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**DECLARATION OF EASEMENTS,
RESTRICTIONS AND COVENANTS FOR CONDOMINIUMS
TO BE KNOWN AS BROADWAY LOFTS CONDOMINIUMS**

REF# 05-136233

This Declaration is for condominiums under the Indiana Condominiums Act, IC 32-25-1-1, *et seq.* ("Act"), made this 22nd day of July, 2005, by Roberts Development Company, LLC, an Indiana limited liability company ("Declarant").

1. Declaration and Submission of Real Estate under Terms and Conditions of Indiana's Condominiums Act. The Declarant, with a mailing address of 226 East St. Joseph Street, Indianapolis, Indiana, 46202, being the fee simple owner of certain real estate located in Marion County described on the attached **Exhibit A** (the "Real Estate"), by virtue of a Warranty Deed dated October 25, 2004, and recorded on October 29, 2004, as Instrument No. 2004-0205655 in the records of the Recorder of Marion County, Indiana, does create, submit, subject, and declare the Real Estate hereafter detailed to be condominiums under the Act, together with the buildings, improvements, and appurtenances as shown and depicted on the Boundary Survey attached as **Exhibit B** ("Survey"), along with as-built floor plans ("Plans"), certified as correct and accurate dated August 12, 2005, by CA Studio, to be known as Broadway Lofts Condominiums.

2. Indiana's Condominiums Act. Declarant further states and expressly declares that the Act is incorporated into and made a part of this Declaration by reference.

3. Incorporation of Exhibits. Exhibits A, B and C are incorporated into and made a part of this Declaration by reference.

4. Definitions. The following terms, as used in the Declaration, unless the context clearly requires otherwise, shall mean the following:

- 4.1 "*Association*" means the incorporated association of Owners of Broadway Lofts Owner's Association, Inc., an Indiana nonprofit corporation, more particularly described in paragraph 19.
- 4.2 "*Board of Directors*" means the governing body of the Association, being the initial Board of Directors referred to in the Bylaws or subsequent Board of Directors elected by the Owners in accordance with the Bylaws. The term "Board of Directors", as used in this Declaration and in the Bylaws, shall be synonymous with the term "Board of Directors" as used in the Act.
- 4.3 "*Broadway Lofts Condominiums*" means the name by which the Property and Units shall be known.
- 4.4 "*Building*" means and refers to the single building structure with thirteen (13) Units to be constructed on the Real Estate. The Building is more particularly described and identified on the Plans and in word description contained in paragraph 5 of this Declaration.

- 4.5 “*Bylaws*” means the Bylaws of the Association providing for the administration and management of the Property as required by and in conformity with the provisions of the Act. A true copy of the Bylaws is attached to this Declaration as **Exhibit C**.
- 4.6 “*Common Areas*” means the commons areas and facilities appurtenant to the Property as defined in paragraph 8 of this Declaration.
- 4.7 “*Common Expenses*” means expenses of administration of the Association and expenses for the upkeep, maintenance, repair, and replacement of the Common Areas and Limited Common Areas and all sums assessed against the Owners of the Association or as declared by the Act, this Declaration, or the Bylaws.
- 4.8 “*Condominium Interest*” shall mean the following:
- 4.8.1 Fee simple title to a Unit;
 - 4.8.2 An undivided interest, together with all other Owners in the Common Areas and Limited Common Areas in the Property;
 - 4.8.3 An exclusive right to use the areas described in the Declaration, Plans and accompanying documents as “Limited Common Areas” and restricted to the use of the Owner’s respective Unit;
 - 4.8.4 A membership in the Association, as subsequently defined, and subject to the Declaration, the Bylaws of said Association and all governing documents of said Association;
 - 4.8.5 Fee simple title to the below grade parking space corresponding to the Condominium Unit as shown by the Plans which are a part of this Declaration; and
- 4.9 “*Declarant*” shall mean and refer to Roberts Development Company, LLC, an Indiana limited liability company, and any successors and assigns whom Robert L. Britton and/or Robert H. Claxton designates in one or more written recorded instruments to have the rights of Declarant under this Declaration, including, but not limited to, any mortgagee acquiring title to all or any portion of the Property pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant. A mortgagee acquiring title by virtue of foreclosure against the Declarant does not assume the prior obligations or liabilities of the Declarant.
- 4.10 “*Limited Common Areas*” means the limited common areas and facilities as defined in paragraph 9 of this Declaration.
- 4.11 “*Mortgagee*” means the holder of a first mortgage lien on a Unit.
- 4.12 “*Owner*” means a person, firm, corporation, partnership, association, trust, or other legal entity or any combination thereof who owns the fee simple title to a Unit and the condominium interest inherent therein.

- 4.13 "Owners" means the owners of all of the Units.
- 4.14 "Percentage Interest" means the percentage of undivided interest in the title to the Common Areas and Limited Common Areas appertaining to each Unit as specifically expressed in this Declaration.
- 4.15 "Percentage Vote" means that percentage of the total vote accruing to all of the Units which is appurtenant to each particular Unit and accrues to the Owner of such Unit. The Percentage Vote to which each Owner shall be entitled on any matter upon which the Owners are entitled to vote shall be the same percentage as Percentage Interest appurtenant to such Owner's Unit.
- 4.16 "Property" means collectively the Real Estate, including the Units, the Building, improvements, appurtenances, and property of every kind and nature whatsoever, real, personal, and mixed, located upon the Real Estate and used in connection with the operation, use, and enjoyment of Broadway Lofts Condominiums, but expressly does not include the personal property of the Owners or their tenants.
- 4.17 "Unit" means one of the condominium units constituting Broadway Lofts Condominiums. Each unit shall be a separate freehold estate as provided in the Act, consisting of the space within the boundaries of such unit and being more particularly described and identified on the Plans and other paragraphs of the Declaration. For purposes of the application of the Act, the term "Unit" as used in this Declaration and all attending documents shall be deemed to be synonymous with the term "condominium unit" in the Act.

5. Description of Building. There shall be one building of two and three-stories, containing a total of thirteen (13) Units. A below grade parking garage shall provide a total of twenty-one (21) parking spaces. Further details, terms and use conditions for the Buildings and Appurtenances, including, but not limited to parking areas and other Common Areas and Limited Common Areas are set forth in, and further delineated on, the Plans.

6. Identification and Title Transfer of Units. Each Unit is identified and located by unit number on the Plans.

The Plans for the Broadway Lofts Condominiums submitted with this Declaration set forth the Building as to be constructed upon the Real Estate, set forth the relation of the Building to the lot lines, and establishes the placement of all other improvements upon the Property and in the Building. The Plans further establish the location or locations of the Units within the Building. Accordingly, the unit addresses designating the Units within the Building are set forth on the floor plans of the Building submitted with this Declaration, and said Plans further designate the dimensions, layout, and locations of the respective Units. A sufficient legal description of each Unit for all purposes shall consist of the identifying address of the Unit and the name Broadway Lofts Condominiums and reference to the recording information. By way of example, a unit in a given building may be formally described and conveyed as:

Unit #____ in the Broadway Lofts Condominiums as per the Declaration recorded as Document No. _____ under date of _____, _____, in the Office of the Recorder of Marion County, Indiana.

7. Description of Units.

7.1 Appurtenances. Each Unit shall consist of all space within the boundaries thereof, as hereinafter defined, all portions of the Building situated within such boundaries, including, but not limited to all fixtures, facilities, utilities, equipment, appliances; and structural components designed and intended solely and exclusively for the enjoyment, use and benefit of the Unit wherein the same are located, or to which they are attached, but excluding therefrom that designated, designed or intended for the use, benefit, support, safety or enjoyment of any other Unit or which may be necessary for the safety, support, maintenance, use and operation of any part of the Buildings or which are normally designed or designated for common use; provided, however, that all fixtures, equipment and appliances designated, designed or intended for the exclusive enjoyment, use and benefit of a Unit shall constitute a part of such Unit, whether or not the same are located within or partly within the boundaries of such Unit, and all interior walls and all of the floors and ceilings within the boundaries of a Unit are considered part of the Unit.

7.2 Boundaries. The boundaries of each Unit shall be as shown on the Plans measured between the interior unfinished surface of the floors, ceilings and perimeter walls of each Unit. In the event any horizontal or vertical or other boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or ceiling surface of the Unit because of inexactness or construction, settling after construction, or for any other reasons, the boundary lines of each Unit shall be deemed to be and treated for purposes of ownership, occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent appurtenant easements for exclusive use shall exist in favor of the Owner of each Unit in and to such space lying outside of the actual boundary lines of the Unit, but within the appropriate wall, floor or ceiling surfaces of the Unit.

7.3 Condominium Interest. Each Unit shall carry with it a Condominium Interest, and the Condominium Interest shall be inseparable from said Unit and shall pass with the fee interest to said Unit as an integral part of such Unit.

8. Common Areas. Common Areas means and consists of and includes all portions of the Property and the Improvements located on the Property, excluding the Units as defined and provided for in this Declaration, the Bylaws of the Association, and the Plans of Broadway Lofts Condominiums except as otherwise provided. Common Areas shall include but not be limited to the following:

8.1 The Property (excluding the Units);

- 8.2 The foundation, columns, girders, beams, supports, and roofs of the Building;
- 8.3 The driveways, parking areas (other than parking spaces in the below grade garage which are numbered 1 through 16), yards, gardens, landscape tiers, sidewalks, and buildings, containing parking spaces, maintenance, and storage facilities (if any);
- 8.4 All facilities providing central electricity, gas, water supply systems, and sanitary sewer or septic systems and mains serving the Building;
- 8.5 Exterior lighting fixtures and electrical service lighting exterior of the Building;
- 8.6 Pipes, ducts, electrical wiring, and conduits and public utilities lines;
- 8.7 Roofs, floors, ceilings, and perimeter walls, except the interior surface thereof as defined in boundaries of Individual Units;
- 8.8 All facilities and appurtenances located outside of the boundary lines of the Units, except those areas and facilities expressly defined as part of a Unit and except to the extent the same are otherwise classified and defined as Limited Common Areas; and
- 8.9 Any other portions of the property necessary or convenient to its existence, maintenance and safety or normally in common use, except to the extent specifically included within the boundaries of the Units.

Each Owner of a Unit may use the Common Areas in accordance with the Bylaws, Rules and Regulations and for the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other Owners, subject always to the exclusive use of the Limited Common Areas as provided in this Declaration.

9. Limited Common Areas. Limited Common Areas shall be those portions of the Common Areas which are limited in their use and enjoyment to fewer than all the Owners. Limited Common Areas and those Units to which use thereof is limited are as follows:

- 9.1 Mechanical Equipment. Air conditioning equipment, heating equipment, ventilation equipment, ducts, pipes, wires, bathroom plumbing facilities and fixtures, kitchen plumbing facilities and fixtures, and hot and cold water systems, including water heaters, shall be limited common elements reserved for the use of the Units respectively served by such equipment. The designation of the Limited Common Areas and the Unit or Units they serve is set forth and depicted on the Plans or as further described and defined in this Declaration. The costs of upkeep, maintenance, replacement, and management of the limited common elements and facilities, systems, and equipment shall be charges to the Owners of the Unit or Units served by such equipment as Unit expenses in the manner provided in the Bylaws.

- 9.2 Window Frames, Door Frames, Entrances, Walks and Steps. Window frames, door frames, entrances, walks, and steps upon or through which access to a Unit is obtained are limited to the use and enjoyment of the Unit or Units served by such improvements. The exterior sides and surfaces of doors, windows, and frames surrounding the same in the perimeter walls of each Unit shall be limited to the exclusive use of the Unit to which they appertain and the expenses for maintaining or replacing same shall be borne by the Owner of the Unit.
- 9.3 Utilities and Improvements Serving Individual Units. All utilities lying within the exterior dimensions of the perimeter walls of any Unit and exclusively serving a particular Unit or Units within the Building shall be deemed to be Limited Common Areas, and shall be restricted to the use and enjoyment of the Unit or Units which they serve. Such utilities shall expressly be deemed to include, but shall not be limited to all water, sewer, gas, electrical, TV, telephone, and heating and air conditioning lines, ducts, and facilities of every type or nature whatsoever. Except as may otherwise be expressly provided, such utilities and all portions thereof lying outside the exterior perimeters of any unit shall be deemed to be and remain Common Areas. In addition to those facilities established as Limited Common Areas above, all heating and air conditioning facilities lying within or without the exterior perimeters of any Unit and serving any particular Unit within any such Building shall be deemed to be Limited Common Areas, and shall be restricted the use and enjoyment of the Unit which they serve. The cost of maintaining and replacing such facilities shall be borne by the Unit served by such equipment, and the owner shall be personally responsible for such maintenance, replacement and costs. Such heating and air conditioning facilities shall include all heating and air conditioning ducts, lines, and improvements lying within, the exterior or interior perimeters of the Building, all air condenser units located or lying outside any Unit and all lines, ducts, or facilities connecting any such condenser with any of the said lines, ducts or improvements within the perimeters of a Building.
- 9.4 Limited Common Areas Depicted on Plans. All other areas and facilities designated and shown on the Plans as Limited Common Areas shall be limited to the Unit or Units to which they appertain and serve as shown on the Plans.

10. Encroachments and Easements for Commons Areas. If by reason of the location, construction, settling, or shifting of a Building, any Common Area or Limited Common Areas now encroaching or shall subsequently encroach upon a Unit, then in such event, an easement shall be deemed to exist and run to the Owners and the Association for the maintenance, use, and enjoyment of such Common Area or Limited Area.

Notwithstanding any other provision in this Declaration to the contrary, each Owner shall have an easement in common with another Owner or Owners to use all pipes, wires, ducts, cables, conduits, utility lines, and other common facilities of any kind or nature located in or running through any of the other Units and serving such Owner's Unit.

11. Encroachment Due to External Cause. In the event the Building, the Unit, or any adjoining Common Area or Limited Common Area shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the Common Area or Limited Common Area upon any Unit, or of any Unit upon any other Unit or upon any portion of the Common Area or Limited Common Area, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance of such encroaching Common Area or Limited Common Area or Unit shall exist so long as such Building shall stand.

12. Access. Access to the parking garage and to the individual Units is obtained through and from dedicated streets known as 10th Street and Broadway Street as detailed on the Plans.

13. Easements. The Board of Directors shall be authorized and empowered to give, convey, transfer, cancel, relocate, and otherwise deal with utility and other easements located on or within the Common Areas or Limited Common Areas.

14. Ownership of Common Areas and Percentage Interest. Each Owner shall have an undivided interest in the Common Areas and the Limited Common Areas equal to such Owner's Unit's Percentage Interest. The Percentage Interest of each Unit shall be equal for all purposes and shall be a percentage equal to the number one (1) divided by the total number of Units.

15. Unit Voting Rights. The Percentage Interest appertaining to each separate Unit in the Common Areas and Facilities and Limited Areas and Facilities as set forth in paragraph 14 above, shall be permanent and shall not be altered or changed without the unanimous written consent of all Owners and then only if in compliance with all requirements of the Act. Each Unit Owner shall be entitled to the number of votes equal to such Owner's Percentage Interest. Section 2.5 of the Bylaws sets forth the voting rights and procedure. Each Unit Owner shall be permitted to designate a written proxy to vote on all matters.

16. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Unit as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Unit, but are assessed and taxed on the Property as a whole, then each Owner shall pay his proportionate share of such taxes to the extent attributable to the Property in accordance with such Owner's respective Percentage Interest.

17. Utilities. Each Owner shall pay for the Owner's own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Common Expenses, unless otherwise agreed by a majority of the Percentage Vote of the Owners.

The sanitary system will be dedicated to the City of Indianapolis, Indiana. The integrity and maintenance from and including manholes forward to the units, including this main, lateral, and backflow preventor shall be an Association common expense.

The Association shall protect the integrity of and maintain the storm water system within the Property including the backflow preventor as a common expense of the Association.

18. Easement for Utilities and Public and Quasi-Public Vehicles. All public and quasi-public vehicles, including but not limited to police, fire, and other emergency vehicles,

trash and garbage collection, post office vehicles, and privately owned delivery and maintenance vehicles, shall have the right to enter upon the streets, Common Areas and Limited Common Areas in the performance of their duties and services. An easement is also granted to all utilities and their agents for ingress, egress, installation, replacement, repairing, and maintaining of such utilities, including but not limited to water, sewer, gas, telephones, cable television and communications, and electricity on the Property; provided, however, nothing in this Declaration shall permit the installation of sewers, electric lines, water lines, telephone lines, cable television lines, or other utilities, except as initially designed and approved by Declarant or as subsequently may be approved by the Board of Directors. By virtue of this easement, the electric and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the property and to affix and maintain electric and telephone wires, circuits, and conduits on, above, across, and under the roofs and exterior walls of the Building.

19. Association of Owners.

19.1 Subject to any rights of Declarant reserved in the Declaration or Bylaws, the maintenance, repair, upkeep, replacement, administration, management, and operation of the Property shall be performed by the Association. Each Owner shall, automatically, by virtue of ownership of a Unit, be and become a member of the Association, but membership shall terminate when such person ceases to be an Owner and will automatically be transferred to the new Owner.

19.2 The Association shall elect a Board of Directors annually (except for an Initial Board of Directors defined in the Bylaws) in accordance with and as prescribed by the Bylaws. Each Owner shall be entitled to cast such Owner's Percentage Vote for the election of the Board of Directors, except for the Initial Board of Directors who shall serve until the Applicable Date, at which time the Initial Board will be replaced by a Board of Directors elected by the Unit Owners. Each person serving on the Initial Board of Directors, whether as an original member or as a member appointed by Declarant to fill a vacancy, shall be deemed a member of the Association and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board of Directors shall be deemed or considered a member of the Association nor an Owner of a Unit for any other purpose (unless such person is actually an Owner of a Unit and, therefore, otherwise a member of the Association). The Board of Directors shall be the governing body of the Association, representing all of the Owners in providing for the management, administration, operation, maintenance, repair, replacement, and upkeep of the Property, exclusive of the Units.

20. Maintenance, Repairs, and Replacements. Each Owner shall, at the Owner's expense, be responsible for the maintenance, repairs, decoration, and replacement within such Owner's own Unit, and the Limited Common Areas reserved for such Unit's use and as further provided in the Bylaws. Each Owner shall repair any defect occurring in his Unit which, if not repaired, might adversely affect any Unit, Common Area, or Limited Common Areas. Maintenance, repairs, replacements, and upkeep of the Common Areas and Limited Common Areas shall be controlled by the Association and shall be chargeable by the Association to all

Units or fewer than all Units for Limited Common Areas serving those areas, as the Declaration, Bylaws and Rules and Regulations of the Condominiums shall provide. The Board of Directors shall adopt such Rules and Regulations concerning maintenance, repairs, use, and enjoyment of the Common Areas and Limited Areas and the rental of Units as it deems appropriate, and may amend and modify the same from time to time as it deems advisable, necessary, or appropriate. The Association shall have the duty of determining, by estimate or otherwise, and collecting the amount of, common expenses necessary to maintain, repair, or replace equipment, and facilities, and administer all improvements constituting a part of the Common Areas. The duties of the Association shall be more fully set out in the Bylaws, consistent with the following general statement of the obligations of the Association. Annually, on or before the date of the regular annual meeting of the Association, the Association shall notify the Owner of each Unit of the amount of the estimated annual assessment, and shall collect the applicable Percentage Interest (as set forth in paragraph 14) of the assessment amount from each Owner on not less than a monthly basis. The estimated common expenses shall be on a calendar year basis. The Association shall maintain and establish a reserve fund for deferred maintenance, repairs, replacements, administration costs, payment of a manager, other employees and agents, payment of insurance premiums, and other matters deemed appropriate. Common Expenses shall be deemed to include, but not be limited to, the insurance premium for all insurable improvements, administration, and management expenses, the cost of maintenance of the recreation areas and other facilities, and equipment used in connection with the Common Areas. It shall also include all other maintenance, repair, and upkeep of the Common Areas. All Owners shall be responsible and liable for a pro-rata share of the Common Expenses as provided for in this Declaration and the Bylaws. Except as otherwise provided in the Declaration, Bylaws, and Rules and Regulations of the Association, it shall be the duty of the Association to provide all such maintenance, repair, and upkeep of the Limited Common Areas. The Association shall have the further responsibility of collecting the expenses of the same incurred with respect to any such Limited Common Areas from the Unit Owner or Owners entitled to the exclusive use and enjoyment of such Limited Common Areas. The Association may establish uniform reserves for this purpose. It shall be understood, however, that any damage to any Common Area or Limited Common Area caused by an Owner, tenant of an Owner, or guest or invitee of an Owner through said party's negligence, wear, or tear, or by his willful acts, shall be the responsibility of the Owner, and a lien against the Unit of such Owner, as subsequently provided, shall exist with respect to any such damage. The Board of Directors shall have the sole and exclusive power, authority, and obligation to determine all matters affecting assessments, except as may otherwise be provided for in this Declaration and the Bylaws. Such power, authority, and obligation shall expressly include, but shall not be limited to, the allocation of all assessments between Units and Unit Owners, the determination of whether property making up any portion of the project constitutes Common Areas or Limited Common Areas as provided for in the Declaration and Bylaws, and the determination of whether expenditures with respect to any such property or affecting the same is assessable against all or fewer than all the Owners. Such determination by the Board shall be binding upon all parties and all Owners unless it shall be shown that said determinations were made in bad faith with an intent to prefer certain Units or Owners, over others or were made in contravention of the express terms and conditions of the Declaration and the Bylaws.

21. Alterations, Additions and Improvements. Except as may be otherwise provided in the Declaration or Bylaws, no Owner shall make any alterations or additions to any Common Areas or Limited Common Areas without the prior written approval of the Committee (as hereinafter defined), based on the following Architectural Standards, Terms and Conditions.

- 21.1 Architectural Standards. Nothing, including any fence, deck, retaining walls, patio, recreational equipment, or any structure, storage shed, doghouse or other improvements, shall be erected on the Building or the Common Areas, and no construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Paragraph 21, until the requirements below have been fully met, and until the approval of the Committee has been obtained pursuant to Paragraph 21.3 below.

THIS ARTICLE SHALL NOT APPLY TO THE ACTIVITIES OF THE DECLARANT, NOR TO CONSTRUCTION OR IMPROVEMENTS OR MODIFICATIONS TO THE COMMON AREAS BY OR ON BEHALF OF THE ASSOCIATION.

THIS ARTICLE MAY NOT BE AMENDED WITHOUT THE DECLARANT'S WRITTEN CONSENT SO LONG AS THE DECLARANT OWNS ANY UNITS SUBJECT TO THIS DECLARATION.

- 21.2 Architectural Control Committee. There shall be, and hereby is, created and established the Broadway Lofts Architectural Control Committee ("Committee") which shall have exclusive jurisdiction over all construction on any portion of the Property. UNTIL 100% OF THE UNITS HAVE BEEN DEVELOPED AND CONVEYED TO PURCHASERS in the normal course of development and sale, the DECLARANT, or not more than five, nor less than three, persons designated by it, SHALL CONSTITUTE THE COMMITTEE AND SHALL SERVE AT THE DISCRETION OF THE DECLARANT. THERE SHALL BE NO SURRENDER OF THIS RIGHT PRIOR TO THAT TIME EXCEPT IN A WRITTEN INSTRUMENT IN RECORDABLE FORM EXECUTED BY THE DECLARANT. After the sale of 100% of the Units, the Committee shall be a standing committee of the Association, consisting of not more than five, nor less than three, persons as may, from time to time, be provided in the Bylaws. If the Bylaws do not at any time provide for the Committee, then the Board shall be and constitute the Committee.

- 21.3 Approval Process. The Committee shall prepare and promulgate, on behalf of the Board of Directors, design and development guidelines and application and review procedures. Copies are on file in the office of the Declarant (or the Association, as the case may be) which are incorporated into this Declaration by reference. The guidelines and procedures shall be those of the Association, and the Committee shall have sole and full authority to prepare and to amend them. It shall make the guidelines and procedures available to Owners, builders, and developers who seek to engage in development of or construction, modification, addition or alteration made on or to any existing structure, upon all or any portion of the Property, and such Owners and builders shall conduct their operations

strictly in accordance therewith. The Committee, or its designee, must give written approval for any building contractor selected by any Owner for construction.

Prior to any construction, the approval of the Committee must be obtained after written application has been made to the Committee by the Owner requesting authorization from the Committee. Such written application shall be made in the manner and form prescribed from time to time by the Committee in its guidelines and procedures, which will contain requirements to promote the standard of quality of workmanship and design and harmony of external design with existing structures, location in relation to surrounding structures, topography and finish grade elevation as determined by the Committee.

21.4 Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

21.4.1 the plans, specifications, drawings or other material submitted are, themselves, inadequate or incomplete, or show the proposed improvement to be in violation of these Declarations, the plat restrictions or any rules, regulations or guidelines adopted by the Committee;

21.4.2 the design or color scheme of a proposed improvement or the materials proposed to be used are not in harmony with the general surroundings or with adjacent Units or the Building in the sole opinion of the Committee;

21.4.3 the proposed improvement, or any part thereof, would, in the sole opinion of the Committee, be contrary to the interest, welfare or rights of all or part of other Owners; or

21.4.4 proof of compliance with the rules and regulations of the Historic Preservation District within which the Real Estate is located.

21.5 Duties of Committee. The Committee shall approve or disapprove proposed improvements within fifteen (15) calendar days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and in the event that such notification is one of disapproval, it shall specify the reason or reasons therefor. In the event that the Committee fails to provide written notice of approval or to request written notice for additional information within forty-five (45) days after submission of all required or requested information, the plans shall be deemed and presumed denied.

21.6 No Waiver of Future Approvals. The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver

of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

- 21.7 Variance. The Committee may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and applicable zoning laws, ordinances and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the terms of any financing, or the initiation of work without the required approval of the Committee shall not be considered hardships warranting a variance.
- 21.8 Compliance with Guidelines. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the Committee may be excluded by the Board from the Property without liability to any person, subject to the notice and hearing procedures contained in the Bylaws. Further, if any approval required by this Declaration is not granted in writing with respect to any item prior to its installation, the respective Owner thereof shall remove promptly the unapproved item or structure, upon request by Declarant or the Association.
- 21.9 Non-Liability of Declarant, Committee. Neither the Declarant nor the Committee shall be responsible in any way for any defect in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto. Further, the Committee or the Declarant does not make, and shall not be deemed by virtue of any action of approval or disapproval taken by it to have made, any representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used or as to the compliance of any plans submitted for approval with these Restrictions, any recorded plat governing the Real Estate or any applicable code, regulation or law.
- 21.10 Inspection. The Committee and the Declarant may inspect work being performed to assure compliance with this Paragraph 21, the plat restrictions and applicable regulations. However, neither the Committee, nor any Member thereof, nor the Declarant, nor any agent or contractor employed or engaged by the Committee or the Declarant, shall be liable or responsible for defects, nonconformity or deficiencies in any work inspected or approved by it or them, or on its or their behalf. Further, no such inspection or approval given by or on behalf of the Committee or the

Declarant shall be taken or deemed to be or constitute a warranty or guaranty of the work so inspected or approved.

21.11 No Compensation. Neither the Committee nor any of its Members shall be entitled to any compensation for performing its duties or obligations set forth in this Declaration.

22. Insurance. The Owners, through the Association, shall purchase a master casualty insurance policy affording building and personal property coverage insuring the Property in an amount consonant with the full replacement value of the improvements which, in whole or in part, comprise the Common Areas. If the Board of Directors can obtain such coverage for reasonable amounts, they shall also obtain "special form" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the type of insurance required above. If deemed advisable by the Board of Directors, the Board of Directors may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall be for the benefit of each Owner and, if applicable, the Mortgagee of each Owner upon the following terms and conditions: All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association shall be paid to the Association or to the Board of Directors, who shall act as the insurance trustees and hold such proceeds for the benefit of the insured parties. The sole duty of the insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated in this Declaration, and for the benefit of the Owners and their respective Mortgagees. The proceeds shall be used or disbursed by the Association or Board of Directors, as appropriate, only in accordance with the provisions of this Declaration. The interest of each damaged Owner in the trust fund of insurance proceeds shall be the ratio of the direct damage of each damaged Owner to the damages of all Owners directly damaged by an event insured under the said master casualty insurance policy. Such master casualty insurance policy, and "special form" coverage, if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, the Board of Directors, its agents and employees, Owners, their respective agents, and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms, (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners as permitted in this Declaration, and (ii) that notwithstanding any provisions in this Declaration giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to paragraph 23 of this Declaration. The Owners, through the Association, shall also purchase a master commercial general liability insurance policy in such an amount or amounts as the Board of Directors shall deem appropriate from time to time. Such commercial general liability insurance policy shall cover the Association, the Board of Directors, any committee or organization of the Association or Board of Directors, any managing agent appointed or employed by the Association, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to all Owners of Units and all other persons entitled to occupy any Unit. The Owners, through the Association, shall also obtain any other insurance required by law to be maintained, including but not limited to workers' compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate, including but not limited to, liability insurance on vehicles owned by

the Association and officers' and directors' liability policies. Such insurance coverage shall also provide for and cover cross liability claims or one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, the Board of Directors, and any managing agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under policies purchased by the Board of Directors. The premiums for all such insurance described above shall be paid by the Association as part of the common expenses. When any such policy of insurance described above has been obtained by or on behalf of the Association, written notice of the obtainment of such policy, and of any subsequent changes or termination of such policy, shall be promptly furnished to each Owner and Mortgagee whose interest may be affected, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association. In no event shall any distribution of proceeds be made by the Board of Directors directly to an Owner where there is a mortgage endorsement on the certificate of insurance. In such event, any remittances shall be to the Owner and the Owner's Mortgagee jointly. Each Owner shall be solely responsible for and may obtain such additional insurance as the Owner deems necessary or desirable at the Owner's own expense affording coverage upon the personal property, the contents of the Owner's Unit (including but not limited to, all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by the Owner) and the Owner's personal property stored elsewhere on the Property, and for the Owner's personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty policy to be obtained by the Association. Each Owner may obtain casualty insurance at the Owner's own expense upon the Owner's Unit, but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this paragraph due to pro-ration of insurance purchased by an Owner under this paragraph, the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed in this Declaration.

23. Casualty and Restoration.

- 23.1 Except as subsequently provided, damage to or destruction of any Building due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association, and the proceeds of insurance, if any, shall be applied for the purpose; provided, however, that repair and reconstruction shall not be compulsory in the event of "complete destruction of the entire Building" (as that phrase is defined below), and shall only be done in accordance with the provisions of this Paragraph 23. As used in this Paragraph 23, the term "complete destruction of the entire Building" means a determination, made by a Percentage Vote of at least seventy-five percent (75%) at a special meeting of the Association called and held within ninety (90) days after any fire or other casualty or disaster damaging or destroying the Building for the purpose of making such determination, that total destruction of the entire Building has occurred. If such a special meeting is not called within such ninety (90) day period, or if the determination of whether or not there has been a complete destruction of the entire Building has not been made within such ninety (90) day period, then it shall be conclusively presumed

that the Owners determined that there was not a complete destruction of the Buildings, and the Association shall proceed with repair and reconstruction as provided in this Paragraph 23.

- 23.2 If the insurance proceeds received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the costs of repair and reconstruction, or in the event there are no insurance proceeds, and if the Property is not to be removed from the Act, the cost for restoring the damage and repairing and reconstructing the Building or Buildings so damaged or destroyed (or the costs in excess of insurance proceeds received, if any) shall be paid by all of the Owners of Units in proportion to the ratio that the Percentage Interest of each Unit bears to the total Percentage Interest of all Units. Any Such amounts payable by the Owners shall be assessed as part of the common expenses, and shall constitute a lien from the time of assessment as provided herein and in the Act.
- 23.3 For purposes of subparagraphs 23.1 and 23.2 above, repair, reconstruction, and restoration shall mean construction or rebuilding of the Units to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.
- 23.4 If, under subparagraph 23.1 above, it is determined by the Owners at the special meeting of the Association that there has been a complete destruction of the entire Building, the Owners shall, at the same special meeting, vote to determine whether or not such complete destruction of the Building shall be repaired and reconstructed. The Building shall not be reconstructed or repaired if it is the determination of the Owners at said special meeting that there has been a complete destruction of the Building unless by a Percentage Vote of at least seventy-five percent (75%), a decision is made to rebuild, reconstruct, and repair the Building. Following such a vote, the insurance proceeds, if any, received by the Association shall be applied and any excess of construction costs over insurance proceeds, if any, received by the Association shall be contributed and paid as provided in subparagraphs 23.1 and 23.2.
- 23.5 If, in any case of the complete destruction of the Buildings, less than seventy-five percent (75%) of the Percentage Vote is in favor of the rebuilding, reconstruction, and repair of the Buildings, the Buildings shall not be rebuilt, reconstructed or repaired, and in such event, the Property shall be deemed and considered to be removed from the provisions of the Act and in accordance with the Act:
- 23.5.1 The Property shall be deemed to be owned in common by the Unit Owners;
- 23.5.2 The undivided interest in the Property owned in common which shall appertain to each Unit Owner shall be the percentage of undivided Percentage Interest previously owned by such Owner in the Common Areas;

- 23.5.3 Any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided Percentage Interest of the Owner in the Common Areas; and
- 23.5.4 The Property shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property, if any, shall be considered as one (1) fund and shall be divided among all the Owners in a percentage equal to the Percentage Interest owned by each Owner, after first paying out of the respective shares of the Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Unit Owner.
- 23.6 Immediately after a fire or other casualty causing damage to any property for which the Board of Directors or the Association has the responsibility of maintenance and repair, the Board of Directors shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desire.
- 23.7 The proceeds of insurance collected on account of any such casualty, and the sums received by the Board of Directors from collection of assessments against Owners on account of such casualty, shall constitute a construction fund which shall be disbursed, if the Building is to be reconstructed and repaired, in payment of the costs of reconstruction and repair in the following manner:
- 23.7.1 If the amount of the estimated cost of reconstruction and repair is less than Ten Thousand Dollars (\$10,000.00), then the construction fund shall be disbursed in payments of such costs upon order of the Board of Directors; provided, however, that upon request of a Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided in the, following paragraph 23.7.2.
- 23.7.2 If the estimated cost of reconstruction and repair is more than Ten Thousand Dollars (\$10,000.00), then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in Indiana and employed by the Board of Directors to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, sub-contractors, materialmen, the architect, or other persons who have rendered services or furnished materials in connection with the work, (i) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (ii) that there is no other outstanding

indebtedness known to the said architect for the services and materials described; and (iii) that the costs as estimated by said architect for the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of the construction fund remaining after payment of the sum so requested.

23.7.3 Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Owner upon whose Unit such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Building stands.

23.7.4 In the event that there is any surplus of monies in the construction of Broadway Lofts Condominiums after reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Board of Directors as a reserve or may be used in the maintenance and operation of the Common Areas, or, in the discretion of the Board of Directors, it may be distributed to the Owners, affected and their Mortgagees who are the beneficial owners of the fund. The action of the Board of Directors in proceedings to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner for committing willful or malicious damage.

24. Covenants and Restrictions. The covenants and restrictions applicable to the use and enjoyment of the Units are set forth in the Bylaws. These covenants and restrictions are for the mutual benefit and protection of the present and future owners and shall run with the land and inure to the benefit of and be enforceable by any Owner or by the Association. Present or future Owners of the Association shall be entitled to injunctive relief against any violation of these provisions and shall be entitled to damages for any injuries resulting from any violation of the Bylaws, but there shall be no right of reversion or forfeiture of title resulting from such violation.

25. Amendment of Declaration. Except as otherwise provided in this Declaration, amendments to the Declaration shall be proposed and adopted in the following manner.

25.1 Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered.

25.2 Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having, the aggregate of at least a majority of the Percentage Vote.

25.3 Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the Bylaws.

- 25.4 Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) in the aggregate of the Percentage Vote. In the event any Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as the owner if the Mortgagee has given notice of its mortgage interest to the Board of Directors in accordance with the provisions of the Bylaws.
- 25.5 Approval by Eligible Mortgage Holders. Amendments of a material nature must be approved by eligible mortgage holders representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by eligible holders. An eligible mortgage holder is any holder which has given prior written notice of its interest to the Board of Directors, in accordance with the Bylaws. A change in any of the following would constitute a material amendment:
- 25.5.1 Voting rights.
 - 25.5.2 Subordination of assessment liens.
 - 25.5.3 Reserves for maintenance, repair or replacement of common areas.
 - 25.5.4 Reallocation of percentage interests.
 - 25.5.5 Insurance or fidelity bond requirements.
 - 25.5.6 Leasing of units.
 - 25.5.7 Restrictions on sale of units.
 - 25.5.8 Any provisions that expressly benefit mortgage holders, insurers or guarantors.
 - 25.5.9 Method by which assessments or assessment liens are determined.
- 25.6 Special Amendments. No amendment to this Declaration shall be adopted which changes (i) the Percentage Interest with respect to any Unit or the applicable share of any Owner's liability for the common expenses, without the approval of one hundred percent (100%) of the Owners and all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the Bylaws; or (ii) the provisions of paragraph 23 of this Declaration with respect to reconstruction or repair in the event of fire or any other casualty or disaster, without the approval of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the Bylaws.
- 25.7 Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the Office of the Recorder of Marion County, Indiana, and such amendments shall not become effective until so recorded. Also, the Declarant reserves

the right and power to record a special amendment (“Special Amendment”) to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Association, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran’s Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or, may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insured, or guarantee first mortgages covering Unit Ownerships, (iii) to bring this Declaration into compliance with the Act, or (iv) to correct clerical or typographical errors in this Declaration or in any Exhibit hereto or any supplement or amendment thereto. In furtherance of all rights and powers in this subparagraph, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to a Special Amendment it on behalf of each Owner as proxy or attorney-in- fact, as the case may be. Each deed, mortgage, trust, deed, or other evidence of obligation, or other instrument affecting a Unit and the acceptance of such instrument shall be deemed to be a grant and acknowledgment of, and a consent to reservation of, the power of the Declarant to vote in favor of, make, execute and record Special Amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Paragraph shall terminate upon the earlier of four (4) years from the date of the sale of the first Unit or at such time as the Declarant no longer holds or controls title to more than one (1) Unit.

26. Acceptance and Ratification and Miscellaneous.

26.1 All present and future Owners, Mortgagees, tenants, and occupants of the Units shall be subject to and shall comply with the provisions of the Declaration, the Act, the Bylaws, the Rules and Regulations as adopted by the Board of Directors as each may be amended or supplemented from time to time. The acceptance of a contract to purchase, deed of conveyance or act of occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the Act, the Bylaws, and Rules and Regulations as each may be amended or supplemented from time to time are accepted and ratified by such Purchaser, Owner, tenant, or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage, or lease. All persons, corporations, partnerships, trust, associations, or other legal entities who may occupy, use, enjoy, or control a Unit or Units or any part of the Property in any manner shall be subject to the applicable Declaration, the Act, the Bylaws, and the Rules and Regulations as each may be amended or supplemented from time to time.

- 26.2 Costs and Attorneys Fees. In any proceedings arising because of failure of an Owner to make any payments required by this Declaration, the Bylaws, or the Rules and Regulations adopted pursuant to the Bylaws, as each may be amended from time to time, the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.
- 26.3 Waiver. No Owner may become exempt from liability for such Owner's contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or Limited Areas or by abandonment of the Owner's Unit.
- 26.4 Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provisions of this Declaration or the Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration or the Bylaws.
- 26.5 Pronouns. Any reference to the masculine, feminine, or neuter gender shall, unless the context clearly requires the contrary, be deemed to refer to and include the masculine, feminine, and neuter genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.
- 26.6 Floor Plans. The Plans setting forth the layout, location, identification numbers, and dimensions of the Units and the Property are incorporated into this Declaration by reference, and are being filed contemporaneously herewith.

27. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by the Owner's negligence or by that of any member of the Owner's family or guests, employees, agents, or lessees, to the extent that such expense is not covered by the proceeds of the insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by the Owner's use, misuse, occupancy or abandonment of such Owner's Unit or its appurtenances or of the Common Areas or Limited Common Areas.

IN WITNESS WHEREOF, the undersigned Declarant has caused this Declaration to be executed the day and year first above written.

Roberts Development Company, LLC

By: 

Printed: ROBERT H - CLAKTON

Title: Co-Owner

STATE OF INDIANA)
) SS:
COUNTY OF Shelby)

Before me a Notary Public in and for said County and State, personally appeared Robert H. Clifton, the co-owner of Roberts Development Company, LLC (the "Declarant"), who acknowledged the execution of the foregoing Declaration and Easements, Restrictions, Covenants for Broadway Lofts Condominiums, and who, having been duly sworn stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 22nd day of July, 2005.

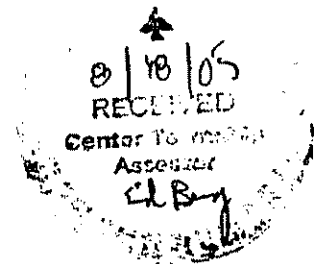
Danna Sue Bullard
Notary Public

Danna Sue Bullard
Printed Name

Resident of Shelby County
My Commission Expires: 1-19-2008

THIS DOCUMENT PREPARED BY
AND PLEASE RETURN AFTER RECORDING TO:

April R. Schilling
LOCKE REYNOLDS LLP
201 North Illinois Street, Suite 1000
P. O. Box 44961
Indianapolis, IN 46244-0961



RECORDING CENTER
200 N. ILLINOIS STREET, SUITE 1000
INDIANAPOLIS, IN 46244-0961
TEL: 317.434.2200 FAX: 317.434.2201

EXHIBIT A

LEGAL DESCRIPTION

Lots 92 and 93 in William Young's Subdivision of Out Lot 181 of the Donation Lands of the City of Indianapolis, the plat of which is recorded in Plat Book 1, Page 7 and 41, in the Office of the Recorder of Marion County, Indiana.

(Parcel Nos. 1006107 and 1006108)

EXHIBIT B

SURVEY

EXHIBIT C

BYLAWS OF BROADWAY LOFTS OWNERS ASSOCIATION, INC.

619039_3



**CODE OF BYLAWS OF
BROADWAY LOFTS OWNERS ASSOCIATION, INC.**

**ARTICLE I
IDENTIFICATION AND APPLICABILITY**

Section 1.1 Identification and Adoption. These Bylaws are adopted simultaneously with the execution of a certain Declaration creating the Broadway Lofts Condominiums to which these bylaws are attached and made a part. The Declaration is incorporated by this reference, and all of the covenants, rights, restrictions, and liabilities therein contained shall apply to and govern the interpretation of these Bylaws. The definitions and terms as defined and used in the Declaration shall have the same meaning in these Bylaws and reference is specifically made to Paragraph 4 of the Declaration containing definitions of terms. The provisions of these Bylaws shall apply to the Property and the administration and conduct of the affairs of the Association.

Section 1.2 Individual Application. All of the Owners, future Owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy a Unit or any part of the Property shall be subject to the restrictions, terms, and conditions set forth in the Declaration, these Bylaws, and the Law, and to any rules regulations adopted by the Board of Directors.

**ARTICLE II
MEETINGS OF ASSOCIATION**

Section 2.1 Purpose of Meetings. At least annually, and at such other times as maybe necessary, the meetings of the Broadway Lofts Owners Association, Inc. ("Association") shall be held for the purpose of electing the Board of Directors (subject to the provisions of Section 3.02), approving the annual budget, providing for, the collection of Common Expenses, and for such other purposes as may be required by the Declaration, these Bylaws, the Articles of Incorporation for the Association ("Articles") or the Law.

Section 2.2 Annual Meetings. The first annual meeting of the Association may be held at any time following the recording of the Declaration by the Declarant, provided, however, the first annual meeting of Owners shall be held as soon as practical after the Applicable Date which is the earliest of the following:

2.2.1 thirty (30) days after the date upon which the written resignation of the Initial Board (as originally constituted or revised) is delivered to the Owners; or

2.2.2 thirty (30) days after the date when either Declarant, Robert L. Britton and/or Robert H. Claxton, or any entity to which they are principals thereof, are no longer titleholders of at least two (2) units; or

2.2.3 seven (7) years after the recordation of the Declaration for Broadway Lofts;

and providing further, that the Declarant may, at any time after recording, call for the first annual meeting of the Association, and pursuant to such meeting, however, the Association shall automatically assume the duties and responsibilities ascribed to it by the Declaration and these Bylaws as of the date of recordation of the Declaration and the date the Association exists. Subsequent regular meetings of the Association shall be held as the Board of Directors may decide at the first meeting of the Board at the first annual meeting of the Association. If the day for the annual meeting of the Association is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday. In the event the Board does not establish, by resolution, a fixed day thereafter for the annual meeting of the Association, it shall be held on the 1st Saturday of April of each succeeding year.

Section 2.3 Special Meetings. A special meeting of the members of the Association may be called by resolution of the Board of Directors or upon a written petition of Owners who have not less than a majority of the Percentage Vote. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.4 Notice and Place of Meeting. All meetings of the Association shall be held at any suitable place in Marion County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time, and place of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each member entitled to vote not less than fourteen (14) days prior to the date of such meeting. The notice shall be mailed or delivered to the Owners at the addresses of their respective Units. A copy of such written notice shall also be delivered or mailed simultaneously by the Secretary of the Association to each Mortgagee (a) who requests in writing that such notices be delivered to it, and (b) who has furnished the Association with its name and address in accordance with Section 8.01 of these Bylaws. Attendance at any meeting in person, by agent, or by proxy shall constitute a waiver of notice of such meeting

Section 2.5 Voting.

2.5.1 Number of Votes. Each Unit Owner ("Ownership Unit") shall be entitled to the number of votes equal to the Owner's Unit's Percentage Interest as designated in Paragraph 14 in the Declaration.

2.5.2 Proxy/Multiple Owners. Until the Applicable Date, each Owner, by acceptance of a deed to a Unit, or by acquisition of any interest in a Unit (as defined in the Declaration) by any type of juridic acts inter vivos or, causa mortis, or otherwise, shall be deemed to have appointed Declarant as such, Owner's Agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date to exercise all of said Owner's right to vote, and to, vote as Declarant determines, on all matters as to which members are entitled to vote under the Declaration, the Act or otherwise, and such appointment shall not be affected by incompetence of the Owner granting the same. When more than one (1) Person (as defined in the Declaration) constitutes the Owner of a particular Unit, all of such Persons shall have the number of

votes equal to such Unit's Percentage Interest, which votes shall be exercised as they among themselves determine. It will be presumed, in the case of multiple Owners, that a Person in attendance at which a vote is taking place, is voting for all Owners of that Unit unless another Owner of that Unit votes in person or by proxy in which case the vote for that Unit shall be fractionally apportioned amongst those Owners of that Unit actually voting.

2.5.3 Membership Classification. The classification of Members into Voting Members and Participating Members is as set out in Section 2 of the Articles.

2.5.4 Voting by Corporation or Trust. Where a corporation or trust is an Owner, or is otherwise entitled to vote, the trustee may cast the vote on behalf of the trust and the agent or other representative of the corporation duly empowered by the Board of Directors of such corporation may cast the vote to which the corporation is entitled. The secretary of the corporation or a trustee of the trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary of the Association stating who is authorized to vote on behalf of said corporation or trust.

2.5.5 Proxy. An Owner may vote either in person or by a duly authorized and designated attorney in fact. Where voting is by proxy, the owner shall duly designate the Owner's Attorney in fact in writing, delivered to the Secretary of the Association prior to the commencement of the meeting.

2.5.6 Quorum. Except where otherwise expressly provided in the Declaration, the Bylaws, the Articles or the Act, the Owners representing a majority of the Percentage Vote shall constitute a quorum at all meetings. The term majority of the Owners or majority of Percentage Vote, as used in these Bylaws, shall mean the Ownership Units entitled to more than fifty percent (50%) of the Percentage Votes in accordance with the applicable Percentage Interest set forth in the Declaration, as such may be amended from time to time. If a quorum is not present, another meeting may be called at which the required quorum shall be one-half of the otherwise applicable quorum. If more than one Person (as defined in the Declaration) constitutes an Owner, then the attendance of only one such Person shall count for purposes of calculating whether a quorum exists. Any action governed by the Articles of Incorporation or by the covenants applicable to the Real Estate shall require a quorum as therein provided. No action may be taken unless the action receives votes or consents in an amount that is equal to a majority of all those casting votes or consenting to action, including proxies.

2.5.7 Conduct of Annual Meeting. The President of the Board of Directors shall Act as Chairman of all annual meetings of the Association if the President is present. At all annual meetings, the Chairman shall call the meeting to order at the duly designated time and business will be conducted in the following order.

(a) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto, unless such reading is waived by a majority of the Percentage Vote.

(b) Treasurer's Report. The Treasurer shall report to the Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for prior year and the proposed budget for the current year.

(c) Budget. The proposed budget for the ensuing fiscal year shall be presented to the Owners for approval or amendment unless otherwise changed by the Board of Directors. The fiscal year shall be on a calendar year basis.

(d) Election of Board of Directors. Nominations for the Board of Directors may be made by any Member from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) days prior to the date of the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner shall cast the total number of votes to which he is entitled for as many nominees as are to be elected, however, he shall not be entitled to cumulate his votes. Those persons receiving the highest number of votes shall be elected. Each voting Owner shall sign his ballot. The board may provide a method to assure secrecy of the ballot. The foregoing provisions are subject to the provisions of Section 3.2.

(e) Other Business. Other business requiring a vote may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least seven (7) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the Percentage Vote. Any other general business matters or discussions that do not require a vote may be properly brought before the meeting by any Owner in good standing.

(f) Conduct of Special Meeting. The President of the Board of Directors shall act as Chairman of any special meetings of the Association if he is present. The Chairman shall call the meeting to order at the duly designated time and the only business to be discussed and acted upon at such meeting shall be considered of the matters for which such meeting was called, as set forth in the notice of such special meeting.

ARTICLE III BOARD OF DIRECTORS

Section 3.1 Management and Number. The affairs of the Association shall be governed and managed by the Board of Directors (collectively, the "Board" or "Directors," and individually, the "Director"). The Board of Directors shall be initially composed of not more than eight (8) and not less than three (3) persons; provided, that until the Applicable Date, the Board of Directors may be composed of as few as two (2) persons. No person shall be eligible to serve as a Director unless he is, or is deemed in accordance with the Declaration to be, an Owner, excluding a person appointed by Declarant as provided in Section 3.2.

Section 3.2 Initial Board of Directors. The initial Board of Directors shall be Robert L. Britton and Robert H. Claxton (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Declarant reserves the right to remove or replace any of the aforementioned persons as Directors prior to the first annual meeting of the Association. Notwithstanding anything to the contrary contained in, or any other provisions of these Bylaws or the Declaration or the Law, (a) the Initial Board, subject to the removal and replacement rights, of Declarant, shall hold office until the first annual meeting of the Association, or a special meeting of the Association for election of Directors, either of which may be called by the Declarant at any time but which, in any event, shall be as soon as practical after the Applicable Date. In the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever, prior to the Applicable Meeting Date determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall subsequently be deemed a member of the Initial Board.

Section 3.3 Additional Qualifications. Where an Owner consists of more than one person or is a partnership, personal representation of an estate, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee or personal representative of an estate shall be eligible to serve on the Board of Directors, except that no single Unit may be represented on the Board of Directors by more than one person at a time.

Section 3.4 Term of Office and Vacancy. Subject to the provisions of Section 3.2, the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board of Directors shall be deemed to be elected as the Board of Directors until the expiration of the time in Section 3.2. Directors shall hold office for a term of one (1) year or until their successors have been duly elected and qualified. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Owners if a Director is removed in accordance with Section 3.5. A Director filling a vacancy shall serve until the next annual meeting of the Association or until his successor has been duly elected and qualified.

Section 3.5 Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the Percentage Vote at a special meeting of the Owners duly called and constituted for such purpose. In such case, the Director's successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners or until the Director's successor is duly elected and qualified.

Section 3.6 Duties of the Board of Directors. The Board of Directors shall: provide for the administration of, the maintenance, upkeep and replacement of the Common Areas and Limited Common Areas (unless the same are otherwise the responsibility or duty of Owners of the Units), and the collection and disbursement of the Common Expenses. After the recording of the Declaration the Board may, on behalf of the Association, employ a property management agent (the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent shall assist the Board in carrying out its duties, which include, but are not limited to:

3.6.1 protection, surveillance, maintenance and replacement of the Common Areas and Limited Common Areas, unless the same are otherwise the responsibility or duty of the Owners of the Units; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent may provide any on site or roving guards, security service or security system for protection or surveillance;

3.6.2 procuring of utilities used in connection with the Units, removal of garbage and waste, and snow removal from the Common Areas;

3.6.3 landscaping, painting, decorating, furnishing, maintenance and upkeep of the Common Areas and, where applicable, the Limited Common Areas;

3.6.4 surfacing, paving and maintaining the landscape tiers, parking areas, and sidewalks, if applicable;

3.6.5 assessment and collection from the Owners of the Owners' pro rata shares of the Common Expenses; determination of whether improvements are to Common Areas or Limited Common Areas, pursuant to the terms and conditions of the Declaration and Bylaws; determination of whether expenses incurred with respect to the same are allocable to all or fewer than all the Owners; and the allocation of all expenses among the respective Units of the Project;

3.6.6 preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of the annual meeting is mailed or delivered;

3.6.7 preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;

3.6.8 keeping a current, accurate and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours; payment vouchers for all expenditures shall, prior to payment, be approved by a member of the Board or such other person (which may include the Managing Agent) to whom the Board may delegate such duty and authority;

3.6.9 procuring and maintaining for the benefit of the Owners, the Association, and the Board the insurance coverages required under the Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;

3.6.10 adopting Rules and Regulations, including the right to amend same by promulgating notice thereof;

3.6.11 interpreting (including quantification and clarification), applying and enforcing all restrictive covenants, rules and regulations established by the Declaration, Bylaws, Articles or Board with respect to the Owners or users of Units within or relating to the use, maintenance or repair of any property within the boundaries of the Development;

3.6.12 enforce the lien procedures against any property for which assessments are not paid within thirty (30) days, or such other period of time as the Board shall from time to time determine, after due date or to bring an action at law against the Owner personally obligated to pay the same; and

3.6.13 serving either directly or by delegation of the Architectural Control Committee as detailed in the Declaration.

Section 3.7 Powers of the Board of Directors. The Board of Directors shall have such full powers as are provided in the law and are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

3.7.1 to employ a Managing Agent to assist the Board in performing its duties;

3.7.2 to purchase for the benefit of the property and Owners such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;

3.7.3 to employ legal counsel, architects, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;

3.7.4 to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair, and replacement of the Common Areas and, where applicable, the Limited Common Areas;

3.7.5 to procure and maintain in adequate amounts for the benefit of the Owners fire and extended coverage insurance covering the Buildings and the Property to the full insurable value thereof together with "all risk" coverage and insurance amounts for the "full replacement value," if economically available, and to procure public liability and property damage insurance and Workers' Compensation Insurance, if necessary, for the benefit of the Owners and Association;

3.7.6 to include the costs of all of the above and foregoing as Common Expenses and to pay all such costs therefrom;

3.7.7 to open and maintain a bank account or accounts in the name of the Association;

3.7.8 to adopt, revise, amend and alter from time to time, rules and regulations with respect to use, occupancy, operation, and enjoyment of the property;

3.7.9 to suspend the voting rights (including Director voting rights) and right to use the Common Areas of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association, plus the right to impose fines for the second or repeated violation. Such rights (except for fines for violations) may also be suspended after notice and hearing for a period not to exceed one hundred twenty (120) days for infraction of published rules and regulations;

3.7.10 to exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws or the Declaration; and

3.7.11 to declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

Section 3.8 Limitation on Board Action. After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$5,000.00 without obtaining the prior approval of a majority of the Percentage Vote, except that in the following cases such approval shall not be necessary:

3.8.1 contracts for replacing or restoring portions of the Common Areas or Limited Common Areas damaged or destroyed by fire or other casualty where the costs thereof are payable out of insurance proceeds actually received;

3.8.2 proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and

3.8.3 contracts for repair, replacement or maintenance of improvements within the Project or affecting any property constituting all or a portion of the project where delay in the said repair, replacement or maintenance would increase substantially the costs and expense of the same and/or would subject the property of the property or the persons therein to substantial risk of injury or damage.

In any event, the drafting of any check or payment of any expenditure on behalf of the Association shall require the approval and signatures of at least two (2) of the Officers of the Board.

Section 3.9 Compensation. No Director shall receive any compensation for the Director's services as such except to the extent as may be expressly authorized by a majority of the Percentage Owners. However, any Director may at any time be reimbursed for the Director's actual expenses incurred in the performance of the Director's duties, and such reimbursement shall not require express approval of all the owners or any portion thereof, but shall require the majority approval of the Board.

Section 3.10 Meetings and Actions of the Board. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. If the meetings are to be held outside of Marion County, Indiana, the date, place and time of the meeting must receive unanimous approval of all Directors. There

shall be at least one (1) regular meeting of the Directors annually. The Secretary shall give written notice of the regular meeting of the Board to each Director personally or by United States mail at least fourteen (14) days prior to the date of such meeting. Special meetings of the Board may be called by the President or any two (2) members of the Board. The person or persons calling such meeting shall give a written notice thereof to the Secretary who shall either personally or by mail, and at least five (5) days prior to the date of such special meeting, give notice to the Board members. The Notice of the meeting shall contain a statement of the purpose for which the meeting is called. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Section 3.11 Waiver of Notice. Before any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting of the Director's subsequent written consent to the actions taken, shall, as to such Director, constitute a waiver of notice of the time, place and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.12 Quorum. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 3.13 Non Liability of Directors. The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Association shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or Bylaws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association and that in all matters the Board is acting for and on behalf of the Association as its agent. The liability of any Owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the Directors shall be limited to such percentage of the total liability or obligation thereunder as is equal to his Percentage Interest. Every contract made by the Board or the Managing Agent on behalf of the Association shall, provided that the Board of Directors and the Managing Agent, as the case may be, are acting as agents for the Owners and shall have no personal liability thereunder, except in their capacity as Owners (if applicable) and then only to the extent of their Percentage Interest.

Section 3.14 Additional Indemnity of Directors. The Association shall indemnify, hold harmless, and defend any person, his heirs, assigns, and legal representatives, made a party to any action, suit or proceedings by reason of the fact that he is or was a Director of the Association, against the reasonable expense, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is

liable for gross negligence or misconduct in the performance of his duties. The Association shall also reimburse to any such Director the reasonable costs of settlement or judgment rendered in any action, suit or proceeding, if it shall be found by a majority of the Percentage Vote that such Director was not guilty of such gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent or any officer or employee, or any accountant, attorney, or other person, firm or corporation employed by the Association to render advice or service unless such Director had actual knowledge of the falsity or incorrectness of such statements; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

Section 3.15 Bond. The Board of Directors may require the Managing Agent, Treasurer and such other officers or employees of the Association as the Board deems necessary to provide surety bonds indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bonds shall be an Association Expense.

ARTICLE IV OFFICERS

Section 4.1 Officers of the Association. The principal officers of the Board and Association shall be the President, Vice President, Secretary, and Treasurer, and such other officers as the Board may from time to time by resolution create, all of whom shall be elected by the Board. The Board may appoint an Assistant Secretary and an Assistant Treasurer and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person. The initial officers serving until the first annual meeting of the Board of Directors shall be: President, Vice President, and Secretary/Treasurer.

Section 4.2 Election of Officers and Removal of Officers. The Officers of the Board and Association shall be elected annually by the Board at the initial meeting of each new Board. The initial meeting of the Board shall be held immediately after the adjournment of the annual Association meeting. Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.3 The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Board and Association. The President shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of president or chief executive officer or an association or a stock corporation organized under the laws of Indiana, including but not limited to the power to appoint committees from among the Co Owners as he may deem necessary, to

assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 4.4 The Vice President. The Vice President shall be elected from among the Directors and shall perform all duties incumbent upon the president during the absence or disability of the president. The Vice President shall also perform such other duties as these Bylaws may prescribe or as shall from time to time be imposed upon him by the Board or by the President.

Section 4.5 The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these Bylaws. The Secretary may also be the treasurer.

Section 4.6 The Treasurer. The Board shall elect from among the Directors a Treasurer who shall maintain a correct and complete record of accounting showing accurately at all times the financial condition of the Association and who shall perform such other duties incident to the office of Treasurer. The Treasurer shall be the legal custodian of all monies, notes, securities and other valuables which may from time to time come into the possession of the Association. The Treasurer shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account or accounts in the name of the Association. The Treasurer may permit and delegate to the Managing Agent the authority and responsibility to handle an account for monies and other assets of the Association to the extent approved by resolution of the Board. The Treasurer may also be the Secretary.

Section 4.7 Assistant Officers and Committees. The Board of Directors may, from time to time, designate and elect from among the Co Owners an Assistant Secretary and Assistant Treasurer who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers and duties as these Bylaws or the Board or Directors may prescribe.

Section 4.8 Special Appointments. The Board may elect such officers as the affairs of the Association may require, each of whom shall hold office for such periods, have such, authority, and perform such duties as the Board may, from time to time, determine.

Section 4.9 Committee. The Board may appoint committees to assist in the administration and affairs of the Association and Board.

ARTICLE V ASSESSMENTS

Section 5.1 Annual Accounting. Annually, after the close of each fiscal year of the Association and prior to the date of the annual meeting of the Association next following the end

of such fiscal year, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by a certified public accountant or firm of certified public accountants then serving the Association, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 5.2 Proposed Annual Budget. Annually, on or before the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the current fiscal year estimating the total amount of the Common Expenses for the current fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments (as that term is defined below) for the current fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority of the Percentage Vote; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas, which replacement reserve fund shall be used for those purposes and not for usual and ordinary expenses of the Common Areas. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Areas shall be maintained by the Association in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Marion County, Indiana, selected from time to time by the Board. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided whenever determined. Whenever, whether before or after the annual meeting of the Association, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred ten percent (110%) of such last approved budget, as a temporary budget.

Section 5.3 Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the current fiscal year as set forth in said budget, contain a proposed assessment against each Unit based on the Percentage Interest of each Unit. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Unit ("Regular Assessments"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following the adoption of the final annual budget by the Owners, to reflect the assessment against each Unit based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessment shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds hereinabove provided. The Regular Assessment against each Unit shall be paid in advance in equal monthly

installments, commencing on the date of conveyance of the unit and on the first day of each month thereafter. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Owners may elect to pay monthly assessments semi annually or annually, in advance. At the election and option of the Owners by a majority of the Percentage Vote, the Regular Assessment may be required to be paid by the Owners in advance in one annual installment rather than monthly or semi annual installments. In the event the Regular Assessment for a particular fiscal year of the Association was initially based upon a temporary budget, then:

5.3.1 if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment and such next payment and all payments thereafter during such fiscal year, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or

5.3.2 if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, until the entire amount of such excess has been so credited; provided, however, that if an Owner had paid his Regular Assessment either semi annually or annually, in advance, then the adjustments set forth under (a) or (b) above shall be made in cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

The Regular Assessment for the current fiscal year of the Association shall become a lien on each separate Unit as of the first day of each fiscal year (if the fiscal year is the calendar year, January 1 of each calendar year shall be the lien date) of the Association, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Unit or any interest therein, shall not relieve or release such Owner or his successor as owner of such Unit from payment of the Regular Assessment for such Unit as finally determined, and such Owner and his successor as owner of such Unit shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Association pursuant to Section 8.02 hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom such statement may be delivered or who may rely thereon shall be bound by such final determinations. Quarterly or monthly (if so determined by the Board) installments of Regular Assessments shall be due and payable automatically on their respective due dates

without any notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statements to Owners for the same. The initial Regular Assessment is \$125 per month payable in advance.

5.3.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY, DECLARANT, ROBERT L. BRITTON AND/OR ROBERT H. CLAXTON, SHALL NOT BE OBLIGATED FOR THE REGULAR ASSESSMENT UNTIL THE APPLICABLE DATE AND SHALL BE LIABLE FOR ONLY 25% OF SAID ASSESSMENT AFTER THE APPLICABLE DATE IF THE UNITS TITLED IN ONE OR MORE OF THEIR NAMES ARE NOT YET READY FOR OCCUPANCY OR OCCUPIED BY OTHERS.

Section 5.4 Special Assessments. From time to time, Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time, unless otherwise provided in these Bylaws, the Declaration or the Act, the Board of Directors shall have the full right, power and authority to establish special assessments during any fiscal year which, upon resolution of the Board and subject to the approval of 75% of the Owners, such assessment shall become a lien on each Unit, prorated in accordance with the Percentage Interest of each Unit ("Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be so established from time to time to pay for capital expenditures, to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in the Declaration.

Section 5.5 Failure of Owner to Pay Assessments. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person, all liability of such persons shall be joint and several.

5.5.1 If any Owner shall fail or refuse to make any such payment of any assessment when due, the amount thereof shall constitute a lien on the Unit of the Owner, and upon the recording of notice thereof by the Association, such lien shall be constituted upon such Owner's Unit prior to all other liens and encumbrances, recorded or unrecorded, except only

(a) taxes, special assessments and special taxes theretofore or thereafter levied by any political subdivision or municipal corporation of this State and other State or Federal taxes which by law are a lien on the interest of such Owner prior to pre-existing recorded encumbrances thereon, and

(b) encumbrances on the interest of such Owner recorded prior to the date such notice is recorded, which by law would be a lien thereon prior to subsequently recorded encumbrances.

5.5.2 The Association shall send a notice, postage prepaid, to any such encumbrancer whose encumbrance was recorded prior to the time of recording the notice of lien provided for in this section, at the address shown in the recorded encumbrance; provided that if such encumbrancer has furnished the Association with another address,

then such other address shall be used, and said Association shall not foreclose its said lien until at least thirty (30) days after the date of depositing such notice in the United States mail, postage prepaid, to the address of such encumbrancer.

5.5.3 Any encumbrancer holding a lien on a Unit may pay any Common Expenses payment with respect to such Unit and, if so provided in an encumbrance, may add the amount of such payment to the unpaid balance secured by his lien, and such added amount shall have the same priority and lien rights as the unpaid balance to which added.

5.5.4 The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Owners, and may be foreclosed by an action brought in the name of the Association in a manner under the laws of the state governing mechanic's liens and materialmen's liens and as provided under the Horizontal Property Act of the State of Indiana. The Association, acting on behalf of the Owners, shall have the power to bid an interest so foreclosed at foreclosure sale and to acquire, hold, lease, mortgage and convey the same, and to subrogate so much of its right to such lien as may be necessary or expedient to an insurance company which will continue to give total coverage in spite of nonpayment of such defaulting Owner's portion of the premises.

5.5.5 Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same.

5.5.6 The Board shall further have the power to suspend the voting rights of a member during any period in which such members shall be in default in the payment of any assessment levied by the Association.

5.5.7 Any payment for assessments not made when due shall bear interest at the rate of eighteen percent (18%) per annum from the date the same shall become due until the date the same is paid. It shall further be the obligation of any party who shall fail to pay any assessment or assessments when due, to reimburse the Association for all expenses incurred as a result of such failure to pay, including all expenses incurred by the Association in the collection of the same, and including further, but not limited to, all costs of overhead, accounting and legal expenses incurred with respect to, arising out of, or occasioned by the said failure to pay.

5.5.8 In the event any person shall acquire or be entitled to the issuance of a tax deed, public trustee's deed, sheriff's deed, commissioner's deed, etc., the interest so acquired shall be subject to all the provisions of this Declaration and to the terms, provisions, covenants, conditions, and limitations contained in the Declaration, the Bylaws of the Association or any restrictions or exceptions affecting such interest then in force.

Section 5.6 Initial Budget and Assessments. Notwithstanding anything to the contrary contained herein in the Declaration, the law, other applicable statutes or otherwise, until the Applicable Meeting Date, the annual budget and all Regular Assessments and Special Assessment shall be established by the Initial Board without meetings of or concurrence of the

Co Owners. A power of attorney and proxy, coupled with an interest, is reserved to the Declarant and is granted to the Declarant by each Owner and shall be deemed to cover and include each Owner's right to vote on and approve the initial annual budget and any Regular Assessments and Special Assessment until the Applicable Meeting Date.

Section 5.7 Maintenance and Repairs. Each Owner, shall promptly perform all maintenance and repairs within the Owner's own Unit which, if neglected, would affect the value of the Property. In addition, each Owner shall furnish and shall be responsible at his own expense for the maintenance, repairs and replacements of his Unit and Limited Common Areas exclusive to this unit, and all equipment serving the same. Such maintenance, repairs and replacement which each Owner is responsible to make personally and at his own expense include, but are not necessarily limited to, water lines, gas lines, plumbing and electric lines which service the Owner's Unit only and are located within the exterior walls of the Unit including any lines in the area from the floor to above the roof if they are within an extension of the exterior walls of the Units; all partitions and interior walls, ceilings and floors; appliances, to include garbage disposals, dishwashers, stoves, ranges and refrigerators, telephones, air conditioning and heating equipment (whether located wholly or partially inside or outside the Unit), doors, screens, and windows (including exterior and interior of all glass and screen surfaces), lamps and interior and exterior grouting and/or caulking and all other accessories appurtenant to the Unit or belonging to the Owner thereof. Notwithstanding any of the provisions of this paragraph, all lawn mowing, landscaping and other similar maintenance within the Common Areas, shall be provided as an expense of the Association. No Unit Owner shall in any way cut or fertilize lawns, shrubs or other items of landscaping or attempt to maintain or replace same in any manner whatsoever. The Association will provide personnel for these purposes.

If, due to the willful, intentional or negligent acts or omissions of an Owner or a member of his family, or of a guest, tenant or other occupant or visitor of such Owner, damage shall be caused to the Common Areas or to a Unit or Limited Area owned by or reserved for the use of others, or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. Maintenance, repairs and replacements to the Common Areas or the Units or any Limited Common Areas shall be subject to the rules and regulations adopted from time to time by the Board.

To the extent that equipment, facilities and fixtures within any Unit shall be connected to similar equipment, facilities or fixtures affecting or serving other Units or any Common Areas or Limited Common Areas, then the use thereof by the Owner of such Unit shall be subject to the rules and regulations adopted from time to time by the Board. The authorized representatives of the Association or Board of Directors or the Managing Agent for the Association, shall be entitled to reasonable access to any Unit as may be required in connection with maintenance, repairs or replacement of or the Common Areas or Limited Common Areas or any parts thereof, or any equipment, facilities or fixtures affecting or serving other Units or any Common Areas or Limited Common Areas.

ARTICLE VI
RESTRICTIONS, RIGHT OF ENTRY RULES AND REGULATIONS

Section 6.1 Restrictions on Use. The following restrictions on the use and enjoyment of the Units, Common Areas, Limited Common Areas and the Property shall be applicable to Broadway Lofts Condominiums and in addition to those set forth in the Declaration.

6.1.1 All Units shall be used exclusively for residential purposes and no Unit may be partitioned or subdivided. A Unit may be rented or leased by a Unit Owner without approval; however, the Unit Owner is required to notify, in writing, the Board of Directors. The length of occupancy of any tenant shall not be less than one (1) month.

6.1.2 No additional buildings, temporary structures, utility buildings or tents shall be erected or located on the Property other than the Building designed in the Declaration or a supplement or amendment to the Declaration, and shown on the Plans or plans filed with such a supplement or amendment to the Declaration, without the consent of the Architectural Control Committee.

6.1.3 Nothing shall be done or kept in any Unit or in the Common Areas or Limited Common Areas which will cause an increase in the rate of insurance on any Buildings or the contents thereof. No Owner shall permit anything to be done or kept in his Unit or in the Common Areas or Limited Common Areas which will result in a cancellation of insurance on any Building or any part of the Common Areas or Limited Common Areas which will result in a cancellation of insurance on any Building or any part of the Common Areas or contents thereof, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

6.1.4 No nuisance shall be permitted and no waste shall be committed in any Unit, Common Areas, or Limited Common Areas.

6.1.5 No Owner shall cause or permit anything to be hung or displayed on the outside of the windows or placed in the outside walls of any Building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any Building without the prior written consent of the Board.

6.1.6 No animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Areas or Limited Common Areas or on the Property, except that pet dogs, cats or customary household pets may be kept in a Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance. No more than two (2) dogs or two (2) cats shall be permitted in any Units unless prior approval and consent is obtained from the Board and the Board may delegate this authority to the Managing Agent.

Pets shall be taken outdoors only under leash or other restraint while attended by its owner and an Owner shall be fully liable for any injury or damage to persons or property, including the Common Areas or Limited Common Areas, caused by his pet. The tethering of pets in any area outside an Owners' Limited Common Area does not constitute "attended." Pet

leavings on the grounds and walks shall be picked up by the pet's owner and disposed of in a proper receptacle. The board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time including, but not limited to, a requirement that any Owner desiring to bring a pet on the Property shall deposit with the Board a security deposit in an amount to be determined by the board to cover any damage that may be caused by such pet to the Common Areas. Any such security deposit shall be returned to the Owner when the pet is permanently removed from the property, except to the extent said deposit has been used to repair damage caused by such pet. Any requirement for the depositing of such a security deposit shall not be deemed to release or in any way limit an Owner's responsibility and liability for injury and damage caused by his pets. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Property within ten (10) days after written notice from the Board to the respective Owner to do so.

6.1.7 Nothing shall be done or permitted in any Unit which will impair the structural integrity of any Building or which would structurally change any Building or which would affect the exterior appearance of any Unit, except as otherwise provided in the Declaration or these Bylaws. No Unit shall be used in any unlawful manner, in violation of the zoning laws in effect in Marion County, Indiana, or in any manner which might cause injury to the reputation of Broadway Lofts Condominiums of which might be a nuisance, annoyance, inconvenience or damage to other Owners and occupants of Units or neighboring property, including without limited to the generality of the foregoing, noise by the use of any musical instruments, radios, television, loud speakers, electrical equipment, amplifiers or other equipment or machines or loud persons.

6.1.8 No clothes, sheets, blankets, towels, rigs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any part of the Common Areas. The Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials.

6.1.9 No industry, trade or other commercial or religious activity, education or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Property.

6.1.10 No "for sale", "for rent" or "for lease" signs, or other signs, or other window or advertising display shall be maintained or permitted in any part of the Property or any Unit without the prior consent of the Board; provided, however, that the right is reserved by the Declarant and the Board to place or allow to be placed "for sale" or "for lease" signs on or about the Property in connection with any unsold or unoccupied Units.

6.1.11 No enclosure of any kind may be placed on, over or around the patios or decks of each Unit without the prior written consent of the Board.

6.1.12 All Owners and members of their families, their guests, or invitees, and all occupants of any Unit or other persons entitled to use the same and to use and enjoy the Common Areas and Limited Common Areas or any part thereof, shall observe and be

governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Units, the Common Areas and Limited Common Areas.

6.1.13 No boats, campers, trailers of any kind, buses, mobile homes or any other vehicles of any similar description or type shall be permitted, parked or stored anywhere within the Property unless prior written approval is obtained from the Board. No repair work shall be done on the Property on any vehicles, including, but not limited to, passenger automobiles, motorcycles, trucks or boats unless express written permission is obtained from the Board.

6.1.14 No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas or Limited Common Areas, except with express permission from the Board.

6.1.15 No Owner or tenant shall be allowed to place or cause to be placed in either Common Areas or Limited Common Areas, any furniture, packages or objects of kind, without the consent of the Board. The Rules and Regulations adopted by the Board may set forth the standards to implement the intent of this provision.

6.1.16 All garbage, trash and refuse shall be stored in appropriate containers as determined by the Rules and Regulations by the Board. All such garbage, trash and refuse shall be placed in the containers approved by the Board for scheduled trash collection in further accordance with the Rules and Regulations and shall be kept therein until not earlier than sundown of the evening before scheduled trash collection. Garbage, trash and refuse shall be placed in sealed disposable plastic bags or other containers approved by the Board for scheduled trash collection and shall be placed at such locations for trash collection as are designated by the Board.

6.1.17 No use shall be made of any part of the Real Estate which violates these restrictions, or the Rules and Regulations promulgated and supplied to the Owners, and all Owners, members of their families, their guests, tenants, invitees and all occupants or other parties entitled to use or who may use any part of the Real Estate shall at all times fully comply with the terms, covenants, provisions, conditions, limitations, restrictions and requirements contained and described in these Restrictive Covenants and the Rules and Regulations.

6.1.18 All Common Areas and Facilities and Limited Common Areas and Facilities shall be used for the purposes for which they are designed and intended, and shall be used subject to the Rules and Regulations from time to time adopted by the Board.

Section 6.2 Right of Entry. All Owners and Occupants of a Unit shall be deemed to have granted the right of entry thereto to the Board or any person authorized by the Board in case of any emergency originating in or threatening his Unit or the Building in which it is located, whether the Owner is present at the time or not. Any Owner shall permit other persons, or their representatives when so required, to enter his Unit for the purpose of performing installations,

alterations or repairs to the mechanical or electrical services, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time reasonably convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Section 6.3 Right of Board to Adopt Rules and Regulations. The Board may promulgate such additional rules and regulations regarding the operation of the Property including, but not limited to the use of the Common Areas and Limited Common Areas, as it may deem necessary from time to time and such rules as are adopted may be amended by a vote of a majority of the Owners, and the Board shall cause copies of such rules and regulations and all amendments thereto to be delivered to and mailed promptly to all Owners.

Section 6.4 Interpretation of Bylaws and Covenants. The Board of Directors shall have the power, authority and obligation to determine all matters affecting or relating to the interpretation, application and enforcement of the Bylaws and Restrictive Covenants set forth in this Article VI of the Bylaws. Any decision or determination made by the Board pursuant to its powers and obligations as set forth in this paragraph shall be deemed binding upon all parties and all Owners unless it shall be shown that said determination was made in bad faith with an intent to unfairly discriminate between Owners or was made in contravention of the express terms and conditions of the Declaration and/or Bylaws.

ARTICLE VII AMENDMENT TO BYLAWS

Section 7.1 Subject to any contrary, overriding or superseding provisions set forth herein or in the Declaration or Articles, these Bylaws may be amended in the same manner, and subject to the same limitations and requirements, as amendments to the Declaration. Amendments to these Bylaws shall be considered as amendments of the Declaration and shall be recorded in the office of the Recorder of Marion County, Indiana as required by the Declaration and the Act.

ARTICLE VIII MORTGAGES

Section 8.1 Notice to Association. Any Owner who places a first mortgage lien upon his Unit or the Mortgagee shall notify the Secretary of the Association thereof and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration, the Articles, these Bylaws or the Law shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of the Mortgagee are furnished to the Secretary either by the Owner or the Mortgagee, no notice to any Mortgagee may be otherwise required by the Declaration, the Articles, these Bylaws or the Act shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of the Declaration, the Articles, these Bylaws, the Law or proxy granted to such Mortgagee in connection with the mortgage. The holder, insurer or guarantor of any mortgage or any unit shall be given timely notice by the Association of:

8.1.1 any condominium or casualty loss that affects either a material portion of the project or the Unit securing its mortgage;

8.1.2 any sixty (60) day delinquency in the payment of assessment or charges owed by the Owners of any Unit on which it holds the mortgage;

8.1.3 a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Owners' Association; and

8.1.4 any proposed action that requires the consent of a specified percentage of the eligible mortgage holders.

Such information shall only be supplied to mortgage holders upon receipt of a written request therefore, specifying the unit numbers on which it holds a mortgage.

Section 8.2 Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Unit, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments against the Unit, which statement shall be binding upon the Association and the Owners, any Mortgagee or grantee of the Unit shall not be liable for nor shall the Unit conveyed be subject to a lien for any unpaid assessments in excess of the amount set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 5.2.

ARTICLE IX MISCELLANEOUS

Section 9.1 Fiscal Year. Unless changed by resolution of the Board of Directors, the fiscal year of the Association shall begin on the first day of January in each year and end on the last day of December next following.

Section 9.2 Membership Certificates. Each member of the Association may receive a certificate from the Association, signed by the President or Vice President, and Secretary or Assistant Secretary thereof, stating that he is a member of the Association. Such certificates shall be non transferable and a member's certificate shall become void and of no force and effect upon the sale by a member of his Unit. Such membership certificates shall be in a form and style to be determined by the Board; provided, however, that no such certificate shall be required to establish membership in the Association.

ARTICLE X NONPROFIT CORPORATION PROVISION

Section 10.1 In the event the Association forms a nonprofit Corporation as provided in the Declaration, then these Bylaws shall become the Bylaws of the Corporation. These Bylaws are a part of the Declaration and annexed thereto and incorporated therein by reference.

Roberts Development Company, LLC, Declarant

By: Robert H. Claxton

Printed: ROBERT H. CLAXTON

Title: Co-Owner

STATE OF INDIANA)
COUNTY OF Shelby)

Before me a Notary Public in and for said County and State, personally appeared Robert H. Claxton, Co-Owner of Roberts Development Company, LLC, who acknowledged the execution of the foregoing Code of Bylaws of Broadway Lofts Owners Association, Inc. for and on behalf of said Association and who, having been duly sworn stated that the representations therein contained are true.

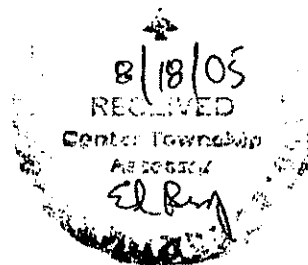
WITNESS my hand and Notarial Seal this 22nd day of July, 2005.

Donna Sue Bullard
Notary Public Donna Sue Bullard

Resident of Shelby County
My Commission expires: 1-19-2008

THIS DOCUMENTS PREPARED BY:
April R. Schilling
LOCKE REYNOLDS LLP
201 North Illinois Street, Suite 1000
P. O. Box 44961
Indianapolis, IN 46244-0961
619262_1

MARTHA A. PORTNICKS
93751
MAY 10 2005
SUBJECT TO THE TERMS AND CONDITIONS OF THE INSTRUMENT



RECEIVED
MAY 10 2005

Addresses for Broadway Lofts

932 North Broadway

- 932 North Broadway Unit 1**
- 932 North Broadway Unit 2**
- 932 North Broadway Unit 3**
- 932 North Broadway Unit 4**
- 932 North Broadway Unit 5**
- 932 North Broadway Unit 6**
- 932 North Broadway Unit 7**
- 932 North Broadway Unit 8**
- 932 North Broadway Unit 9**
- 932 North Broadway Unit 10**
- 932 North Broadway Unit 11**
- 932 North Broadway Unit 12**
- 932 North Broadway Unit 14**