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RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2006 Dec 20 12:07 pm FEE 148.00 BY SS
RECORDED FOR OREM CITY CORPORATION

DECLARATION OF CONDOMINIUM
OF THE TIMPANOGOS MEDICAL OFFICE BUILDING
CONDOMINIUMS AMENDED

This Declaration of Condominium, hereinafter referred to as the "Declaration" is made and executed as of December ____, 2006, by HCPI/UTAH LLC successor to Boyer Iomega, L.C., a Utah limited liability company, hereinafter referred to as the "Declarant."

RECITALS

A. **Description of Land.** Declarant is the owner of the following described parcel of land, hereinafter referred to as the "Land," which is located in Utah County, State of Utah:

Lot 2, AMENDED PLAT "A" OREM HEALTH CARE CENTER SUBDIVISION, according to the official plat thereof, filed on June 23, 1998 as Entry No. 62270-1998, Map Filing No. 7604, in Map Book 48, at Map Page 236, of the Official Records of the Utah County Recorder.

Area = 0.7301 acres or 31,801.05 square feet.

B. **Building and Improvements.** Declarant has constructed on the Land a certain Building and other improvements as shown on the Map (as hereinafter defined) referred to below.

C. **Easements Benefitting the Land.** Mountain View Hospital, Inc. ("Mountain View") owns that certain parcel of land adjoining the Land, which land is more particularly described as follows:

Lot 1, AMENDED PLAT "A" OREM HEALTH CARE CENTER SUBDIVISION, according to the official plat thereof, filed on June 23, 1998 as Entry No. 62270-1998, Map Filing No. 7604, in Map Book 48, at Map Page 236, of the Official Records of the Utah County Recorder.

Mountain View has executed and caused to be recorded that certain Declaration of Covenants, Restrictions and Easements December 2, 1997 as Entry No. 95605 in Book 4452 at Page 898 of the Official Records of the Utah County Recorder ("Mountain View Declaration"). The Parking and

Access Easement set forth in Section 3.1 of the Mountain View Declaration, the Electrical Easement set forth in Section 3.2 of the Mountain View Declaration, the Gas Line Easement set forth in Section 3.3 of the Mountain View Declaration, the Telecommunications, Easement set forth in Section 3.4 of the Mountain View Declaration, the Sewer Easement set forth in Section 3.5 of the Mountain View Declaration, and the Water Easement set forth in Section 3.6 of the Mountain View Declaration are each intended to benefit and burden each Condominium Unit (as hereinafter defined) and each Owner (as hereinafter defined) thereof in the Project (as hereinafter defined) and are intended to run with the ownership of each such Condominium Unit and with the land.

D. **Record of Survey Map.** Concurrently herewith, Declarant intends to execute, acknowledge and record in the office of the County Recorder of Utah County, State of Utah, that certain instrument pertaining to the Project and entitled "Record of Survey Map of the Timpanogos Medical Office Building Condominium Project" (the "Map"), a copy of which is attached hereto as Exhibit "A." The Declarant desires to have the Map amended to reflect additional items of clarification and specificity. Accordingly, pursuant to Section 16.4 hereof, Declarant intends to cause to be prepared and recorded a supplemental or restated version of the Map reflecting additional clarification and specificity, which such supplemental or restated version of the Map shall upon recording replace and supersede the present version of the Map in its entirety.

E. **Intent and Purpose.** Declarant intends by recording this Declaration and the Map (as defined in Section 1.20) to subject the Land, the Building and all other improvements situated in or upon the Land to the provisions of the Utah Condominium Ownership Act, as amended, Utah Code Annotated, Section 57-8-1, *et seq.* as a fee simple condominium project and to impose upon said property mutually beneficial restrictions under a general plan for the benefit of all Condominium Units within the Project and the Owners thereof and their respective successors and assigns..

ARTICLE I

DEFINITIONS

1.1 **Defined Terms.** Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in this Article I.

1.2 **"Association"** shall mean Timpanogos Medical Office Building Condominium Owners' Association, Inc., a Utah nonprofit corporation, organized to be the Association referred to herein.

1.3 **"Board of Trustees"** or **"Board"** shall mean the governing board of trustees of the Association which constitutes the management committee under the Condominium Act and which shall be appointed or elected in accordance with the Declaration and in accordance with the Articles of Incorporation and Bylaws of Timpanogos Medical Office Building Condominium Owners' Association, Inc. A copy of the Bylaws is attached hereto as Exhibit "C."

1.4 "**Building**" shall mean the four-story medical office building consisting of four above ground level floors and a basement level and containing approximately 80,000 gross square feet (not including basement space) consisting of Units, Common Areas and Common Facilities (each as hereinafter defined) that has been constructed on the Land, as such Building is shown on the Map.

1.5 "**Common Areas**" shall mean all physical portions of the Project except all Units, including but not limited to, all portions of the Project defined as Common Areas by the Condominium Act.

1.6 "**Common Expenses**" shall mean all sums which are expended on behalf of the Owners and all sums which are required by the Association to perform or exercise its functions, duties, or rights under the Condominium Act, this Declaration, the Articles of Incorporation, any management agreement which may be entered into for the operation of the Project, such rules and regulations as the Association may from time to time make and adopt, and such matters of record which affect the Project.

1.7 "**Common Expense Fund**" shall mean the fund created or to be created pursuant to the provisions of Article IX of this Declaration and into which all monies of the Association shall be deposited.

1.8 "**Common Facilities**" shall mean all furniture, furnishings, equipment (including the HVAC system), facilities and other property (real, personal or mixed) and interests therein at any time leased, acquired, owned or held by the Association for the use and benefit of the Owners and all other property (real, personal or mixed) hereafter purchased in accordance with this Declaration. Common Facilities shall be deemed to be part of the Common Areas, except to the extent otherwise expressly provided in this Declaration.

1.9 "**Condominium**" shall mean a Unit as defined in Section 1.28 below.

1.10 "**Condominium Act**" shall mean the Utah Condominium Ownership Act, Utah Code Annotated (1953), as amended, Section 57-8-1, et seq.

1.11 "**Declarant**" shall mean Boyer Iomega, L.C., a Utah limited liability company, and its successors and assigns as provided hereunder.

1.12 "**Divider Walls**" means such structural separations as are constructed within the Project for the purpose of separating Unit(s) or Office Suite(s) from other portions of the Project.

1.13 "**Easements**" shall mean the easements referred to in Recital C above benefitting and burdening the Land and the Building.

1.14 "**First Mortgage**" shall mean a Mortgagee which has a first mortgage lien on any Unit in the Project. "Eligible First Mortgagee" shall mean any First Mortgagee who has requested notice of those certain matters referred to in Section 14.1 in accordance therewith.

1.15 "**Good Standing**" shall mean that a physician is a member of the medical staff of the Timpanogos Regional Hospital and his/her staff privileges have not been suspended, revoked, or terminated. In the event of such a suspension, revocation or termination of privileges, for the purpose of this definition, a physician will be deemed to continue to be in good standing until his/her final hearing before the governing body of Timpanogos Regional Hospital in accordance with the bylaws of the medical staff. In the event that the decision of the governing body is that the privileges shall be suspended, revoked or terminated, the physician shall no longer be able to use a Unit in the Project for his/her professional medical office at that time irrespective of any rights to further appeals, but shall not be released from liability for payment of assessments hereunder until such Unit is sold to a qualified occupant.

1.16 "**Hospital**" shall mean the acute care hospital presently known as Timpanogos Regional Hospital and Medical Center located at 750 West 800 North, Orem, Utah 84057, or by whatever name it comes to be known.

1.17 "**Hospital Owner**" shall mean the person or entity that holds fee simple title to the land more particularly described in Recital C above and which owner, on the date hereof, is Mountain View Hospital, Inc., a Utah corporation.

1.18 "**Land**" shall mean the Land upon which the Project is situated, as more particularly described in Paragraph A of the Recitals above.

1.19 "**Manager**" shall mean the person, firm or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association, the Building and the Project; or, in the event the Association for any reason is not formed or not functioning, the Manager shall mean the person, firm or company, designated by the Owners to manage, in whole or in part, the affairs of the Building and the Project under a Management Agreement.

1.20 "**Map**" shall mean the instrument entitled Record of Survey Map of the Timpanogos Medical Office Building Condominium Project, recorded concurrently with this Declaration, and any supplemental or restated maps pertaining to the Project and recorded or to be recorded in the office of the County Recorder of Utah County, State of Utah. A copy of this Map is attached hereto as Exhibit "A."

1.21 "**Mortgage**" shall mean any mortgage or deed of trust by which a Condominium Unit or any part thereof is encumbered. "First Mortgage" shall mean any first mortgage or deed of trust by which a Unit or any part thereof is encumbered.

1.22 "**Mortgagee**" shall mean (i) any persons or entities named as the mortgagee or beneficiary under any Mortgage by which the interest of any Owner is encumbered, or (ii) any successor to the interest of such person or entity under such Mortgage or Deed of Trust.

1.23 "**Occupant**" shall mean any person, including without limitation, an Owner, and any guest, invitee, tenant, lessee, or employee of an Owner, occupying or otherwise utilizing a Unit.

1.24 "**Office Suite**" shall mean one or more contiguous Units owned by an Owner.

1.25 "**Owner**" shall mean the person or persons, including the Declarant, owning in fee simple a Condominium Unit in the Project, as such ownership is shown by the records of the County Recorder of Utah County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has obtained title in fee simple to a Condominium Unit pursuant to a judicial or nonjudicial action including, without limitation, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure) or to any person or persons purchasing a Condominium Unit under contract (until such contract is fully performed and legal title conveyed of record).

1.26 "**Project**" shall mean the Land, the Building, the Easements and all improvements subjected by this Declaration and the Map to the provisions of the Condominium Act.

1.27 "**Restriction Period**" shall mean a period beginning on the date of recordation of this Declaration and continuing until such date as the Declarant, or its successor in interest, no longer owns at least 70% of the Units, as determined by calculating the percentage interest in the Common Areas attributable to each Unit, or fifty (50) years, whichever is shorter.

1.28 "**Unit**" shall mean an individual air space unit, consisting of enclosed rooms occupying part of the Building and bounded by the unfinished interior surfaces of the walls, floors, ceilings, windows and doors along the perimeter boundaries of the air space, as said boundaries are shown on the Map, together with all the fixtures and improvements therein contained. Paint and other wall, ceiling or floor coverings on interior surfaces shall be deemed to be part of the Unit. Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Unit insofar as they are necessary for the support or for the use and enjoyment of another Unit: bearing walls, floors, ceilings and roofs (except the interior surfaces thereof), foundations, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and other utility installations, except the outlets thereof when located within the Unit. The interior surfaces of a window or door mean the points at which such surfaces are located when the window or door is closed. A Unit shall also include an undivided interest (expressed as a percentage of the entire ownership interest) in the Common Areas and Common Facilities appurtenant to such Unit, and Easements appurtenant to the Project. The Condominium Units in the Building are set forth on the Map attached hereto as Exhibit "A." A "Unit" is sometimes referred to herein as a "Condominium Unit."

1.29 **"Votes"** shall mean the total number of votes appertaining to each Condominium Unit in the Project, as shown on Exhibit "B" attached hereto.

ARTICLE II

SUBMISSION AND DIVISION OF PROJECT

2.1 **Submission to Condominium Act.** The Declarant hereby subjects the Project, Land, Building, Easements and all other improvements now or hereafter made in or upon the Land to the provisions of the Condominium Act. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used and improved as a fee simple Condominium Project to be known as Timpanogos Medical Office Building Condominium Project. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations and obligations set forth herein and those matters now of record or that the Association shall hereafter cause to encumber the Project for the benefit of the Project, each and all of which are declared and agreed to be for the benefit of said Project and the individual Units in the Building and in furtherance of a plan for improvement of said property and division thereof into Condominium Units. Each and all of the provisions hereof shall be deemed to run with the each respective Unit and with the Land and shall be a burden and a benefit on each Unit and the Land and shall be binding upon the Declarant, its successors and assigns, and to any person acquiring, leasing or owning an interest in the real property and improvements comprising the Project (including any Unit) and to their respective personal representatives, heirs, successors and assigns.

2.2 **Division into Condominiums.** The Project is hereby divided into Condominium Units, each of which consists of the Unit itself, an undivided interest in the appurtenant Common Areas, Common Facilities and Easements as set forth and described on the Map. Each Unit owner's undivided interest in the Common Areas, Common Facilities and Easements shall be appurtenant to the applicable Unit, shall not be severed therefrom and shall run with the ownership thereof and the land.

ARTICLE III

BUILDING AND IMPROVEMENTS

3.1 **Building and Improvements.** The Building and other improvements constructed or to be constructed on the Land are described on the Map. The Building is five levels consisting of four above ground stories with an additional basement level. The number of Units in the Building is depicted on the Map. The Easements are part of the Project.

3.2 **Description of Units.** The Map contains the Unit number, location and dimensions of each Unit in the Building and all other information necessary to identify each such Unit.

3.3 **Description of Common Areas.** The Map contains a description of the Common Areas of the Project. ENT 171838:2006 PG 7 of 69

3.4 **Principal Construction Materials.** The Building in the Project rests on reinforced concrete footings and foundations. The Building is of structured steel with a masonry and glass veneer and a single ply membrane roof. The floors are covered with carpet, linoleum, asphalt tile or equivalent floor coverings. The Building will be supplied with electricity, gas, water, sewerage service, and fire sprinkling to each Unit.

ARTICLE IV

NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

4.1 **Interior of Units.** Each Owner shall have the exclusive right to paint, repaint, tile, paper, carpet or otherwise decorate the interior surfaces of the walls, ceilings, floors and doors forming the boundaries of his Unit and the surfaces of all walls, ceilings, floors and doors within such boundaries, construct and remove partition walls, fixtures and other improvements within the boundaries of his Unit; provided, however, that such improvements (i) shall not impair the structural soundness or integrity of the Building; (ii) shall not interfere with facilities necessary for the support, use or enjoyment of any other part of the Project; (iii) shall be built to construction standards comparable or better than the original construction of the Project; and (iv) shall not encroach upon the Common Areas or any part thereof, unless the Board of Trustees shall consent in writing to such encroachment.

4.2 **Maintenance of Units.** Each Owner shall keep the interior of his Unit, including, without limitation, interior walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a state of good repair. In the event that any such Unit shall develop an unsanitary or unclean or unsafe condition or fall into a state of disrepair, and in the event that the Owner of such Unit shall fail to correct such condition or state of disrepair promptly following written notice from the Board of Trustees, the Board of Trustees in behalf of the Association shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair; provided, however, that the Association shall in no event have the obligation to correct or eliminate any such condition or state of disrepair.

4.3 **Right to Combine Units.** With the written consent of the Board of Trustees, which consent shall not be unreasonably withheld, two or more Units may be utilized by the Owner or Owners thereto as if they were one Unit. To the extent permitted in the written consent of the Board, any walls, floors or other structural separations between any two such Units, or any space which would be occupied by such structural separations but for the utilization of the two Units as one Unit, may, for as long as the two Units are utilized as one Unit, be utilized by the Owner or Owners of the adjoining Units except to the extent that any such structural separations are necessary or contain

facilities necessary for the support, use or enjoyment of other parts of the Project. Any time, upon the request of the Owner of one or such adjoining units, any opening between the two Units which, but for joint utilization of the two Units, would have been occupied by structural separation, shall be closed, at the equal expense of the Owner or Owners of each of the two Units, and the structural separations between the two Units shall thereupon become Common Areas.

4.4 Title. Subject to the provisions of Article VI hereof; title to a Unit within the Project may be held or owned by any person or entity, or any combination thereof, and in any manner in which title to any other real property may be held or owned in the State of Utah, including, without limitation, joint tenancy or tenancy in common.

4.5 Computation of Undivided Interest in Common Areas and Votes. The percentage of undivided interest in the Common Areas which is appurtenant to each Unit contained in the Project shall be equal to the ratio of the Adjusted Size of such Unit (as hereinafter defined) to the aggregate Adjusted Size of all Units included in the Project, but with the minor adjustments described at the end of this Section. The "Adjusted Square Footage" of each Unit in the Project, except Units 1 and 2, which are in the basement level and are utilized for storage space only, shall be equal to their Actual Square Footage as shown on Exhibit B hereto. Provided they continue to be utilized for storage space only, the "Adjusted Square Footage" of Units 1 and 2 shall be equal to the Actual Size of each such Unit, respectively, multiplied by 0.5. This adjustment is made because Units 1 and 2 are not provided with HVAC and other services by the Association. If Units 1 and/or 2 are converted to a use other than storage space, then the Adjusted Square Footage for such converted Unit shall be equal to the Actual Square Footage of such Unit as shown on Exhibit B. In such event, the Association shall cause an amendment to this Declaration to be recorded reflecting the change in Adjusted Square Footage for such Unit(s) and the total Adjusted Square Footage. Such amendment shall also reflect such other adjustments to the respective percentage of undivided interest in the Common Areas attributable to each Unit and corresponding Votes as is occasioned by the modification of the Adjusted Square Footage for Units 1 and/or 2. The Total Votes of the Association shall number ten thousand (10,000). The number of votes in the Association which are attributable to each Unit contained in the Project is equal to 10,000 multiplied by the percentage of undivided interest in the Common Areas which is appurtenant to the Unit concerned. The percentage of undivided ownership interest and the number of votes in the Association which are attributable to each Unit contained in the Project have been computed in the aforesaid manner and through use of the minor adjustments described at the end of this section and are set forth on Exhibit "B" to this Declaration. In utilizing the foregoing formulas for determining the percentage of undivided ownership interest in the Common Areas and the number of votes in the Association appurtenant to a Unit, minor adjustments may have been made in some or all of the percentage interests and the number of votes which result from a strict application thereof for the purposes, but only for the purposes of, assuring that the total undivided ownership interest respecting the Project equals 100%, the Total Votes of the Association equals 10,000, and no vote in the Association is divided into fractional parts. Except as otherwise provided in this Declaration, the undivided interest appurtenant to each Unit shall have a permanent character and shall not be altered. The sum of the undivided interest in the Common Areas allocated to all Units shall at all times equal 100%:

Declarant is authorized to round the undivided interest of one or more Units in order to cause the total to equal 100%. Declarant is authorized to round the undivided interest of one or more Units in order to cause the total to equal 100%.

4.6 Use and Maintenance of Common Areas. Except as otherwise provided in this Declaration, any Owner shall be entitled to nonexclusive use of the Common Areas in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to any rules and regulations promulgated by the Association or other matters of record. The Association shall have the right and obligation to maintain and repair all Common Areas.

4.7 Divider Walls. The walls separating the Office Suite of one Owner from the Office Suite of an adjoining Owner shall be referred to as a "Divider Wall" and the location of the plane of its centerline shall be coincident with the vertical plane which serves as the common boundary between the Office Suites of Owners whose Office Suites adjoin one another. Declarant shall construct the initial Divider Walls. Thereafter, a Divider Wall shall not be removed by an Owner, except that if a Divider Wall is no longer intended to serve to separate the Office Suite of one Owner from the Office Suite of another Owner, the Divider Wall may be removed provided such removal shall be at the sole cost and expense of the Owner performing the same and the written approval of the Board has been obtained. A Divider Wall may not be constructed by an Owner without the prior written approval of the Board, which shall grant its approval only upon receipt of a building permit, if any is required for the construction, and evidence satisfactory to the Board that the Divider Wall will be constructed coincident with the vertical plane which serves as the common boundary between the Office Suites of Owners whose Office Suites adjoin one another. Any such construction shall be at the expense of the Owners performing the same. A Divider Wall may not be removed or constructed if the Structural soundness of the Building may in any way be affected thereby. All Divider Walls, whether constructed by the Declarant or an Owner, shall be the property of the Association and ordinary maintenance other than painting and decorating of said walls shall be performed by the Association and the cost thereof shall be a Common Expense of the Project; provided, however, that an Owner shall be responsible for any damage caused to a Divider Wall by his negligent or intentional acts or those of his employees or agents, and the cost of said repair shall be specially assessed to that Owner, and said sum, together with interest thereon and all costs of collection, shall be immediately due and payable and shall be secured in the same manner as the Association's lien for payment of Common Expenses, as hereinafter described.

4.8 Inseparability. Title to no part of a Unit within the Project may be separated from any other part thereof, and each Unit and the undivided interest in the Common Areas, Common Facilities and Easements appurtenant to each Unit shall always be conveyed, devised, encumbered and otherwise affected only as a complete Condominium Unit. Every devise, encumbrance, conveyance or other disposition of a Unit, or any part thereof, shall be construed to be a devise, encumbrance, conveyance or other disposition, respectively, of the entire Condominium Unit, together with all appurtenant rights created by law or by this Declaration, including appurtenant membership in the Association as hereinafter set forth. Any purported conveyance, encumbrance,

judicial sale or other transfer (voluntary or involuntary) of an individual interest in the Common Areas shall be void unless the Unit to which such interest is allocated is also transferred.

4.9 **No Partition.** The Common Areas shall be owned in common by all of the Owners, and no Owner may bring any action for partition thereof.

4.10 **Separate Mortgage by Owners.** Each Owner shall have the right separately to mortgage or otherwise encumber his Unit. No Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Areas or Easements or any part thereof, except the undivided interest therein appurtenant to his Unit. Any Mortgage or other encumbrance of any Unit within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any owner whose title is derived through foreclosure by private power of sale, judicial foreclosure or otherwise.

4.11 **Separate Taxation.** Each Unit within the Project, including each Unit and appurtenant undivided interest in the Common Areas, shall be deemed to be a parcel and shall be assessed separately for all taxes, assessment and other charges of the State of Utah, County of Utah or of any political subdivision or of any special improvement district or of any other taxing or assessing authority. For purposes of such assessment, the valuation of the Common Areas shall be apportioned among the Units in accordance with the Condominium Act. All such taxes, assessments and other charges on each respective Unit shall be separately levied against the Owner thereof. No forfeiture or sale of any Unit for delinquent taxes, assessment or other governmental charges shall divest or in any way affect the title to any other Unit.

4.12 **Mechanic's Lien.** No labor performed or material furnished for use in connection with any Unit with the consent or at the request of an Owner or his agent or subcontractor shall create any right to file a statement of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Areas, except the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials shall have been furnished.

4.13 **Description of Condominium Unit.** Every contract for the sale of a Condominium Unit and every other instrument affecting title to a Condominium Unit within the Project may describe a Unit by its identifying number or symbol as indicated in this Declaration or as shown on the Map. Such description will be construed to describe the Unit, together with its appurtenant undivided interest in the Common Areas, and to incorporate all of the rights incident to ownership of a Condominium Unit within the Project and all of the limitations on such ownership.

4.14 **Division of Utility Costs.** The cost of all utility or municipal services (including, without limitation, water, sewer, garbage collection, telephone, electrical, and gas) which are separately metered (if metering is applicable to the service in question) and billed by the suppliers concerned shall be paid by the Owners of the respective Units, if such costs apply to all Units in the Project. The cost of all such services which are separately metered (if metering is applicable to the

service in question) and billed as regards less than all Units in the Project either shall be paid directly by the respective Owners of the Units to which the service in question is provided (if and to the extent that separate metering and billing occurs as regards each of said Units) or shall be paid in the first instance by the Association from the Common Expense Fund (if and to the extent that more than one Unit is included in any particular separate metering and billing arrangement); if and to the extent that the Association as aforesaid pays such cost in the first instance from the Common Expense Fund, the Association shall be reimbursed for such cost by the respective Owners of the Units to which the service in question was provided, with the Owner of each such Unit being obligated to make reimbursement based upon his or her respective undivided interest in the Common Areas of the Project or his or her pro rata share of the cost if less than all the Units are involved. The cost of all such services which are not separately metered (if metering is applicable to the service in question) and billed to any Units (but rather are billed to the Project as a whole), shall be paid by the Association from the Common Expense Fund. Notwithstanding anything to the contrary contained within the preceding portion of this Section 4.14, in the event that any utility or municipal service is separately metered (if metering is applicable to the service in question) and billed to one or more Units and a portion of such service benefits in whole or in part any other Units or the Common Areas, the Association shall reimburse or credit the Owner(s) of the Unit(s) so billed for the cost of such portion; the determination of such portion, and the cost related thereto which shall be borne by the Association as a Common Expense, shall be made by the Association in a fair and reasonable manner on the basis of the best information reasonably available at the time, and shall be final and binding upon all Owners.

ARTICLE V

EASEMENTS

5.1 **Easements Access, Parking, Utilities, Etc.** Each Condominium Unit in the Building has and shall perpetually enjoy an undivided interest in the Easements referred to in Recital C above, and shall share in the burden of such Easements as provided in the Mountain View Declaration. These Easements are appurtenant to each Unit and shall run with the ownership thereof and shall and may not be severed therefrom. All conveyances of Condominium Units within the Project hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve an undivided interest in the Easements as provided herein, even though no specific reference to such Easements appears in any such conveyance.

5.2 **Easements for Encroachments.** In the event the construction, reconstruction, repair, shifting, settlement or other movement of any portion of the improvements causes any part of the Common Areas to encroach upon any Unit or any part of a Unit built in substantial accord with the boundaries for such Unit as depicted on the Map, or shall encroach upon the Common Areas, or upon an adjoining Unit for any such reason, an easement for such encroachment and for the maintenance of the same shall and does exist.

5.3 Easements for Maintenance, Cleaning and Repair. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair (emergency or otherwise) or replacement of any Common Areas or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas or to any Unit. In addition, agents of the Association may enter any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, landscaping, construction or reconstruction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association with funds from the Common Expense Fund.

5.4 Right to Ingress, Egress and Support. Each Owner shall have the unrestricted right to ingress and egress over, upon and across the Common Areas as necessary for access to such Owner's Unit and shall have the right to horizontal, vertical and lateral support of such Unit, and such rights shall be perpetual and shall be appurtenant to and pass with title to each Condominium Unit.

5.5 Association's Right to Use Common Areas. The Association shall have an easement to make such use of the Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct, maintain, repair and replace in the Common Areas Common Facilities for use by Owners generally or by the Association and its agents exclusively.

5.6 Easement for Completion of Project. The Declarant shall have a transferable easement over and on the Common Areas for the purpose of making improvements therein as shown on the Map and for the purpose of doing all things reasonably necessary or appropriate in connection therewith. To the extent that damage is inflicted on any part of the Project by any person utilizing said easement, the Declarant and the person causing the damage shall be liable to the Association for the prompt repair of such damage.

5.7 Party Walls. The northwest wall of the Building which is part of the connector to the Hospital was built as part of the original construction of the Project and is located on the dividing line between the Project and the Hospital. The northwest wall constitutes a party wall. The cost of reasonable repair and maintenance of such party wall shall be shared equally by the Association and the Hospital Owner or such other owner of a building utilizing such party wall. If a party wall is destroyed or damaged by fire or other casualty, the provisions of Article XI hereof shall apply. Notwithstanding any other provision of this Section 5.7, the party (either the Hospital Owner or the Association or such other owner of a building utilizing such party wall) who by his negligent or willful act causes the party wall to be damaged shall bear the entire cost of furnishing repairs to the party wall. The right of a party to contribution from the other party under this Section shall be appurtenant to the land and shall pass to such party's successors in title. In the event of any dispute

arising concerning a party wall, or under the provisions of this Section, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be made by a majority of all the arbitrators.

ARTICLE VI

RESTRICTIONS ON USE

6.1 **Use and Occupancy.** The use and occupancy of the Building shall be limited as set forth: (i) in the Mountain View Declaration, the provisions of which may be waived and certain uses consented to by the Hospital Owner; and (ii) such other matters of record affecting the Project which may hereafter be imposed on the Project in accordance with this Declaration.

6.2 **Rules and Regulations.** In addition to the restrictions set forth in Section 6.1 hereof, the use of all Units shall also be subject to such Rules and Regulations of general application as may be adopted by the Board of Trustees of the Association. Such Rules and Regulations shall be binding on all members of the Association unless duly amended by the Board or by a majority of the total Votes of the Association.

6.3 **Compliance.** The administration of the Project shall be in accordance with the provisions of this Declaration, the Mountain View Declaration, the Articles of Incorporation, the Bylaws, and the Rules and Regulations duly adopted by the Association. Each Owner and Occupant shall comply with such Declaration, Mountain View Declaration, Articles of Incorporation, Bylaws, and Rules and Regulations as amended from time to time.

6.4 **Partition.** No Owner nor any other person shall bring any action for partition or division of the Project or any portion thereof, and every person acquiring any interest in the Project shall acquire the same subject to this Declaration and shall be deemed to have waived any right to seek any partition until such time as the Land and Building are no longer subject to the provisions of the Condominium Act as provided therein.

6.5 **Structural Changes and Prohibitions.** No Owner shall make structural alterations or modifications to such Owner's Unit[s] or to the Common Areas including, but not limited to, the erection of antennas, aerials, awnings, the placement of any reflective or other material in the windows of the Unit, or other exterior attachments, without the prior written approval of the Association. The Association shall not approve any alterations, decorations or modifications which would jeopardize or impair the soundness, safety or appearance of the Project. Except the construction or removal of Divider Walls between or within Units owned by the Declarant prior to the first conveyance of such Units to a person other than the Declarant, the erection, removal, or alteration of Divider Walls for the purpose of creating or subdividing Units shall require the approval of the Board subject to such conditions as they may impose, including, but not limited to, minimum Unit size requirements, architectural plans, maintenance of liability insurance during construction,

performance and payment bonds, otherwise, the expense of which must be borne by the affected Owners.

6.6 **Leasin^g**. A Unit Owner may lease such Owner's Unit under the same restrictions set forth in Sections 6.1 and 6.2 provided that such lease transaction is in accordance with the provisions of Section 6.12 hereof, if applicable.

6.7 **Improper Uses**. No immoral, unlawful or offensive activity shall be carried on in any Unit or upon the Common Areas nor shall anything be done which may be or become an annoyance or a nuisance to the Unit Owners. No Owner shall do or permit anything to be done or keep or permit to be kept in such Owner's Unit or on the Common Areas anything that will increase the rate of insurance on the Project.

6.8 **Signs**. No signs or other advertising devices shall be displayed which are visible from the exterior of any Unit or on the Common Areas, including "For Sale" signs, except in conformity with Rules and Regulations promulgated by the Board; provided, however, that the initial tenants may have signs on their windows and doors within such limitations on size and type as the Declarant may determine, but not on the exterior walls of the improvements, and provided further, that no Owner can be excluded from any building directory unless prohibited by law or ordinance.

6.9 **Cleaning and Storage in Common Areas**. The Common Areas are not to be used for storage of supplies, personal property or trash or refuse of any kind except common trash receptacles placed at the discretion of the Board, nor shall the Common Areas be used in any way for the drying, shaking or airing of clothing^s or other fabrics. Stairs, entrances, sidewalks, yards, driveways, and parking areas shall not be obstructed in any way nor shall unauthorized persons use them for other than their intended purposes. In general, no activities shall be carried on nor condition maintained by any Owner either in his Unit or upon the Common Areas which despoils the appearance of the Project.

6.10 **Maintenance of Units**. Each Owner shall maintain his Unit in a sanitary condition. Each Owner shall also use due care to avoid damaging any of the Common Areas or any other Unit, and each Owner shall be responsible for his negligence or misuse of any of the Common Areas or of his own facilities resulting in damage to the Common Areas or any other Unit.

6.11 **Association Access to Unit**. The Association or its agent shall have access to each Unit from time to time during reasonable working hours, upon notice to its Owner, as may be necessary for the maintenance, repair or replacement of any of the Common Areas or other Units. The Association or its agent shall also have access to each unit at all times without notice as may be necessary to make emergency repairs to prevent damage to the Common Areas or to another Unit. If requested by the Association, each Owner shall furnish to the Association a duplicate key to the entrance door to his Unit and shall furnish a new duplicate key upon any change of locks thereto. Said keys shall be kept by the Association in a safe and secure place, and are to be used only in case of emergency or upon prior notice to the applicable Owner.

6.12 **Limited First Right of Refusal.** During the Restriction Period, Declarant shall have a limited first right of refusal to purchase each Owner's Unit upon the applicable Owner receiving an unsolicited bona fide offer to purchase or lease such Owner's interest in such Owner's Unit[s] or upon the applicable Owner's offer to sell or lease that Owner's interest in such Owner's Unit, strictly upon the terms and conditions set forth below.

(a) **Notice and Exercise.** During the Restriction Period, if (i) an Owner of a Unit (other than Declarant) receives an unsolicited bona fide offer from any third party for the purchase, acquisition or lease of that Owner's interest in his/her/its Unit, which offer such Owner desires to accept, or (ii) an Owner of a Unit lists or otherwise offers for sale or lease all or part of such Owner's interest in his/her/its Unit, then such Owner shall promptly deliver to Declarant, c/o The Boyer Company, 127 South 500 East, Suite 310, Salt Lake City, Utah 84102 (or such other address as Declarant may designate from time to time by recording a written notice with respect thereto in the Official Records of the Utah County Recorder), written notice setting forth the full terms and conditions of the proposed transaction, and as applicable, a copy of such offer, listing agreement or offering price. Declarant may, within 15 days after receipt of such notice, elect to purchase, acquire or lease such Unit which is subject to any unsolicited offer or that the Owner has listed or otherwise offered for sale or lease, as described above (the "Offer Property") on the same terms and conditions as those set forth in such notice. Notwithstanding anything in this Section 6.12 to the contrary, the right of first refusal granted herein shall not apply to any transfer of fee title to the Offer Property to a party purchasing or with an existing interest in the applicable Owner's professional practice. Exercise of this first right of refusal shall be by written notice of exercise delivered to Owner within the fifteen day period following Declarant's receipt of the notice. In the event Declarant fails to timely exercise its first right of refusal as set forth herein, the Owner shall be entitled to sell or lease his Unit free and clear of any claims thereto on the part of Declarant. The failure of Declarant to exercise this right of first refusal with respect to any future unsolicited bona fide offer to purchase or lease or listing or offer for sale or lease shall not result in termination of the right of first refusal with respect to such Unit sold, leased, transferred, or assigned but this right of first refusal shall be a continuing right binding upon such Owner and all future Owners with respect to all subsequent unsolicited bona fide offers to purchase or lease or Owner listings or offers for sale or lease of the applicable Owner's Unit. Furthermore, in the event that any proposed sale, lease, assignment or other transfer as to which Declarant did not exercise its right of first refusal as above provided, is not completed and closed by the Owner of the Offer Property involved within the time set forth in the offer or 90 days after notice thereof was given to Declarant whichever is longer, or if prior to the closing of such transaction the terms available to the proposed purchaser or lessee are modified and made materially more favorable, then the Offer Property must be re-offered to Declarant in the same manner provided above and Declarant shall have 15 days from receipt of the Owner's modification within which to exercise the right of first refusal by written notice to Owner.

(b) **Mortgagee Rights.** The provisions of this Section 6.12 shall not be applicable to a sale pursuant to foreclosure of a First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure, provided the Mortgagee of the affected Unit gives the Declarant and the Association at least fifteen (15) days' prior written notice of such sale together with such other information as the Declarant or the Association may reasonably require in connection therewith.

6.13 **Declarant Activities.** None of the restrictions contained in this Article 6 shall apply to the commercial activities, signs or billboards, if any, of the Declarant during the sales period of the Project or to the activities of the Association in furtherance of its powers and purposes set forth herein and in its Articles of Incorporation as the same may be amended from time to time.

6.14 **Disposal of Hazardous Substances.** Each Owner shall only use and/or dispose of Hazardous Materials (as hereinafter defined) in accordance with applicable law. For the purpose hereof, "Hazardous Materials" shall include but not be limited to substances defined as, listed in or otherwise classified as "hazardous substances," hazardous materials," hazardous waste," "extremely hazardous waste," "infectious waste," "toxic substances" or "toxic pollutant" pursuant to any applicable Federal, State, or local law, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; the Federal Clean Water Act, 33 U.S.C. Section 1251, et seq.; and in the regulations adopted and publications promulgated pursuant to said laws.

ARTICLE VII

THE ASSOCIATION

7.1 **Membership.** Each Owner of a Unit shall be a member of the Association. Membership will begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Unit is held by more than one person, the membership appurtenant to that Unit shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Unit is held. Each Unit shall be entitled to one membership in the Project. Each membership shall be appurtenant to the Unit to which it relates and shall be transferred automatically by conveyance of that Condominium Unit. Ownership of a Unit within the Project cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance or other disposition, respectively, of a Unit shall include the Owner's membership in the Association and rights appurtenant thereto. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Unit.

7.2 Board of Trustees. Until such time as Units to which fifty percent (50%) of the undivided interest in the Common Areas pertaining thereto have been conveyed by Declarant (or its successors and assigns) to the transferees of such Units, the Board of Trustees shall include three members appointed by Declarant, one member from Professional Arts Associates, L.C. ("Professional Arts") and Brian B. Lambert ("Lambert") or their respective successors and assigns; provided, however, that Professional Arts, or any successor entity with the same principal members, and Brian B. Lambert shall only be entitled to such membership for so long as each retains at least a fifty percent (50%) controlling interest in the Units conveyed to each, as applicable, by Declarant.

7.3 Votes. The number of votes appurtenant to each respective Unit shall be as set forth in Exhibit "B." The number of votes appurtenant to each Unit as set forth in said Exhibit "B" shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in a duly recorded amendment to this Declaration. The Declarant shall have full voting rights with respect to each Unit which it owns.

7.4 Professional Management. The Association may carry out through the Manager those of its functions which are properly the subject of delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Association, shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself. Any such management agreement executed on or before the termination of Declarant control of the appointment of the Board of Trustees as described in Section 7.2 hereof may be terminated by the Association without cause at any time after transfer of such control. The above term and termination provisions shall not apply to any other types of service contracts.

7.5 Amplification. The provisions of this Article VII may be amplified by the Articles and the Bylaws; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration. The initial Bylaws of the Association are attached hereto as Exhibit "C."

ARTICLE VIII

CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION AND BOARD OF TRUSTEES

8.1 The Common Areas. The Board of Trustees, acting on behalf of the Association and, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including the Common Facilities, utilities and equipment) and shall keep the same in a good, clean, attractive, safe and sanitary condition, order and repair. The Association shall be responsible for the maintenance and repair of the exterior of the Building, other improvements and

grounds, includin^g, without limitation, painting thereof, repair and replacement of exterior trim, roofs and fences and maintenance of elevators, parking areas, landscaping, walkways and driveways. The Board of Trustees shall also be responsible for maintenance, repair and replacement of Common Areas within the Building, including, without limitation, landings, stairways, utility lines, Common Facilities and all improvements and other items located within or used in connection with the Common Areas. The specifications of duties of the Board of Trustees with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas. All goods and services procured by the Board of Trustees in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund.

8.2 Miscellaneous Goods and Services. The Board of Trustees may, in behalf of the Association, obtain and pay for the services of such personnel as the Board of Trustees 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 or entity with whom or which it contracts. The Board of Trustees may, in behalf of the Association, obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. In addition to the foregoing, the Board of Trustees may, in behalf of the Association, acquire and pay for out of the Common Expense Fund water, sewer, garbage collection, electrical, gas and other necessary or desirable utility services for the Common Areas (and for the Units to the extent not separately metered or billed), insurance, bonds and other goods and services common to the Units.

8.3 Personal Property. The Board of Trustees may acquire on behalf of the Association personal and mixed property of all types to be held by the Association for the use or benefit of all of the Owners in connection with the Project and may dispose of such property by sale or otherwise, provided that any acquisition or disposition of any personal or mixed property by the Board of Trustees wherein the value of such property exceeds Ten Thousand Dollars (\$10,000) must be approved by 75% of the total Votes of the Association either by written ballot or at a meeting duly called for that purpose, except to the extent that such property is being acquired to replace damaged or obsolete property. The cost of all such property, including Common Facilities, shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of such fund.

8.4 Rules and Regulations. The Board of Trustees may make reasonable rules and regulations governing the use of the Units, the Common Areas, and all parts of the Project, which rules and regulations shall be consistent with the rights and duties established by this Declaration. The Board of Trustees in behalf of the Association may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of such Owner arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. In the event of such judicial action, the Association shall be entitled to recover its costs, including reasonable attorneys' fees, from the offending Owner.

8.5 Granting Easements. The Board of Trustees may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, permits, easements, licenses and rights-of-way over, under, across and through the Common Areas for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Project.

8.6 Statutory Duties and Powers. All duties, responsibilities, rights and powers imposed upon or granted to the "management committee" or to the "manager" under the Condominium Act shall be duties, responsibilities, rights and powers of the Board of Trustees hereunder.

8.7 Implied Rights. The Association may exercise any right, power or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

8.8 Power of Attorney and Amendments. Each Owner makes, constitutes and appoints the Association his true and lawful attorney in his name, place and stead to make, execute, sign, acknowledge and file with respect to the Project such amendments to this Declaration and the Map as may be required by law or by vote taken pursuant to the provisions of this Declaration.

ARTICLE LX ASSESSMENTS

9.1 Agreement to Pay Assessments. The Declarant for each Unit owned by it within the Project and each Owner of any Unit by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established and collected from time to time as provided in this Article IX.

9.2 Annual Assessments. Annual assessments shall be computed and assessed against all Units in the Project as follows:

(a) **Common Expense.** Annual assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Areas and furnishing common utility services and other common items to the Units. Such estimated expenses may include, without limitation, the following: expenses of management; real property taxes and special assessments (unless and until the Units are separately assessed); premiums for all insurance that the Association is required or permitted

to maintain hereunder; repairs and maintenance; wages of Association employees, including fees for a Manager; utility charges, including charges for utility services to the Units to the extent not separately metered or billed; legal and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; creation of an adequate reserve fund for maintenance repairs, and replacement of those Common Areas that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration. Such shall constitute the Common Expense, and all funds received from assessments under this Section 9.2(a) shall be part of the Common Expense Fund. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital expenses which together shall constitute the Common Expense Fund.

(b) **Apportionment.** Common Expenses shall be apportioned among and assessed to all Units and their Owners in proportion to their respective undivided interests in the Common Areas. The Declarant shall be liable for the amount of any assessments against Units owned by it.

(c) **Annual Budget.** Annual assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following, provided the first fiscal year shall begin on the date of this Declaration, and, on or before December 1 of each year thereafter, the Board of Trustees shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

(d) **Notice and Payment.** Except with respect to the first fiscal year, the Board of Trustees shall notify each Owner in writing as to the amount of the annual assessment against his or her Condominium Unit on or before December 1 each year for the fiscal year beginning on January 1 next following. Except as otherwise provided by the Board, each annual assessment shall be payable in twelve equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the annual assessment for the first fiscal year shall be based upon such portion of the first fiscal year as actually remains, and notice as to the amount of such assessments shall be provided to the Owners in writing within sixty (60) days of the recording of the Declaration. The Association shall have the right to charge a late fee equal to five percent (5%) of any assessment not paid within fifteen (15) days of the due date thereof. In addition, all unpaid installments of any annual assessment shall bear interest at the rate established by the Board not to exceed eighteen percent (18%) per annum from fifteen (15) days after the date each such installment became due until paid. In the event that any installment of the annual assessment is not paid within fifteen (15) days of the date such

installment becomes due, the Association may, at its option, and upon fifteen (15) days prior written notice to the Owner, accelerate the due date for all remaining unpaid installments of the annual assessment for the remainder of the fiscal year and all accrued but unpaid interest thereon. Payment of the annual assessment installments so accelerated shall be due at the expiration of said fifteen (15) day notice period and interest shall accrue on the entire sum at the rate established by the Board not to exceed eighteen percent (18%) per annum from such date until paid in full. The failure of the Board of Trustees to give timely notice of any annual assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Owner in the manner provided in this Declaration.

(e) **Inadequate Funds.** In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Board of Trustees may, on behalf of the Association, levy additional assessments in accordance with the procedure set forth in Section 9.3 below, except that the vote therein specified shall be unnecessary.

9.3 **Special Assessments.** In addition to the annual assessments authorized by this Article IX, the Board of Trustees may, on behalf of the Association, levy, at any time and from time to time, upon the affirmative vote of at least fifty-one percent (51%) of the total Votes of the Association, held by Owners voting by either written ballot, or in person or by proxy at a meeting called for such purpose, special assessments, payable over such periods as the Board of Trustees may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration including, without limitation, Common Expenses. This Section shall not be construed as an independent source of authority for the Association to incur expenses but shall be construed to prescribe the manner of assessing for expenses authorized by other sections or articles hereof and/or by applicable provisions of Utah law. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided interests in the Common Areas. Notice in writing of the amount of each such special assessment and the time for payment thereof shall be given promptly to the Owners; no payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any special assessment shall bear interest at the rate established by the Board not to exceed eighteen percent (18%) per annum from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund.

9.4 **Lien for Assessments.** All sums assessed to Owners of any Unit within the Project pursuant to the provisions of this Article IX, together with late charges and interest thereon as provided herein, shall be secured by a lien on such Unit in favor of the Association. To evidence a lien for sums assessed pursuant to this Article IX, the Board of Trustees may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the

name of the Owner of the Unit and a description of the Unit. Such a notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of Utah County, State of Utah. No notice of lien shall be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or judicial foreclosure of deeds of trust or mortgages or in any other manner permitted by law. In any exercise of a power of sale remedy, the Association may appoint its attorney or any title insurance company to act as the trustee in connection with such sale and said trustee shall have all of the rights and powers necessary to convey title to the Unit to the purchaser at any foreclosure sale. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Unit which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The Board of Trustees shall have the right and power in behalf of the Association to bid in at any foreclosure sale and to hold, lease, mortgage or convey the subject Unit in the name of the Association.

9.5 Personal Obligation of Owner. The amount of any annual or special assessment against any Unit shall be the personal obligation of the Owner of such Unit to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Unit or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment of unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

9.6 Personal Liability of Purchaser. The personal obligation of an Owner to pay unpaid assessments against his Unit as described in Section 9.5 shall not pass to successors in title unless assumed by them. Provided, however, a lien to secure unpaid assessments shall not be affected by the sale or transfer of the Unit unless foreclosure by a First Mortgagee is involved in which case the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Owner from paying further assessments.

9.7 Reserves and Working Capital. The Association shall establish the following funds:

(a) **Reserve Fund.** The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas. The reserve fund shall be maintained out of regular assessments for Common Expenses.

(b) **Working Capital Fund.** The Declarant, or the Board of Trustees if the Declarant is no longer an Owner, may, if and when the Declarant or Board of Trustees, as

the case may be, determines such a fund is necessary, establish and maintain for the Project a working capital fund equal to at least two monthly installments of the annual assessment for each Unit, including Units owned by the Declarant. Once established, each Unit's share of the working capital fund must be collected and transferred to the Association at the time of the closing of sale of that Unit. The working capital fund must be maintained in a segregated account for the use and benefit of the Association. The purpose of the working capital fund is to ensure that the Association will have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Association. Amounts paid into the working capital fund are not to be considered advance payments of any regular assessment. Upon transfer of a Unit, the Owner's interest in the working capital fund shall automatically be transferred to the new Owner.

9.8 Evidence of Payment of Annual and Special Assessments. Upon receipt of a written request by an Owner or any other person, the Association within a reasonable period of time thereafter shall issue to such Owner or other person a written certificate stating (a) that all annual and special assessments (including interest, costs and attorneys' fees, if any, as provided in Section 9.2 above) have been paid with respect to any specified Unit as of the date of such certificate, or (b) if all annual and special assessments have not been paid, the amount of such annual and special assessments (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or Mortgagee on, the Unit in question.

9.9 Amendment of Article. This Article IX shall not be amended unless Owners to which at least seventy-five percent (75%) of the undivided interest in the Common Areas appertain consent and agree to such amendment and the Association reflects such consent and agreement in an instrument executed and recorded in accordance with the terms of this Declaration.

ARTICLE X

INSURANCE

10.1 Insurance. The Association shall at all times maintain in force insurance meeting the following requirements:

(a) **Hazard Insurance.** A "master" or "blanket" type policy of property insurance shall be maintained covering the entire Project, including: the entire Building including all HVAC systems, all Units (other than the interior content thereof), Common Areas, Common Facilities, fixtures, building service equipment, personal property and supplies comprising a part of the Common Areas or owned by the Association but excluding land, foundations, excavations, and other items normally not covered by such policies.

References herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity condominium insurance coverage. As a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement, and by all other perils which are customarily covered with respect to projects similar to the Project in construction, location, and use, including (without limitation) all perils normally covered by the standard "all risk" endorsement, where such endorsement is available. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Project covered by such policy, exclusive of land, foundations, excavation, and other items normally excluded from coverage.

(b) Fidelity Bonds. The Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds for all officers, members, and employees of the Association and for all other persons handling or responsible for funds of or administered by the Association whether or not that individual receives compensation for services. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to a Manager, the Manager shall provide "blanket" fidelity bonds, with coverage identical to such bonds required of the Association, for the Manager's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity bond coverage required shall be based upon the Association's best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association, or the Manager, as the case may be, at any given time during the term of each bond. The bonds required shall meet the following additional requirements: (1) the fidelity bonds shall name the Association as obligee; (2) the bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions; (3) the premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by the Manager for its officers, employees and agents) shall be paid by the Association as part of the Common Expenses; and (4) the bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association and to any Insurance Trustee (as hereinafter defined).

(c) Liability Insurance. The Association shall maintain in force, and pay the premium for a policy providing comprehensive general liability insurance coverage covering all of the Common Areas, Easements public ways in the Project, if any, all other areas of the Project that are under the Association's supervision, and commercial spaces owned by the Association, if any, whether or not such spaces are leased to some third party. The coverage limits under such policy shall be in amounts generally required by private institutional Mortgage investors for projects similar to the Project in construction, location, and use. Nevertheless, such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include protection against such other risks as are

customarily covered with respect to projects similar to the Project in construction, location, and use. If such policy does not include "severability of interest" in its terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Association or any other Owner. Such policy shall provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association and to each First Mortgagee on an individual Unit.

(d) **Insurance Trustees and General Requirements Concerning Insurance.**

Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as such Owner's attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any Insurance Trustee, shall receive, hold, or otherwise property dispose of any proceeds of insurance in trust for the use and benefit of the Owners and their Mortgagees, as their interests may appear.

Each insurance policy maintained pursuant to the foregoing Sections (a), (b) and (c) shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a B general policyholder'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 which is written by Lloyd's of London. No such policy shall be maintained where: (1) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against, an Owner, a Mortgagee, the Board or the Association, (2) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Board, the Association, or an Owner) from collecting insurance proceeds. The provisions of this Section (d) and of the foregoing Sections (a), (b) and (c) shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

(e) **Annual Review of Policies.** All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Project which may have been

damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Declaration.

10.2 Additional Coverage. The provisions of this Declaration shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required by this Declaration, in such amounts and in such Ruins as the Association may deem appropriate from time to time.

10.3 Owner's Own Insurance. Each Owner, at his own expense, may procure and maintain at all times fire and extended coverage insurance covering personal property of such Owner and additional fixtures and improvements added by such Owner against loss by fire and other casualties, including, without limitation, vandalism and malicious mischief. All policies providing such casualty insurance shall provide that they do not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this article. Notwithstanding the provisions hereof, such Owner may obtain insurance at his own expense providing such other coverage upon his Unit, his personal property, for his personal liability and covering such other risks as he may deem appropriate, provided that each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this article. If obtainable under industry practice without an unreasonable additional charge for such waiver, all such insurance shall contain a waiver of the insurance company's right of subro^eation against the Association, Declarant, the Manager, other Owners and their respective servants, agents and guests.

ARTICLE XI

DAMAGE OR DESTRUCTION

11.1 Association as Attorney-in Fact. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said grantee of the Association as his attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. All insurance proceeds shall be payable to the Association except as otherwise provided in this Declaration.

11.2 Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before.

11.3 **Procedures.** In the event all or any part of the Project is damaged or destroyed, and subject to the provisions of Article XIV below, the Association shall proceed as follows:

(a) **Notice to First Mortgagees.** The Association shall give timely written notice to any Eligible First Mortgagee on a Unit in the event of substantial damage to or destruction of the applicable Unit or any part of the Common Areas.

(b) **Estimate of Costs.** As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct the part of the Project damaged or destroyed.

(c) **Sufficient Insurance.** If the proceeds of the insurance maintained by the Association exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, such repair and reconstruction shall be carried out.

(d) **Insufficient Insurance--Less than Seventy-Five Percent (75%) Destruction.** If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if less than seventy-five percent (75%) of the Project is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Association shall levy a special assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such special assessment shall be allocated and collected as provided in Section 9.3 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

(e) **Insufficient Insurance--Seventy-Five Percent (75%) or More Destruction.** If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventyfive percent (75%) or more of the Project is damaged or destroyed, such damage or destruction shall be repaired and reconstructed, but only if, within one hundred (100) days following the damage or destruction, the Owners shall elect by a vote of at least seventy-five percent (75%) of the total Votes of the Association to carry out such repair and reconstruction. If, however, the Owners do not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the total Votes of the Association to carry out such repair and reconstruction, but rather elect to teiuinate the Project and if Eligible First Mortgagees who represent at least one hundred percent (100%) of the votes on Units subject to Mortgages held by Eligible First Mortgagees approve such termination, the Association shall record in the office of the County Recorder of Utah County, State of Utah, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

(i) The Project shall be deemed to be owned in common by the Owners;

(ii) The undivided interest in the Project owned in common which shall appertain to each Owner shall be the percentage of the undivided interest previously owned by such Owner in the Common Areas;

(iii) Any liens affecting any of the Units shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Project; and

(iv) The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance of the Project, if any, shall be considered as one fund and shall be divided among all Owners in a percentage equal to the percentage of undivided interest owned by each respective Owner in the Common Areas, as set forth in Exhibit "B" hereto, after first paying out of the respective share of each Owner, to the extent sufficient for the purposes, all liens on the undivided interest in the Project owned by such Owner.

(f) **Priority.** In no event shall an Owner of a Unit or any other party have priority over the holder of any First Mortgage on such Unit with respect to the distribution to such Unit of any insurance proceeds.

11.4 Repair or Reconstruction. If the damage or destruction is to be repaired and reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, (except as otherwise expressly provided herein). The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having the same vertical and horizontal boundaries as before. Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original architectural plans and specifications.

11.5 Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from assessments made pursuant to Section 11.3(d) hereof shall constitute a fund for the payment of costs of repair and reconstruction after casualty and shall be used for such repair and reconstruction. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to their respective percentages of ownership of the Common Areas.

ARTICLE)(II
CONDEMNATION

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12.1 **Condemnation.** If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this article shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain. If any Unit or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Board of Trustees shall give prompt written notice of any such proceeding or proposed acquisition to each Owner in the Project and to any Eligible First Mortgagee. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Areas, or any part thereof, and each Owner hereby appoints the Association as such Owner's attorney-in-fact for the purposes of such representation.

12.2 **Proceeds.** All compensation, damages and other proceeds from any such taking by power of eminent domain (hereinafter the "Condemnation award") shall be made payable to the Association and shall be distributed by the Board of Trustees, on behalf of the Association as herein provided.

12.3 **Complete Taking.** In the event the entire Project is taken by power of eminent domain, condominium ownership pursuant thereto shall terminate and the condemnation award shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Provided, however, to the extent that there are differences in the fair market values of the Condominiums Units immediately prior to the condemnation, the Owners shall divide the condemnation award based upon the relative values of the Condominiums Units immediately prior to the condemnation. Such distribution shall be made by check payable jointly to the respective owners and their respective Mortgagees, as appropriate.

12.4 **Partial Taking.** In the event less than the entire Project is taken by power of eminent domain, the following shall occur:

(a) **Allocation of Award.** As soon as practicable, the Board of Trustees shall, on behalf of the Association, reasonably and in good faith, apportion the condemnation award between compensation, severance damages or other proceeds and shall allocate such apportioned amounts and pay the same to the Owners as follows:

(i) The total amount apportioned to taking of or injury to the Common Areas and/or Easements shall be allocated among and distributed to all Owners

(including Owners whose entire Units have been taken) in proportion to their respective undivided interests in the Common Areas;

(ii) The total amount apportioned to severance damages shall be allocated among and distributed to the Owners of those Units that have not been taken in proportion to their respective undivided interests in the Common Areas;

(iii) The respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit;

(iv) The total amount apportioned to consequential damages and any other takings or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances;

(v) If apportionment or allocation is already established by negotiation, judicial decree, statute or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable;

(vi) Distribution of allocated proceeds shall be made by check payable jointly to individual Owners and their respective Mortgagees, as their interests may appear; and

(vii) No provision of this Article XII or any other provisions in this Declaration, the Articles or the Bylaws shall entitle the Owner of a Unit or other party to priority over any First Mortgagee holding such Unit with respect to the distribution to such Unit of the proceeds of any award, settlement or proceeds from any eminent domain or condemnation proceeding.

(b) **Continuation and Reorganization.** If less than the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall not terminate but shall continue. In such event the Project shall be reorganized as follows:

(i) If any partial taking results in the taking of an entire Unit, then the Owner thereof shall cease to be a member of the Association and all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interest in the Common Areas;

(ii) If any partial taking results in the taking of a portion of a Unit and if no detelluination is made by the Board of Trustees, after duly considering any recommendations, proposals or other input from the Owners, that such taking does not make it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then, unless the interests of the Units in the

Common Areas are equal, all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reduced in proportion to the reduction in square footage of floor area of such Unit resulting from the taking. The voting rights and undivided interest in the Common Areas so divested from such Unit shall be reallocated to, and shall appertain to, such Unit and the other Units in the Project in proportion to their respective undivided interests in the Common Areas; provided, however, that such Unit shall participate in such reallocation on the basis of the undivided interest reduced in accordance with the preceding sentence;

(iii) If any partial taking results in the taking of a portion of Unit and if there is a determination made by the Board of Trustees, after duly considering any recommendations, proposals, or other input from the Owners, that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then all voting rights and the entire undivided interest in the Common Areas appertaining to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas, and the remaining portion of such Unit shall thenceforth be part of the Common Areas;

(iv) The Board of Trustees, after duly considering any recommendations, proposals or other input from the Owners, shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this Section 12.4(b); provided, however, that if any such determination shall have been or such action taken by judicial decree, the Board of Trustees shall defer thereto and proceed in accordance therewith.

(c) **Repair and Reconstruction.** Any repair and reconstruction necessitated by condemnation shall be governed by the provisions specified in Article XI hereof for cases of Damage or Destruction; provided, however, that the provisions of said article dealing with sufficiency or insufficiency of insurance proceeds shall not be applicable.

ARTICLE XIII

TERMINATION AND SALE

13.1 **Required Vote.** Except as otherwise provided in Article XI and Article XII, the Project may be terminated only by agreement of Owners entitled to vote one hundred percent (100%) of the total Votes of the Association at a meeting of Owners duly called for such purpose.

13.2 **Termination Agreement.** An agreement to terminate shall be evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by the requisite

number of Owners. Such an agreement to terminate shall also be approved by all Mortgagees who hold liens on Condominium Units. A termination agreement, including all ratifications of such termination agreement, shall be recorded in Utah County, Utah and is effective only on recordation.

13.3 Sale of Project. A termination agreement may provide that all the Project shall be sold following termination. If, pursuant to the agreement, any real estate in the Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

13.4 Association Duties. The Association, on behalf of the Owners, may contract for the sale of real estate in the Project, but the contract is not binding on the Owners until approved pursuant to Sections 13.1 and 13.2. If any real estate in the Project is to be sold following termination, title to that real estate on termination vests in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners and Mortgagees as their interests may appear, based on the procedure set forth in Section 13.5 below. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and their successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Unit in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and their successors in interest remain liable for all assessments and other obligations imposed on Owners by this Declaration.

13.5 Proceeds of Sale. Following termination of the Project, the proceeds of any sale of real estate, together with the assets of the Association, shall be held by the Association as trustee for Owners and divided among all Owners in a percentage equal to the percentage of undivided interest owned by each respective Owner in the Common Areas, as set forth in Exhibit "B" hereto, subject to the rights of Mortgagees with respect to such proceeds. Following termination, Mortgagees holding Mortgages on the Units which were recorded before termination may enforce those liens in the same manner as any lien holder.

ARTICLE XIV

MORTGAGEE PROTECTION

14.1 Notice of Action. Upon written request made to the Association by a First Mortgagee, which written request shall identify the name and address of such First Mortgagee and the number and address of the Unit, such First Mortgagee shall be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Unit on which there is a First Mortgage held by such First Mortgagee;

(b) Any delinquency in the payment of assessments or charges owed by an Owner whose Unit(s) is/are subject to a First Mortgage held by such First Mortgagee, which delinquency remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Any proposed action which would require the consent of a specified percentage of Eligible First Mortgagees as specified in Section 11.3(e) or Section 14.2.

14.2 Matters Requiring Prior Eligible Mortgagee Approval. Except as otherwise provided elsewhere in this Declaration, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the total Votes of the Association (unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a greater percentage of the votes in the Association is required, in which case such specific provisions shall control), and 100% of Eligible First Mortgagees holding First Mortgages on Units giving their consent shall be required to:

(a) Abandon or terminate the legal status of the Project after substantial destruction or condemnation occurs.

(b) Add, delete, or amend any material provision of the Declaration, Articles, Bylaws or Map, which establishes, provides for, governs or regulates any of the following (an addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors or for clarification only):

(i) voting rights;

(ii) responsibility for maintenance and repairs;

(iii) reallocation of interests in the Common Areas, or rights to their use;

(iv) hazard or fidelity insurance requirements;

(v) restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the Declaration; or

(vi) any provisions that expressly benefit Mortgagees, insurers, or guarantors.

14.3 Availability of Project Documents and Financial Statements. The Association shall maintain and have current copies of the Declaration, Articles, Bylaws, and other rules concerning the Project as well as its own books, records, and financial statements available for

inspection by Owners or by First Mortgagees. These documents shall be available during normal business hours.

14.4 Subordination of Lien. To the extent permitted by the Condominium Act, the lien or claim against a Unit for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Unit if the First Mortgage was recorded before the delinquent assessment was due, and the First Mortgage thereunder which comes into possession of or which obtains title to the Unit shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgage which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Unit affected or previously affected by the First Mortgage concerned.

14.5 Payment of Taxes. In the event any taxes or other charges which may or have become a lien on the Common Areas are not timely paid, or in the event the required hazard insurance described in Section 10.1(a) lapses, is not maintained, or the premiums therefore are not paid when due, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association.

14.6 Priority of First Mortgagee in Event of Damage. In the event of substantial damage to or destruction of any unit or any part of the Common Areas, no provision of the Declaration, Articles or Bylaws or any amendment thereto shall entitle the owner of a Unit or other party to priority over any First Mortgagee with respect to the distribution to such Owner of any insurance proceeds.

14.7 Priority of First Mortgagee in Event of Condemnation. If any Unit or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, no provision of the Declaration, Articles or Bylaws or any amendment thereto shall entitle the Owner of a Unit, or any other party, to priority over any First Mortgagee with respect to the distribution to such Unit of the proceeds of any award or settlement.

ARTICLE XV

COMPLIANCE WITH DECLARATION AND BYLAWS

15.1 Compliance. Each Owner shall comply strictly with the provisions of this Declaration, the Articles and Bylaws of the Association, rules and regulations promulgated by the

Association and the decisions and resolutions of the Association adopted pursuant thereto, as the same may lawfully be modified and amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief or for both, maintainable by the Association or, in a proper case, by an aggrieved Owner.

15.2 **Enforcement and Remedies.** The obligations, provisions, covenants, restrictions and conditions contained in this Declaration, or in any supplemental or amended Declaration, with respect to the Association or Units within the project shall be enforceable by the Declarant or by any Owner of a Unit within the Project, subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration, or in any supplemental or amended Declaration, with respect to a person or entity' or property of a person or entity other than the Association shall be enforceable by the Declarant or by the Association or, in a proper case, by an aggrieved owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid. No summary abatement or similar procedure may be utilized through nonjudicial means to alter or demolish items of construction.

ARTICLE XVI

GENERAL PROVISIONS

16.1 **Intent and Purpose.** The provisions of this Declaration, and any supplemental or amended Declaration, shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce any provision, restriction, covenant or condition contained in this Declaration, or in any supplemental or amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant or condition or of any other provisions, restrictions, covenants or conditions.

16.2 **Construction.** The provisions of this Declaration shall be in addition and supplemental to the provisions of the Condominium Act and all other provisions of law. Whenever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof and any gender shall include both genders. The article and section headings set forth herein are for convenience and reference only and are not intended to expand, limit or otherwise affect the meaning or interpretation of this Declaration or any provision hereof. The provisions hereof shall be deemed independent and several, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provisions hereof.

16.3 **Lists of Owners and Eligible Mortgagees.** The Association shall maintain up-to-date records showing: (i) the name of each person who is an Owner, the address of such person, and the Unit which is owned by him; and (ii) the name of each person or entity who is an Eligible First

Mortgagee, the address of such person or entity and the Unit which is encumbered by the Mortgage held by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Unit; either the transferor or transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfers of record in the office of the County Recorder of Utah County, Utah. The Board may for all purposes act and rely on the information concerning Owners and Condominium Unit ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the County Recorder of Utah County, Utah. The address of an Owner shall be deemed to be the address of the Unit owned by such person unless the Board is otherwise advised in writing.

16.4 **Amendment.** Except as otherwise provided in this Declaration, any amendment to this Declaration shall require the affirmative vote of at least sixty-seven percent (67%) of the total Votes of the Association cast by written ballot, or in the alternative, in person or represented by proxy entitled to be cast at a meeting duly called for such purpose or otherwise approved in writing by such Owners. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the office of the Utah County Recorder of an instrument executed by the Association. In such instrument an officer or Trustee of the Association shall certify that the vote required by this Section for amendment has occurred. Declarant alone may amend or terminate this Declaration prior to the closing of a sale of any Unit. Declarant alone may further amend this Declaration or record an amended Map at any time to make technical corrections required to assure compliance of the Map and this Declaration with the Condominium Act, to correct any inconsistencies between this Declaration and the Map, or to provide such further clarification and detail as Declarant reasonably deems necessary to properly reflect the respective ownership interests of the Declarant and Owners (collectively "Technical Amendments"); provided, however that not such Technical Amendments shall materially alter the Votes of any Owner or such Owner's respective percentage interest in the Common Area or Common Facilities. To the extent reasonably deemed necessary by Declarant, each Owner shall execute such documents as are necessary to reflect any Technical Amendments made pursuant to this Section.

16.5 **Effective Date.** This Declaration shall take effect upon recording.

16.6 **Agent for Service.** The name and address of the person to receive service of process in all cases provided by the Condominium Act shall be the registered agent and address of the Association as shown on the official corporate records maintained in the office of the Division of Corporations and Commercial Code of the State of Utah. On the date of this Declaration, the registered agent of the Association is Ronald Craven, whose address is 127 South 500 East, Suite 310, Salt Lake City, Utah 84102

16.7 **Limitation on Association's Liability.** The Association shall not be liable for any failure of water service or other utility service (if any) to be obtained and paid for by the Association hereunder, or for injury or damage to any person in or upon the Project, or resulting from electricity, water, rain, snow or ice which may leak or flow from outside or from any parts of the Building or

their drains, pipes, conduits, appliances or equipment, or from any other place, unless caused by the grossly negligent or willful misconduct of the Association or its agents or employees. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements to or maintaining the Project or any part thereof, or from any action taken to comply with the provisions of this Declaration or with the laws, ordinances, regulations, rules or order of any governmental authority.

16.8 Model Units, Sales Offices and Advertising Signs. Declarant and Declarant's duly authorized agents, representatives and employees shall have the right to establish and maintain model units and sales offices of any size on the Land within the Project and the right to use such model units and sales offices during the period that Condominium Units in the Project remain unsold. No more than two model units and one sales office will be established and maintained by Declarant in the Project. Declarant reserves the right to relocate the same from time to time within the Project. Declarant further reserves the right to maintain advertising signs on the Project and to place the same in any location and to relocate, replace and remove the same at the sole discretion of Declarant during the period that Units in the Project remain unsold.

16.9 Rights of Action. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of the Declaration or the decisions of the Association. Owners shall have a similar right of action against the Association.

16.10 General Obligations. Each Owner shall enjoy and be subject to all rights and duties assigned to Owners pursuant to this Declaration. With respect to unsold Units, the Declarant shall enjoy the same rights and assumes the same duties with respect to each unsold Unit.

16.11 Assignment of Powers. Any and all rights and powers of Declarant herein contained may be delegated, transferred, or assigned to any party without the consent of any Owner and upon such assignment the assigning party shall have no further obligations hereunder. Without limiting the provisions of the foregoing sentence, without any action required on the part of the Association, Declarant may from time to time and at any time (i) release its rights hereunder or (ii) assign and/or delegate all or some of its rights and/or obligations hereunder to the Association by written assignment recorded in the Official Records of the County Recorder of Utah County, and by recordation of any such assignment the Association shall be deemed to have accepted the rights and/or obligations so assigned and/or delegated. In addition, without further action on the part of Declarant, the Association, any Owner, or any other entity or individual, upon the date of recordation of a deed executed by Declarant conveying all or substantially all of its right, title and interest in and to the Units then held by Declarant, the rights and obligations of Declarant under this Declaration shall be deemed assigned to and assumed by the grantee named therein, and thereafter such grantee shall be deemed the "Declarant" for all purposes under, and subject to the provisions of, this Declaration."

See Action By Unanimous Written Consent

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Exhibit A
to
Declaration of Condominium
of the Timpanogos Medical Office Building
Condominium Project

[Map]

SURVEYOR'S CERTIFICATE

I, _____, a duly Licensed Professional Engineer, State of Utah, do hereby certify that the foregoing plat is a true and correct copy of the original plat as recorded in the office of the County Clerk of the County of _____, State of Utah, on the _____ day of _____, A.D. 19____.

My Commission Expires _____, A.D. 19____.

 State of Utah
 County of _____

OWNER'S DECLARATION

I, _____, do hereby declare that the foregoing plat is a true and correct copy of the original plat as recorded in the office of the County Clerk of the County of _____, State of Utah, on the _____ day of _____, A.D. 19____.

My Commission Expires _____, A.D. 19____.

 State of Utah
 County of _____

STATE OF UTAH

PLANNING COMMISSION APPROVAL

APPROVED: _____ DATE: _____

BOARD OF HEALTH

APPROVED: _____ DATE: _____

CITY ENGINEER

APPROVED: _____ DATE: _____

AMENDED PLAT "A"

OREM HEALTH CARE CENTER SUBDIVISION

REVISION OF LOT 1 CREATING LOT 2, INCLUDING A VARIATION OF THE HEALTH CARE CENTER SUBDIVISION

APPROVED: _____ DATE: _____

STATE OF UTAH

PLANNING COMMISSION APPROVAL

APPROVED: _____ DATE: _____

BOARD OF HEALTH

APPROVED: _____ DATE: _____

CITY ENGINEER

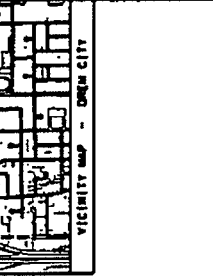
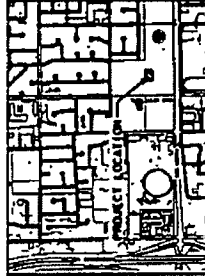
APPROVED: _____ DATE: _____

AMENDED PLAT "A"

OREM HEALTH CARE CENTER SUBDIVISION

REVISION OF LOT 1 CREATING LOT 2, INCLUDING A VARIATION OF THE HEALTH CARE CENTER SUBDIVISION

APPROVED: _____ DATE: _____



STATE PLANE COORDINATES

POINT	NORTHING	EASTING
1	730,854.76	1,870,318.45
2	730,854.76	1,870,318.45
3	730,854.76	1,870,318.45
4	730,854.76	1,870,318.45
5	730,854.76	1,870,318.45
6	730,854.76	1,870,318.45
7	730,854.76	1,870,318.45
8	730,854.76	1,870,318.45
9	730,854.76	1,870,318.45
10	730,854.76	1,870,318.45
11	730,854.76	1,870,318.45
12	730,854.76	1,870,318.45
13	730,854.76	1,870,318.45
14	730,854.76	1,870,318.45
15	730,854.76	1,870,318.45
16	730,854.76	1,870,318.45
17	730,854.76	1,870,318.45
18	730,854.76	1,870,318.45
19	730,854.76	1,870,318.45
20	730,854.76	1,870,318.45

ACCORDING TO THE CERTAIN DECLARATION OF GOVERNMENTS, AS ENTERED IN BOOK 432 AT PAGE 634 OF THE OFFICIAL RECORDS OF THE UTAH COUNTY RECORDS:

ARTICLE III
 PARKING, ACCESS AND UTILITY EASEMENTS

SECTION 3.1
 PARKING AND ACCESS EASEMENTS, PAGES 903-905

SECTION 3.2
 ELECTRICAL UTILITY EASEMENT PARCEL, PAGES 905 - EXHIBIT C, PAGE 911

SECTION 3.3
 GAS UTILITY EASEMENT PARCEL, PAGES 905-906 - EXHIBIT D, PAGE 910

SECTION 3.4
 TELECOMMUNICATIONS UTILITY EASEMENT PARCEL, PAGE 906 - EXHIBIT F, PAGE 920

SECTION 3.5
 SEWER UTILITY EASEMENT PARCEL (SANITARY & STORM), PAGES 906-907 - EXHIBIT E, PAGE 919

SECTION 3.6
 WATER UTILITY EASEMENT PARCEL, PAGES 907-908 - EXHIBIT G, PAGE 921

STATE OF UTAH
 PLANNING COMMISSION APPROVAL

APPROVED: _____ DATE: _____

BOARD OF HEALTH

APPROVED: _____ DATE: _____

CITY ENGINEER

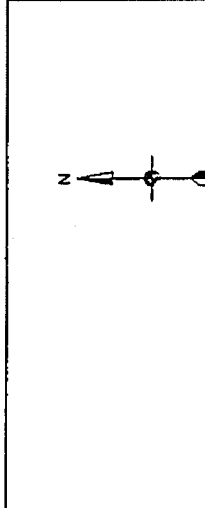
APPROVED: _____ DATE: _____

AMENDED PLAT "A"

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REVISION OF LOT 1 CREATING LOT 2, INCLUDING A VARIATION OF THE HEALTH CARE CENTER SUBDIVISION

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STATE OF UTAH
 PLANNING COMMISSION APPROVAL

APPROVED: _____ DATE: _____

BOARD OF HEALTH

APPROVED: _____ DATE: _____

CITY ENGINEER

APPROVED: _____ DATE: _____

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OREM HEALTH CARE CENTER SUBDIVISION

REVISION OF LOT 1 CREATING LOT 2, INCLUDING A VARIATION OF THE HEALTH CARE CENTER SUBDIVISION

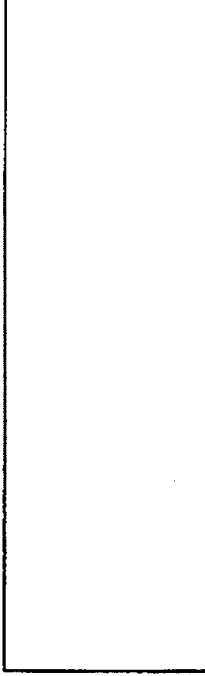
APPROVED: _____ DATE: _____

AMENDED PLAT "A"

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STATE OF UTAH
 PLANNING COMMISSION APPROVAL

APPROVED: _____ DATE: _____

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CITY ENGINEER

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AMENDED PLAT "A"

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REVISION OF LOT 1 CREATING LOT 2, INCLUDING A VARIATION OF THE HEALTH CARE CENTER SUBDIVISION

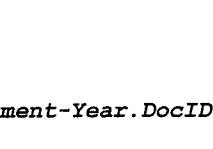
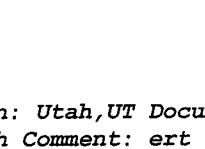
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STATE OF UTAH
 PLANNING COMMISSION APPROVAL

APPROVED: _____ DATE: _____

BOARD OF HEALTH

APPROVED: _____ DATE: _____

CITY ENGINEER

APPROVED: _____ DATE: _____

AMENDED PLAT "A"

OREM HEALTH CARE CENTER SUBDIVISION

REVISION OF LOT 1 CREATING LOT 2, INCLUDING A VARIATION OF THE HEALTH CARE CENTER SUBDIVISION

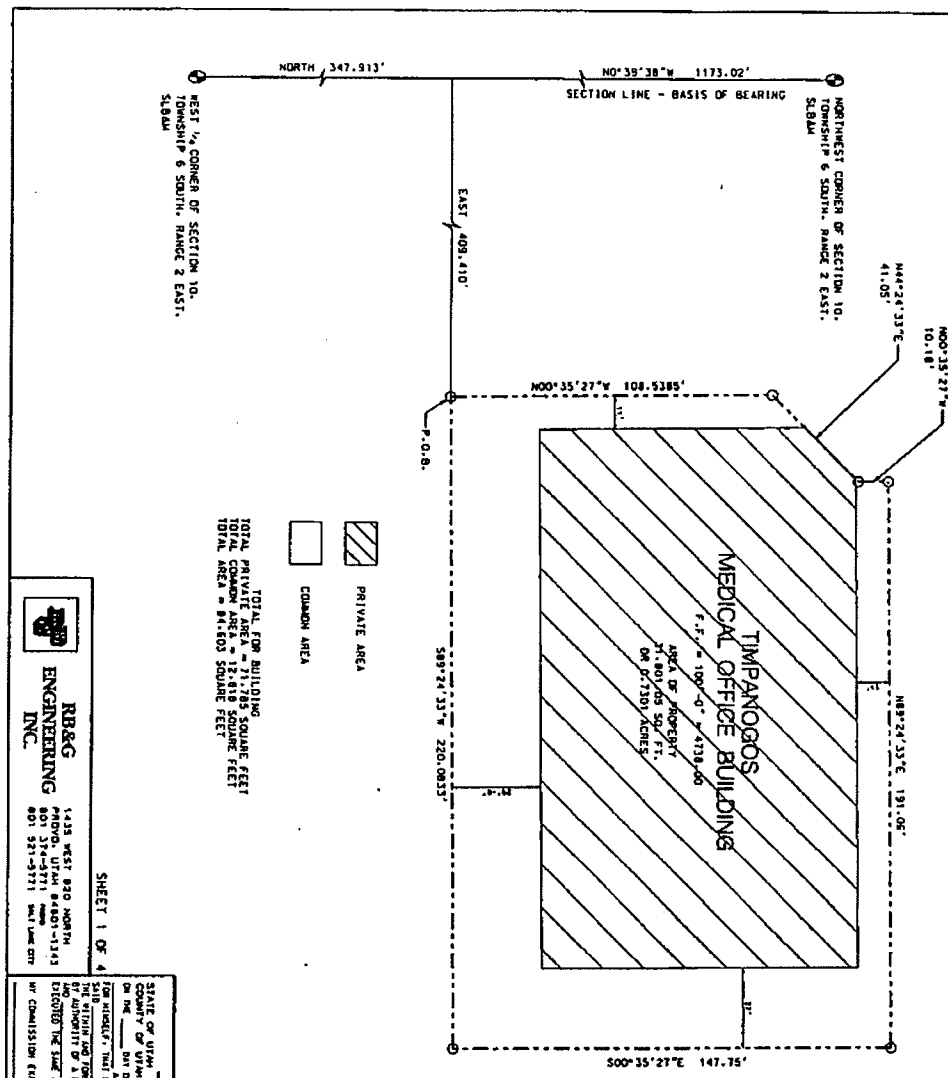
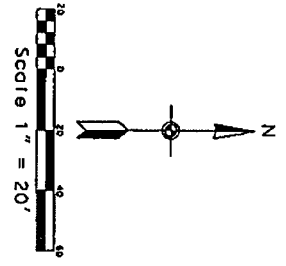
APPROVED: _____ DATE: _____

AMENDED PLAT "A"

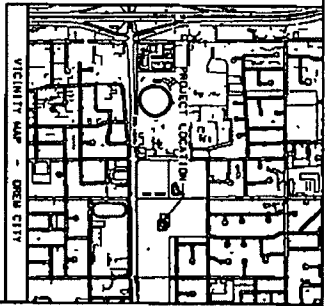
OREM HEALTH CARE CENTER SUBDIVISION

REVISION OF LOT 1 CREATING LOT 2, INCLUDING A VARIATION OF THE HEALTH CARE CENTER SUBDIVISION

APPROVED: _____ DATE: _____



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<p>PLAYING COMMISSION APPROVAL</p> <p>APPROVED BY: _____ DATE: _____</p> <p>DIRECTOR: _____</p> <p>CONDITIONS OF APPROVAL: _____</p>		<p>OCCUPANCY RESTRICTION NOTICE</p> <p>IF IT BECOMES NECESSARY TO REVOKE THIS NOTICE, THE CITY OF OREM WILL BE NOTIFIED BY THE PLAYING COMMISSION.</p>		<p>RESERVATION OF COMMON AREA</p> <p>THE CITY OF OREM IS SATISFIED THAT THE PLAYING COMMISSION HAS ADEQUATELY PROTECTED THE COMMON AREA FROM THE PROPOSED DEVELOPMENT. THE CITY OF OREM WILL BE NOTIFIED BY THE PLAYING COMMISSION.</p>		<p>PLAT VACATION NOTICE</p> <p>IF IT BECOMES NECESSARY TO REVOKE THIS NOTICE, THE CITY OF OREM WILL BE NOTIFIED BY THE PLAYING COMMISSION.</p>	
<p>APPROVED AS TO FORM</p> <p>APPROVED BY: _____ DATE: _____</p>		<p>APPROVED AS TO FORM</p> <p>APPROVED BY: _____ DATE: _____</p>		<p>APPROVED AS TO FORM</p> <p>APPROVED BY: _____ DATE: _____</p>		<p>APPROVED AS TO FORM</p> <p>APPROVED BY: _____ DATE: _____</p>	
<p>APPROVED AS TO FORM</p> <p>APPROVED BY: _____ DATE: _____</p>		<p>APPROVED AS TO FORM</p> <p>APPROVED BY: _____ DATE: _____</p>		<p>APPROVED AS TO FORM</p> <p>APPROVED BY: _____ DATE: _____</p>		<p>APPROVED AS TO FORM</p> <p>APPROVED BY: _____ DATE: _____</p>	
<p>APPROVED AS TO FORM</p> <p>APPROVED BY: _____ DATE: _____</p>		<p>APPROVED AS TO FORM</p> <p>APPROVED BY: _____ DATE: _____</p>		<p>APPROVED AS TO FORM</p> <p>APPROVED BY: _____ DATE: _____</p>		<p>APPROVED AS TO FORM</p> <p>APPROVED BY: _____ DATE: _____</p>	

OWNER'S DECLARATION

I, the undersigned, being the owner of the above described property, do hereby certify that the information furnished herein is true and correct to the best of my knowledge and belief, and that I am not aware of any facts which would make this declaration false or misleading. I understand that this declaration is a condition of the approval of the proposed development by the City of Orem, Utah, and that I am aware of the consequences of providing false or misleading information.

DATE: _____

SIGNATURE: _____

ACCEPTANCE BY CITY OF OREM

THE CITY OF OREM, BY THE UNDERSIGNED, HAS REVIEWED THE INFORMATION FURNISHED HEREIN AND HAS DETERMINED THAT THE INFORMATION IS TRUE AND CORRECT TO THE BEST OF THE CITY'S KNOWLEDGE AND BELIEF, AND THAT THE PROPOSED DEVELOPMENT IS IN ACCORDANCE WITH THE CITY'S ZONING ORDINANCES AND OTHER APPLICABLE LAWS. THE CITY OF OREM HEREBY APPROVES THE PROPOSED DEVELOPMENT AND GRANTS THE OCCUPANCY RESTRICTION NOTICE TO THE PLAYING COMMISSION.

DATE: _____

CITY CLERK: _____

APPROVED AS TO FORM

APPROVED BY: _____ DATE: _____

APPROVED AS TO FORM

APPROVED BY: _____ DATE: _____

APPROVED AS TO FORM

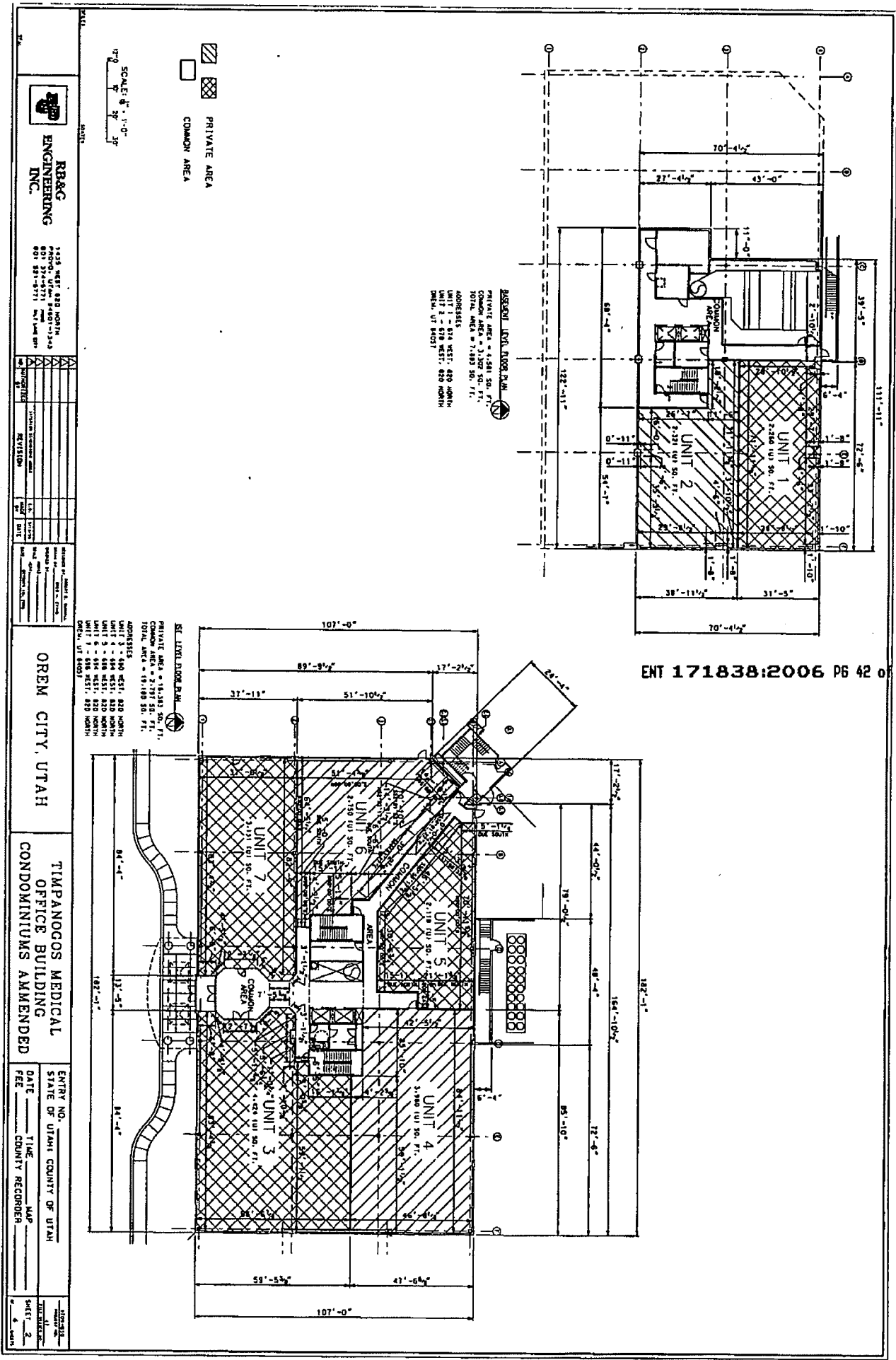
APPROVED BY: _____ DATE: _____

APPROVED AS TO FORM

APPROVED BY: _____ DATE: _____

APPROVED AS TO FORM

APPROVED BY: _____ DATE: _____



REAC ENGINEERING INC.
 1025 WEST 820 NORTH
 PROVO, UTAH 84601-3203
 801 821-5771 Fax 801 821-5772
 www.reac.com

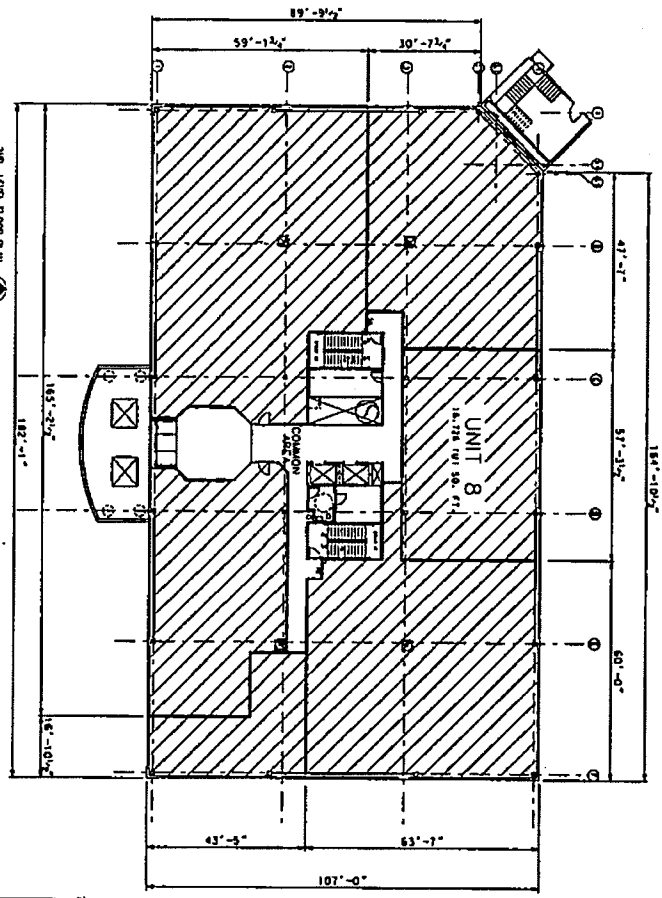
NO.	DATE	REVISION	BY	CHK

OREM CITY, UTAH

TIMPANOGOS MEDICAL OFFICE BUILDING CONDOMINIUMS AMENDED

ENTRY NO.	DATE	TIME	LAP	SHEET
STATE OF UTAH COUNTY OF UTAH				2
FEE				
COUNTY RECORDER				

ENT 171838:2006 PG 42 of 69

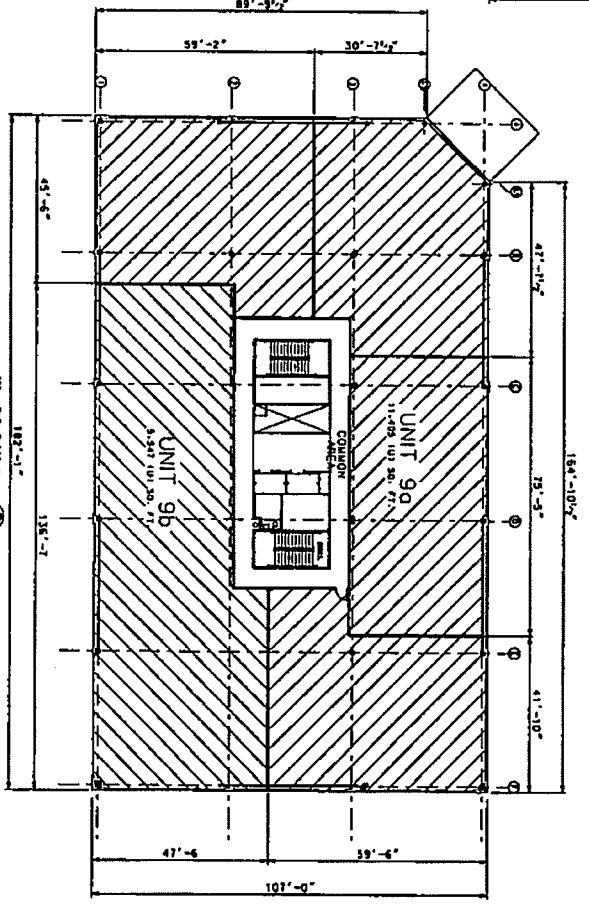


2ND LEVEL FLOOR PLAN
 PRIVATE AREA = 14,178 SQ. FT.
 COMMON AREA = 3,228 SQ. FT.
 TOTAL AREA = 17,406 SQ. FT.
 ADDRESS: 114 WEST 800 NORTH
 UNIT # - 220 WEST 800 NORTH
 OREM, UT 84403

PRIVATE AREA
 COMMON AREA

SCALE: 1/4" = 1'-0"

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2ND LEVEL FLOOR PLAN
 PRIVATE AREA 9b = 11,448 SQ. FT.
 COMMON AREA = 3,228 SQ. FT.
 TOTAL AREA = 14,676 SQ. FT.
 ADDRESS: 114 WEST 800 NORTH
 UNIT # - 220 WEST 800 NORTH
 OREM, UT 84403

<p>RBBC ENGINEERING INC.</p>		<p>1418 WEST 800 NORTH OREM UT 84403 801 221-9371</p>	
<p>OREM CITY, UTAH</p>		<p>TIMPANOGOS MEDICAL OFFICE BUILDING CONDOMINIUMS AMENDED</p>	
<p>REVISION</p>	<p>DATE</p>	<p>BY</p>	<p>CHK</p>
<p>1</p>	<p>11/15/06</p>	<p>JAC</p>	<p>JAC</p>
<p>ENTRY NO. _____ STATE OF UTAH COUNTY OF UTAH</p>		<p>DATE _____ TIME _____ MAP _____</p>	
<p>FEE _____ COUNTY RECORDER</p>		<p>SHEET 3</p>	

RUB&G
ENGINEERING
INC.

1439 WEST 810 NORTH
SALT LAKE CITY, UT 84119
PHONE 313-9171 FAX 313-9172
801 331-9111 801 331-9111

NO.	REVISION	DATE	BY	CHKD.

OREM CITY, UTAH

TIMPANOGOS MEDICAL
OFFICE BUILDING
CONDOMINIUMS AMENDED

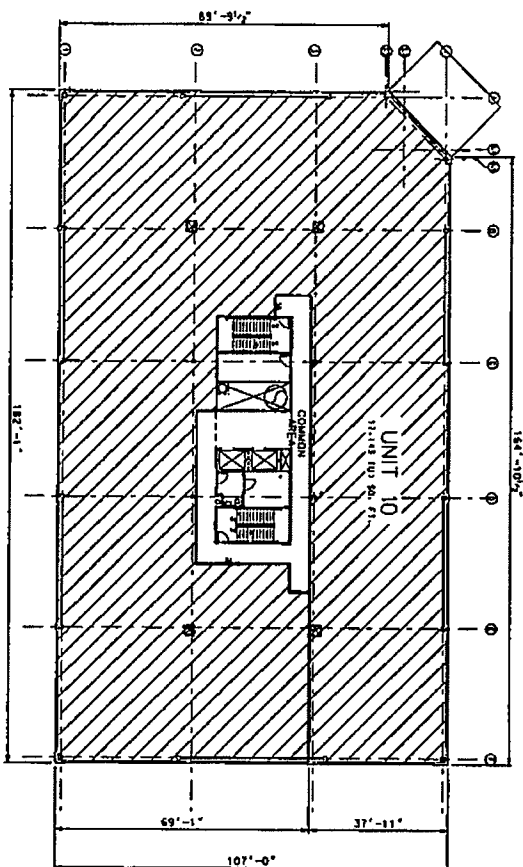
ENTRY NO. _____
STATE OF UTAH COUNTY OF UTAH
DATE _____ TIME _____
FEE _____ COUNTY RECORDER _____

MAP _____
SHEET 4

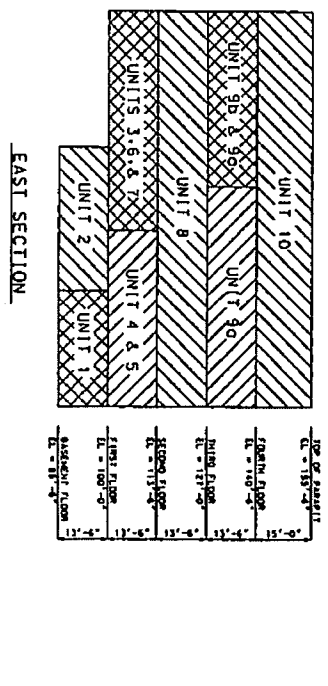
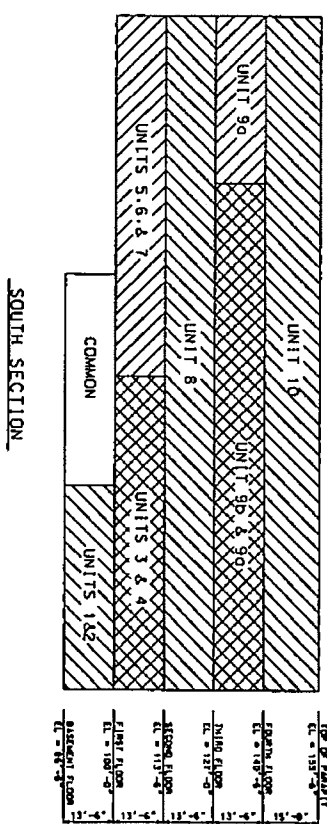
SCALE: 1" = 1'-0"

PRIVATE AREA
COMMON AREA

THE 1ST FL. FROM PLAN
PRIVATE AREA = 11,143 SQ. FT.
COMMON AREA = 2,037 SQ. FT.
TOTAL AREA = 13,180 SQ. FT.
UNITS: 174 UNITS, 420 MONTHS
OFFICE: UT 84103



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REVISED EXHIBIT B

ENT 171838:2006 PG 45 of 69

to
First Amendment to Declaration
Of Condominium
Of

The Timpanogos Medical Office Building Condominium Project

[Votes]

Level	Unit #	Actual Square Footage	Adjusted Square Footage	Percentage in Common Area (Weighted)	Votes
Basement	1	2260	1130	1.63%	162
Basement	2	2321	1160	1.67%	167
First Level	3	4424	4424	6.37%	637
First Level	4	3960	3960	5.70%	569
First Level	5	2118	2118	3.05%	305
First Level	6	2750	2750	3.96%	396
First Level	7	3131	3131	4.51%	451
Second Level	8	16726	16726	24.07%	2407
Third Level	9a	11405	11405	16.41%	1641
Third Level	9b	5547	5547	7.98%	798
Fourth Level	10	17143	17143	24.67%	2467
	Total	71785	69494	100.00%	10000

Exhibit C
to
Declaration of Condominium
of the Timpanogos Medical Office Building
Condominium Project

ENT 171838:2006 PG 46 of 69

[Bylaws]

BYLAWS

OF

**TIMPANOGOS MEDICAL OFFICE BUILDING CONDOMINIUM
OWNERS' ASSOCIATION, INC.
A Utah Nonprofit Corporation**

Pursuant to the provisions of the Utah Nonprofit Corporation and Co-operative Association Act, the Board of Trustees of Timpanogos Medical Office Building Condominium Owners' Association, Inc., a Utah nonprofit corporation, hereby adopts the following Bylaws for such nonprofit corporation.

ARTICLE I

NAME AND PRINCIPAL OFFICE

1.1 **Name.** The name of the nonprofit corporation is Timpanogos Medical Office Building Condominium Owners' Association, Inc., hereinafter referred to as the "Association."

1.2 **Offices.** The initial principal office of the Association shall be c/o The Boyer Company, 90 South 400 West, Suite 200, Salt Lake City, UT 84101.

ARTICLE II DEFINITIONS

Except as otherwise provided herein or as may be required by the context, all terms defined in the Declaration of Condominium of the Timpanogos Medical Office Building Condominium Project (the "Declaration"), a Utah Condominium Project (hereinafter referred to as the "Project"), shall have the same meanings when used in these Bylaws.

ARTICLE III MEMBERS

3.1 **Annual Meetings.** The annual meeting of Members shall be held on November 1 of each year at the hour of 10:00 o'clock a.m., beginning with the year in which the Articles of Incorporation are filed, for the purpose of electing Trustees and transacting such other business as

may come before the meeting. If the election of Trustees is not held on the day designated herein for the annual meeting of the Members, or at any adjournment thereof, the Board of Trustees shall cause the election to be held at a special meeting of the Members to be convened as soon thereafter as may be convenient. The Board of Trustees may from time to time by resolution change the date and time for the annual meeting of the Members.

3.2 Special Meetings. Special meetings of the Members may be called by the Board of Trustees, the President, or upon the written request of Members holding not less than ten percent (10.00%) of the Total Votes of the Association, such written request to state the purpose or purposes of the meeting and to be delivered to the Board of Trustees or the President.

3.3 Place of Meetings. Meetings of the Association shall be held at the Timpanogos Medical Office Building or at such other suitable place in Utah or Salt Lake County, State of Utah, as may be designated by the Board of Trustees and stated in the notice of the meeting.

3.4 Notice of Meetings. The Board of Trustees shall cause written or printed notice of the time, place and purposes of all meetings of the Members (whether annual or special) to be delivered, not more than fifty (50) nor less than ten (10) days prior to the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. Mail addressed to the Member at his registered address, with first-class postage thereon prepaid. Each Member shall register with the Association such Member's current mailing address for purposes of notice hereunder. Such registered address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, a Member's Unit address shall be deemed to be his registered address for purposes of notice hereunder.

3.5 Members of Record. Upon purchasing a Condominium in the Project, each Owner shall promptly furnish to the Association a certified copy of the recorded instrument by which ownership of such Condominium has been vested in such Owner, which copy shall be maintained in the records of the Association. For the purpose of determining Members entitled to notice of or to vote at any meeting of the Members, or any adjournment thereof, the Board of Trustees may designate a record date, which shall not be more than fifty (50) nor less than ten (10) days prior to the meeting, for determining Members entitled to notice of or to vote at any meeting of the Members. If no record date is designated, the date on which notice of the meeting is mailed shall be deemed to be the record date for determining Members entitled to notice of or to vote at the meeting. The persons or entities appearing in the records of the Association on such record date as the Owners of record of Condominiums in the Project shall be deemed to be the Members of record entitled to notice of and to vote at the meeting of the Members.

3.6 Quorum. At any meeting of the Members, the presence of Members holding, or holders of proxies entitled to cast, more than fifty percent (50.00%) of the Total Votes of the Association shall constitute a quorum for the transaction of business. In the event a quorum is not present at a meeting, the Members present (whether represented in person or by proxy), though less than a quorum, may adjourn the meeting to a date no later than thirty (30) days from the date of the originally scheduled meeting. If the time and place for an adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned

meeting after adjournment, notice of the time and place of the adjourned meeting shall be delivered to the Members in the manner prescribed for regular meetings of the Association. At the reconvened meeting, the Members and proxy holders present shall constitute a quorum for the transaction of business.

3.7 Proxies. At each meeting of the Members, each Member entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act has been executed by the Member himself or by his attorney hereunto duly authorized in writing. If a Membership is jointly held, the instrument authorizing a proxy to act must have been executed by all holders of such Membership or their attorneys hereunto duly authorized in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

3.8 Votes. With respect to each matter submitted to a vote of the Members, each Member entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Condominium of such Member, as shown in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Members, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, the Declaration or Utah law. The election of Trustees shall be by secret ballot. If a Membership is jointly held, all or any holders thereof may attend each meeting of the Members. Where Membership is jointly held by two individuals, such holders must act unanimously to cast the votes relating to such Membership. Where three or more individuals jointly hold the Membership, such holders shall cast the votes relating to such Membership as the majority of said holders shall agree among themselves. Votes of a given Member interest may not be split. Although a Member interest held by an entity shall be regarded as being held by a single Member, all equity owners of such Member interest shall be entitled to attend any meeting of the Members, provided, however, that all votes must be cast by the entity.

3.9 Waiver of Irregularities. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting form of proxies, and method of ascertaining Members present, shall be deemed waived if no objection is made at the meeting.

3.10 Informal Action by Members. Any action that is required or permitted to be taken at a meeting of the Members may be taken without a meeting, if a consent in writing, setting forth the action so taken, is signed by all of the Members entitled to vote with respect to the subject matter thereof

ARTICLE IV

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BOARD OF TRUSTEES

4.1 General Powers. The property, affairs and business of the Association shall be managed by its Board of Trustees. The Board of Trustees may exercise all of the powers of the Association, whether derived from law or the Articles of Incorporation, except such powers as are by law, by the Articles of Incorporation, by these bylaws or by the Declaration vested solely in the Members. The Board of Trustees may by written contract delegate, in whole or in part, to a professional management organization or individual such of its managerial duties, responsibilities, functions and powers as are properly delegable.

4.2 Number, Tenure and Qualifications. The number of Trustees of the Association shall be no less than three (3) or more than seven (7). The initial Board of Trustees specified in the Articles of Incorporation shall serve until Boyer 'omega, L.C. or its successor or assign as Declarant with respect to the Declaration ("Declarant") either elects substitute Trustees for such initial Board or Declarant no longer owns the required percentage of Units, as provided in Section 7.2 of the Declaration. The Members shall elect five (5) Trustees to replace all of the then serving Trustees and to serve for the following respective terms: three (3) Trustees to serve for a term of two (2) years each and two (2) Trustees to serve for a term of one (1) year. At each annual meeting thereafter, the Members shall elect for terms of two (2) years each the appropriate number of Trustees to fill all vacancies created by expiring terms of Trustees. All Trustees, except Trustees appointed by Declarant, shall be Members of the Association. Until such time as Units to which fifty percent (50%) of the undivided interest in the Common Areas pertaining thereto have been conveyed by Declarant or its successors and assigns to the transferees of such Units, the Board of Trustees shall include three members appointed by Declarant or its successor and assign, one member from Professional Arts Associates, L.C. ("Professional Arts") and Brian B. Lambert ("Lambert") or their respective successors and assign; provided, however, that each of Professional Arts, or any successor with the same principal members, and Lambert shall only be entitled to such membership for so long as each retains at least a fifty percent (50%) controlling interest in the Units conveyed to each, as applicable, by Declarant

4.3 Regular Meetings. The regular annual meeting of the Board of Trustees shall be held without other notice than this Bylaw immediately after, and at the same place as, the annual meeting of the Members. Meetings of the Board of Trustees shall be held at the Timpanogos Medical Office Building or at such other suitable place in Utah or Salt Lake County as may be designated by the Board of Trustees and stated in the notice of the meeting.

4.4 Special Meetings. Special meetings of the Board of Trustees may be called by or at the request of any Trustee. The person or persons authorized to call special meetings of the Board of Trustees may fix any place, within Utah or Salt Lake County, State of Utah, as the place for holding any special meeting of the Board of Trustees called by such person or persons. Notice of any special meeting shall be given at least five (5) days prior thereto by written notice delivered personally or mailed to each Trustee at his registered address. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. Mail so addressed, with first class postage thereon prepaid. Any Trustee may waive notice of a meeting.

4.5 Quorum and Manner of Acting. A majority of the then authorized number of Trustees shall constitute a quorum for the transaction of business at any meeting of the Board of Trustees. The act of a majority of the Trustees present at any meeting at which a quorum is present shall be the act of the Board of Trustees. The Trustees shall act only as a Board, and individual Trustees shall have no powers as such.

4.6 Compensation. No Trustee shall receive compensation for any services that he may render to the Association as a Trustee. A Trustee may be reimbursed for expenses incurred in performance of his duties as a Trustee to the extent such expenses are approved by the Board of Trustees.

4.7 Resignation and Removal. A Trustee may resign at any time by delivering a written resignation to either the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Subject to the limitations of Section 4.2, any Trustee, except a Trustee appointed by Declarant, may be removed at any time, for or without cause, by the affirmative vote of seventy-five percent (75.00%) of the Total Votes of the Association at a special meeting of the Members duly called for that purpose.

4.8 Vacancies and Newly Created Trusteeships. If vacancies occur in the Board of Trustees by reason of the death, resignation or disqualification of a Trustee (other than a Trustee appointed by Declarant), the Trustees then in office shall continue to act, and such vacancies shall be filled by a vote of the Trustees then in office, though less than a quorum, in any way approved by such Trustees at the meeting. Any vacancy in the Board of Trustees occurring by reason of removal of a Trustee by the Members may be filled by election at the meeting at which such Trustee is removed. If the authorized number of Trustees is increased, such newly created Trusteeships shall be filled by election of the Members at a special meeting or annual meeting of the Members. If vacancies occur in the Board of Trustees by reason of death, resignation or removal of a Trustee appointed by Declarant, such vacancies shall be filled by appointments to be made by Declarant. Any Trustee elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor or for the term of the newly created Trusteeship, as the case may be.

4.9 Informal Action by Trustees. Any action that is required or permitted to be taken at a meeting of the Board of Trustees may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Trustees.

ARTICLE V

OFFICERS

5.1 Officers. The officers of the Association shall be a President, Vice President, Secretary, Treasurer and such other officers as may from time to time be appointed by the Board of Trustees.

5.2 Election, Tenure and Qualifications. The officers of the Association shall be chosen by the Board of Trustees annually at the regular annual meeting of the Board of Trustees.

In the event of failure to choose officers at such regular annual meeting of the Board of Trustees, officers may be chosen at any regular or special meeting of the Board of Trustees. Each officer (whether chosen at a regular annual meeting of the Board of Trustees or otherwise) shall hold his office until the next ensuing regular annual meeting of the Board of Trustees and until his successor has been chosen and qualified, or until his death, or until his resignation, disqualification or removal in the manner provided in these Bylaws, whichever first occurs. Any one person may hold any two or more of such offices, except that the President may not also be the Secretary. No person holding two or more offices shall act in or execute any instrument in the capacity of more than one office. The President, Secretary and Treasurer shall be and remain Trustees of the Association during the entire term of their respective offices. No other officer need be a Trustee.

5.3 Subordinate Officers. The Board of Trustees may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority and perform such duties as the Board of Trustees may from time to time determine. The Board of Trustees may from time to time delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities and duties. Subordinate officers need not be Members or Trustees of the Association.

5.4 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board of Trustees at any time, for or without cause.

5.5 Vacancies and Newly Created Offices. If any vacancy occurs in any office by reason of death, resignation, removal, disqualification or any other cause, or if a new office is created, such vacancies or newly created offices may be filled by the Board of Trustees at any regular or special meeting.

5.6 The President. The President shall preside at meetings of the Board of Trustees and at meetings of the Members. He shall sign on behalf of the Association all contracts and shall do and perform all other acts and things that the Board of Trustees may require of him.

5.7 The Vice President. If they deem it necessary, the Trustees may elect a Vice President, who shall act in the place and stead of the President in the event of the President's absence or inability or refusal to act and shall exercise and discharge such other duties as may be required of him by the Board of Trustees.

5.8 The Secretary. The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration or any resolution of the Board of Trustees may require to keep. The Secretary shall also act in the place and stead of the President in the event of the absence of both President and Vice President or their inability or refusal to act. He shall perform such other duties as the Board of Trustees may require of him.

5.9 The Treasurer. The Treasurer shall have the custody and control of the finds of the Association, subject to the action of the Board of Trustees, and shall, when requested by the

President to do so, report the state of the finances of the Association at each annual meeting of the Members and at any meeting of the Board of Trustees. He shall perform such other duties as the Board of Trustees may require of him.

5.10 **Compensation.** No officer shall receive compensation for any services that he may render to the Association as an officer; provided, however, that an officer may be reimbursed for expenses incurred in performance of his duties as an officer to the extent such expenses are approved by the Board of Trustees.

5.11 **Limitation on Authority.** The officers of the Corporation shall not have authority, without authorization by the Board of Trustees, to do any of the following:

- (a) Obligate the Association on any loan;
- (b) Obligate the Association on any contract for products or services where the value of such products or service to be rendered to the Association is in excess of \$10,000 per year;
- (c) Enter into any sale or lease of Association assets; or
- (d) Enter into any agreement in settlement of any lawsuit or arbitration proceeding or any claim against the Association.

ARTICLE VI COMMITTEES

6.1 **Designation of Committees.** The Board of Trustees may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions and powers. The membership of each such committee designated hereunder shall include at least one (1) Trustee and shall be made up of Members of the Association. No committee member shall receive compensation for services that he may render to the Association as a committee member; provided, however, that a committee member may be reimbursed for expenses incurred in performance of his duties as a committee member to the extent that such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a committee member.

6.2 **Proceedings of Committees.** Each committee designated hereunder by the Board of Trustees may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board of Trustees.

6.3 **Quorum and Manner of Acting.** At each meeting of any committee designated

hereunder by the Board of Trustees, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event less than two members) shall constitute at quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board of Trustees hereunder shall act only as a committee, and the individual members thereof shall have no powers as such.

6.4 Resignation and Removal. Any member of any committee designated hereunder by the Board of Trustees may resign at any time by delivering a written resignation to the President, the Board of Trustees or the presiding officer of the committee of which he is a member. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board of Trustees may at any time, for or without cause, remove any member of any committee designated by it hereunder.

6.5 Vacancies. If any vacancy shall occur in any committee designated by the Board of Trustees hereunder, due to disqualification, death, resignation, removal or otherwise, the remaining members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board of Trustees.

ARTICLE VII

INDEMNIFICATION

7.1 Indemnification Third Party Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association), by reason of the fact that he is or was a Trustee or officer of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by an adverse judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

7.2 Indemnification Association Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Trustee or officer of the Association, or is or was serving at the request of the

Association as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

7.3 Determinations. To the extent that a person has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 7.1 or 7.2 hereof, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Section 7.1 or 7.2 hereof shall be made by the Association only upon a determination that indemnification of the person is proper in the circumstances because he has met the applicable standard of conduct set forth respectively in Sections 7.1 or 7.2 hereof. Such determination shall be made either (i) by the Board of Trustees by a majority vote of disinterested Trustees, or (ii) by independent legal counsel in a written opinion, or (iii) by the Members upon the affirmative vote of at least fifty percent (50%) of the Total Votes of the Association at any meeting duly called for such purpose.

7.4 Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding as contemplated in this Article may be paid by the Association in advance of the final disposition of such action, suit or proceeding upon a majority vote of a quorum of the Board of Trustees and upon receipt of an undertaking by or on behalf of the person to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this Article or otherwise.

7.5 Scope of Indemnification. The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Association's Articles of Incorporation, Bylaws, agreements, vote of disinterested Members or Trustees or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The indemnification authorized by this Article shall apply to all present and future Trustees, officers, employees and agents of the Association and shall continue as to such persons and shall be in addition to all other rights to which such persons may be entitled as a matter of law.

7.6 Insurance. The Association may purchase and maintain insurance on behalf of any person who was or is a Trustee, officer, employee or agent of the Association, or who was or is serving at the request of the Association as a Trustee, director, officer, employee or agent of another corporation, entity or enterprise (whether for profit or not for profit), as may be required by Article X of the Declaration.

7.7 Payments and Premiums. All indemnification payments made, and all insurance

premiums for insurance maintained, pursuant to this Article shall constitute expenses of the Association and shall be paid with funds from the Common Expense Fund referred to in the Declaration.

ARTICLE VIII

FISCAL YEAR

The fiscal year of the Association shall begin on the first day of January each year (or the date of incorporation for the first year) and end on the 31st day of December.

ARTICLE IX

RULES AND REGULATIONS

9.1 Rules and Regulations. The Board of Trustees may from time to time adopt, amend, repeal and enforce reasonable rules and regulations governing the use and operation of the Project, to the extent that such rules and regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation, the Declaration or these Bylaws. The Members shall be provided with copies of all rules and regulations adopted by the Board of Trustees and with copies of all amendments and revisions thereof

ARTICLE X

AMENDMENTS

Except as otherwise provided by law, by the Articles of Incorporation, by the Declaration or by these Bylaws, these Bylaws may be amended, altered or repealed and new bylaws may be made and adopted by the Members upon the affirmative vote of at least seventy-five percent (75.00%) of the Total Votes of the Association; provided, however, that such action shall not be effective unless and until a written instrument setting forth (i) the amended, altered, repealed or new bylaw, (ii) the number of votes cast in favor of such action, and (iii) the Total Votes of the Association shall have been executed and verified by the current President of the Association and recorded in the office of the Utah County Recorder.

[Signatures Follow on Next Page]

**ACTION BY UNANIMOUS WRITTEN CONSENT
OF THE
MEMBERS OF
TIMPANOGOS MEDICAL OFFICE BUILDING
CONDOMINIUM OWNERS' ASSOCIATION, INC.
IN LIEU OF A MEETING**

Pursuant to Section 16-6a-707 of the Utah Revised Nonprofit Corporation Act, the undersigned, being all of the members (the "Members") of the Timpanogos Medical Office Building Condominium Owners' Association, Inc., a Utah nonprofit corporation (the "Company"), hereby take the following actions in lieu of a meeting of the Members, by consent of said Members, as set forth in the following resolutions, as if taken by unanimous vote of the Members at a special meeting of the Members at which all of the Members were present:

Amendment of Project Declaration and Record of Survey Map

WHEREAS, the Board has submitted the Amendments set forth in the First Amendment To Declaration Of Condominium Of The Timpanogos Medical Office Building Condominium Project and Amendment Of Record Of Survey Map, attached hereto as Exhibit A and incorporated herein by this reference (the "First Amendment"), to the Members for vote thereon; it is hereby

RESOLVED that the First Amendment be and hereby is accepted, adopted and approved in full.

FURTHER RESOLVED that all of the membership interests of the Company held by the Members be and hereby are voted in favor of adopting the First Amendment.

Miscellaneous

WHEREAS, in order to effectuate the intent of the foregoing resolutions; it is hereby

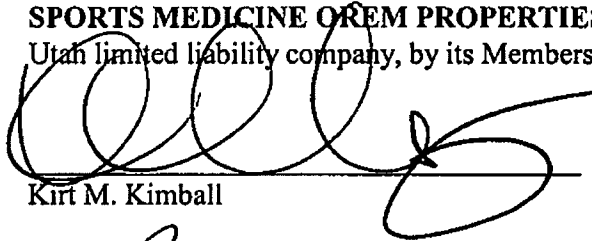
RESOLVED that this Action by Unanimous Written Consent to the adoption of the foregoing resolutions may be executed in counterparts, all of which taken together shall constitute but one and the same original.

IN WITNESS WHEREOF, each of the undersigned, being all of the Members of the Company, has signed this document effective as of the 29th day of September, 2006, and by so doing (1) consents to the transaction of the business hereof, (2) affirms that he or she has read the foregoing document, (3) approves, adopts and ratifies the foregoing document and all acts taken or authorized therein, and (4) waives any and all notice of the time, place or purpose of a special meeting of the Members called for the purpose of voting on approval of the foregoing resolutions.

resolution--shareholder-001.doc

“OWNER: UNITS 1 & 3”

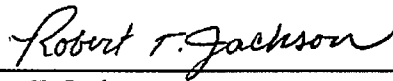
SPORTS MEDICINE OREM PROPERTIES, L.C., a
Utah limited liability company, by its Members



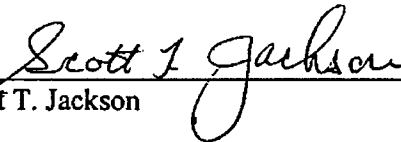
Kirt M. Kimball



Richard T. Jackson

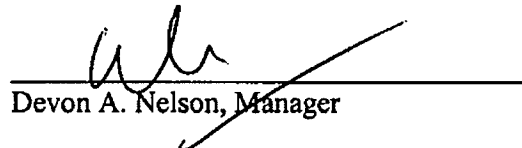


Robert T. Jackson



Scott T. Jackson

DAN ENTERPRISES, LLC, a Utah limited liability
Company,



Devon A. Nelson, Manager

resolution--shareholder-001.doc

"OWNER: UNITS 2, 5, 6, 7, 8, 9 & 10"

HCPI/UTAH, LLC, a Delaware limited liability company

By: 
Thomas M. Klaritch, Senior Vice-President

"OWNER: UNIT 4"


Brian B. Lambert

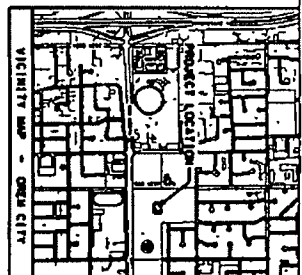
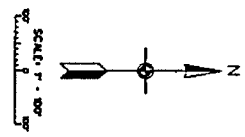
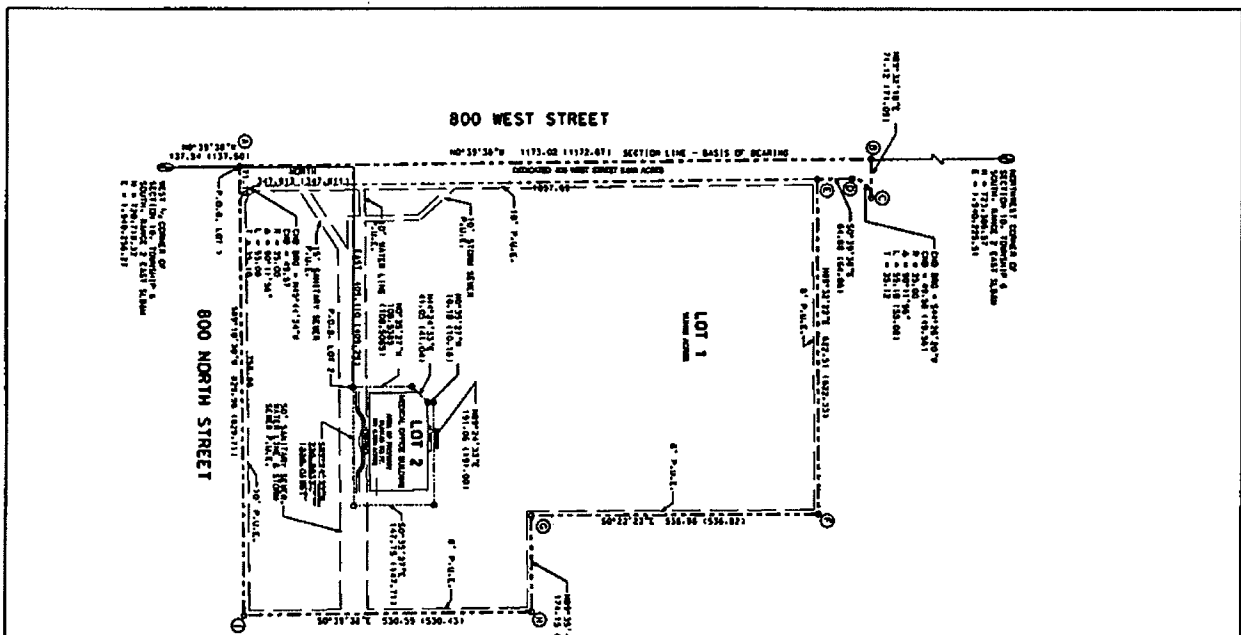
<< >>

**EXHIBIT A
TO
ACTION BY UNANIMOUS WRITTEN CONSENT**

First Amendment
To
Declaration

[see attached]

P:\BOYER\TIMPANOGOS\RESOLUTION-SHAREHOLDER-06-06 (ramc)
16358



ACCORDING TO THAT CERTAIN DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS RECORDED DECEMBER 2, 1997 AS SURVY NO. 99520 IN BOOK 4492 AT PAGE 898 OF THE OFFICIAL RECORDS OF THE UTAH COUNTY RECORD.

- SECTION 3.1 PARKING, ACCESS AND UTILITY EASEMENTS
- SECTION 3.1.1 PARKING AND ACCESS EASEMENTS, PAGES 903-905
- SECTION 3.2 ELECTRICAL UTILITY EASEMENT PARCEL, PAGES 906 - 917
- SECTION 3.3 GAS UTILITY EASEMENT PARCEL, PAGES 906 - 917
- SECTION 3.4 TELECOMMUNICATIONS UTILITY EASEMENT PARCEL, PAGE 918
- SECTION 3.5 SEWER UTILITY EASEMENT PARCEL, PAGES 906-907 - EXHIBIT F, PAGE 919
- SECTION 3.6 WATER UTILITY EASEMENT PARCEL, PAGES 907-908 - EXHIBIT E, PAGE 919

STATE PLAT AND COORDINATES	POINT	COORDINATES
1	720.000, 0.0	(1,540,237.45, 1,540,237.45)
2	720.000, 50.0	(1,540,237.45, 1,540,287.45)
3	720.000, 100.0	(1,540,237.45, 1,540,337.45)
4	720.000, 150.0	(1,540,237.45, 1,540,387.45)
5	720.000, 200.0	(1,540,237.45, 1,540,437.45)
6	720.000, 250.0	(1,540,237.45, 1,540,487.45)
7	720.000, 300.0	(1,540,237.45, 1,540,537.45)
8	720.000, 350.0	(1,540,237.45, 1,540,587.45)
9	720.000, 400.0	(1,540,237.45, 1,540,637.45)
10	720.000, 450.0	(1,540,237.45, 1,540,687.45)
11	720.000, 500.0	(1,540,237.45, 1,540,737.45)
12	720.000, 550.0	(1,540,237.45, 1,540,787.45)
13	720.000, 600.0	(1,540,237.45, 1,540,837.45)
14	720.000, 650.0	(1,540,237.45, 1,540,887.45)
15	720.000, 700.0	(1,540,237.45, 1,540,937.45)
16	720.000, 750.0	(1,540,237.45, 1,540,987.45)
17	720.000, 800.0	(1,540,237.45, 1,541,037.45)
18	720.000, 850.0	(1,540,237.45, 1,541,087.45)
19	720.000, 900.0	(1,540,237.45, 1,541,137.45)
20	720.000, 950.0	(1,540,237.45, 1,541,187.45)
21	720.000, 1000.0	(1,540,237.45, 1,541,237.45)

PREPARED BY:
ENGINEERING
 1425 WEST 400 SOUTH
 SUITE 200
 OREM, UT 84403
 PHONE: 435-224-1111
 FAX: 435-224-1112
 WWW: WWW.SDFH.COM

STATE OF UTAH
 COUNTY OF UTAH
 I, _____, of the County of Utah, do hereby certify that the foregoing plat is a true and correct copy of the original as recorded in my office, and that the same has been duly filed for record in the office of the County Clerk of said County, Utah, and that the same is now on file in my office, and that the same is now on file in the office of the County Clerk of said County, Utah.

SECTION 3.1.1
 PARKING AND ACCESS EASEMENTS, PAGES 903-905

SECTION 3.2
 ELECTRICAL UTILITY EASEMENT PARCEL, PAGES 906 - 917

SECTION 3.3
 GAS UTILITY EASEMENT PARCEL, PAGES 906 - 917

SECTION 3.4
 TELECOMMUNICATIONS UTILITY EASEMENT PARCEL, PAGE 918

SECTION 3.5
 SEWER UTILITY EASEMENT PARCEL, PAGES 906-907 - EXHIBIT F, PAGE 919

SECTION 3.6
 WATER UTILITY EASEMENT PARCEL, PAGES 907-908 - EXHIBIT E, PAGE 919

STATE OF UTAH
 COUNTY OF UTAH
 I, _____, of the County of Utah, do hereby certify that the foregoing plat is a true and correct copy of the original as recorded in my office, and that the same has been duly filed for record in the office of the County Clerk of said County, Utah, and that the same is now on file in my office, and that the same is now on file in the office of the County Clerk of said County, Utah.

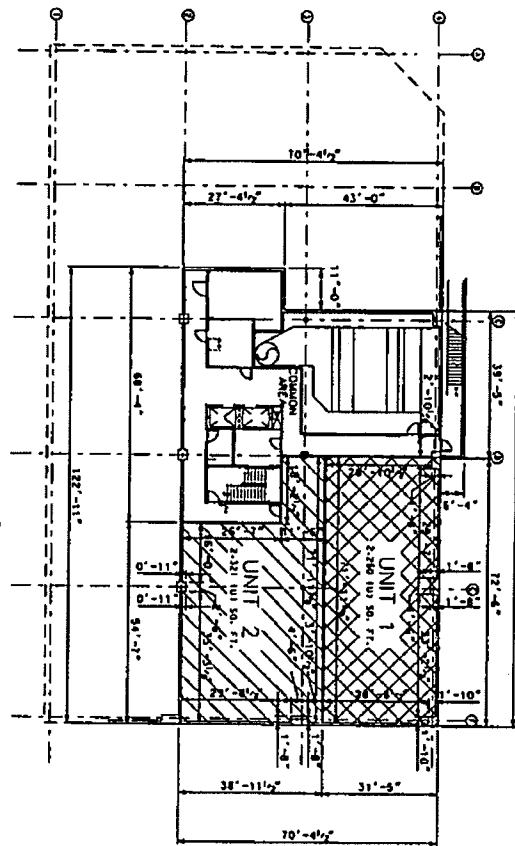
APPROVED BY CITY OF OREM
 BOARD OF HEALTH
 I, _____, Mayor of the City of Orem, Utah, do hereby certify that the foregoing plat is a true and correct copy of the original as recorded in my office, and that the same has been duly filed for record in the office of the County Clerk of said County, Utah, and that the same is now on file in my office, and that the same is now on file in the office of the County Clerk of said County, Utah.

APPROVED BY CITY OF OREM
 PLANNING COMMISSION
 I, _____, Chairman of the Planning Commission of the City of Orem, Utah, do hereby certify that the foregoing plat is a true and correct copy of the original as recorded in my office, and that the same has been duly filed for record in the office of the County Clerk of said County, Utah, and that the same is now on file in my office, and that the same is now on file in the office of the County Clerk of said County, Utah.

APPROVED BY CITY OF OREM
 BOARD OF HEALTH
 I, _____, Mayor of the City of Orem, Utah, do hereby certify that the foregoing plat is a true and correct copy of the original as recorded in my office, and that the same has been duly filed for record in the office of the County Clerk of said County, Utah, and that the same is now on file in my office, and that the same is now on file in the office of the County Clerk of said County, Utah.

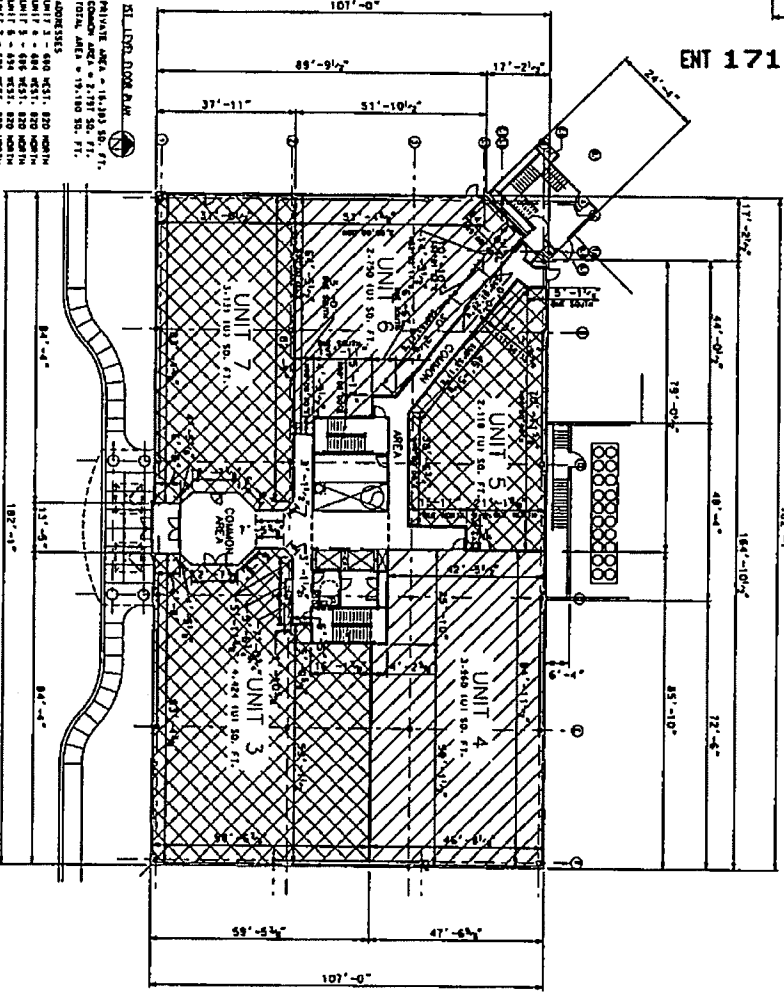
APPROVED BY CITY OF OREM
 BOARD OF HEALTH
 I, _____, Mayor of the City of Orem, Utah, do hereby certify that the foregoing plat is a true and correct copy of the original as recorded in my office, and that the same has been duly filed for record in the office of the County Clerk of said County, Utah, and that the same is now on file in my office, and that the same is now on file in the office of the County Clerk of said County, Utah.

APPROVED BY CITY OF OREM
 BOARD OF HEALTH
 I, _____, Mayor of the City of Orem, Utah, do hereby certify that the foregoing plat is a true and correct copy of the original as recorded in my office, and that the same has been duly filed for record in the office of the County Clerk of said County, Utah, and that the same is now on file in my office, and that the same is now on file in the office of the County Clerk of said County, Utah.



SECOND LEVEL FLOOR PLAN
 PRIVATE AREA = 4,521 SQ. FT.
 COMMON AREA = 2,102 SQ. FT.
 TOTAL AREA = 7,483 SQ. FT.
 ADDRESSES:
 UNIT 1 - 824 WEST 820 NORTH
 DEPT. UT 84013
 UNIT 2 - 824 WEST 820 NORTH
 DEPT. UT 84013

ENT 171838:2006 PG 63 of 69



SECOND LEVEL FLOOR PLAN
 PRIVATE AREA = 15,430 SQ. FT.
 COMMON AREA = 2,177 SQ. FT.
 TOTAL AREA = 17,180 SQ. FT.
 ADDRESSES:
 UNIT 3 - 840 WEST 820 NORTH
 DEPT. UT 84013
 UNIT 4 - 840 WEST 820 NORTH
 DEPT. UT 84013
 UNIT 5 - 840 WEST 820 NORTH
 DEPT. UT 84013
 UNIT 6 - 840 WEST 820 NORTH
 DEPT. UT 84013
 UNIT 7 - 840 WEST 820 NORTH
 DEPT. UT 84013

H&B&G
ENGINEERING
INC.

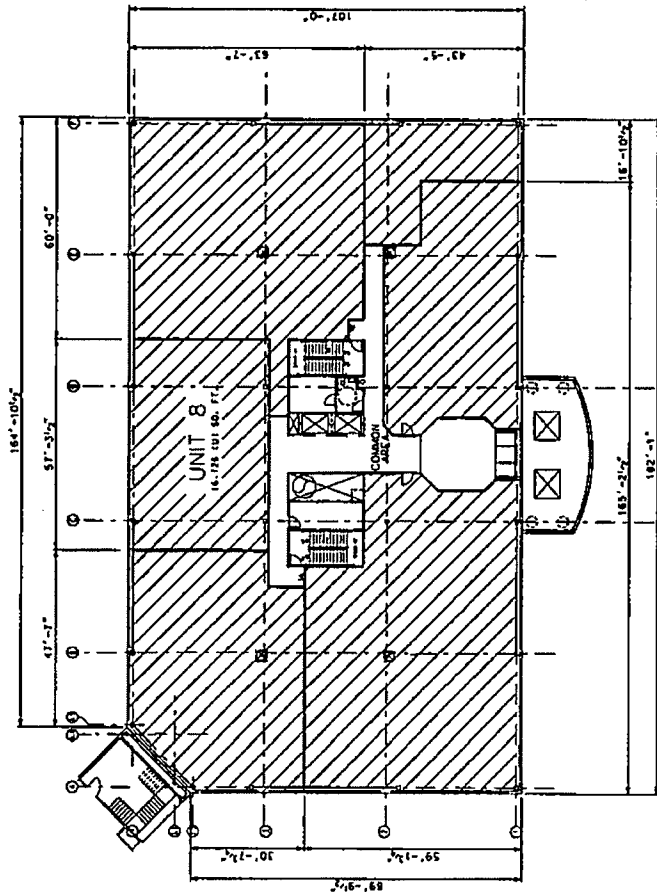
1428 WEST 890 SOUTH
 PROVO, UTAH 84601-1343
 801 774-8371 FAX 801 774-8371
 801 287-5711 FAX 801 287-5711

NO.	DATE	REVISION
1	12/15/06	ISSUE FOR PERMITTING
2	12/15/06	ISSUE FOR PERMITTING
3	12/15/06	ISSUE FOR PERMITTING
4	12/15/06	ISSUE FOR PERMITTING
5	12/15/06	ISSUE FOR PERMITTING
6	12/15/06	ISSUE FOR PERMITTING
7	12/15/06	ISSUE FOR PERMITTING
8	12/15/06	ISSUE FOR PERMITTING
9	12/15/06	ISSUE FOR PERMITTING
10	12/15/06	ISSUE FOR PERMITTING

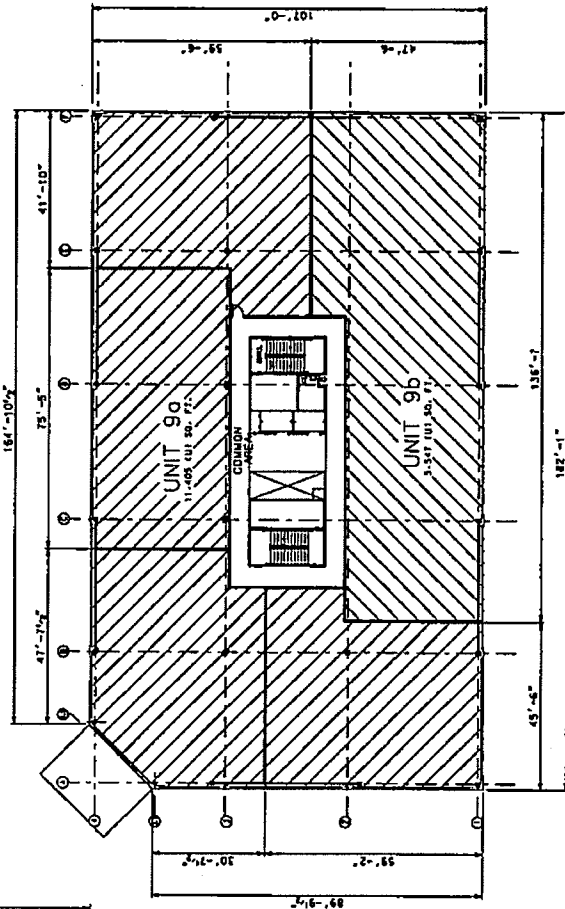
OREM CITY, UTAH

TIMPANOGOS MEDICAL
 OFFICE BUILDING
 CONDOMINIUMS AMENDED

ENTRY NO.	STATE OF UTAH	COUNTY OF UTAH
DATE	TITLE	MAP
FEE	COUNTY RECORDER	



2ND LEVEL FLOOR PLAN
 PRIVATE AREA = 14,428 SQ. FT.
 COMMON AREA = 2,454 SQ. FT.
 TOTAL AREA = 16,882 SQ. FT.
 ADDRESSES
 UNIT 8 - 100 WEST, 820 NORTH
 OREM, UT 84057



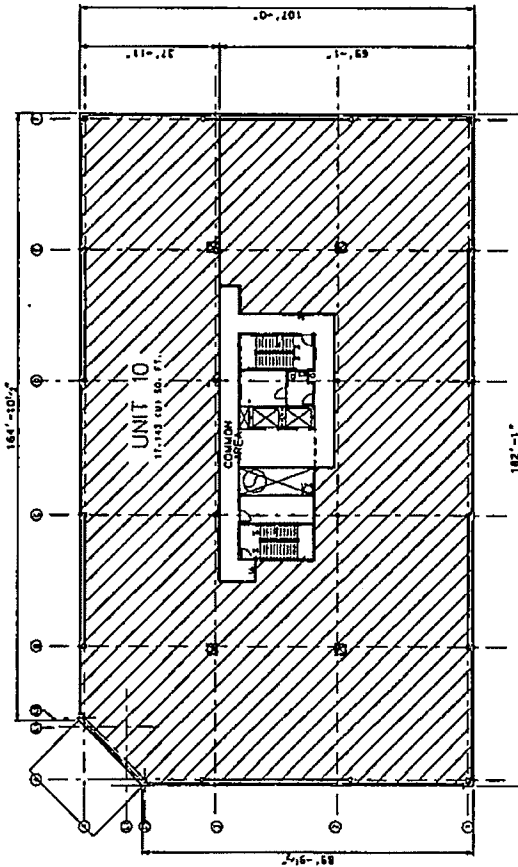
2ND LEVEL FLOOR PLAN
 PRIVATE AREA 90 = 11,400 SQ. FT.
 PRIVATE AREA 96 = 3,547 SQ. FT.
 COMMON AREA = 2,454 SQ. FT.
 TOTAL AREA = 17,399 SQ. FT.
 ADDRESSES
 UNIT 90 - 110 WEST, 420 NORTH
 UNIT 96 - 170 WEST, 620 NORTH
 OREM, UT 84057

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PRIVATE AREA
 COMMON AREA

SCALE: 1/8" = 1'-0"

 RB&G ENGINEERING INC. 1425 WEST 820 NORTH PROVO, UTAH 84601-1343 (801) 344-9711 FAX (801) 344-0877 (801) 344-9711	DATE _____ REVISION _____ NO. _____ OF _____	PREPARED BY _____ CHECKED BY _____ DATE _____ TIME _____ COUNTY RECORDER _____	ENTRY NO. _____ STATE OF UTAH COUNTY OF UTAH DATE _____ TIME _____ MAP _____ FEE _____ COUNTY RECORDER _____
	OREM CITY, UTAH TIMPANOGOS MEDICAL OFFICE BUILDING CONDOMINIUMS AMENDED		

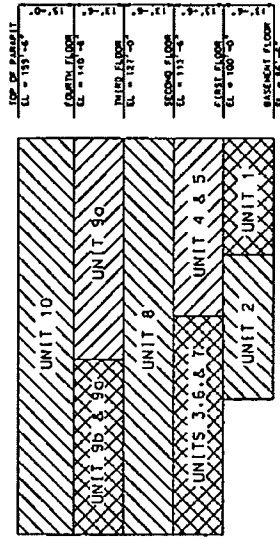


SIN. LEVEL FLOOR PLAN
PRIVATE AREA = 11,142 SQ. FT.
COMMON AREA = 2,031 SQ. FT.
ADDRESS: 151-100 S.W. 111
UNIT 10 - 714 WEST, 820 NORTH
OREM, UT 84057

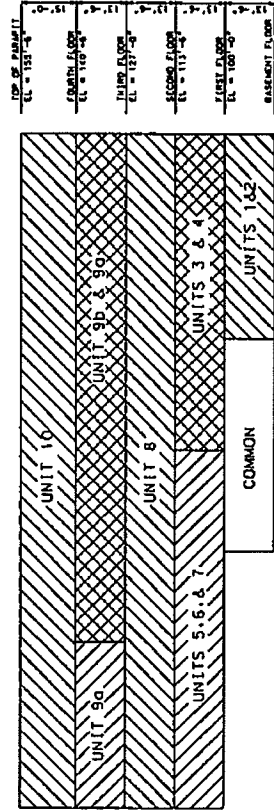
PRIVATE AREA
COMMON AREA

SCALE: 1/4" = 1'-0"
12" 9" 6" 3"

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EAST SECTION



SOUTH SECTION

ENTRY NO. _____ STATE OF UTAH COUNTY OF UTAH DATE _____ TIME _____ MAP _____ FEE _____ COUNTY RECORDER _____													
TIMPANOGOS MEDICAL OFFICE BUILDING CONDOMINIUMS AMENDED													
OREM CITY, UTAH													
PROJECT NO. _____ SHEET NO. _____ DATE _____ DRAWN BY _____ CHECKED BY _____ REVISIONS:	<table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>REVISION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	DATE	REVISION									
NO.	DATE	REVISION											
1435 WEST 820 NORTH PROVO, UTAH 84001-1343 TEL: 314-0811 FAX: 314-0811 WWW: RB&G.UT.COM													
RB&G ENGINEERING INC.													

WHEN RECORDED, PLEASE MAIL TO:

Robert A. McConnell
PARR WADDOUPS BROWN GEE & LOVELESS
185 South State Street, Suite 1300
Salt Lake City, Utah 84111-1537

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**FIRST AMENDMENT
TO
DECLARATION OF CONDOMINIUM
OF THE
TIMPANOGOS MEDICAL OFFICE BUILDING CONDOMINIUM PROJECT
AND
AMENDMENT OF RECORD OF SURVEY MAP**

THIS FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM OF THE TIMPANOGOS MEDICAL OFFICE BUILDING CONDOMINIUM PROJECT AND AMENDMENT OF RECORD OF SURVEY MAP (this "Amendment") is executed this ___ day of September, 2006, by TIMPANOGOS MEDICAL OFFICE BUILDING OWNERS' ASSOCIATION, INC., a Utah non-profit corporation ("Association"). Capitalized terms used herein shall have the meaning given such terms in the Declaration, as that term is defined below, unless otherwise stated herein.

RECITALS

A. Whereas BOYER IOMEGA, L.C., a Utah limited liability company ("Declarant") executed and caused to be recorded that certain Declaration of Condominium of The Timpanogos Medical Office Building Condominium Project (the "Declaration"), dated January 20, 1999, and caused the same to be recorded in the office of the Utah County Recorder on January 25, 1999, as Entry No.8780 in Book 4950 at Page 2.

B. Whereas Declarant executed and caused to be recorded that certain Record of Survey Map for The Timpanogos Medical Office Building (the "Map"), and caused the same to be recorded in the office of the Utah County Recorder on January 25, 1999, as Entry No 8779, Map Filing No. 7884, in Map Book 53 at Map Page 214.

C. Whereas the Declaration subjects that certain real property located in Utah County and more particularly described as follows to the provisions of the Act:

Lot 2, AMENDED PLAT "A" OREM HEALTH CARE CENTER SUBDIVISION, according to the official plat thereof, filed on June 23, 1998 as Entry No. 62270-1998, Map Filing No. 7604, in Map Book 48, at Map Page 236, of the Official Records of the Utah County Recorder.

Area + 0.7301 acres or 31, 801.05 square feet.

D. Whereas the Map supplements the Declaration and whereas Section 6.5 of the Declaration provides for "the erection . . . of Divider Walls for the purpose of creating or subdividing Units" upon the approval of the Association's Board and subject to such conditions as the said Board may impose.

E. Whereas Section 16.4 of the Declaration indicates that the Declaration may be amended by the Owners at any time by a vote of at least sixty-seven percent (67%) of the votes allocated to all Units.

F. Whereas HCPI/UTAH, LLC, a Delaware limited liability company ("Unit 9 Owner") desires to subdivide Unit 9, and the Board has approved the subdivision of Unit 9 into Units 9a and 9b, together with an adjustment to the Common Area located on the Third Floor of the Building incident to such subdivision, and this Amendment, together with an amendment to the Map to be recorded contemporaneously herewith (the "Map Amendment"), are intended to accomplish such amendment, subdivision and adjustment in the Common Area.

G. Whereas all of the Unit Owners have approved this Amendment and the Map Amendment.

H. Whereas, consistent with the above-referenced approvals, the Association desires to amend the Declaration and the Map as stated herein.

NOW, THEREFORE, in consideration of the mutual obligations set forth herein and for other good and valuable consideration, the legal sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Revised Exhibit "B." Attached to this Amendment (and incorporated herein by this reference) is a Revised Exhibit "B" which furnishes the following information with respect to each Unit heretofore contained in the Condominium Project and each Unit which through this Amendment and the Map Amendment is being created pursuant hereto: (i) The Unit Number; (ii) The Level of the Building on which the Unit is located; (iii) The Actual Square Footage of the Unit; (iv) The Adjusted Square Footage of the Unit; (v) The percentage of undivided ownership interest in the Common Area appurtenant to the Unit after the subdivision of Unit 9 with which this Amendment is concerned; and (vi) the number of Votes allocated to the Unit. Said percentages of undivided ownership interest have been computed and derived as described in Section 4.5 of the Declaration, and the "Adjusted Square Footage" of each of Units has been computed and determined in the manner required for such determination by Section 4.5.

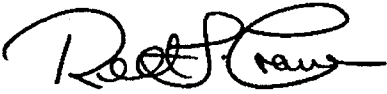
2. To the extent the terms of this Amendment modify or conflict with any provisions of the Declaration, the terms of this Amendment shall control. All other terms of the Declaration not modified by this Amendment shall remain the same and are hereby ratified and affirmed. Capitalized terms not specifically defined herein shall have the same meaning as set forth in the Declaration unless a contrary intent is clearly implicated.

3. Pursuant to Section 16.4 of the Declaration, the Association certifies that the vote required by Section 16.4 approving this Amendment has occurred and that the requisite number of Unit Owners have approved this Amendment. The Association further certifies that the Association's Board has approved the subdivision of Unit 9.

EXECUTED on the first date set forth above.

"ASSOCIATION"

THE TIMPANOGOS MEDICAL OFFICE BUILDING OWNERS' ASSOCIATION, INC., a Utah non-profit corporation,


By: 
Ronald L. Craven, President

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On this 10th day of ^{October}~~September~~, 2006, before me personally appeared Ronald L. Craven, who acknowledged himself to be the President of Timpanogos Medical Office Building Owners' Association, Inc., a Utah non-profit corporation, and being authorized to do so, he executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation, by himself as such officer.

[NOTARY SEAL]




Notary Public

REVISED EXHIBIT B
to
First Amendment to Declaration
Of Condominium
Of
The Timpanogos Medical Office Building Condominium Project

[Votes]

Level	Unit #	Actual Square Footage	Adjusted Square Footage	Percentage in Common Area (Weighted)	Votes
Basement	1	2260	1130	1.63%	162
Basement	2	2321	1160	1.67%	167
First Level	3	4424	4424	6.37%	637
First Level	4	3960	3960	5.70%	569
First Level	5	2118	2118	3.05%	305
First Level	6	2750	2750	3.96%	396
First Level	7	3131	3131	4.51%	451
Second Level	8	16726	16726	24.07%	2407
Third Level	9a	11405	11405	16.41%	1641
Third Level	9b	5547	5547	7.98%	798
Fourth Level	10	17143	17143	24.67%	2467
	Total	71785	69494	100.00%	10000