Mailing Address. Each Owner shall register his or her mailing address with the Association, and except for monthly statements and other routine notices, which shall be personally delivered or sent by regular mail, all other notices or demands intended to be served upon an Owner shall be delivered personally or sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. If the Owner fails to provide an address to the Association, notice shall be sent to the address (if any) of the Owner specified in the deed recorded in the Mesa County, Colorado, real estate records by which that Owner took title, and (if different) to the street address of that Unit stated in that deed. Notice shall be effective when given in the manner specified above. 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, to the registered agent for the Association as set forth in the Articles of Incorporation on file in the Office of the Secretary of State of Colorado.

9.6 Captions. The captions and headings in this Declaration are for convenience only, and shall not be considered in construing any provision of this Declaration.

9.7 Numbers and Genders. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, plural the singular, and the use of any gender shall include all genders.

IN WITNESS WHEREOF, the Declarants have caused this Declaration to be

executed this 28th day of May 2008.

DECLARANTS:

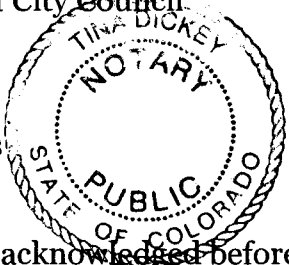
Grand Junction, Colorado, Downtown Development Authority

By: [Signature]
Stephen Thoms, Chairman

City of Grand Junction

By: [Signature]
Gregg Palmer, President of City Council

STATE OF COLORADO :
 :SS
COUNTY OF MESA :

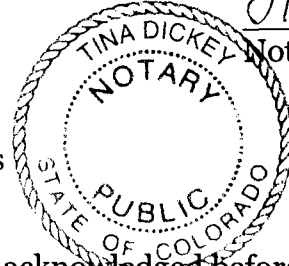


The foregoing instrument was acknowledged before me this 28th day of May 2008, by Stephen Thoms as Chairman for the Grand Junction Downtown Development Authority.

WITNESS my hand and official seal.
My commission expires:

[Signature]
Notary Public

STATE OF COLORADO :
 :SS
COUNTY OF MESA :



The foregoing instrument was acknowledged before me this 28th day of May 2008, by Gregg Palmer as President of City Council for the City of Grand Junction.

WITNESS my hand and official seal.
My commission expires:

[Signature]
Notary Public