

When Recorded, Return to:

Santoro, Driggs, Walch,  
Kearney, Johnson & Thompson  
400 South Fourth Street  
Third Floor  
Las Vegas, Nevada 89101  
Attn: J. Douglas Driggs, Jr., Esq.

Douglas County - NV  
Werner Christen - Recorder  
Page: 1 of 32 Fee: 45.00  
BK-1205 PG- 6134 RPTT: 0.00



**AMENDED AND RESTATED  
DECLARATION OF ESTABLISHMENT  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AND  
GRANTS OF EASEMENTS**

This AMENDED AND RESTATED DECLARATION OF ESTABLISHMENT OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANTS OF EASEMENTS (this "Declaration") is made this 3<sup>rd</sup> day of NOVEMBER, 2005, by FOOTHILL DEVELOPMENT, LLC, a Nevada limited liability company (the "Declarant").

RECITALS

**WHEREAS**, Declarant and other Owners own certain real property located in the town of Minden, County of Douglas, Nevada (the "Property"), more particularly described in Exhibit "A" attached hereto.

**WHEREAS**, Declarant desires to burden the Property to the covenants, conditions and restrictions hereinafter set forth and to establish the appurtenant easements hereinafter described, pursuant to a general plan for the improvement of the Property for the mutual benefit of the present and future owner(s) of the Property and their respective heirs, successors, assigns, grantees, mortgagees, lessees, tenants and subtenants, so that the property and portions thereof subsequently created (referred to herein as "Parcels") shall each be subject to this Declaration and shall be encumbered and burdened by, and entitled to, the benefits of this Declaration. As used herein, an "Owner" shall be the fee simple legal title holder of a Parcel or any portion thereof.

**WHEREAS**, Declarant intends that all of the Property shall be a part of a common scheme and general plan of development, maintenance, care, use and management and subject to all of the protective covenants, conditions, restrictions, reservations, limitations, easements, equitable servitudes, liens, charges, assessment rights and obligations, and voting rights running with the Property as herein set forth.

**WHEREAS**, Inasmuch as the Property contains units restricted to nonresidential use, the Property is not subject to NRS 116.1101 et seq. However, Declarant intends that NRS 116.3116 through 116.31168, inclusive, regarding the imposition of liens for failure to pay annual dues and other amounts, be adopted by the Association, incorporated herein, and made applicable to the Property.

**WHEREAS**, The original Declaration of Establishment of Covenants, Conditions and Restrictions and Grants of Easements for Ironwood Center, dated March 21, 1997, was recorded on March 24, 1997, as Document No. 408981 in Book 0397 on Page 3626 and re-recorded as Document #0415501 Book 0697 on Page 4095 of the Official Records of Douglas County, Nevada (the "Original Declaration") and may amended and restated by the owners of a majority of the improved square footage of the Property. \*\*

\*\*on June 19, 1997

**WHEREAS**, Declarant desires to create a Nevada non-profit corporation to own and manage the Common Areas (as hereinafter defined) for the benefit of the Owners (the "Association") and Declarant desires to assign to the Association those common areas currently owned by Declarant.

**WHEREAS**, Pursuant to Section 15(b) of the Original Declaration, the Original Declaration may be amended and restated in its entirety for the purpose set forth hereunder by a written agreement recorded in the Public Records executed by a majority of Owners of the lots or Parcels subject to the Original Declaration as determined by their improved square footage of the Property; and pursuant to Section 15(b) of the Original Declaration, no such amendment requires the consent of or execution by any mortgagee, trustee under a deed of trust, lessee, or subtenant; and Owners own a majority of the Property; and Owners desire to amend and restate the Original Declaration as set forth herein in its entirety.

**NOW THEREFORE**, Declarant declares that the Property is hereby burdened by the covenants, conditions and restrictions hereinafter set forth and the easements hereinafter described.

1. **Establishment of Restrictions.** Declarant declares that each lot, Parcel or any portion of the Property is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions and covenants, all of which are declared to be in furtherance of Declarant's plan for the improvement and sale of such land and are established for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property in every part. All of the limitations, restrictions, conditions and covenants shall run with the land and shall be binding on all Owners, entities or person having or acquiring any right, title or interest in the Property or any part thereof.

2. **Easements for Ingress and Egress and Parking.** Declarant hereby creates, and agrees to grant to subsequent holders of any interest in the Property or any portions thereof, and similarly reserves therefrom, non-exclusive easements appurtenant to the Property for the purpose of ingress and egress, parking, and an easement for minor encroachments upon the Common Areas (as hereinafter defined) for improvements along the Common Areas shown on Exhibit B attached hereto, to and between the respective Parcels and the public streets

adjoining said parcels. In addition, an easement for six parking spaces as indicated on the map in Exhibit A is reserved for the Ironwood Town Homes as overflow guest parking. In addition, a private access easement has been granted to the Association and the Owners for ingress, egress, and maintenance of a driveway to be used in common with the Ironwood Town Homes ("Common Driveway") and the Association covenants to maintain this Common Driveway and make is a part of the Common Areas. Easements created by this Declaration are shown on Exhibit B.

3. **The Association.** An Association has been, or will be, organized under the Nevada non-profit corporation law to own and maintain the areas designated on the attached Exhibit B which is incorporated herein by reference as though set forth more fully are hereby designated common areas of the Property, subject to assessment costs for maintenance, upkeep and repair and any other items described herein (the "Common Areas"). The Association is charged with the duties and vested with the powers prescribed by Nevada law and as otherwise set forth in the Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed so as to be inconsistent with this Declaration. If there should exist any ambiguity in any provision of the Articles or Bylaws, then such provision shall be construed, to the extent possible, so that such provision shall be consistent with the provisions of this Declaration. Each Owner shall be a member in the Association automatically upon purchase of any portion of the Property and shall cease to be a Member if no longer an Owner of any portion of the Property (a "Member"). Each Member shall own a proportional share of the Association and have voting power and pay assessments in the proportion to that Owners share of the improved square footage in the Property (the "Proportionate Share"). To the extent an Owner's entire portion of the Property is unimproved and has no building or structure on it, that Owner shall not have any voting rights in the Association or be responsible for any assessments until; (a) such time that Improvements are substantially completed (in the reasonable discretion of the Association), (b) any business of any type is operated on that Owner's portion of the Property, or (c) there is issued by the applicable governmental authority a certificate of occupancy (including a temporary certificate of occupancy) for the Improvements on the Owner's portion of the Property and immediately upon the occurrence of (a), (b) or (c), the Owner will gain voting rights and be responsible for the Proportionate Share. Membership in the Association shall be appurtenant to the real property interest owned by each Owner, and membership in the Association shall not be assignable, except to a person or entity to which title thereto has been transferred.

(a) **The Association: Powers and Duties.** The Association shall have all of the powers given to a non-profit corporation by Nevada law, subject only to such limitations upon the exercise of such powers as are expressly set forth in this Declaration. The Association shall have the power to perform any and all lawful acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association. Without in any way limiting the generality of the foregoing provisions, the Association shall have:

(i) **Assessments.** The power and duty to levy Assessments and charges against the Owners and their respective real property and to enforce payment of such assessments, including establishment and foreclosure of liens therefor, all in accordance with this Declaration and



Nevada law in the exercise of these powers (the "Common Expenses") and to collect each Members Proportionate Share of the Common Expenses (the "Common Assessment"). The estimated initial Common Assessments are listed in Exhibit C attached hereto and incorporated herein.

(ii) **Repair and Maintenance of Common Areas.** The power and duty to paint, plant, upkeep, restore, replace, maintain and repair in accordance with standards adopted by the Association and as required by applicable governmental authorities, the Common Areas and all Improvements thereon, in a safe, sanitary and attractive condition and in good order and repair, and to pay for utilities, gardening and other necessary services therefor. All of the foregoing obligations of the Association shall be discharged when and in such manner as the Association shall determine in its judgment to be appropriate and shall include, but not be limited to, the following:

(A) Maintaining, repairing, restriping and resurfacing, when necessary, all paved streets, drives and other surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal or superior in quality, use and durability.

(B) Removing all papers, debris, filth and refuse and thoroughly sweeping the areas to the extent reasonably necessary to keep the areas in a clear, neat and orderly condition.

(C) Operating, maintaining, repairing and replacing, when necessary, such artificial lighting facilities as reasonably required.

(D) Maintaining all landscaped corridors, strips and areas, including, without limitation, those on the perimeter of the Property; maintaining, repairing and replacing, when necessary, automatic sprinkler systems and water lines; and replacing shrubs and other landscaping as is necessary.

(E) Maintenance of common monument signage serving the Property.

(iii) **Manager.** The power, but not the duty, to employ or contract with a professional manager or management company to perform all or any part of the duties and responsibilities of the Association.

(iv) **Other Services.** The power and duty to maintain the integrity of the Common Areas and provide such other services as may be necessary or proper to carry out the Association's obligations and business



under the terms of this Declaration in order to enhance the Common Areas in general, or to facilitate the use by Members of any of the aforesaid.

(v) **Use as Retail Space.** The Property, including any portion thereof, shall be used exclusively for retail business and all commercial activity shall be contained inside each structure.

(b) **Types of Assessments.** Each Owner, by acceptance of a deed or other instrument of conveyance therefor, whether it shall be so expressed in such deed or such other instrument, is deemed to covenant and agree to pay to the Association: (i) the annual Common Assessment; and (ii) other charges and levies as permitted by this Declaration, all such assessments to be established and collected as herein provided and shall be a continuing lien upon each Parcel within the Property subject hereto against which such assessment is levied.

(c) **Purpose of Assessments.** All assessments and charges levied and collected by the Association shall be used solely for the common benefit of all of the Members of the Association for purposes authorized by this Declaration.

(d) **Budget.** The Association shall annually establish or approve a budget and Common Assessment for the Property. Written notice of the amount of each proposed annual Common Assessment based upon such budget therefor along with a summary or copy thereof shall be promptly sent to every Member.

(e) **Installments.** All installments of Common Assessments shall be collected in advance on a regular basis by the Association, at such frequency (e.g. monthly, quarterly, etc.) and on such due dates as the Association shall determine from time to time in its sole and absolute discretion.

(f) **Default; Remedies.** Any installment of any Assessment not paid within thirty (30) days after the respective due date thereof, shall bear interest from and after the due date of such installment at a rate of twelve percent (12%) per annum (the "Default Interest Rate"). If any installment of any assessment hereunder is not paid within thirty (30) days after its due date, the Association may bring an action against the Owner personally to pay the same, or file and foreclose the lien against the Owner's property interest securing the same.

(g) **Notice of Lien.** No action shall be brought to enforce any assessment lien herein unless a Notice of Lien is: (i) personally delivered to the delinquent Owner by a process server; (ii) delivered to the delinquent Owner by a recognized professional courier service; or (iii) deposited in the United States Mail, certified or registered, return receipt requested, postage prepaid, to the Owner of the Parcel, and an original executed and notarized counterpart thereof has been recorded by the Association. Any notice referred by this Section (a "Notice of Lien") must state: (a) the amount of the particular assessment and default interest, late charges, costs including attorneys' fees and expenses including the cost of preparing and recording, or delivering, as applicable, the



Notice of Lien, the Notice of Default, and any other instrument; (b) a legal description of the Parcel against which the assessment was made; and (c) the name of the record Owner. The Notice of Lien shall be signed and acknowledged by an officer of the Association. The lien shall continue until fully paid or otherwise satisfied.

(h) **Foreclosure Sale.** The sale to foreclose an assessment lien may be conducted by the Association, its agent or attorney in accordance with the provisions of NRS Sections 107.030 and 107.090 insofar as they are consistent with the provisions of NRS Sections 116.3116 through 116.31168, inclusive or in any other manner permitted by Nevada law. The Association shall have the power to bid on the Parcel at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's property so sold, and the defaulting Owner shall be required to pay the reasonable rental value thereof during any period of continued occupancy by the defaulting Owner.

Unless otherwise permitted by law, no sale to foreclose an assessment lien may be conducted until: (i) the Association, its agent or attorney has first executed and recorded a notice of default and election to sell the real property interest or cause its sale ("Notice of Default") to satisfy the assessment lien; and (ii) the delinquent Owner or such Owner's successor in interest has failed to pay the amount of the delinquent assessment, default interest, costs including attorneys' fees and expenses incident to its enforcement for a period of sixty (60) days after such recordation. Such sixty (60) day period shall commence on the first (1st) day following the day upon which the Notice of Default is recorded and a copy thereof is sent or delivered as above provided to the Owner or such Owner's successor in interest at his address if known, and otherwise to the address of the Parcel. The Notice of Default must describe the deficiency in payment. The Association, its agent or attorney shall, after the expiration of such sixty (60) day period and before the foreclosure sale, give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that a copy of the Notice of Default must be mailed on or before the first publication or posting by certified mail with postage prepaid to the Owner or such Owner's successor-in-interest at his address if known, and otherwise to the address of the Parcel.

(i) **Curing of Default.** Upon the timely curing of any default for which a Notice of Lien was filed by the Association, the Association shall record an appropriate release of lien upon payment by the defaulting Owner of a reasonable fee to be determined by the Association, to cover the cost of preparing and recording such release.

#### 4. **Improvement, Maintenance and Repair, Insurance and Taxes.**

(a) **Maintenance and Repair.** Each Owner of a Parcel (or any portion thereof) shall be responsible for the expense of keeping its Parcel in good condition and repair, clean and free of rubbish and other hazards to persons using such areas. The maintenance required by this provision shall include, without limitation, the following items:

(i) Removal of all paper, debris, litter, filth, refuse and obstructions from the Parcel;

(ii) Maintenance of lighting fixtures located within the curb line of the Improvements of their respective Parcels, as necessary, and relamping of lighting fixtures within three (3) days after burnout; and

(b) **Insurance.** Each Owner shall be responsible for the expense of insuring its Parcel against occurrences giving rise to liability of the Owners or any of them according to general all risk liability policies in an amount acceptable to the Association. Each Owner shall name each other Owner and the Association as "additional insureds" under each such insurance policy required to be maintained by the terms of this Declaration. Until decided by the Association to the contrary, a minimum amount of Two Million Dollars (\$2,000,000) of liability insurance shall be carried with respect to the liability of the Owners.

(i) **Insurance of Improvements.** Notwithstanding the above, at all times during the term of this Declaration, each Owner of a Parcel shall keep improvements on its respective Parcel insured at its sole cost and expense against loss or damage by fire and other perils and events as may be insured against, with such insurance to be for the full replacement cost of the insured improvements, with a deductible no greater than ten percent (10%) of replacement costs. An Owner (or an Owner's tenant with a contractual obligation of repair or rebuild in the event of damage or destruction) may satisfy the insurance requirements of this Section through a blanket insurance policy or policies.

(ii) Each Owner shall provide to the Association Owner certificates, upon written request, evidencing the fact that the requisite insurance has been obtained.

(iii) Each Owner for itself and its property insurer, shall release each other Owner and the Association and their proper insurers from and against any and all liabilities, claims, causes of action, obligations, demands, damages, losses costs, or expenses, including attorneys' fees and costs, for damage to the Association or other Owner's property or loss of rents or profits of such Association or Owner resulting from or in any way connected with any fire or other casualty whether or not such fire or other casualty shall have been caused by intentional action, negligence or the contributory negligence of the Association or Owner being released or by any officer, agent, employee or associate of the Owner or the

Association being released, this release being to the extent that such damage or loss is covered by the property insurance which the releasing Owner or Association is obligated hereunder to carry, or, if the releasing Owner is not carrying that insurance, then to the extent such damage or loss would be covered if the releasing Owner were carrying that insurance.

(c) **Taxes.** Each Owner of a Parcel (or any portion thereof) shall be responsible for the payment of all taxes and assessments levied against its own Parcel without the right to reimbursement or contribution by other Owner of a Parcel or the Association.

5. **Minimum Parking Requirements.** No building or other improvement shall be constructed or maintained on any Parcel unless and until provision is made for the construction and maintenance of motor vehicle parking areas on such Parcel sufficient to comply with the minimum requirements of any governmental agency having jurisdiction over the matter without need of any variance, exception, or exemption. In complying with this section, the overall parking requirements for the entire Property are to be used as the basis for calculation. This section does not require an individual Parcel to meet such parking requirements itself, but rather that the entire project must meet such minimum requirements without the need of any variance, exception, or exemption.

6. **Maintenance of Unimproved Parcels.** All Parcels (or portions thereof) which have not been improved with buildings shall be kept by the Owner neat, orderly, and free of any and all debris, weeds, trash or unsightly material until improved and constructed and in compliance with any requirements imposed by local governmental agencies. All Parcels, including unimproved Parcels, shall be maintained by the Owner thereof so as to control and suppress the likelihood of dust being generated from such Parcel and such dust control measures shall include those measures reasonably necessary to limit the creation of dust, including, without limitation, hydration or the application of other liquid or spray, or the planning of ground cover.

7. **Damage to Improvements.** In the event any building, structure or other improvement on a Parcel shall be damaged or destroyed by any casualty, the Owner, lessee or user of the Parcel shall promptly repair or reconstruct such improvement to the condition which existed prior to the damage or destruction, or level such improvement, remove the debris from the Parcel and keep the Parcel neat and orderly as required herein until subsequently improved.

8. **Maintenance and Repair of On-Site Drainage Facilities.** Each Owner shall be responsible for its Proportionate Share of the maintenance of all on-site drainage facilities and appurtenances, including any and all sand-oil interceptors (the "Drainage Improvements"). The Town of Minden shall have the right of entry to effect maintenance or repairs to the Drainage Improvements not completed by the Owners. Any repairs or maintenance that the Town of Minden requests shall be directed to the Association in the form of a work order with a detailed scope of work and estimate of chares. The Association will either advise within ten (10) days of receipt of the work scope and estimate of charges from the Town of Minden that the Association will perform the work itself or agree to have the Town of Minden





perform the work. Should the Association not respond to the notice within ten (10) days, then in that event, the Association will be deemed to accept the Town of Minden proposal. Should the Association accept the work scope, the work shall be performed in a good and workmanlike manner and completed promptly. Should the Town of Minden perform the work, it shall do so in a good and workmanlike manner and completed promptly. Upon completion, the Town shall bill the Association, with the right to lien the Property, for the cost of said maintenance and repairs. This provision of the Declaration may not be amended, modified, or terminated without the prior written approval of the Town of Minden, which approval may not be unreasonably withheld.

9. **Reservation of Utility Easements.** There is hereby granted and reserved non-exclusive easements over each Parcel comprising the Property for the installation, maintenance, repair and operation of public utility services to any buildings or structures now or hereafter situated on any Parcel comprising the Property, including, but not limited to, electricity, gas, telephone, cable television, sewer, water and drainage facilities, together with the right to grant the same. All such facilities or installations shall be constructed even with or below the surface of the ground and shall be located within the area designated by the Association as the utility easements, unless the Owners of the affected Parcels mutually agree on a different location. To the extent that any of the above permitted installations are required to be located above the surface, then such installations shall be located so that there shall be an unimpeded access for vehicles and trucks to and from public streets from and to any buildings situated on any Parcel comprising the Property. In no event, however, shall such facilities be located in such a manner as to hinder or impede the other uses or maintenance of any portion of the Common Areas provided for in this Declaration. Each Owner shall be responsible for provision of utilities to its own Parcel. No other Owner shall be obligated to pay for the provision or delivery of utilities to another Owner's Parcel, unless such Owners have entered into an explicit written agreement which allocates such obligation.

10. **Eminent Domain.** The awards and proceeds attributable to eminent domain proceedings on the Property shall be governed as follows:

(a) **Owner's Right to Award.** Nothing herein shall be construed to give any Owner any interest in any award of payment made to the other Owner in connection with any exercise of eminent domain or transfer in lieu thereof affecting such other Owner's Parcel or giving the public or any government any rights in said parcel. In the event of any exercise of eminent domain or transfer in lieu thereof of any part of the Common Areas, the award attributable to the land and improvements of such portion of the Common Areas shall be payable only to the Owner thereof, and no claim thereon shall be made by the Owners of any other portion of the Common Areas.

(b) **Collateral Claims.** All other owners of Parcels may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another Owner.

(c) **Restoration of Common Areas.** The Owner of any portion of the Common Areas or other improvements to a Parcel so condemned shall promptly



repair and restore the remaining portion of the Common Areas and the improvements to its Parcel as nearly as practicable to the condition of the same immediately prior to such condemnation or transfer, to the extent that the proceeds of such aware are sufficient to pay the cost of such restoration and repair and without contribution from any other Owner.

11. **Mechanics Liens.** In the event any mechanics liens are filed against a Parcel, the Owner permitting or causing such lien to be filed shall be obligated either to pay the same and have it discharged of record, promptly, or to take such action as may be required to reasonably and legally object to such lien, or to have the lien removed from such Parcel, and in all events such Owner shall have such lien discharged prior to the entry of judgment for foreclosure of such lien.

12. **Term and Termination.**

(a) **Run with the Land.** The covenants, conditions and restrictions contained in this Declaration shall run with the land and shall be binding upon each and all of the Owners of any part thereof and upon all persons claiming under them. Any easements granted or reserved herein regarding ingress, egress and utility installations shall be perpetual and shall not be affected by a termination of this Declaration.

(b) **Modification.** This Declaration may be canceled, changed, modified or amended in whole or in part only by a written and recorded agreement of a majority (as determined by improved square footage) of the then record fee Owners of all of the Parcels subject to this Declaration. Any such cancellation, change, modification or amendment to this Declaration shall not require the consent or execution by any mortgagee, lessee or subtenant.

(c) **Effect.** This Declaration, executed as of the date hereof, shall take effect only upon, from and after its recording in the Office of the County Recorder of Douglas County.

13. **Breach of Obligations by an Owner.** If any Owner neglects or refuses to perform its obligations contained in this or any other Section of this Declaration within ten (10) days after delivery of a written notice setting forth such default, the Association may perform such obligations and shall be entitled to receive from the defaulting Owner its apportioned share of the cost of curing such default. Such apportioned share shall be due and payable within ten (10) days of the delivery of a bill and if not paid, the Owner advancing such costs shall be entitled to recover from the defaulting Owner the amount of such bill, including interest thereon at the maximum legal rate from the date originally due until the date paid, together with reasonable collection costs, including attorneys' fees. A lien shall be imposed on the property of any defaulting Owner for the amount of such cost, to secure payment of the bill and such lien may be foreclosed as provided hereinafter.



**14. Specific Use Restrictions.** Subject to any applicable zoning requirements. Property may be used for general business uses, except that the following uses shall not be permitted under any circumstances:

- (a) Bath and massage parlors, adult book stores, or any establishment having a substantial or significant portion of its stock-in-trade in books, magazines, and other periodicals and goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specific sexual activities" or "specified anatomical areas," or an establishment with a segment or section devoted to the sale or display of such material or any activities or sale of merchandise that would offend local community standards;
- (b) Nightclub, music hall, discotheque, dance hall, billiard or pool hall or bingo parlor;
- (c) Off track betting parlor;
- (d) Mobile home park, trailer court, labor camp, junkyard or stockyard;
- (e) Dumping, disposing, incineration or reduction of garbage (excluding the placement of dumpsters or garbage compactors for the temporary storage of garbage the contents of which, in each case are removed not less than weekly);
- (f) Facility for the sale of paraphernalia for use with illicit drugs;
- (g) Animal raising facilities (excluding retail pet shops whether or not providing services in conjunction therewith or incidental thereto);
- (h) Primarily as a warehouse (including mini-warehouses but excluding storage incidental or accessory to a primary use permitted hereunder), or for assembling, manufacturing, distilling, refining, smelting, agricultural, or mining; and
- (i) Any residential use whether permanent or temporary.

**14. Miscellaneous Provisions.**

(a) **Application.** Each and all of the foregoing covenants, conditions and restrictions shall;

(i) apply to and bind the Owners of the Parcels subject to this Declaration and each and all of the Owners of any and all portions of the Property and each and all of their respective heirs, successors, assigns, grantees, mortgagees, tenants and subtenants:



(ii) are hereby imposed pursuant to a general plan for the improvements and use of the Property and are designed for the mutual benefit of said Owners, tenants and occupants of any and all portions thereof; and

(iii) shall obligate, inure to and pass with each and every Parcel comprising the Property or any portion thereof and shall remain in force and effect as hereinafter provided.

(b) **Legal Description.** The legal description of each of the Parcels shall be deemed to include any and all rights, title and interest in that portion of the street, roadway, highway or other public right-of-way abutting or bounding each of said Parcels now or hereafter owned by all persons or other entities who may own said Parcel or any portion thereof or any interest therein and the respective heirs, successors, assigns, grantees, mortgagees, tenants and subtenants thereof. Accordingly, such right, title and interest shall be, in all respects, subject and subordinate to the covenants, conditions and restrictions established by and the easements granted in this Declaration.

(c) **Lienholder Protection.** Breach of any of the covenants or restrictions contained in this Declaration shall not defeat nor render invalid the lien of any mortgage or deed of trust made in good faith and for value as to the Property or any part thereof; but, all of the foregoing provisions, restrictions and covenants shall be binding and effective against any Owner of any Parcel subject to this Declaration or any part thereof whose title thereto is acquired by foreclosure, trustee's sale or otherwise. The term "mortgagee" wherever used herein shall be construed to include beneficiaries and trustees under deeds of trust.

(d) **Enforcement.** Any person or persons owning or holding any portion of the Property may prosecute any proceedings at law or in equity against any person or entity violating or attempting to violate any of the covenants, conditions and restrictions herein and either prevent it, him or them from so doing and to recover damages from or on account of such violation.

(e) **Severability.** Invalidation of any one of the covenants, conditions, restrictions or other provisions herein contained by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions or provisions hereof, and the same shall remain in full force and effect.

(f) **Privity.** This Declaration shall create privity of contracts and estate with and among all Owners and grantees of all or any part of the Property and their respective heirs, executors, administrators, successors, assigns, mortgagees, tenants and subtenants thereof. In the event of a breach of attempted or threatened breach by any Owner of any part of the Property of any of the terms, covenants and conditions hereof, any one or all such other Owners of a Parcel subject to this Declaration shall be entitled forthwith to full and adequate

relief by injunction and all such other available legal and equitable remedies from the consequence of such breach all costs and expenses of any such suit or proceedings, including attorneys' fees as hereinafter provided, shall be assessed against the defaulting Owner until paid, effective upon recording notice thereof in the Office of the Douglas County Recorder, but any such lien shall be subordinate to any bona fide mortgage or first deed of trust covering any portion of the Property, and any purchaser at any foreclosure or trustee's sale (as well as any grantee under a deed in lieu of foreclosure or trustee's sale) under any such mortgage or deed of trust shall take title free from any such lien, but, otherwise, subject to the provisions hereof. The remedies permitted at law or equity of any one or all such Owners specified herein shall be cumulative as to each and as to all.

(g) **Attorney's Fees.** In the event that suit is brought for the enforcement of this Declaration or as the result of any alleged breach thereof, the prevailing party to such suit shall be entitled to be paid reasonable attorneys' fees and costs by the losing party, and any judgment or decree rendered shall include an award thereof.

(h) **Headings.** The captions heading the various sections of this Declaration are for convenience and identification only and shall not be deemed to limit or define the contents of their respective sections.

(i) **No Dedication.** The provisions of this Declaration shall not be deemed to constitute a dedication for public use nor create any rights in the general public.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein and the Owners of the Property, has hereunto set its hand and seal this 3<sup>rd</sup> day of NOV, 2005.

DECLARANT/OWNER

Foothill Development Group,  
a Nevada limited liability company

  
Douglas Rastello, Manager

OWNERS

Ironwood Ventures, GP  
a general partnership

by: \_\_\_\_\_  
Partner

Whitecross Limited Partnership,  
a California limited partnership

\_\_\_\_\_  
Richard Berteau, General Partner

relief by injunction and all such other available legal and equitable remedies from the consequence of such breach all costs and expenses of any such suit or proceedings, including attorneys' fees as hereinafter provided, shall be assessed against the defaulting Owner until paid, effective upon recording notice thereof in the Office of the Douglas County Recorder, but any such lien shall be subordinate to any bona fide mortgage or first deed of trust covering any portion of the Property, and any purchaser at any foreclosure or trustee's sale (as well as any grantee under a deed in lieu of foreclosure or trustee's sale) under any such mortgage or deed of trust shall take title free from any such lien, but, otherwise, subject to the provisions hereof. The remedies permitted at law or equity of any one or all such Owners specified herein shall be cumulative as to each and as to all.

(g) **Attorney's Fees.** In the event that suit is brought for the enforcement of this Declaration or as the result of any alleged breach thereof, the prevailing party to such suit shall be entitled to be paid reasonable attorneys' fees and costs by the losing party, and any judgment or decree rendered shall include an aware thereof.


(h) **Headings.** The captions heading the various sections of this Declaration are for convenience and identification only and shall not be deemed to limit or define the contents of their respective sections.

(i) **No Dedication.** The provisions of this Declaration shall not be deemed to constitute a dedication for public use nor create any rights in the general public.

**IN WITNESS WHEREOF**, the undersigned, being the Declarant herein and the Owners of the Property, has hereunto set its hand and seal this 31<sup>st</sup> day of NOV, 2005.


DECLARANT/OWNER

Foothill Development Group,  
a Nevada limited liability company

  
\_\_\_\_\_  
Douglas Rastello, Manager

OWNERS

Ironwood Ventures, GP  
a general partnership

by:   
\_\_\_\_\_  
Partner John A. Colistra

Whitecross Limited Partnership,  
a California limited partnership

\_\_\_\_\_  
Richard Berteau, General Partner

relief by injunction and all such other available legal and equitable remedies from the consequence of such breach all costs and expenses of any such suit or proceedings, including attorneys' fees as hereinafter provided, shall be assessed against the defaulting Owner until paid, effective upon recording notice thereof in the Office of the Douglas County Recorder, but any such lien shall be subordinate to any bona fide mortgage or first deed of trust covering any portion of the Property, and any purchaser at any foreclosure or trustee's sale (as well as any grantee under a deed in lieu of foreclosure or trustee's sale) under any such mortgage or deed of trust shall take title free from any such lien, but, otherwise, subject to the provisions hereof. The remedies permitted at law or equity of any one or all such Owners specified herein shall be cumulative as to each and as to all.

(g) **Attorney's Fees.** In the event that suit is brought for the enforcement of this Declaration or as the result of any alleged breach thereof, the prevailing party to such suit shall be entitled to be paid reasonable attorneys' fees and costs by the losing party, and any judgment or decree rendered shall include an aware thereof.


(h) **Headings.** The captions heading the various sections of this Declaration are for convenience and identification only and shall not be deemed to limit or define the contents of their respective sections.

(i) **No Dedication.** The provisions of this Declaration shall not be deemed to constitute a dedication for public use nor create any rights in the general public.

**IN WITNESS WHEREOF**, the undersigned, being the Declarant herein and the Owners of the Property, has hereunto set its hand and seal this 3<sup>rd</sup> day of NOV, 2005.

DECLARANT/OWNER

Foothill Development Group,  
a Nevada limited liability company


  
\_\_\_\_\_  
Douglas Rastello, Manager

OWNERS

Ironwood Ventures, GP  
a general partnership

by: \_\_\_\_\_  
Partner

Whitecross Limited Partnership,  
a California limited partnership

  
\_\_\_\_\_  
Richard Berteau, General Partner

Tibarom, Inc.,  
a foreign corporation registered in Nevada

---

Paul A. Morabito, President

Mark Gandt,  
an individual

---

Ironwood Leasing LTD,  
a Nevada Limited Liability Company

---

Ronald Tolotti, Manager





Tibarom, Inc.,  
a foreign corporation registered in Nevada

*Paul A. Morabito*

Paul A. Morabito, President

Mark Gandt,  
an individual

Ironwood Leasing LTD,  
a Nevada Limited Liability Company

Ronald Tolotti, Manager



Tibarom, Inc.,  
a foreign corporation registered in Nevada

---

Paul A. Morabito, President

Mark Gandt,  
an individual

---

Ironwood Leasing LTD,  
a Nevada Limited Liability Company

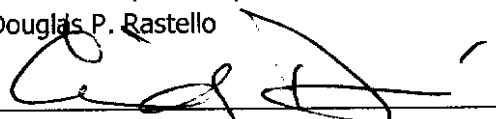
*Ronald F. Tolotti*  
\_\_\_\_\_  
Ronald Tolotti, Manager

*William R. Ford Jr.*  
\_\_\_\_\_  
William R. Ford Jr., Manager



STATE OF **NEVADA** )  
 )  
 ) :ss.  
 )  
COUNTY OF **DOUGLAS** )

This instrument was acknowledged before me on  
November 3, 2005 by  
Douglas P. Rastello

  
\_\_\_\_\_  
Notary Public  
(My commission expires: November 11, 2006 )



COPY

COPY

**ACKNOWLEDGMENT**

State of California  
County of Santa Clara

On November 8, 2005 before me, the undersigned, a Notary Public in and for said State, personally appeared **JOHN A. COLISTRA**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument entitled **AMENDED AND RESTATED DECLARATION OF ESTABLISHMENT OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANTS OF EASEMENTS** and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Signature Sharon Wilson  
Sharon Wilson

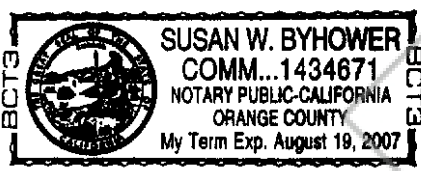
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Orange } ss.

On Nov. 9, 2005 before me Susan W. Byhower  
Date Name and Title of Officer (e.g., Jane Doe, Notary Public)

personally appeared Richard Bertea  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.  
Susan W. Byhower  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**  
Amended & Restated declaration of Establishment of  
Title or Type of Document: Covenants, conditions & restrictions & grants of Easements

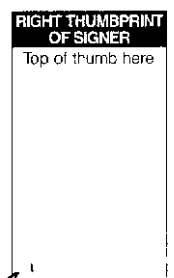
Document Date: 11-3-05 Number of Pages: 22

Signer(s) Other Than Named Above: Douglas Rastello

**Capacity(ies) Claimed by Signer**

Signer's Name: Richard Bertea

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: Whiteross Limited Partnership

**ACKNOWLEDGEMENT OF NOTARY PUBLIC**

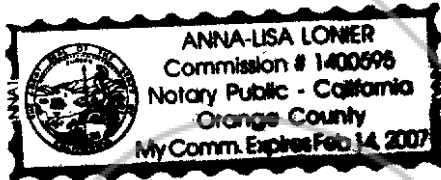
STATE OF CALIFORNIA )  
                                  )  
COUNTY OF ORANGE )

On November 16, 2005 before me, Anna-Lisa Lonier, a notary public in and for said County and State, personally appeared Paul Morabito, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument he, or the entity (Tibarom Inc.) upon behalf of which he acted, executed the instrument.

WITNESS my hand and official seal:

  
Anna-Lisa Lonier

SEAL



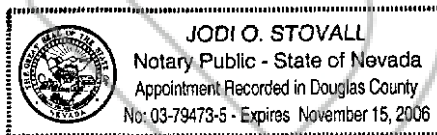
STATE OF **NEVADA** )  
 )  
 ) :SS.  
 )  
COUNTY OF **DOUGLAS** )

This instrument was acknowledged before me on  
November 29, 2005 by  
Mark Gandt

  
\_\_\_\_\_

Notary Public

(My commission expires: 11-15-06 )



**COOPER**



STATE OF NEVADA

COUNTY OF WASHOE

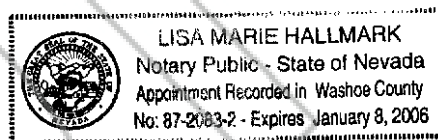
On November 9, 2005 before me a Notary Public, personally appeared

Ronald Tolotti, Manager of Ironwood Leasing LTD,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

*Lisa M Hallmark*  
Notary Public





STATE OF NEVADA


COUNTY OF WASHOE

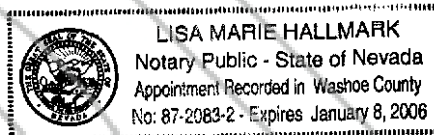
On November 9, 2005 before me a Notary Public, personally appeared

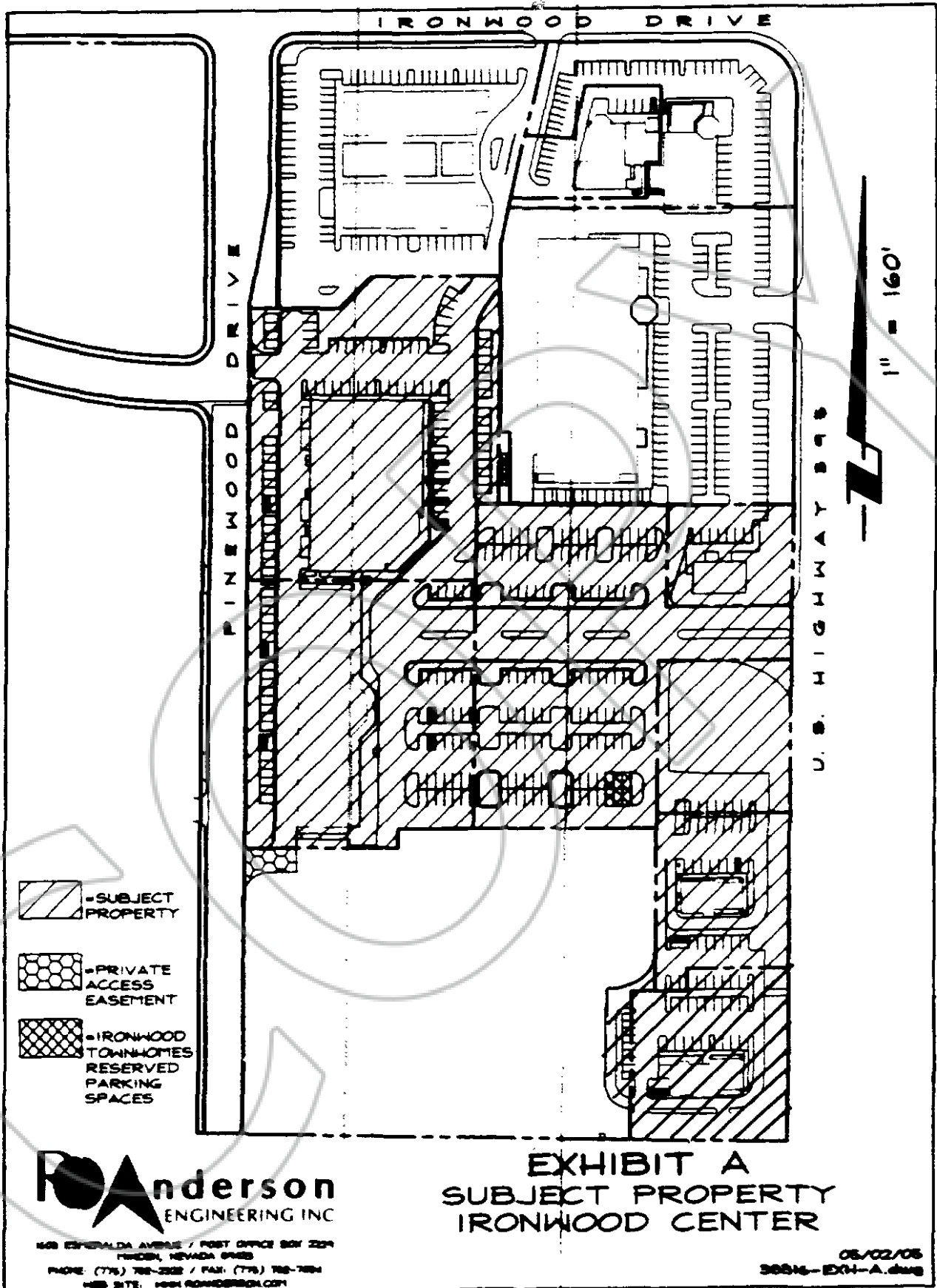
William R. Ford Jr., Manager of Ironwood Leasing LTD

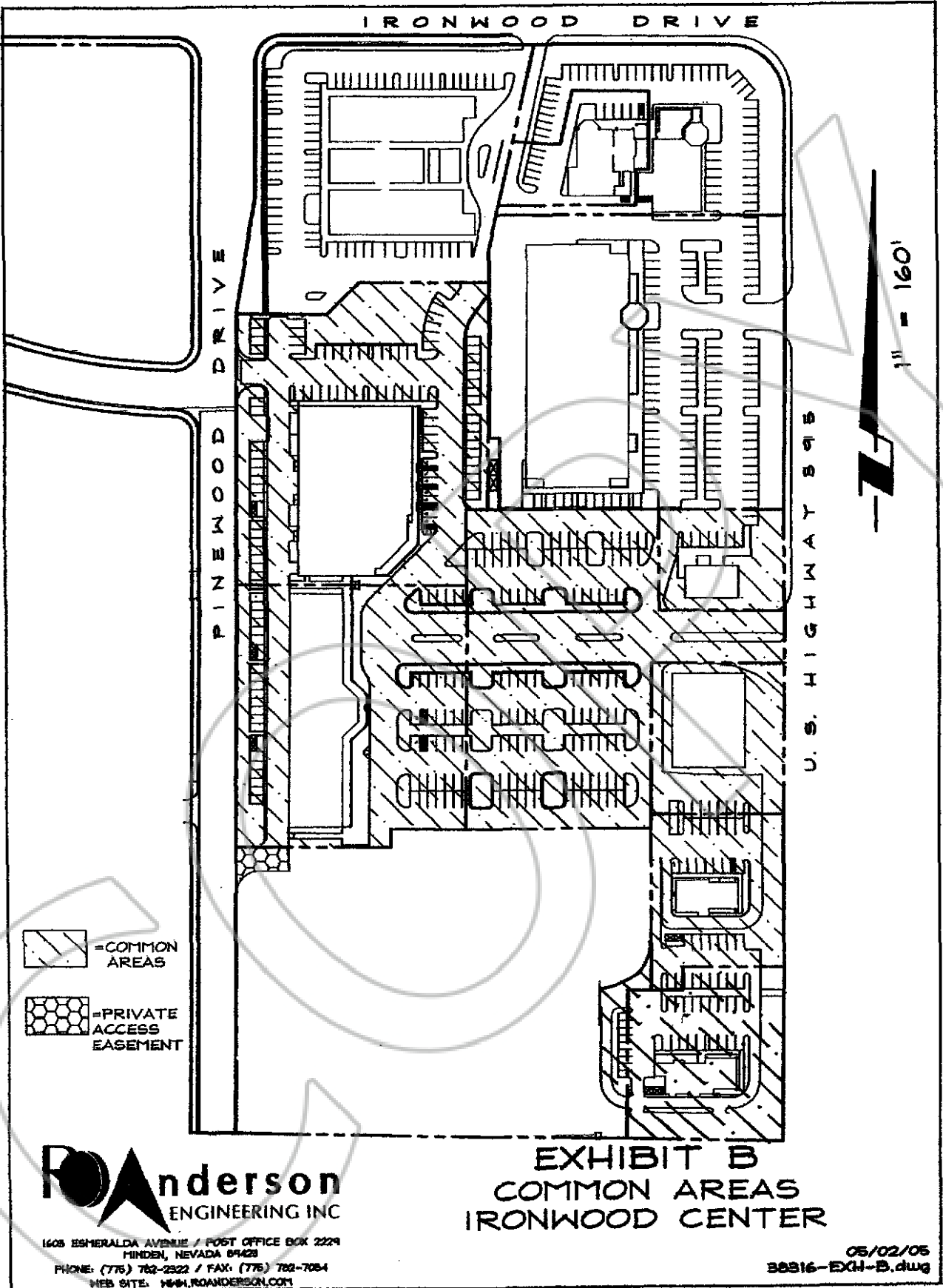
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

  
Notary Public







## Exhibit C - Estimated Initial Common Assessments 2005 Parking Lot CAM Budget

Expenses	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
<b>Utilities</b>													
Water	50.50	50.50	50.50	275.00	275.00	275.00	275.00	275.00	375.00	375.00	375.00	50.50	2,702.00
Electricity	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	2,400.00
<b>Total Utilities</b>	<b>250.50</b>	<b>250.50</b>	<b>250.50</b>	<b>475.00</b>	<b>475.00</b>	<b>475.00</b>	<b>475.00</b>	<b>475.00</b>	<b>575.00</b>	<b>575.00</b>	<b>575.00</b>	<b>250.50</b>	<b>5,102.00</b>
<b>Repair &amp; Maintenance</b>													
General R&M	400.00	400.00	400.00	400.00	400.00	400.00	400.00	400.00	400.00	400.00	400.00	400.00	4,800.00
Towing	150.00	-	-	150.00	-	-	150.00	-	-	150.00	-	-	600.00
Landscaper/Plants	600.00	600.00	600.00	1,300.00	2,000.00	1,300.00	1,300.00	1,300.00	1,300.00	1,300.00	600.00	600.00	13,500.00
Supplies	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	300.00
Parking Lot	335.00	335.00	335.00	335.00	335.00	335.00	335.00	335.00	335.00	335.00	335.00	335.00	4,020.00
Snow Removal	350.00	350.00	-	-	-	-	-	-	-	-	-	350.00	1,250.00
<b>Total R&amp;M</b>	<b>1,860.00</b>	<b>1,710.00</b>	<b>1,360.00</b>	<b>2,210.00</b>	<b>2,760.00</b>	<b>2,060.00</b>	<b>2,210.00</b>	<b>2,060.00</b>	<b>2,210.00</b>	<b>2,260.00</b>	<b>1,710.00</b>	<b>350.00</b>	<b>24,470.00</b>
<b>Administrative</b>													
Management Fee	600.00	600.00	600.00	600.00	600.00	600.00	600.00	600.00	600.00	600.00	600.00	600.00	7,200.00
Administrative Fee	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	600.00
<b>Total Admin.</b>	<b>650.00</b>	<b>650.00</b>	<b>650.00</b>	<b>650.00</b>	<b>650.00</b>	<b>650.00</b>	<b>650.00</b>	<b>650.00</b>	<b>650.00</b>	<b>650.00</b>	<b>650.00</b>	<b>650.00</b>	<b>7,800.00</b>
<b>Insurance &amp; Taxes</b>													
Insurance	-	-	-	-	-	-	-	-	-	-	-	-	2,900.00
Real Estate Taxes	1,254.00	-	1,254.00	-	-	-	-	-	-	-	-	-	5,016.00
<b>Total Insurance &amp; Taxes</b>	<b>1,254.00</b>	<b>-</b>	<b>1,254.00</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>7,916.00</b>
<b>Total Expenses</b>	<b>4,014.50</b>	<b>2,610.50</b>	<b>3,514.50</b>	<b>3,335.00</b>	<b>3,885.00</b>	<b>3,165.00</b>	<b>3,335.00</b>	<b>4,439.13</b>	<b>3,285.00</b>	<b>3,435.00</b>	<b>4,739.13</b>	<b>2,610.50</b>	<b>45,288.00</b>

	Current	Front Pad Developed
Whitcross Retail	16,610	16,610
Theaters	20,470	20,470
Dairy Queen	2,500	2,500
Clubs	2,772	2,772
Starbucks	2,920	2,920
New Pad Building	45,272	52,772
	100%	100%
	3,774.00	3,774.00



**DEAN HELLER**  
 Secretary of State  
 206 North Carson Street  
 Carson City, Nevada 89701-4290  
 (775) 684 5768  
 Website: secretaryofstate.biz

Entity #  
**E0095922005-2**  
 Document Number  
**20050056559-37**

Date Filed:  
 3/10/2005 2:50:58 PM  
 In the office of

*Dean Heller*

**Nonprofit Articles of Incorporation**  
 (PURSUANT TO NRS 82)

Important: Read attached instructions before completing form.

ABOVE SIGNATURE: **Dean Heller**  
 Secretary of State

<b>1. Name of Corporation:</b>	IRONWOOD CENTER COMMERCIAL ASSOCIATION
<b>2. Resident Agent Name and Street Address:</b> <small>(Must be a Nevada address, where process may be served.)</small>	<p>SANTORO, DRIGGS, WALCH, KEARNEY, JOHNSON &amp; THOMPSON  <small>Name</small>          400 SOUTH FOURTH ST., THIRD FL.      LAS VEGAS      NEVADA 89101  <small>Physical Street Address</small>      <small>City</small>      <small>State</small>      <small>Zip Code</small></p> <p>Additional Mailing Address      <small>City</small>      <small>State</small>      <small>Zip Code</small></p>
<b>3. Names, Addresses, Number of Board of Directors/Trustees:</b>	<p>The names and addresses of the First Board of Directors/Trustees are as follows:</p> <p>1. DOUG RASTELLO  <small>Name</small>          1964 GLENBROOK HOUSE RD      GLENBROOK      NV      89413  <small>Street Address</small>      <small>City</small>      <small>State</small>      <small>Zip Code</small></p> <p>2.  <small>Name</small>  <small>Street Address</small>      <small>City</small>      <small>State</small>      <small>Zip Code</small></p> <p>3.  <small>Name</small>  <small>Street Address</small>      <small>City</small>      <small>State</small>      <small>Zip Code</small></p> <p>4.  <small>Name</small>  <small>Street Address</small>      <small>City</small>      <small>State</small>      <small>Zip Code</small></p>
<b>4. Purpose:</b>	The purpose of this Corporation shall be: Commercial Association
<b>5. Names, Addresses and Signatures of Incorporators:</b> <small>(Attach additional copies if there is more than 1 incorporator.)</small>	<p>R. Michael Blakley  <small>Name</small>          400 SOUTH FOURTH ST., THIRD FL.      LAS VEGAS      NV      89101  <small>Street Address</small>      <small>City</small>      <small>State</small>      <small>Zip Code</small></p> <p><i>R. Michael Blakley</i>  <small>Signature</small></p>
<b>6. Certificate of Acceptance of Appointment of Resident Agent:</b>	<p>I hereby accept appointment as Resident Agent for the above named corporation.</p> <p><i>R. Michael Blakley</i>  <small>Authorized Signature of R.A. or On Behalf of R.A. Company</small>      Date <b>3-10-05</b></p>

This form must be accompanied by appropriate fees. See attached fee schedule.

Nevada Secretary of State Form NRS 82 ARTICLES 2003  
 Revised on 4/21/04

**ADDENDUM TO THE  
ARTICLES OF INCORPORATION  
OF  
IRONWOOD CENTER COMMERCIAL ASSOCIATION**

**ARTICLE 7**

**PURPOSE AND POWERS**

The Association is a nonprofit corporation organized for those purposes that qualify it as an exempt organization under the Internal Revenue Code of 1986, as amended (the "Code"). The objective of the Association is to provide for management, administration, maintenance, and architectural control of the commercial ownership community referred to as Ironwood Center Commercial Association, located on the real property described in the Declaration of Covenants, Conditions and Restrictions for Ironwood Center and pursuant to the terms thereof and of Chapter 116 of the Nevada Revised Statutes. Except as provided below, the Association may engage in any lawful activities incident to such purposes and objectives. Capitalized terms used herein, unless otherwise defined, shall have the meanings ascribed to such terms in the Declaration.

**ARTICLE 8**

**LIMITATION ON LIABILITY**

No director or officer shall be personally liable to the Association or its Members for monetary damages for breach of fiduciary duty as a director or officer; provided, however, that this Article V shall not eliminate or limit the liability of a director or officer for: (a) acts or omissions that involve intentional misconduct, fraud, or a knowing violation of law; (b) the



payment of distributions in violation of NRS § 82.136; or (c) an action or proceeding brought pursuant to NRS § 82.536 or NRS Chapter 35.

#### ARTICLE 9

#### INDEMNIFICATION

The Association shall indemnify any director or officer for any liability asserted against such director or officer and for any liability and legal expenses, including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonable incurred by him or her arising out of his or her status or actions as a director or officer if he or she acted in good faith and in a manner that he or she reasonably believed to be in or not opposed to the best interests of the Association and had no reasonable cause to believe his or her conduct was unlawful.

#### ARTICLE 10

#### AMENDMENT

Amendment of these Articles of Incorporation shall require the approval of the Board, the consent of sixty-seven percent (67%) of the Members entitled to vote, and such other requirements as set forth in the Declaration.



# SECRETARY OF STATE



## CORPORATE CHARTER

I, DEAN HELLER, the duly elected and qualified Nevada Secretary of State, do hereby certify that **IRONWOOD CENTER COMMERCIAL ASSOCIATION**, did on March 10, 2005, file in this office the original Articles of Incorporation; that said Articles of Incorporation are now on file and of record in the office of the Secretary of State of the State of Nevada, and further, that said Articles contain all the provisions required by the law of said State of Nevada.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of State, at my office on March 10, 2005.

*Dean Heller*

DEAN HELLER  
Secretary of State

By

*Debra K. Mayne*

Certification Clerk

