

**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE DURANGO TECHNICAL CENTER, P.D.**

This Declaration made this 4<sup>th</sup> day of MARCH, 1998, by T.A.W.B., Inc., f/k/a SFR-TIAGO, LLC, and referred to hereinafter as Declarant.

**Article I  
Recitals**

1. Declarant is the successor in interest and assignee of the rights of Declarant under that certain Declaration of Covenants, Conditions and Restrictions for the Durango Technical Center, P.D. as recorded April 21, 1995, as Reception No. 685938, La Plata County records (the "First Declaration.")
2. Declarant, acting as assignee pursuant to Art. IX, Paragraph 2 of the First Declaration. This Amended and Restated Declaration supersedes the First Declaration in its entirety.

**Article II  
Definitions**

1. **Building Site** This term shall mean and include any contiguous plot of land the size and dimensions of which shall be established by the Final Plan shown on Exhibit "B". If two or more Building sites, as defined hereinabove, are acquired by the same owner or lessee, such commonly owned or leased sites may, at the option of said owner or lessee, be combined and treated as a single Building Site for purposes of the Covenants contained herein.
2. **Improvements** shall mean and include but not be limited to buildings, parking areas, loading areas, fences, walls, hedges, landscaping, mass planting, poles, signs and structures of any type or kind.
3. **Declarant** shall mean T.A.W.B., Inc., its immediate successors and assigns.
4. **Owner or lessee** shall mean the party or parties owning fee title or leasing a Building Site; provided, however, that an Owner or lessee may, upon written notice to Declarant, assign all or part of his right but such assignment shall not relieve his duties hereunder to Owner's tenant or lessee and shall not relieve either Owner or Lessee of the duties and obligations or this Declaration.
5. **Streets** reference to all streets or rights-of-way within this declaration shall mean dedicated vehicular rights-of way.
6. **Land Use** No land shall be used for any purpose other than as permitted in the Annexation Agreement, Section II, dated October 1994. (Exhibit "C")
7. **Mortgage** The term "mortgage" as used herein shall include deeds of trust and trust deeds.

**Article III  
Purpose**

1. The Property is hereby made subject to the following conditions, covenants, restrictions and reservations all of which shall be deemed to run with the Property and each and every parcel thereof, to insure proper use and appropriate development and improvement of said premises so as to (a) protect the Owners, lessees and tenants of Building Sites, as defined by this Declaration, against such improper development and use of surrounding Building Sites as will depreciate the value and use of their Building Sites; (b) prevent the erection on the property of structures constructed of improper or unsuitable materials or with improper quality and methods of construction, (c) insure adequate and consistent development of the property; (d) encourage and insure the erection of attractively designed permanent improvements appropriately located within the Property in order to achieve harmonious appearance and function; (e) provide adequate off-street parking and loading facilities; and (f) generally promote the welfare and safety of the occupants, tenants and Owners or Lessees of Building Sites.

**Article IV**  
**Permitted Uses and Performance Standards**

1. No noxious or offensive trades, services or activities shall be conducted on any Building Site nor shall anything be done thereon which may be or become an annoyance or nuisance to the Owner/Lessee/Tenant or occupant of other Building Sites within the Property by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke or noise.
2. Building Sites shall be utilized only for those land uses itemized in Section II of the Annexation Agreement and incorporating herein as Exhibit "C".

**Article V**  
**Regulation of Improvements**

1. **Improvements, Generally** No improvements shall be constructed, erected, placed, altered, maintained or permitted on an Building Site until plans and specifications therefor have been approved by the Architectural Review Committee as more fully set forth in Article VI, of these Covenants.
2. **Setbacks** The setbacks agreed to for this PD are twenty (20) feet front yard, ten (10) feet side yard, and ten (10) feet rear yard. See Exhibit "E" for exact locations on each lot.
3. **Off Street Parking** Adequate off-street parking shall be provided by each Lessee, Owner or tenant for customers and visitors. The location, number and size of parking spaces shall be subject to approval by the Architectural Review Committee. The minimum standard shall be in conformance with The City of Durango Land Use and Development Code. All off-street parking and access drives and loading areas shall be paved and properly graded to assure proper drainage. Parking shall not be permitted within ten feet of any street. Proper visual screening must be provided between any parking lot and any street.
4. **Exterior Walls** The following materials are generally deemed approved by the Architectural Review Committee if used appropriately.
  - a. For walls over 18 feet in height the exterior surface should be smooth or ribbed architectural concrete, pre-cast, tilt-up, or cast in place.
  - b. Walls 18 feet and under shall be a type from "a" above or ribbed split-faced concrete block.
  - c. Use of brick or stone veneer is permitted in lieu of either a or b above.
5. **Outside Storage** No materials, supplies, equipment, finished or unfinished products or articles of any nature shall be stored or permitted to remain on any Building site outside of the building without proper visual screening (see paragraph 4). Waste and rubbish storage facilities shall be properly screened and shall not be installed, constructed or utilized without prior written consent of the Architectural Review committee.
6. **Landscaping** All Building Sites shall be landscaped only in accordance with a plan submitted to and approved in writing by the Architectural Review Committee prior to any development of the Building Site. Plans shall also be approved by the City of Durango in accordance with the applicable zoning ordinance. Such landscaping plan shall include information regarding the type of sodding, the type of seeding, types of trees, hedges and shrubs and information regarding other customary landscape treatment for the entire site, including fences, walls and screening. All landscaping plans shall also include an underground lawn sprinkling system. All landscaping shall be undertaken and completed in accordance with such approved plan and said plan may not be altered, amended or revised without submitting the revised landscaping plan for prior written approval by the Architectural Review Committee. Applicants for building Permits must first receive approval from the ARC prior to submitting an application for a building permit.
7. All landscaping required hereunder or otherwise to be provided on any Building Site shall be completed (completion for such purposes shall include payment therefor) within sixty (60) days after the substantial completion of construction of any buildings to be constructed on Building Site; provided, however, if weather conditions do not a such time permit, then such landscaping shall be completed as soon thereafter as weather conditions permit. If any Owner or lessee fails to undertake and complete his landscaping within the time limit previously set forth herein, Declarant may, at its option, after giving the Owner or lessee ten (10) days written notice forwarded to Owner or lessee (unless within said ten (10) day period the owner or lessee of the Building Site shall proceed and thereafter

pursue with diligence the completion of such landscaping), undertake and complete the landscaping of the Building Site in accordance with the landscaping plan. If Declarant undertakes and completes such landscaping because of the failure of the Owner or lessee to complete the same, the costs of such landscaping shall be assessed against the owner or lessee, and if said assessment is not paid within thirty (30) days after written notice of such assessment from Declarant, said assessment will constitute a lien on the Building Site and may be enforced as set forth in Article VII thereof. In addition to the foregoing, each owner/lessee shall deliver to Declarant no later than ten (10) days subsequent to approval of the landscaping plans by the Architectural Review Committee, an irrevocable letter of credit in form satisfactory to Declarant, in the amount of the estimated cost of the landscaping. Said letter may be drawn upon by Declarant to pay the costs of completion of the landscaping in accordance with the approved plans, the letter of credit shall be promptly returned by Declarant to Owner or lessee may with prior written approval of Declarant, furnish other security satisfactory to Declarant to insure completion of the landscaping plans as approved.

8. **Associates to Perform landscaping maintenance and Snow Removal** It is the intent of Declarant that all Building sites, including the landscaping thereon, be maintained in a uniform, high-quality, first-class manner. To insure that this is done, the Association shall be responsible for all landscaping maintenance and for snow removal from parking lots and walkways within public rights of way, with the cost thereof to be assessed against each respective Building Site as provided in Article VII.
9. **Owners' Maintenance Responsibility** Each Owner or lessee of any Building site shall keep the buildings, improvements and appurtenances thereon in a safe, clean, maintained, neat, wholesome condition and shall comply in all respects with all governmental statutes, ordinances, regulations, health and police and fire requirements. Each such Owner, lessee, tenant or occupant shall remove at his own expense any rubbish or trash of any character which may accumulate on its Building Site and shall be responsible for snow removal on all walkways to building entrances from public rights of way or from parking lots.
10. **Rubbish**, trash, garbage or other waste shall be kept only in sanitary containers, and shall be screened from view. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Rubbish and trash shall not be disposed of on the premises by burning in open fires or any other means.
11. **Signs** No signs shall be permitted anywhere within the Property without prior written approval of the Architectural Review Committee. All signs shall conform to the master sign program for the Property as adopted by the ARC and all applicable laws and governmental regulations. Any signs not in compliance shall be physically removed by Declarant and the cost of removal assessed to the Owner and/or Lessee of the Building Site.
12. **Utility Connections** All utility connections, including all electrical and telephone connections and installations of wires to buildings shall be made underground from the nearest available power source. No transformer, electric, gas or other meter of any type or other apparatus shall be located on any power pole nor hung on the outside of any building, but the same shall be placed on or below the surface of the Property and where placed on the surface shall be adequately screened and all such installations shall be subject to prior written approval of the Architectural Review Committee.
13. **Height Restrictions** Construction on lots 1-3 (the lots visible from town along the mesa top) will be no more than thirty (30) feet in height. Building façade restrictions will be used to keep the structures in conformity with the imaginary plain of the hill projected above the site from the east. Heights on the rest of the lots (4-26) shall be no more than forty (40) feet, with the same building facades approach than for the hill on the south.
14. **Noise Control** Due to the proximity to the Cemetery the Developers will require the project to meet all provisions of the City of Durango's Noise ordinance Sec. 16-1 for commercial land uses. The Permissible Level of Noise for the Durango Technical Center from Table I will be defined as Commercial. That is a maximum noise of 60 dB(A) from 7 a.m. to next 7 p.m. and 55 dB(A) from 7 p.m. to the next 7 a.m.

#### **Article VI** **Approval of Plans**

1. **Architectural Review Committee** There is hereby established an Architectural Review Committee whose members shall be appointed by the Declarant. This committee shall

consist of three (3) members. Members of the ARC shall serve at the pleasure of Declarant or at the pleasure of a successor to Declarant which successor shall be a person or entity which succeeds to the ownership of the subject property with essentially the same initial ownership as Declarant. If such ownership occurs the word Declarant herein shall mean such successor. The vote of two (2) members shall constitute the action of the Architectural Review Committee. The Declarant shall remain as a member of the Architectural Review Committee as long as it owns property in the Park. The three members of the committee shall be selected by then landowners.

2. Neither the Architectural Review Committee, T.A.W.B., Inc., nor any director, officer, agent, or employee of any of them shall be liable to any party for any action or for any failure to act with respect to any matter if the action was taken or failure to act was taken in good faith.
3. Review of building plans, site plans and landscaping plans must have written Architectural Review Committee approval prior to the Real Estate closing for the lot or lots affected by the plans.
4. No improvements shall be constructed, erected, placed, altered, maintained, or permitted on any Building Site until plans and specifications are approved by the Architectural Review Committee. Plans should show the proposed improvements, plot layout and all exterior elevations, materials and colors, signs and landscaping, number, size and layout of parking spaces, grading, easements and utilities, proposed building use and number of employees, and such other information as may be requested by said Committee. Such plans and specifications shall be submitted in writing over the signature of the Owner or lessee of the Building Site or the Owner's or Lessee's authorized agent. The plans must be approved in writing by the Architectural Review Committee.
5. Approval shall be based, among other things, on adequacy of Building Site dimensions, conformity and harmony of external design with neighboring structures, effect of location and use of improvements on neighboring Building Sites, operations and uses; relation of topography, grade and finished ground elevation of the Building Site being improved to that of neighboring Building Sites; proper facing of main elevation with respect to nearby streets; and conformity of the plans and specifications to the purposed and general plan and intent of these restrictions.

If the Architectural Review Committee fails either to approve or to disapprove such plans and specifications (including re-submission of disapproved plans and specifications which have been revised) within thirty (30) days after the same have been submitted to it (provided that all required information has been submitted), it shall be conclusively presumed that said plans and specifications have been approved subject, however, to all conditions and restrictions contained in these Covenants. The Architectural Review Committee shall notify the Owner or lessee in writing upon receipt of all required plans and specifications and the aforesaid 30 day period shall commence on the date of such notification.

7. Neither the Architectural Review Committee nor Declarant or their respective successors or assigns shall be liable in damages to anyone submitting plans to them for approval, or to any Owner or lessee of land affected by this Declaration, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any such plans and specifications. Every person who submits plans to the Architectural Review Committee for approval agrees, by submission of such plans and specifications, and every Owner, lessee or tenant of any of said Building Sites agrees, by acquiring title thereto or an interest therein, that he will not bring any action or suit against the Architectural Review Committee or Declarant to recover any such damages.

## **Article VII**

### **Enforcement**

1. **Abatement and Suit** The conditions, covenants, restrictions and reservations herein contained shall run with the land, and be binding upon and inure to the benefit of the Declarant and for the Owner and lessee or their successors and assigns of every Building Site on the Property. Violation of any condition, covenant, restriction or reservation herein contained shall give to the Declarant and/or Building Site owner, the right to enter upon the portion of the Property wherein said violation or breach exists and to summarily abate and remove at the expense of the Owner or lessee any structure, thing or condition that may be or exists thereon contrary to the intent and meaning of the provisions hereof, or to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these conditions, covenants, restrictions reservations to enjoin

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- or prevent them from doing so, to cause said violation to be remedied or to recover damages for said violation.
2. **Deemed to Constitute a Nuisance** Every violation of these Covenants or any part thereof is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed therefor by law or equity against an Owner, lessee, tenant or occupant shall be applicable against every such violation and may be exercised by Declarant, including but not limited to injunctive relief.
  3. In any legal or equitable proceeding for the enforcement or to restrain the violation of the Declaration or any provision hereof, the losing party or parties shall pay the reasonable attorney's fees of the prevailing party or parties in the amount as may be fixed by the Court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.
  4. The failure of the Declarant to enforce any of the conditions, covenants, restrictions or reservations herein contained shall in no event be deemed to be a waiver of the right to do so for subsequent violations or of the right to enforce any other conditions, covenants, restrictions or reservations and Declarant shall not be liable therefor.
  5. **Enforcement of Assessments.** The Owner or lessee of each Building Site shall be responsible for payment of regular and special assessments of the Association, assessed against each Building Site in proportion to the total square usable footage of the site. Assessments may be made payable monthly, quarterly, or annually, as determined by the Association. Any assessment not paid within the aforesaid thirty (30) day period will be assessed interest at eighteen percent (18%) per annum until paid in full. All assessments not paid as set forth herein, plus accrued interest shall constitute a lien on the Building Site superior and prior to all other liens and encumbrances, except those liens for general taxes and special assessment liens, and all liens unpaid on any mortgage of record. To evidence such lien, Declarant shall prepare a written notice ("the Notice") setting forth the amount of such unpaid assessment, the name of the Owner or the reputed Owner or lessee of the Building Site and a legal description of such Building Site. The Notice shall be signed by the Operating Manager of Declarant and shall be recorded in the office of the Clerk and Recorder of La Plata County, Colorado, after having been mailed not less than thirty (30) days prior to such recording to the Owner or reputed Owner or lessee of the Building Site in default. The lien for the unpaid assessment shall attach from the date of the recording of the Notice. Any such lien may be enforced by the foreclosure upon the Building Site with respect to which the assessment has not been paid in like manner as a mortgage on real property is foreclosed under the laws of the State of Colorado. In any such foreclosure, the Owner or lessee of the Building Site which is being foreclosed shall be required to pay the cost, expenses and reasonable attorney's fees in connection with the preparation and filing of the Notice as provided herein and all costs and reasonable attorney's fees incurred in connection with the foreclosure. Declarant shall have the power to bid in the Building Site being foreclosed upon. Declarant shall notify any mortgagee of the Building Site being foreclosed, if such encumbrance has its address of record in the encumbrance document or otherwise furnishes its address in writing to the Declarant. Any mortgagee holding a lien on the Building Site may, but shall not be required to, pay any unpaid assessment and upon such payment, such encumbrance shall have a lien on the property. The amount of the assessment assessed against each Building Site shall also be the personal and individual debt of the Owner and lessee thereof at the time the assessment is made and suit to recover money judgment (together with reasonable attorney's fees and costs as aforesaid) for unpaid assessments may be maintainable without foreclosing or waiving the liens securing the same.
  6. **Certificate of Compliance** Upon payment of a reasonable fee not to exceed twenty dollars (\$20.00) and upon written request of any Owner, mortgagee, prospective Owner, lessee, tenant or prospective tenant of a Building Site, Declarant shall issue an acknowledged certificate in a recordable form setting forth the amounts of any unpaid assessments, if any; whether or not the provisions of Article VIII hereof relating to right of repurchase have been exercised or complied with, and setting forth generally whether or not said Owner or lessee is in violation of any of the terms and conditions of these Covenants. Said written statement shall be conclusive upon Declarant in favor of the persons who rely thereon in good faith. Such statement shall be furnished by Declarant within a reasonable time, but not to exceed ten (10) days from the receipt of a written request for such written statement. In the event Declarant fails to furnish such statement within said ten (10) days, it shall be conclusively presumed that there are no unpaid assessments relating to the Building Site as to which the request was made, that the Owner or lessee has fully complied with the terms and provisions

of Article VIII hereof, and that said Building Site is in conformance with all of the terms and conditions of these Covenants.

**Article VIII**  
**Right of Repurchase**

1. If any Owner or lessee fails to commence construction of a building upon a Building Site purchased by such Owner or lessee within a one (1) year period commencing with the date of a conveyance from Declarant to an Owner or lessee, other than Declarant, Declarant shall have the right, but not be obligated to, repurchase the Building Site at any time within one hundred eighty (180) days after the expiration of said one (1) year period upon giving fifteen (15) days prior written notice of its intention to repurchase. The purchase shall be the price paid by Owner of the Building Site less the unpaid balance of any mortgage or deed of trust or other amounts, nonpayment of which may be assessed as liens against the Building Site. The provisions of this Article shall be specifically enforceable as set forth in Article VII of these Covenants. If Declarant fails to give written notice exercising its right or repurchase within the one hundred eighty (180) day period aforesaid, said right of repurchase shall be deemed waived. Commencement of construction of a building as defined herein means that the Owner or lessee of the Building Site has failed to complete any one of the following: (1) obtain approval of the Architectural Review Committee as set forth in Article VI hereof; (2) obtain building permits from the appropriate governmental authorities authorizing construction of a building and improvements as approved by the Architectural Review Committee; (3) entered into a construction contract with a contractor for construction of a building; and (4) expended at least the sum of Twenty Thousand Dollars (\$20,000.00) pursuant to such construction contract for on-site construction work.

**Article IX**  
**Term, Termination, Modification and Assignments**

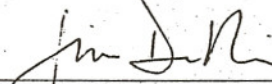
1. **Term** This Declaration, every provision hereof and every covenant, condition, restriction and reservation contained herein shall continue in full force and effect for a period of thirty-five (35) years from the date hereof, and shall thereafter be renewed automatically from year to year unless and until terminated as provided in Article IX, Paragraph 2 hereof.
2. **Termination and Modification** This Declaration or any provision hereof, or any covenant, condition, restriction, or reservation contained herein, may be terminated, extended, modified or amended, as to the whole of said Property or any portion thereof, provided, however, that during the initial ten (10) year term of these Covenants, such termination, extension, modification or amendment shall be immediately effective upon recording a proper instrument in writing, executed and acknowledged by Declarant in the office of the Clerk and Recorder of La Plata County, Colorado.
  - a. Upon conclusion of such ten-year term, such termination, modification or amendment may be made by affirmative vote of the owners of sixty-five percent (65%) of the Property, as determined on a square footage basis, to be effective upon recording of an instrument executed by the President or other designated officer of the Association and attested by the Secretary, setting forth in full such termination, modification or amendment.
3. **Assignment of Declarant's Rights and Duties** Any and all of the rights, powers and reservations of Declarant herein contained may be assigned by Declarant to any person, corporation or association which will assume any or all of the duties of Declarant hereunder, and upon any such person, corporation or association's evidencing its consent in writing to accept such assignment assume Declarant's duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Upon such assignment and to the extent thereof, Declarant shall be relieved from all liabilities, obligations and duties hereunder. The term "Declarant" as used herein includes all such assignees and their heirs, successors and assigns. If at anytime Declarant ceases to exist and has not made such an assignment, a successor Declarant may be appointed by the then Owners or lessees of sixty-five percent (65%) of the Property (other than Property Used in Common) upon compliance with the requirements of Paragraph 2 of this Article IX.

**Article X**  
**Miscellaneous**

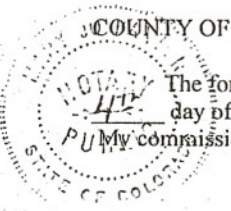
1. **No Waiver** All of the conditions, covenants, restrictions and reservations contained in this Declaration of Protective Covenants shall be construed together, but if it shall at any time be held that any one of said conditions, covenants, restrictions and reservations, or any part thereof, is invalid, or for any reason becomes unenforceable, no other conditions, covenants, restrictions and reservations or any part thereof shall be thereby affected or impaired.
2. **Owner's or Lessee's Liability Subsequent to Sale** Upon sale of a Building Site, the Owner or lessee so selling or leasing shall not have any further liability for the obligations thereof which accrue against the Building Site sold after the date of the conveyance; provided, however, that nothing herein shall be construed so as to relieve an Owner or Lessee of any Building Site from any liabilities or obligations incurred prior to such sale pursuant to this Declaration of Protective Covenants. Furthermore, any such sale or lease shall not enlarge or extend the time for commencement of construction of a building upon a Building Site nor modify Declarant's right of repurchase pursuant to Article VIII hereof, and any subsequent Owner or lessee shall have only the time remaining, if any, to comply with Article VIII.
3. **Benefits and Burdens** The terms and provisions contained in this Declaration of Protective Covenants shall bind and inure to the benefit of the Declarant, the Owners or Lessees of all Building Sites located within the Property.
4. **Notice** Any notices required or permitted herein shall be in writing and mailed, postage prepaid by registered or certified mail, return receipt requested and shall be directed as follows: If intended for a Building Site Owner or Lessee (1) to the address of the Building Site if improved; (2) if the Building Site is not improved to the address set forth in the purchase contract or purchase contract application; (3) if none of the foregoing, to the last known address of the Owner or Lessee. If intended for Declarant, to the address previously set forth herein.
5. **Singular and Plural** Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

IN WITNESS WHEREOF, Declarant has executed this instrument this 4<sup>th</sup> day of MARCH, 1998.

T.A.W.B., INC.,  
f/k/a SFR TIAGO, LLC

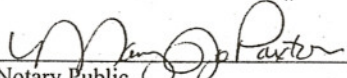
  
\_\_\_\_\_  
President

STATE OF COLORADO    )  
                                  )ss.  
COUNTY OF LA PLATA    )



The foregoing instrument was subscribed and sworn to and acknowledged before me this 4<sup>th</sup> day of March, 1998. Witness my hand and official seal.

My commission expires: July 24, 1998.

  
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Notary Public

**List of Exhibits**

- "A" The Legal Description of the land.
- "B" The Final Plan of the Durango Technical Center Addition and Planned Development.
- "C" The Annexation Agreement.
- "D" Setback Map

## KNOW ALL MEN BY THESE PRESENTS:

That SFR TIAGO, a Limited Liability Corporation, whose address is 25825 U.S. Highway 160, Durango, Colorado, 81301 being the legal and record owner of the following described tract of land to wit:

A tract of land located in Section 30, Township 35 North, Range 9 West, New Mexico Principal Meridian, in La Plata County, Colorado, being more particularly described as follows:

Beginning at a 5/8" rebar with a 1-1/2" aluminum cap stamped P.L.S. 18450- D.Z. Crites on the common boundary line as described in the Deeds recorded in the Office of the La Plata County, Colorado, Clerk and Recorder under Reception Numbers 675010 and 6751 whence the North 1/4 Corner of said Section 30 bears N 09° 21' 03" E, 1126.04 feet, Thence East, 200.00 feet along an existing fence line to a 5/8" rebar with a 2" brass cap stamped LS 9185- B.E. Roundtree,  
 Thence N 00° 47' 00" W, 114.00 feet along an existing fence line to a 5/8" rebar with a 2" brass cap stamped LS 9185- B.E. Roundtree,  
 Thence S 89° 45' 00" E, 644.00 feet along an existing fence line to a 5/8" rebar with a 2" brass cap stamped LS 9185- B.E. Roundtree,  
 Thence S 00° 41' 00" E, 332.47 feet along an existing fence line to a 5/8" rebar with a 1-1/2" aluminum cap stamped PLS 18450- D.Z. Crites,  
 Thence S 89° 24' 00" E, 646.69 feet along an existing fence line to a 5/8" rebar with a 1-1/2" aluminum cap stamped PLS 18450- D.Z. Crites,  
 Thence S 00° 58' 00" E, 464.00 feet along an existing fence line to a 5/8" rebar with a 1-1/2" aluminum cap stamped PLS 18450-D.Z. Crites,  
 Thence N 89° 07' 00" E, 421.93 feet along an existing fence line to a 5/8" rebar with a 1-1/2" aluminum cap stamped P.L.S. 18450- D.Z. Crites on the said common boundary line,  
 Thence N 18° 12' 16" E, 306.68 feet along the said common boundary line to a 5/8" rebar with a 1-1/2" aluminum cap stamped P.L.S. 18450- D.Z. Crites on the westerly line of the west side addition to the City of Durango, Colorado,  
 Thence S 83° 48' 00" E, 54.50 feet along the westerly line of the said West Side Addition to the City of Durango, Colorado,  
 Thence S 02° 17' 00" W, 699.00 feet along the westerly line of the said West Side Addition to the City of Durango, Colorado,  
 Thence S 26° 01' 00" E, 71.86 feet along the westerly line of the said West Side Addition to the City of Durango, Colorado,  
 Thence S 01° 56' 00" W, 100.60 feet along the westerly line of the said West Side Addition to the City of Durango, Colorado,  
 Thence S 01° 37' 00" E, 269.19 feet along the westerly line of the said West Side Addition to the City of Durango, Colorado to the south line of the SE1/4NE1/4 of said Section 30,  
 Thence N 88° 12' 55" E, 153.96 feet along the south line of the SE1/4NE1/4 of said Section 30 to the centerline of the Animas River,  
 Thence S 08° 00' 00" E, 58.31 feet along the centerline of the Animas River,  
 Thence S 16° 07' 00" E, 208.30 feet along the centerline of the Animas River,  
 Thence S 20° 32' 00" E, 125.33 feet along the centerline of the Animas River to the northerly right-of-way of U.S. Highway 160,  
 Thence S 79° 28' 00" W, 191.26 feet along the northerly right-of-way of U.S. Highway 160,  
 Thence along the arc of a tangent curve to the right with a delta angle of 22° 37' 16" and a radius of 656.30 feet for a distance of 259.11 feet, the long chord bears N 89° 13' 22" W, 257.43 feet along the northerly right-of-way of U.S. Highway 160,  
 Thence N 49° 42' 20" W, 97.31 feet along the northerly right-of-way of U.S. Highway 160,  
 Thence along the arc of a non-tangent curve to the right with a delta angle of 15° 59' 51" and a radius of 616.30 feet for a distance of 172.08 feet, the long chord bears N 61° 54' 54" W, 171.52 feet along the northerly right-of-way of U.S. Highway 160,  
 Thence N 79° 03' 33" W, 102.42 feet along the northerly right-of-way of U.S. Highway 160,  
 Thence along the arc of a non-tangent curve to the right with a delta angle of 02° 04' 56" and a radius of 666.30 feet for a distance of 24.22 feet, the long chord bears N 44° 52' 34" W, 24.21 feet along the northerly right-of-way of U.S. Highway 160 to the easterly line of that tract of land as described in the Deed recorded in the Office of the said Clerk and Recorder under Reception Number 572694,

CONT'D ON SHEET 2



## CONT'D FROM SHEET 1

Thence N 51° 13' 00" E. 64.28 feet along the easterly line of said tract of land. Reception Number 572694,  
 Thence N 12° 03' 00" E. 169.19 feet along the easterly line of said tract of land. Reception Number 572694 to the south line of the SE1/4NE1/4 of said Section 30,  
 Thence S 88° 12' 55" W. 16.08 feet along the south line of the SE1/4NE1/4 of said Section 30 to the Center-East 1/16 Corner of said Section 30,  
 Thence N 01° 27' 26" W. 84.07 feet along the west line of the said SE1/4NE1/4 of said Section 30 to the westerly line of Tract VI as described in the Deed recorded in the Office of the said Clerk and Recorder under Reception Number 663763,  
 Thence N 21° 26' 00" W. 272.14 feet along the westerly line of said Tract VI,  
 Thence N 50° 00' 00" E. 111.55 feet along the northerly line of said Tract VI,  
 Thence N 41° 18' 00" W. 225.13 feet,  
 Thence N 71° 44' 00" W. 136.62 feet,  
 Thence N 85° 11' 00" W. 112.80 feet,  
 Thence S 52° 56' 00" W. 69.96 feet to the easterly line of Tract A. Category 1. Project No. 459 as shown on the plat recorded in the Office of the said Clerk and Recorder under Reception Number 440470,  
 Thence N 00° 02' 00" E. 65.31 feet along the easterly line of said Tract A to the south line of the N1/2SW1/4NE1/4 of said Section 30,  
 Thence S 88° 40' 49" W. 532.92 feet along the south line of the N1/2SW1/4NE1/4 of said Section 30 to the east line of the west 350 feet of the S1/2SW1/4NE1/4 said Section 30,  
 Thence S 00° 44' 25" E. 85.14 feet along the east line of the west 350 feet of the S1/2SW1/4NE1/4 of said Section 30 to the northerly line of that tract of land described in the Deed recorded in the Office of the said Clerk and Recorder under Reception Number 450400,  
 Thence S 65° 39' 00" W. 106.25 feet along the northerly line of said tract of land. Reception Number 450400,  
 Thence S 28° 36' 00" E. 79.87 feet along the westerly line of said tract of land. Reception Number 450400 to the northerly right-of-way of U.S. Highway 160,  
 Thence S 80° 21' 15" W. 99.65 feet along the northerly right-of-way of U.S. Highway 160,  
 Thence S 88° 16' 15" W. 96.93 feet along the northerly right-of-way of U.S. Highway 160 to the easterly line of Tract C as described in the Deed recorded in the Office of the said Clerk and Recorder under Reception Number 481205,  
 Thence N 12° 19' 50" W. 62.77 feet along the easterly line of said Tract C,  
 Thence along the arc of a tangent curve to the right with a delta angle of 05° 33' 20" and a radius of 1402.60 feet and a distance of 136.00 feet. the long chord bears N 09° 33' 10" W. 135.95 feet along the easterly line of said Tract C,  
 Thence along the arc of a tangent curve to the left with a delta angle of 19° 21' 27" and radius of 463.28 feet for a distance of 156.52 feet. the long chord bears N 16° 27' 14" W. 155.78 feet along the easterly line of Tract B as described in the said Deed. Reception Number 481205,  
 Thence N 26° 07' 57" W. 44.25 feet along the easterly line of said Tract B to the west line of the NE1/4 of said Section 30,  
 Thence N 00° 44' 25" W. 241.98 feet along the west line of the NE1/4 of said Section 30 to the westerly line of Tract II as described in the said Deed. Reception Number 662918,  
 Thence West. 115.58 feet along the westerly line of said Tract II to the easterly line of Tract A as described in the said Deed. Reception Number 481205,  
 Thence N 26° 07' 57" W. 22.73 feet along the easterly of said Tract A,  
 Thence along the arc of a tangent curve to the right with a delta angle of 25° 10' 57" and a radius of 738.84 feet for a distance of 324.73 feet. the long chord bears N 13° 32' 28" W. 322.13 feet along the easterly line of said Tract A to the westerly line of said Tract II. Reception Number 662918,  
 Thence N 00° 57' 00" W. 166.38 feet along the westerly line of said Tract II to the point of beginning.  
 Contains 46.068 acres, more or less.

TOGETHER WITH the access and utility easements as described in the Deeds recorded in the Office of the said Clerk and Recorder under Reception Numbers 481205, 481219 and 500314 and a sixty (60) foot wide waterline easement as described in the Deed recorded under Reception Number 677723.

## II. LAND USE AND DEVELOPMENT

### A. Land Use and Density

The character of land use within the Durango Technical Center Planned Development shall be primarily commercial and industrial.

Due to the high visibility of Lots 1-3 from the City any building construction proposed shall be subject to follow the Special Use Permit process (LUDC 4-5-2) prior to issuance of a building permit.

Lots 4-23 will require only site plan review by the Development Review Committee prior to issuance of a building permit.

#### 1. Allowed land uses on lots 1 - 3 may include the following:

##### **COMMUNITY FACILITY - PUBLIC OR PRIVATE**

BUS/COMMUTER/TAXI STOPS

COMMUNITY ACTIVITY BUILDINGS / MEMBERSHIP CLUBS

CULTURAL/EDUCATIONAL/RECREATIONAL FACILITIES

museums, art centers, libraries, recreational halls

FINE ART SCHOOLS

UTILITY SERVICE LINES

VOCATIONAL/TECHNICAL/SPECIALTY SCHOOLS

##### **HUMAN CARE / TREATMENT FACILITY**

CLINICS/COUNSELING CENTERS

##### **SERVICE BUSINESS - LIMITED, INSIDE**

Completely enclosed buildings or offices for providing services including personal care, repair, cleaning/Laundromats, homeowner/contractor small equipment rentals, catering, alterations, communications, neighborhood service offices.

FINANCIAL INSTITUTIONS

PROFESSIONAL/GOVERNMENT OFFICES

##### **RETAIL BUSINESS - LIMITED, INSIDE**

Completely enclosed buildings or stores (including shopping centers) for displaying, storing and selling of new and used goods, wares, merchandise and equipment of all descriptions and associated repair, including tailor shops and light copy/printing establishments.

##### **COMMERCIAL RESIDENCE TRANSIENT / NON-TRANSIENT**

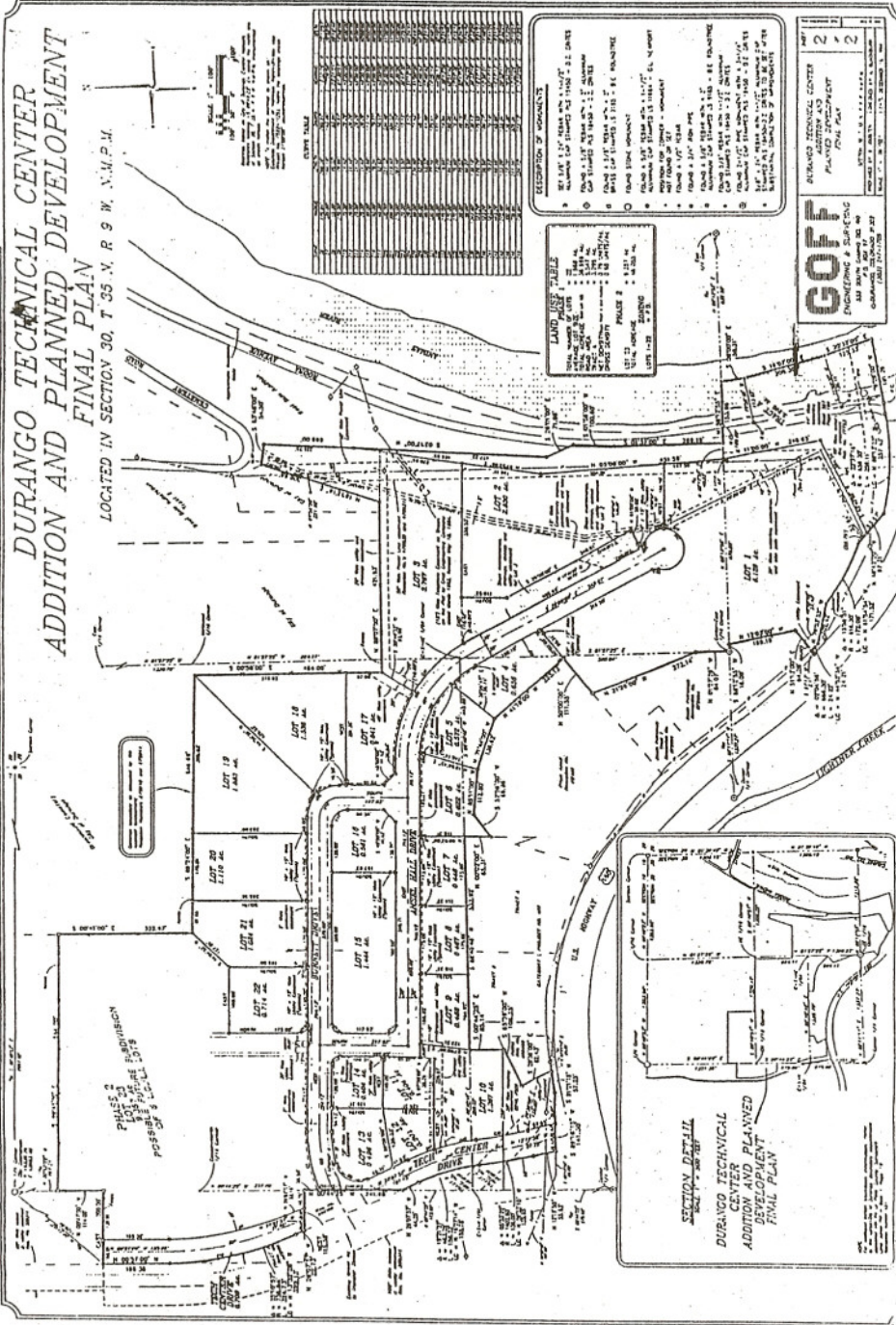
BED AND BREAKFAST ESTABLISHMENTS/TOURIST HOMES

HOTELS/MOTELS

RESIDENTIAL HOTELS/HOSTELS

##### **RESTAURANT BUSINESS - LIMITED**

ESTABLISHMENTS SERVING THE DINING NEEDS OF PERSONS, INCLUDING OUTDOOR DINING AREAS AND



**DURANGO TECHNICAL CENTER  
ADDITION AND PLANNED DEVELOPMENT  
FINAL PLAN**

LOCATED IN SECTION 30, T 35, N, R 9, W, N.M.P.M.



NO.	DESCRIPTION
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**DESCRIPTION OF MONUMENTS**

- 1. ALL 1/4" IRON AND 1/4" ALUMINUM MONUMENTS TO BE SET AT THE CORNERS OF ALL LOTS AND AT THE INTERSECTIONS OF ALL ALLEYS AND DRIVEWAYS.
- 2. ALL 1/4" IRON AND 1/4" ALUMINUM MONUMENTS TO BE SET AT THE CORNERS OF ALL LOTS AND AT THE INTERSECTIONS OF ALL ALLEYS AND DRIVEWAYS.
- 3. ALL 1/4" IRON AND 1/4" ALUMINUM MONUMENTS TO BE SET AT THE CORNERS OF ALL LOTS AND AT THE INTERSECTIONS OF ALL ALLEYS AND DRIVEWAYS.
- 4. ALL 1/4" IRON AND 1/4" ALUMINUM MONUMENTS TO BE SET AT THE CORNERS OF ALL LOTS AND AT THE INTERSECTIONS OF ALL ALLEYS AND DRIVEWAYS.
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- 6. ALL 1/4" IRON AND 1/4" ALUMINUM MONUMENTS TO BE SET AT THE CORNERS OF ALL LOTS AND AT THE INTERSECTIONS OF ALL ALLEYS AND DRIVEWAYS.
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- 8. ALL 1/4" IRON AND 1/4" ALUMINUM MONUMENTS TO BE SET AT THE CORNERS OF ALL LOTS AND AT THE INTERSECTIONS OF ALL ALLEYS AND DRIVEWAYS.
- 9. ALL 1/4" IRON AND 1/4" ALUMINUM MONUMENTS TO BE SET AT THE CORNERS OF ALL LOTS AND AT THE INTERSECTIONS OF ALL ALLEYS AND DRIVEWAYS.
- 10. ALL 1/4" IRON AND 1/4" ALUMINUM MONUMENTS TO BE SET AT THE CORNERS OF ALL LOTS AND AT THE INTERSECTIONS OF ALL ALLEYS AND DRIVEWAYS.

**LAND USE TABLE**

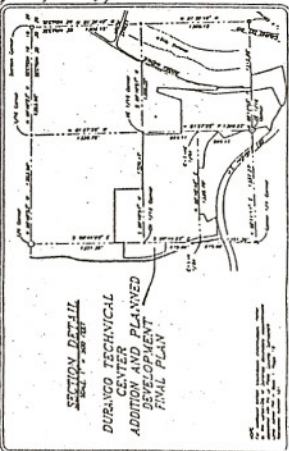
NO.	DESCRIPTION	AREA (SQ. FT.)	PERCENTAGE
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**GOFF**

DURANGO TECHNICAL CENTER  
ADDITION AND  
PLANNED DEVELOPMENT  
FINAL PLAN

ENGINEERING & SURVEYING

1000 W. 10TH AVE., SUITE 100  
DENVER, CO 80202  
PHONE: 333-1111  
FAX: 333-1112



741980

685938

# ANNEXATION AGREEMENT

THIS AGREEMENT, dated this 19 day of April, 1995, is between the City of Durango, a Colorado Municipal Corporation, herein referred to as "City," and SFR TIAGO, LLC., a Colorado Corporation, herein referred to as "Developer."

## WITNESSETH

WHEREAS, Developer is the owner of a certain tract of property comprising 46.38 acres legally described and identified as attached hereto as Exhibit "A," which exhibit is made a part hereof (hereinafter referred to as the "property") and which real estate is contiguous to the City limits of the City; and

WHEREAS, Developer desires and proposes to develop said property pursuant to the provisions and regulations as set forth in the City of Durango Land Use and Development Code; and

WHEREAS, pursuant to due legal notice and advertisement in the manner provided by law, the Durango Planning Commission and the Durango City Council have held hearings as prescribed by law and made recommendations and decisions for approval of the Durango Technical Center Annexation and initial zoning to Planned Development; and

WHEREAS, the City Council of the City of Durango, after due and careful consideration, has concluded that the annexation of the property to the City and its zoning and development on the terms and conditions set forth would further enable the City to control the development of the area and best serve the interests of the City;

NOW, THEREFORE, in consideration of the premises, mutual covenants and agreements herein set forth, the parties hereto agree as follows:

## I. CONTRACT ENFORCEMENT PROVISIONS

### A. Applicable Law

This Agreement is made pursuant to and in accordance with the provisions of C.R.S., §31-12-101, et seq. and the Code of Ordinances of the City of Durango.

### B. Remedies for Default

1. Developer agrees to faithfully and timely perform the covenants, conditions and obligations herein set forth. In the event of the Developer's default thereunder, City shall give notice of default to Developer at the address hereinafter set forth, specifying the nature and extent of the default with reasonable particularity, and providing Developer with a period of thirty (30) days to cure such default if the default cannot reasonably be cured within the thirty (30) days allowed.
2. Should Developer fail to cure such default or initiate and diligently pursue procedures necessary to cure such default within the thirty (30) day period subsequent to notice, City may, at its election, initiate a suit for specific performance or mandatory injunctive relief, or, alternatively, draw down an amount necessary to cure such default from the performance bond created by Developer for the benefit of the City pursuant to Part IV of this Annexation Agreement. Funds shall be drawn upon such performance bond through the City's providing to the issuing bank a copy of the notice of default previously forwarded to Developer, together with the City's affidavit advising the issuing bank that the default complained of within the notification has neither been cured nor have procedures been initiated and diligently pursued to cure said default within the aforementioned thirty (30) day notice period.

### B. Notice

- 1. Any notice required pursuant to the terms of this Agreement shall be effective if deposited in the United States mails, postage prepaid, addressed to the respective parties at the addresses hereinafter set forth or at such other addresses as a party may designate through written notification to the other party at the address hereinafter set forth. Addresses for such notice are as follows:

CITY: Otha J. Rogers, Public Works Director  
 City of Durango  
 949 E Second Avenue  
 Durango CO 81301

DEVELOPER: Ronald W. Pettigrew, Operating Manager  
 SFR TIAGO, LLC.  
 25 825 Hwy. 550-160  
 Durango, CO 81301

- 2. Notice shall be effective three (3) days after notice is deposited in the United States mails, postage prepaid, as hereinabove set forth.

C. Amendments

This Agreement may only be amended through a written instrument executed by the parties hereto which shall thereafter be appended hereto and become a part hereof. Verbal amendments shall be ineffective for any purpose.

D. Severability

Should any term, provision or condition of this Agreement be determined invalid or unenforceable, the invalidity or unenforceability of any such term, provision or condition shall not affect the validity or enforceability of any other term, provision or condition herein contained, all terms, conditions and provisions herein being independent and severable.

E. Binding Effect

This Agreement shall be binding upon the respective parties hereto, their heirs, successors and assigns.

F. Termination/Invalidation

This Agreement is made in specific anticipation of the annexation of Durango Technical Center Annexation to the City of Durango. Should such annexation not occur, the terms, provisions and conditions of this Agreement shall be void and unenforceable and all parties hereto shall be relieved of any further obligations with respect to the terms herein set forth. In such event, the City reserves the right to initiate and complete de-annexation procedures for all or any portion of the property which has previously been annexed.

G. Effective Date

This Agreement shall become effective upon the date of the Agreement which shall be the date of the last signature to the Agreement.

H. Execution of Documents

1. Developer agrees to execute any and all documents necessary to effectuate the terms and provisions of the agreements herein contained and to deliver such documents to the City or to such agencies or offices as the City may designate. Developer further agrees that in conjunction with the performance of obligations set forth within this Agreement, Developer will comply with all ordinances, regulations and construction specifications of the City of Durango, together with any future ordinances, regulations or specifications that may be hereinafter adopted; provided, however, any such future ordinances, regulations or specifications adopted after the effective date of this Agreement shall be of general applicability and shall not be limited or specifically directed to the Durango Technical Center Addition.

2. Developer agrees that this Agreement and all appurtenant documents shall be recorded in the office of the La Plata County Clerk and Recorder prior to final reading of the annexation ordinance. Developer shall promptly furnish proof of said recording to the City Department of Planning and Community Development.

DRIVE-IN SERVICES BUT DOES NOT INCLUDE DRIVE-THRU SERVICES.  
 CAFES/DELICATESSENS  
 RESTAURANTS/CAFETERIAS

**RESEARCH / ASSEMBLAGES / MANUFACTURING BUSINESS-LIMITED INSIDE.**  
 MAJOR OFFICES PROVIDING ADMINISTRATIVE, MANAGEMENT, CLERICAL OR SALES SERVICES  
 MEDICAL/DENTAL/OPTICAL LABORATORIES

**AMUSEMENT BUSINESS- INSIDE**  
 ESTABLISHMENTS PRIMARILY SERVING ALCOHOLIC BEVERAGES  
 HEALTH/ATHLETIC CLUBS AND SERVICES (outdoor swimming pool as an accessory use)

2. Allowed land uses on lots 4 - 23 include the following:  
 (This will also include any future re-subdivisions of Lot 23.)

**COMMUNITY FACILITY- PUBLIC OR PRIVATE**

BUS/COMMUTER/TAXI STOPS  
 COMMUNITY ACTIVITY BUILDINGS / MEMBERSHIP CLUBS  
 FIRE/POLICE/RESCUE/EMERGENCY STATIONS AND SERVICES  
 TRANSPORTATION FACILITIES  
 bus, taxi, or similar use  
 UTILITY SERVICE LINES  
 TRANSMISSION LINES  
 VOCATIONAL/TECHNICAL/SPECIALTY SCHOOLS

**HUMAN CARE AND TREATMENT FACILITY**  
 CLINICS/COUNSELING CENTERS  
 HUMAN SERVICES BUILDINGS  
 DAY CARE CENTERS/NURSERY SCHOOLS/PRESCHOOL  
 over 12 attendees

**SERVICE BUSINESS - LIMITED, INSIDE**  
 Completely enclosed buildings or offices for providing services including personal care, repair, cleaning/Laundromats, homeowner/contractor small equipment rentals, catering, alterations, communication, neighborhood service offices.  
 FINANCIAL INSTITUTIONS  
 INFORMATION KIOSKS  
 PROFESSIONAL/GOVERNMENT OFFICES

**RETAIL BUSINESS - LIMITED, INSIDE**  
 Completely enclosed buildings or stores (including shopping centers) for displaying, storing and selling of new and used goods,

wares, merchandise and equipment of all descriptions and associated repair, including tailor shops and light copy/printing establishments, but excluding retail businesses listed elsewhere in this matrix.

RETAIL BUSINESSES which includes light manufacturing or production on site

**RESTAURANT BUSINESS - LIMITED**

ESTABLISHMENTS SERVING THE DINING NEEDS OF PERSONS, INCLUDING OUTDOOR DINING AREAS AND DRIVE-IN SERVICES BUT DOES NOT INCLUDE DRIVE-THRU SERVICES.

CAFES / DELICATESSENS

RESTAURANTS / CAFETERIAS

**RESEARCH/ASSEMBLAGE/MANUFACTURING BUSINESS;  
FABRICATION AND ASSEMBLY, OR SUBASSEMBLIES,  
OF FINISHED PRODUCTS - LIMITED, INSIDE**  
USES WHICH CAN BE COMPLETELY CONTAINED WITHIN ENCLOSED BUILDINGS WHOSE LOCATION AND ARCHITECTURAL FEATURES PRESENT A DESIRABLE APPEARANCE AND COMPATIBILITY CAN BE MAINTAINED WITH OTHER ADJACENT USES.

MAJOR OFFICES PROVIDING ADMINISTRATIVE, MANAGEMENT, CLERICAL OR SALES SERVICES

SCIENTIFIC OR RESEARCH LABORATORIES FOR INVESTIGATION, TESTING OR EXPERIMENTATION FOR PRODUCT DEVELOPMENT

MEDICAL/DENTAL/OPTICAL LABORATORIES

**AMUSEMENT BUSINESS - INSIDE**

HEALTH/ATHLETIC CLUBS AND SERVICES(outdoor swimming pool as an accessory use)

**SERVICES BUSINESS - LIMITED OUTSIDE**

AUTOMATIC TELLER MACHINES (ATM)

AUTOMOBILE RENTAL (without service/maintenance)

CONTRACTOR, SMALL EQUIPMENT RENTAL

**RETAIL BUSINESS - UNLIMITED OUTSIDE**

AUTOMOBILE/PICKUP TRUCKS new and used

BUILDING MATERIALS/ HOME FURNISHING SALES AND STORAGE

FARM IMPLEMENTS

GREENHOUSE/NURSERY STOCK/GARDEN SUPPLIES

LP GAS AND EQUIPMENT

RECREATIONAL VEHICLES/VANS/BOATS AND EQUIPMENT

**REPAIR / PRODUCTION SERVICE SHOP**

APPLIANCE REPAIR AND SERVICING (no outdoor display or storage)

CABINET MAKING/WOODWORKING

CONTRACTING SHOPS (with screened outdoor storage)

**RETAIL BUSINESS UNLIMITED INSIDE**

BAKERIES (wholesale)  
BUILDING MATERIALS SALES AND STORAGE  
FEED AND SEED STORES/FACILITIES  
PUBLISHING ESTABLISHMENTS/INDUSTRIAL PRINTING

**SERVICE BUSINESS- UNLIMITED**

AUCTION HOUSES inside  
BROADCAST/COMMUNICATION FACILITIES  
BUS/TAXI SERVICE YARD AND STORAGE BUILDINGS  
COMMERCIAL/INDUSTRIAL RENTAL includes heavy equipment  
COMMERCIAL MEAT PROCESSING no slaughtering  
FROZEN FOOD LOCKERS  
GARAGE/VEHICLE STORAGE/MAINTENANCE CENTERS  
INTRA AND INTERSTATE TRUCK TERMINALS/STOPS  
MINI STORAGE UNITS  
RENTAL home oriented  
RENTAL VEHICLE SERVICE/MAINTENANCE  
SMALL PACKAGE DELIVERY SERVICE  
TAXIDERMY  
TRUCK DELIVERY SERVICES AND FACILITIES  
VEHICLE REPAIR SHOPS/GARAGES includes body repair/painting and parts services  
WELDING SHOPS

**WHOLESALE BUSINESS**

CONSISTS OF WHOLESALE BUSINESSES OR STORAGE BUILDINGS BUT NOT FOR HIGHLY FLAMMABLE MATERIALS OR LIQUIDS.

**MANUFACTURING - UNLIMITED (Includes sales and service)**

AUTOMOBILE / TRUCK / TRAILER / AIRPLANE ASSEMBLY  
BLACKSMITH / MACHINE / WELDING SHOPS  
BOTTLING WORKS/CANNING  
CONCRETE PRODUCTS FABRICATION  
CONCRETE BATCH PLANT  
FABRIC FABRICATION AND PROCESSING  
GLASS  
HANDICRAFT PRODUCTS - large-scale production  
METAL/STONE/MONUMENT WORKS  
POTTERY/PORCELAIN/CERAMIC  
PROCESSING AND DISTRIBUTION OF DAIRY AND FOOD PRODUCTS includes cold storage plants

**INDUSTRIAL STORAGE - OUTSIDE**

CONCRETE/BRICK/PIPE/PRODUCTS



FREIGHT YARDS truck

AGRICULTURAL OPERATION AND PROCESSING  
AGRIBUSINESS

RECYCLING FACILITIES

REVERSE VENDING MACHINES (inside)  
SMALL COLLECTION FACILITIES (inside)  
PROCESSING FACILITIES

RESIDENTIAL

CUSTODIAL RESIDENCE (see section 10-1-12 of the LUDC.)

PARKING LOTS

Open area for the purpose of parking vehicles of employees,  
customers off site, or for storage and/or rental of vehicles (see  
sections 4-3-12 and 10-2 OF THE LUDC)

3. Conditional Land Uses: (Subject to conditional use permit and general regulations  
and requirements for a building permit. See City of Durango LUDC sections 4-6  
through 4-8 and Article 8.)

ANIMAL CLINICS/HOSPITALS with outside facilities

NIGHT CLUBS/PUBS

TEMPORARY SALES STRUCTURES (seasonal and includes services)

B. Phasing

Lots 1-22 shall constitute Phase One of the PD. Lot 23 may be developed for a single  
user (either as a temporary use of permanent one) or may be re-subdivided into a  
maximum of 6 lots. The developers may use Lot 23 for a mobile concrete batch plant for  
a period not to exceed 4 years after annexation. Re-subdivision of Lot 23 shall follow the  
procedures for review of Minor Subdivisions (LUDC Section 7-2-1).

C. Landscaping

1. Project landscaping shall be as set forth on the final landscaping plans submitted  
and approved at the final plan stage for each phase of the Durango Technical  
Center Planned Development.
2. Individual lot landscaping shall be as set forth on landscaping plans submitted and  
approved as part of the site plan review process associated with the issuance of  
building permits

D. On-Site Amenities

The Developer shall provide the following on-site amenities:

1. Bicycle/Pedestrian Emergency Easement and trail across lots 1,2, and 3. This easement is  
tentative in location until final site development plans are submitted. The City agrees that  
location of the easement and bike path may be moved from that location shown on the plat  
so long as 10% grades, 10 foot width and 3:1 side slope or shallower can be maintained  
for 10 feet each side of the path.

E. Initial Zoning

1. Zoning of the annexed property shall be considered an initial zoning and shall be  
consistent with the goals, policies, and land use designations of the Durango  
Comprehensive Plan except as otherwise specified herein.
2. The ordinance enacting the zoning of the property to be annexed shall not be  
finally adopted by the City Council prior to the date of final adoption of the  
annexation ordinance, but the annexation ordinance may include the zoning  
ordinance for the annexed property.

3. The requested zoning designation of PD - Planned Development shall be applied to the property and shall become effective ten (10) days following final reading of the annexation ordinance if the annexation ordinance includes the zoning ordinance.
4. The City of Durango understands that the Developers are negotiating to purchase land that lies adjacent to Lots 7, 8, and 9 of the Durango Technical Center. Should the developers be successful with their negotiations to purchase the land, they will initiate a lot line adjustment with the County adding additional area to those lots. The developers will be responsible for providing the plat information, surveying and fees required for the annexation procedure. The City agrees to annex the property and approve the initial zoning identical to the Durango Technical Center Planned Development. The City will subsequently process a final PD Plan amendment and annexation to incorporate the property into the Durango Technical Center P.D..

F. Project Development

1. Prior to financial arrangements, as set forth in this agreement, being completed and accepted and in place, any construction on infrastructure will be at the exclusive risk of the developer.
2. No building permit shall be issued nor shall conveyance of title to any lot or tract be made until the final annexation plat and any final subdivision PD plat are recorded in the offices of the La Plata County Clerk and Recorder, provided, however, that the Developer shall be allowed to convey its entire interest subject to all of the terms and conditions of the Agreement.
3. No above-ground building construction shall occur until such time as fire protection facilities are in place to the satisfaction of the Fire Marshall. No above ground construction on any lot other than lot 15 shall begin until all water system improvements are accepted by the City.
4. No occupancy permits shall be issued until such time as all public and private utility systems are in place and accepted. Also, all road system improvements within the subdivision including curb, gutter, sub-grade preparation, base preparation and compaction to 95% of modified proctor density within the roadway must be achieved prior to occupancy permits being issued. In addition, access onto Highway 160 West shall be paved a distance of 100 feet back from the intersection prior to issuance of any certificate of occupancy. The Developer shall secure from all lot purchasers a release of liability to the City, approved by the City concerning roads which are partially improved, prior to acceptance of all public road improvements by the City.
5. The Developer shall be responsible for compliance with all applicable requirements of the 1990 Americans With Disabilities Act.
6. Prior to filing of the Annexation plat the Developer will secure an access permit from the Colorado Department of Transportation, terms of which shall be approved by the City of Durango. All costs of construction and compliance required of the "Permittee" under the terms of the access permit from the Colorado Department of Transportation shall be born by the developer.

G. Development Standards - Except as specifically noted herein, design/development standards as established in the LUDC shall apply within this PD.

1. Setbacks from property lines for all structures principal and accessory shall be:
  - a. Front Yard 20 feet.
  - b. Side Yard 10 feet.
  - c. Rear Yard 10 feet.
2. Building Heights.
  - a. Construction on lots 1-3 shall be no more than 30 feet in height. Building facades on Lots 1, 2 and 3 should not interrupt the imaginary plain of the slope extension of the hill projected above the site from the east. Variances to this building facade requirement shall be acted upon by the City Planning Commission.
  - b. Lots 4-23 shall be no more than 40 feet in height. Building facades on Lots 4 - 10 should not interrupt the imaginary plain of the slope extension of the hill projected above the site from the south.

3. Site Coverage.
  - a. Coverage on each site by all buildings shall be no more than 75% of the total lot area.
4. Truck Loading Docks.
  - a. The Durango Technical Center is intended as an industrial park and as such expects deliveries from large tractor trailers. For lots with loading areas adjacent to Burnett Drive and Ansel Hall Drive and that may require two or less loading docks, the public street may be used for maneuvering. Minimum space in front of a loading dock and the sidewalk or curb shall be 65 feet.
  - b. The city specifically finds that the reasons for this allowance are that:
    1. The public streets are within an industrial park.
    2. The public streets are not through streets.
    3. The public street is classified as a local street.
5. On Site Landscaping requirements.
  - a. Landscape and irrigation must comply with the Covenants, Conditions and Restrictions and be approved by the Architectural Committee and the City Development Review Committee as part of site plan review.
  - b. All undeveloped portions of a building site must be landscaped. Landscaping must be installed prior to issuance of Certificate of Occupancy unless completed in the winter, in which case all landscaping shall be installed by July. Any landscaping so deferred shall be subject to an on-site improvement agreement with acceptable security provided to assure installation of the landscaping.
  - c. All landscaping shall include an underground irrigation system.
6. Public ROW Landscaping.
  - a. Trees that are planted in the landscape area of the public Right-of-Way and that are within 40 feet of a required off-street parking area may be counted towards the parking lot tree planting requirement, so long as the total number of trees provided is not less than the total number of trees required.
  - b. The landscape area of the public ROW along Burnett Drive and Ansel Hall Drive shall have street trees planted at 40' intervals (maximum) and shall be planted with Triple T Fescue sod. This landscaping shall be included within the Public Improvements Agreement and be covered by the financial guarantee referenced in Section IV.C.
7. Fencing.
  - a. There shall be no fencing in yards abutting a public street.
  - b. All side and rear yard fencing shall be no more than 8 feet in height and be constructed of split face concrete or ribbed concrete block. Any fencing greater than 6 feet in height shall require a building permit for the fence.
  - c. Fencing is discouraged on Lots 1-3 and shall only be allowed after receiving written approval from the Architectural Committee and review of site specific plans by the City in conjunction with the Special Use Permit Review process.
8. Signs
  - a. Except as noted, all signs within the PD shall comply with the City sign code.
  - b. Signs for uses established on Lots 1, 2, and 3 and which will be visible from the Central Business District shall be subject to review by the Design Review Board
  - c. Master sign programs shall be developed for lots upon which multiple businesses will be located.
  - d. Barbed wire fencing shall not be allowed within the PD.
9. Outside Storage
 

No outside storage shall be located within front yard areas and all areas devoted to outside storage shall be screened from adjacent properties.

#### H. Noise Control

Due to the proximity to the Cemetery the Developers will require the project to meet all provisions of the City of Durango's Noise Ordinance Sec. 16-1 for Commercial land uses. The Permissible Level of Noise for the Durango Technical Center from Table I will be defined as Commercial. That is a maximum noise of 60 dB(A) from 7 a.m. to next 7 p.m. and 55 dB(A) from 7 p.m. to the next 7 a.m.

I. Variances

Variances to the development may be considered by the LUDC Board of Appeals only with a favorable recommendation from the DTC Architectural Committee.

J. PD Amendments

Amendments to the approved PD plan shall be reviewed in accordance with Section 6-5-7 of the LUDC. Lot line adjustments which do not result in any new lots shall be considered minor changes in the context of Section 6-5-7.

III. PUBLIC IMPROVEMENTS

A. Public Improvements to be Provided by Developer

- 1. Access - (primary and secondary)
- 2. Right-of-Way Dedication
- 3. Roads and Streets
- 4. Water
- 5. Sewer
- 6. Drainage
- 7. sidewalks/trails
- 8. signage
- 9. lighting
- 10. landscaping and street trees

B. Public Improvements to be Provided jointly by the Developer and the City.

- 1. The City desires to pay for an increase in the size of the water line that presently extends from the intersection of Tech Center Drive, East to Ansel Hall Drive and then to the tie in at Highway 160. The proposed 8" water line will be increased by the City to 10". The cost shall be determined as the difference in cost between 8" pipe and 10" pipe and 8" fittings and 10" fittings as may appear as unit prices on invoices of materials suppliers as shall be approved by the City and the Developer prior to purchase of materials.
- 2. The City and the Developer agree that combining the access to the Waste Transfer Station and the Durango Technical Center will provide the safest and best access for both projects. The City will share the cost of the road improvements along the Durango Technical Center frontage with the Developer on a 50 / 50 basis, subject to cost limitation herein set forth. The road improvements will extend from the intersection of Tech Center Drive and Highway 160 to Sta. 10.85 on Tech Center Drive. The cost to the City shall be limited to \$110,000.00, which is the amount budgeted in the 1995 City of Durango budget for such improvements. The cost of the road will be determined by the City based upon:
  - a. a design approved by the City
  - b. a construction contract approved by the City
  - c. change orders approved by the City
  - d. final contract quantities approved by the City

For purposes of cost sharing, cost for road construction shall be limited to:

- a. mobilization
- b. clearing & grubbing
- c. excavation and embankment within the right-of-way
- d. utility relocation costs
- e. aggregate base courses
- f. asphalt paving
- g. curb and gutter
- h. pavement marking

Items not to be included:

- a. storm drainage
- b. sidewalks
- c. vegetation

## C. Authorizations

## 1. Start of Improvements

Any construction begun prior to approvals is subject to removal at the direction of the City Engineer.

## 2. Inspections

City inspectors shall have the right to reject any installation or construction which does not meet City of Durango specifications. Notice of rejection shall be made to Developer and Developer's contractor. It shall be the responsibility of Developer to address or correct any deficiency. If Developer is not present, then the inspector shall have the authority to reject any workmanship which does not meet City of Durango specifications.

## 3. Testing

Testing shall be performed in the manner prescribed in the City specifications. Results of all tests shall be presented to and approved by the City Engineer prior to release of any part of the financial guarantee.

## 4. Re-vegetation

All de-vegetated areas shall re-vegetated in accordance with landscaping plans approved by the City's Director of Parks and Recreation.

## D. Modifications to Plans and Specifications

1. Any modifications to public improvements plans or specifications must be approved by the City Engineer. Failure to secure written approval of any change shall not relieve Developer from the obligation to remove or replace changes not approved.

2. Minor changes which do not cause any development standard or City specification to be compromised and which are not contrary to geotechnical recommendations or conditions of approval may be made without approval by the City Engineer. Any changes so made must be shown on as-built drawings supplied to the City Engineer prior to release of any financial guarantee for the project.

3. Minor adjustments to lot lines, or deletion of lot lines to combine two or more lots will be administratively reviewed the City Planning and Engineering staffs. Any resulting lots shall not be smaller than 10,000 square feet, or increase the number of lots in the project. The final plat shall be prepared according to the City of Durango's LUDC. The plat will then be forwarded to the City Council for final approval.

## E. Road Improvements

Road improvements within the limits of the project area shall be constructed in accordance with the improvements plans (Exhibit C) prepared by Goff Engineering dated November 1, 1994. All roads within designated public right-of-ways shall become public roads upon construction by the Developer and acceptance by the City.

In order to accommodate construction in the planned development context, variances from public road standards will be granted by the City. The following enumerated items in this subsection identify standards that have been varied in exchange for specific zoning restrictions and the provision of on-site amenities shown on the final plan (Exhibit B) dated November 1, 1994.

1. Street width. The width of the Ansel Hall Drive from STA. 12+53.16 to the cul-de-sac is to be 32 feet from flow line to flow line.
2. Sidewalk location. No sidewalk shall be installed along the North side of Ansel Hall Drive from station 9+00 to station 17.
3. Cul-de-sac radius. The radius shall at Ansel Hall Drive shall be 40 feet from center to curb line.

## F. Off-Site Road Improvements.

- a. Requirements of the State Highway Department for the intersection of Highway 160 and Tech Center Drive shall be the responsibility of the developer, including but not limited to intersection improvements, sidewalks and drainage structures or contributions to storm drainage improvements per the permit to be issued by CDOT.

G. Right-of-Way. Sufficient Right-of-Way shall be provided by the Developer to allow for the construction and maintenance of roadways and utilities. A 60-foot minimum right-of-

way is required. Slope easements may be used in lieu of right-of-way dedication where fill is installed to its natural grade of repose or less steep grades.

- H. The City does not require Parks dedications or School fees for a project of this type. Due to the nature of the land that extends to the middle of the River and its potential recreational use the Developer is offering and the City is accepting TRACT A of (3.294 acres) as a dedication to the City Parks System. The developer will retain an easement for the tank and pipe that are used to extract water from the Animas River.
- I. The sewer system shall be installed by the Developer in accordance with the agreement between the City and the Lightner Creek Sanitation District and the Developer. Operation of the sewer system shall be by the Lightner Creek Sanitation District until such time as the City shall acquire the assets of the District. Fees charged shall be Lightner Creek Sanitation District fees. Plant Investment Fees to the City and Lightner Creek Sanitation District will be required.

**IV. FINANCIAL ARRANGEMENTS**

- A. Developer agrees, prior to the commencement of construction, to provide security for the installation of public improvements in the form of a Performance Bond to be issued by Firemans Fund Insurance Company in the amount of \$980,000 which is an amount greater than the anticipated cost of construction and installation of public improvements, as approved by the City Engineer. The performance bond shall be in an acceptable form to the City of Durango and shall provide that funds may be withdrawn in the event of default by Developer as set forth in Section I hereof or in the event public improvements have not been fully installed, inspected and accepted by the City within twelve (12) months from the date of the execution of the Improvements Agreement.

The performance bond shall authorize the City of Durango to draw funds through notification of default or failure to complete improvements within the specified time frame to be certified by an affidavit from the City Engineer specifying the nature and extent of the default, the furnishing of any applicable notice required in conjunction with default, or the expiration of time and lack of completion of public improvements as required hereunder. In the event of default or failure of completion, the City shall be authorized to withdraw from the performance bond funds necessary to complete or correct public improvements which have not been installed or have not been properly installed in accordance with the obligations of this Agreement.

- B. To satisfy Developer's responsibility to provide security during the one (1) year warranty period, after completion and acceptance of each type of public improvement, Developer shall furnish the City, in a form acceptable to the City, either:
  - 1. an extension of the performance bond described in Paragraph A above to cover the one (1) year warranty period with respect to each type of public improvements; or
  - 2. a developer's bond, with adequate surety, in a form acceptable to the City, providing bonded coverage during the warranty period for each type of public improvement. If Developer elects to furnish a developer's warranty bond in lieu of an extension of the performance bond as described above, the form of warranty bond shall be submitted to the City and approved by the City in writing prior to initiation of construction and the executed bond shall be in place prior to the acceptance by the City of that type of public improvement.
- C. Partial reductions in the performance bond to be furnished pursuant to Paragraph A above shall be allowed as each type of public improvement is completed, inspected, approved and accepted by the City of Durango. Upon completion, inspection, approval, and acceptance of any category of public improvements, the warranty period for such public improvements shall commence immediately thereafter. The types of public improvements and the requisite guarantee during the one (1) year warranty period shall be no less than the following:

Water system improvements	<u>\$153,895</u>
Sewer system improvements	<u>\$ 89,448</u>

Roadway & drainage improvement \$657,548

Landscaping improvement \$ 50,000

IN WITNESS WHEREOF, the parties have executed this Annexation Agreement the day and year first above written.

SFR TIAGO, LLC.

*Ronald W. Pettigrew*  
\_\_\_\_\_

Ronald W. Pettigrew  
Operating Manager

CITY OF DURANGO, COLORADO,  
a Municipal Corporation

*Robert F. Ledger, Jr.*  
\_\_\_\_\_

Robert F. Ledger, Jr.  
City Manager



*Linda L. Young*  
\_\_\_\_\_

Title: *City Clerk*  
\_\_\_\_\_

- Exhibit A - Legal Description
- Exhibit B - Conceptual Plan
- Exhibit C - Improvements Plans

requisite guarantee during the one (1) year warranty period shall be no less than the following:

Public improvements	\$57,980
Private improvements	\$59,145
Engineering services (soils engineer)	\$ 2,000

D. Prior to approval of the final PD/subdivision plat, Applicant shall pay impact fees based upon the project's maximum density of thirty (30) units for school dedication and park dedication. Drainage fees based upon the final drainage plan and calculated in accordance with the City's Storm Drainage Policy shall also be paid prior to final plat approval.

IN WITNESS WHEREOF, the parties have executed this Annexation and Planned Development Agreement the day and year first above written.

APPLICANT:

Edwin A Zink  
 (Name)  
 (Title) General Partner

STATE OF COLORADO )  
 ) ss.  
 COUNTY OF LA PLATA )

On this 16<sup>th</sup> day of April, 1993, before me, Nancy C. Holmes, a notary public, personally appeared Edwin A. Zink and acknowledged that (s)he executed the same.

Nancy C. Holmes  
 Notary Public  
 My Commission Expires: 10-9-95

CITY OF DURANGO, COLORADO,  
 a Municipal Corporation  
Robert F. Ledger, Jr.  
 Robert F. Ledger, Jr.  
 City Manager



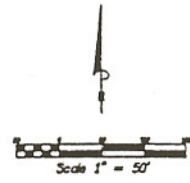
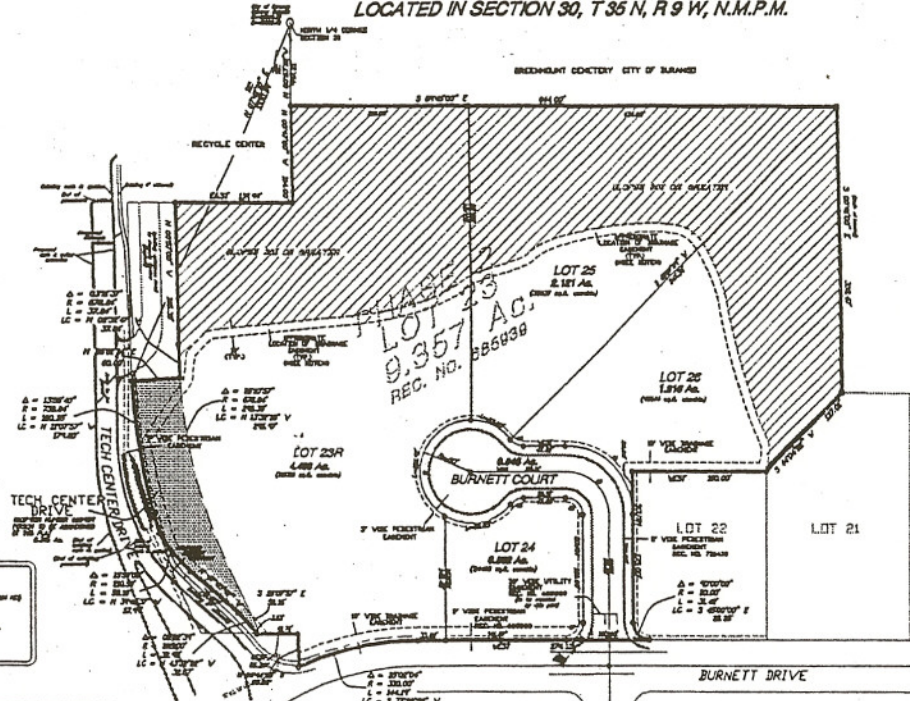
[Signature]  
 City Clerk

- Exhibit A - Legal Description: Annexation Area
- Exhibit B - Legal Description: Previously Annexed Area
- Exhibit C - Preliminary Development Plan: Sheets 1 through 11



741980

**DURANGO TECHNICAL CENTER  
RESUBDIVISION OF LOT 23  
AND PARTIAL ABANDONMENT OF  
TECH CENTER DRIVE RIGHT-OF-WAY  
LOCATED IN SECTION 30, T 35 N, R 9 W, N.M.P.M.**



Always Refer to Record Maps and Plans for the Correct Location of All Features and Easements.

- LEGEND**
- EXISTING UTILITY EASEMENT
  - EXISTING UTILITY
  - EXISTING UTILITY EASEMENT
  - EXISTING UTILITY EASEMENT
  - EXISTING UTILITY EASEMENT
  - EXISTING UTILITY EASEMENT

**LAND USE TABLE**

RES. USE OF LOT	1	2	3	4	5	6	7	8	9	10
RES. USE OF LOT	1	2	3	4	5	6	7	8	9	10
RES. USE OF LOT	1	2	3	4	5	6	7	8	9	10
RES. USE OF LOT	1	2	3	4	5	6	7	8	9	10
RES. USE OF LOT	1	2	3	4	5	6	7	8	9	10

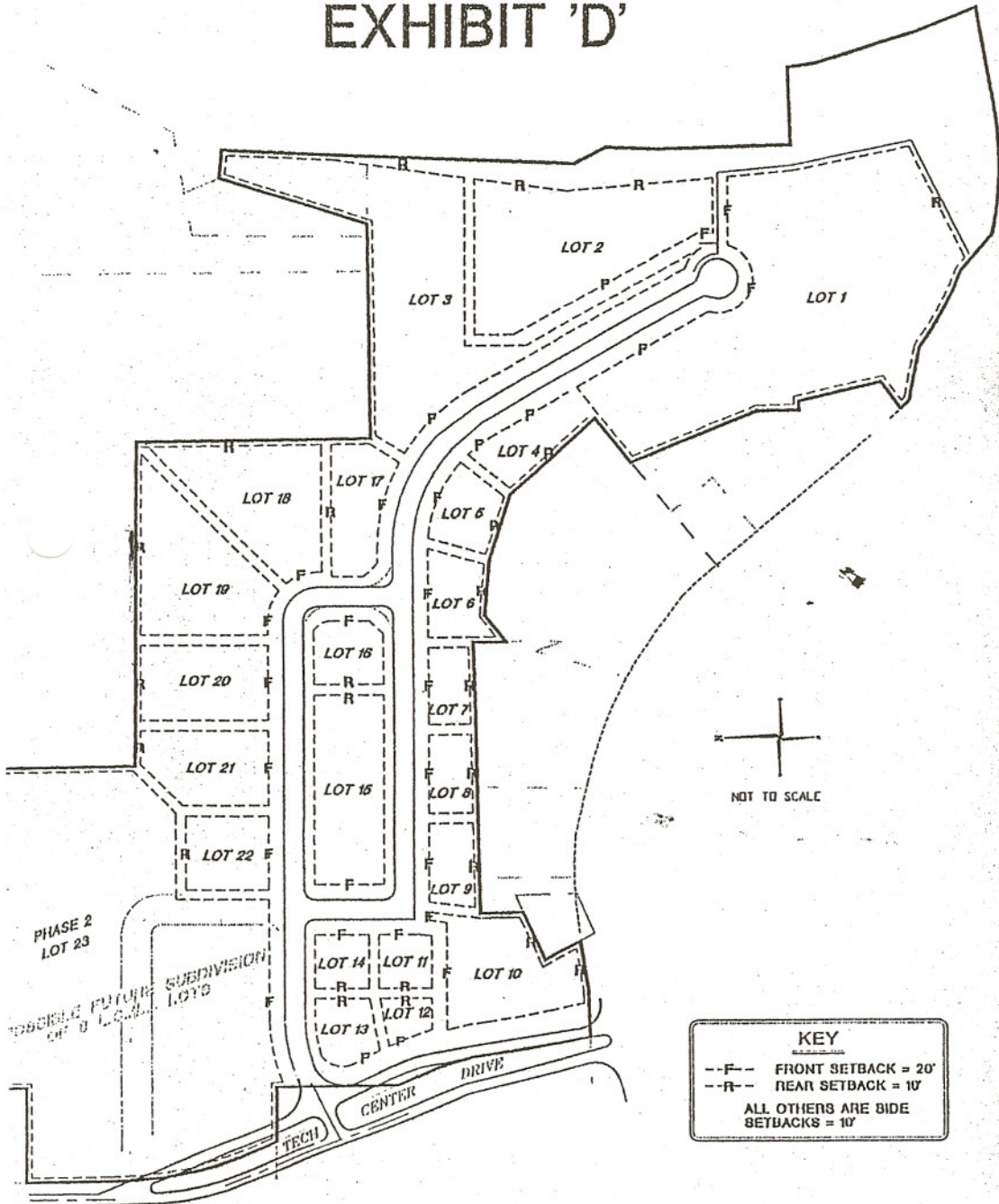
**CLUMP TABLE**

CLUMP	LENGTH	WIDTH	DEPTH	GRADE
1	10.00'	10.00'	10.00'	10.00'
2	10.00'	10.00'	10.00'	10.00'
3	10.00'	10.00'	10.00'	10.00'
4	10.00'	10.00'	10.00'	10.00'
5	10.00'	10.00'	10.00'	10.00'
6	10.00'	10.00'	10.00'	10.00'
7	10.00'	10.00'	10.00'	10.00'
8	10.00'	10.00'	10.00'	10.00'
9	10.00'	10.00'	10.00'	10.00'
10	10.00'	10.00'	10.00'	10.00'

The area delineated by the dashed perimeter is shown herein as subject to change based on the final approved site plan by the City of Durango. All other lines and dimensions are to the center of the line of the lot and shall remain.

**BECHTOLT**  
ENGINEERING, L.L.C.  
P.O. BOX 2000 • DURANGO, COLORADO 81301  
PHONE 325-3100  
FAX 325-3101  
WWW.BECHTOLTENGINEERING.COM

# EXHIBIT 'D'



**SECOND AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE DURANGO TECHNICAL CENTER, P.D.**

THIS SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE DURANGO TECHNICAL CENTER, P.D. (hereinafter "Second Amendment") is made and entered into this 24<sup>th</sup> day of November, 2003, by the Durango Technical Center Owners Association, Inc. (hereinafter "Association").

**ARTICLE 1**

**RECITALS**

1. The Durango Technical Center Owners Association, Inc., a Colorado nonprofit corporation (hereinafter "Association"), is the governing body of Durango Technical Center, P.D., as described in the Final Plan recorded as Reception No. 686520, La Plata County records ("Final Plan").

2. Durango Technical Center, P.D. is currently subject to the (Amended and Restated) Declaration of Covenants, Conditions and Restrictions for the Durango Technical Center, P.D., as recorded March 5, 1998, as Reception No. 741980, La Plata County records ("Declaration"), and First Amendment to the Declaration of Covenants, Conditions and Restrictions for the Durango Technical Center, P.D., as recorded June 1, 2000, as Reception No. 787345, La Plata County records.

3. Pursuant to Article IX, Section 2, of the Declaration, the Declaration or any provision thereof, or any covenant, condition, restriction, or reservation contained therein, may be terminated, extended, modified or amended, as to the whole of the property described in the Final Plan ("the Property") or any portion thereof, by the affirmative vote of the owners of sixty-five percent (65%) of the Property, as determined on a square footage basis, upon recording of a proper instrument executed by the president or other designated officer of the Association and attested by the Secretary, setting forth in full such termination, modification or amendment.

4. The undersigned President of the Association certifies that the owners of more than sixty-five percent (65%) of the Property, as determined on a square footage basis, have voted in favor of the following amendment.

**ARTICLE II**

**AMENDMENT**


1. Article II, Paragraph 5, is amended to read as follows:

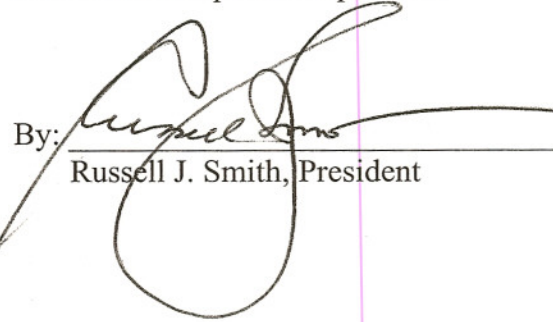
**Land Use** No land shall be used for any purpose other than as permitted in the Annexation Agreement , Section II, dated October 1994 (Exhibit "C"), as may be amended from time to time. Subject to amendment to the Annexation Agreement to so provide, residential use is permitted on lots 1 - 4.

2. Except as specifically amended herein, the Declaration shall remain in full force and effect.

ATTEST:

Durango Technical Center Owners Association, Inc.  
a Colorado nonprofit corporation

  
Secretary *Acting Secretary*  
(SEAL)

By:   
Russell J. Smith, President

**AREM Property Management, Inc.**  
1020 1/2 Main Ave. Ste 201  
Durango, CO 81301

**THIRD AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE DURANGO TECHNICAL CENTER, P.D.**

THIS THIRD AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE DURANGO TECHNICAL CENTER, P.D. (hereinafter "Second Amendment") is made and entered into this 30<sup>th</sup> day of November, 2004, by the Durango Technical Center Owners Association, Inc. (hereinafter "Association").

**ARTICLE 1**

**RECITALS**

1. The Durango Technical Center Owners Association, Inc., a Colorado nonprofit corporation (hereinafter "Association"), is the governing body of Durango Technical Center, P.D., as described in the Final Plan recorded as Reception No. 686520, La Plata County records ("Final Plan").
2. Durango Technical Center, P.D. is currently subject to the (Amended and Restated) Declaration of Covenants, Conditions and Restrictions for the Durango Technical Center, P.D., as recorded March 5, 1998, as Reception No. 741980, La Plata County records ("Declaration"), First Amendment to the Declaration of Covenants, Conditions and Restrictions for the Durango Technical Center, P.D., as recorded June 1, 2000, as Reception No. 787345, La Plata County records, and Second Amendment to the Declaration of Covenants, Conditions and Restrictions for the Durango Technical Center, P.D., as recorded December 3, 2003, as Reception No. 874034, La Plata County records.
3. Pursuant to Article IX, Section 2, of the Declaration, the Declaration or any provision thereof, or any covenant, condition, restriction, or reservation contained therein, may be terminated, extended, modified or amended, as to the whole of the property described in the Final Plan ("the Property") or any portion thereof, by the affirmative vote of the owners of sixty-five percent (65%) of the Property, as determined on a square footage basis, upon recording of a proper instrument executed by the president or other designated officer of the Association and attested by the Secretary, setting forth in full such termination, modification or amendment.
4. The undersigned President of the Association certifies that the owners of more than sixty-five percent (65%) of the Property, as determined on a square footage basis, have voted in favor of the following amendment.

**ARTICLE II**  
**AMENDMENT**

1. Article V, Paragraphs 6 and 7, are amended to read as follows:
  6. **Tree Lawns** The strip of land adjacent to each Building Site, and lying between the sidewalk and the street, shall be landscaped with a “tree lawn”, consisting of well-maintained grass and such trees, shrubs or other foliage as may be approved by the Architectural Review Committee; however, this requirement shall not apply to the strip of land adjacent to Lot 23R, any lying between the sidewalk and Tech Center Drive. The Owner or lessee of the adjacent Building Site shall be responsible for creating and watering such tree-lawn. All such tree lawns adjacent to improved Building Sites shall be in place no later than May 1, 2005. If any Owner or lessee fails to undertake and complete his tree lawn by such deadline, Declarant may, at its option, after giving the Owner or lessee ten (10) days written notice forwarded to Owner or lessee, undertake and complete such required tree lawn. If Declarant undertakes and completes such tree lawn because of the failure of the Owner or lessee to complete the same, the costs of such landscaping shall be assessed against the owner or lessee, and if said assessment is not paid within thirty (30) days after written notice of such assessment from Declarant, said assessment will constitute a lien on the Building Site and may be enforced as set forth in Article VII hereof.
  7. **Additional Landscaping Requirements**
    - a. All Building Sites shall be landscaped only in accordance with a plan submitted to and approved in writing by the Architectural Review Committee prior to any development of the Building Site. Plans shall also be approved by the City of Durango in accordance with the applicable zoning ordinance. Such landscaping plan shall include information regarding the type of sodding, the type of seeding, types of trees, hedges and shrubs and information regarding other customary landscape treatment for the entire site, including fences, walls and screening. All landscaping plans shall also include an underground lawn sprinkling system. All landscaping shall be undertaken and completed in accordance with such approved plan and said plan may not be altered, amended or revised without submitting the revised landscaping plan for prior written approval by the Architectural Review Committee. Applicants for building Permits must first receive approval from the ARC prior to submitting an application for a building permit.
    - b. All landscaping required hereunder or otherwise to be provided on any Building Site shall be completed (completion for such purposes shall include payment therefor) within sixty (60) days after the substantial completion of construction of any buildings to be constructed on Building Site; provided, however, if weather conditions do not at such time permit, then such landscaping shall be completed as soon thereafter as weather conditions permit. If any Owner or lessee fails to undertake and complete his

landscaping within the time limit previously set forth herein, Declarant may, at its option, after giving the Owner or lessee ten (10) days written notice forwarded to Owner or lessee (unless within said ten (10) day period the owner or lessee of the Building Site shall proceed and thereafter pursue with diligence the completion of such landscaping), undertake and complete the landscaping of the Building Site in accordance with the landscaping plan. If Declarant undertakes and completes such landscaping because of the failure of the Owner or lessee to complete the same, the costs of such landscaping shall be assessed against the owner or lessee, and if said assessment is not paid within thirty (30) days after written notice of such assessment from Declarant, said assessment will constitute a lien on the Building Site and may be enforced as set forth in Article VII hereof. In addition to the foregoing, each owner/lessee shall deliver to Declarant no later than ten (10) days subsequent to approval of the landscaping plans by the Architectural Review Committee, an irrevocable letter of credit in form satisfactory to Declarant, in the amount of the estimated cost of the landscaping. Said letter may be drawn upon by Declarant to pay the costs of completion of the landscaping in accordance with the approved plans, the letter of credit shall be promptly returned by Declarant to Owner or lessee may with prior written approval of Declarant, furnish other security satisfactory to Declarant to insure completion of the landscaping plans as approved.

2. Except as specifically amended herein, the Declaration shall remain in full force and effect.

ATTEST:

Durango Technical Center Owners Association, Inc.  
a Colorado nonprofit corporation

\_\_\_\_\_  
Secretary  
(SEAL)

By: 

\_\_\_\_\_  
Russell J. Smith, President

**FOURTH AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE DURANGO TECHNICAL CENTER, P.D.**

THIS FOURTH AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE DURANGO TECHNICAL CENTER, P.D. (this "Fourth Amendment") is made and entered into this 17<sup>th</sup> day of July, 2006, by T.A.W.B., Inc. f/k/a SFR-TIAGO, LLC, a Colorado corporation (the "Declarant") and the Durango Technical Center Owners Association, Inc., a Colorado nonprofit corporation (the "Association").

**ARTICLE 1**

**RECITALS**

A. Durango Technical Center, P.D. is currently subject to the (Amended and Restated) Declaration of Covenants, Conditions and Restrictions for the Durango Technical Center, P.D. recorded in the real property records on La Plata County, Colorado at Reception No. 741980 on March 5, 1998, as amended by that certain First Amendment to the Declaration of Covenants, Conditions and Restrictions for the Durango Technical Center, P.D. recorded in the real property records on La Plata County, Colorado at Reception No. 787345 on June 1, 2000, as amended by that certain Second Amendment to the Declaration of Covenants, Conditions and Restrictions for the Durango Technical Center, P.D. recorded in the real property records on La Plata County, Colorado at Reception No. 874034 on December 3, 2003 (the "Second Amendment"), as amended by that certain Third Amendment to the Declaration of Covenants, Conditions and Restrictions for the Durango Technical Center, P.D. recorded in the real property records on La Plata County, Colorado at Reception No. 898330 on December 2, 2004 (the "Third Amendment" and, collectively, the "Declaration").

B. T.A.W.B., Inc. f/k/a SFR-TIAGO, LLC, a Colorado corporation ("T.A.W.B.") is the Declarant under the Declaration.

C. The Association is the governing body of Durango Technical Center, P.D., as described in the \_\_\_\_\_.

D. Pursuant to Article IX, Section 2 of the Declaration, Declarant is authorized for a period of ten (10) years from the date of the filing of the Declaration, to terminate, extend, modify or amend the Declaration upon the recording of a proper instrument in writing, executed and acknowledged by Declarant, with the office of the Clerk and Recorder, La Plata, County, Colorado.

E. Also pursuant to Article IX, Section 2 of the Declaration, upon conclusion of the initial ten (10) year term of the Declaration, the Declaration or any provision thereof, or any covenant, condition, restriction or reservation contained therein, may be terminated, extended, modified or amended by affirmative vote of the owners of sixty-five (65%) of the Property (as



defined in the Declaration), as determined on a square footage basis, to be effective upon recording of an instrument executed by the President or other designated officer of the Association and attested by the Secretary, setting forth in full such termination, modification or amendment.

F. Although the Second Amendment and the Third Amendment were executed and recorded in the La Plata County real property records within the initial ten (10) year term of the Declaration, they each were approved by the Association and not the Declarant as contemplated by Declaration.

G. Declarant and the Association desire to ratify and approve the terms and provisions of the Second Amendment and the Third Amendment.

H. Declarant desires to further amend the Declaration as set forth below.

I. Declarant certifies that is has approved and adopted the following amendment to the Declaration.

## ARTICLE II

### RATIFICATION OF SECOND AMENDMENT AND THIRD AMENDMENT

1. The terms and provisions of the Second Amendment are hereby authorized, approved, adopted and ratified and by the Declarant and the Association and are valid and binding on the Property.

2. The terms and provisions of the Second Amendment are hereby authorized, approved, adopted and ratified and by the Declarant and the Association and are valid and binding on the Property.

## ARTICLE III

### AMENDMENT

1. Article II, Paragraph 5, is amended to read as follows:

*Streets* reference to all streets or rights-of-way within this declaration shall mean dedicated vehicular rights of way.

2. Article II, Paragraph 6, is amended to read as follows:

*Land Use* No land shall be used for any purpose other than as permitted in the Annexation Agreement, Section II, dated October 1994 (Exhibit "C"), as may be amended from time to time.

3. Except as specifically amended herein, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant and the Association have executed this Waiver as of the date first written above.

**DECLARANT:**

T.A.W.B., Inc. f/k/a SFR-TIAGO, LLC,  
a Colorado corporation

By: \_\_\_\_\_  
Name: James D. Denier  
Title: President

**ASSOCIATION:**

DURANGO TECHNICAL CENTER  
OWNERS ASSOCIATION, INC., a  
Colorado nonprofit corporation

ATTEST:

*Sacha Schauf*  
Secretary *Acting Secretary*

By: *Russell J. Smith*  
Name: Russell J. Smith  
Title: President

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF LA PLATA                )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of July, by James D. Denier, President of T.A.W.B., Inc. f/k/a SFR-TIAGO, LLC, a Colorado corporation.

Witness my hand and official seal.  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

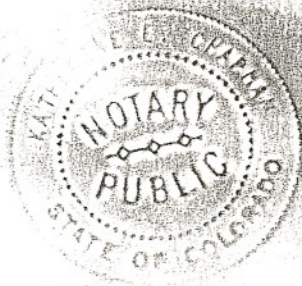
STATE OF COLORADO )  
 ) ss.  
COUNTY OF LA PLATA )

The foregoing instrument was acknowledged before me this 18 day of July, by Russell J. Smith, President of the Durango Technical Center Owners Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

My Commission Expires: 5/29/2008

*Falkner E. Chapman*  
Notary Public



3. Except as specifically amended herein, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant and the Association have executed this Waiver as of the date first written above.

**DECLARANT:**

T.A.W.B., Inc. f/k/a SFR-TIAGO, LLC,  
a Colorado corporation

By: James D. Denier  
Name: James D. Denier  
Title: President

**ASSOCIATION:**

DURANGO TECHNICAL CENTER  
OWNERS ASSOCIATION, INC., a  
Colorado nonprofit corporation

ATTEST:

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Name: Russell J. Smith  
Title: President

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF LA PLATA        )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of July, by James D. Denier, President of T.A.W.B., Inc. f/k/a SFR-TIAGO, LLC, a Colorado corporation.

Witness my hand and official seal.  
My Commission Expires: 12-28-08

M. J. Smith  
Notary Public

STATE OF COLORADO

)

) ss.

COUNTY OF LA PLATA

)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of July, by Russell J. Smith, President of the Durango Technical Center Owners Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**FIRST AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE DURANGO TECHNICAL CENTER, P. D.**

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE DURANGO TECHNICAL CENTER, P. D. (hereinafter "First Amendment") is made and entered into this \_\_\_\_\_ day of October, 1999, by T.A.W.B., Inc. formerly known as SFR Tiago, LLC, (hereinafter "Declarant").

**ARTICLE I**

**RECITALS**

1. Declarant is a successor in interest and assignee of the rights of Declarant under that certain Declaration of Covenants, Conditions and Restrictions for the Durango Technical Center, P.D. as recorded April 21, 1995 as Reception No. 685938, La Plata County records.

2. Further, Declarant is the Declarant under that Declaration of Covenants, Conditions and Restrictions for the Durango Technical Center, P. D., as recorded March 5, 1998, as Reception No. 741980, La Plata County records ("Declarations").

3. Pursuant to Article IX, Section 2 of the Declarations, Declarant is authorized for a period of 10 years from the date of the filing of the Declarations, to terminate, extend, modify or amend the Declarations upon the recording of a proper instrument in writing, executed and acknowledged by Declarant, with the office of the Clerk and Recorder, La Plata County, Colorado.

4. Declarant desires to amend the Declarations as set forth herein.

NOW THEREFORE, pursuant to its powers of amendment set forth in the Declaration, Declarant amends the Declarations as follows.

**ARTICLE II**

**AMENDMENT**

1. Article V of the Declarations shall be amended with the addition of a paragraph 15 which shall read as follows:

Processing/detention/holding facilities prohibited. Due to the non-compatibility with existing or contemplated uses, any facility used for the criminal or administrative processing, detention or holding of individuals charged with the violation of any criminal statute or any federal, state or local law, ordinance, rule or regulation shall be prohibited.

2. Except as specifically amended herein, the Declarations shall remain in full force and effect.

DECLARANT, T.A.W.B., INC.

By: James D. Ri

Title: Co Owner