

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF SBS MINOR SUBDIVISION

The undersigned, SBS Holdings LLC, ("Declarant") being the owner of the real property platted as SBS Minor Subdivision, County of Adams, State of Colorado, adopts the following Declaration of Covenants, Conditions, and Restrictions ("Declaration") as of this 17th day of November, 2004.

ARTICLE 1. GENERAL PURPOSE AND SCOPE

Section 1.1. This Declaration is intended to control the development and the use of all the real property platted as SBS Minor Subdivision, recorded July 21, 2004 in the office of the Clerk and Recorder of the County of Adams, State of Colorado, as Reception No. 20040721000641890.

Section 1.2. The purpose of the Declaration is to require that all of the Owners, users, and possessors of all properties within SBS Minor subdivision comply with restrictions and regulations intended to improve and enhance productiveness, acceptability, and visual relationship of each and all of the properties for the benefit of each and every Owner and possessor of any and all of the properties within said area.

ARTICLE 2. DEFINITIONS

Assessment(s): Shall include the following items levied against a particular Owner or Unit: (i) the Owner's allocated interest in the Common Expenses; (ii) late charges, attorney's fees, fines and interest charged by the Association at the rate as determined by the Board of Directors, (ii) charges against a particular Owner and the Unit for the purpose of reimbursing the Association for expenditures and other costs of the Association in curing any violation of the Documents by the Owner or Related Users; (iv) charges levied against an Owner due to the Owner's negligence or misconduct ("Extraordinary Assessment") and (iv) any sums permitted by the Documents or to be assessed against a particular Owner or Unit.

Association: 58th & Tennyson Property Owners Association, Inc., a Colorado non-profit corporation, the Articles of Incorporation, Bylaws and Rules of which shall govern the administration of this Property.

Board of Directors: The Board of Directors of the Association.

Common Elements: Access roads, parking lots, landscaping, and sidewalks more than six feet from a building.

Common Expense: The expenses or financial liabilities incurred by, or on behalf of, the Association, together with any allocations to reserves. Such expenses include, but are not limited to:

- a. expenses of administration, maintenance, construction, improvement, repair, or replacement of the Common Elements;

- b. expenses declared to be Common Expenses by the Documents;
- c. expenses agreed upon as Common Expenses by the Association; and
- d. such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement, or addition to the Common Elements or any other real or personal property acquired or held by the Association.

In addition, any cost and expense imposed on the Association benefiting fewer than all the Units shall be a Common Expense, but assessed exclusively against those Units benefited.

Covenants: Collective term for all agreements, promises, restrictions, reservations, conditions, terms, easements, and rights-of-way specifically set forth or referenced in this Declaration and set forth in the Documents, as the same may be adopted and amended from time to time. Each and every Covenant shall be given the same force and effect at law or equity without regard to in which Document it is set forth.

Declaration: This Declaration of Covenants, Conditions and Restrictions of SBS Minor Subdivision.

Documents: Collective reference to those documents which govern the operation of the Association and the Property, including: (a) its Articles of Incorporation; (b) its Bylaws; (c) its Rules and Regulations (including the Design Guidelines); (d) all recorded plats affecting the Property; (e) the Association Documents (to the extent the provisions therein are applicable to the Property); and (f) this Declaration, as one or more of the same may be amended from time to time. Each and every provision of the Documents shall be given the force and effect as if set forth in this Declaration.

First Mortgage: Any mortgage, deed of trust, or other security device having priority over all other mortgages, deeds of trust, or other security devices.

Improvements: Any improvements to a Unit including, but not limited to, structures, sewer lines, water lines, electrical wiring, landscaping, and any other increase in value of the Unit through the use of labor or the expenditure of money.

Owner: A person, firm, corporation partnership, association, or other legal entity, or any combination thereof owning one or more Units, as evidenced by the property records in the office of the Clerk and Recorder of the County of Adams, State of Colorado.

Property: All real property platted as SBS Minor Subdivision, recorded July 21, 2004, in the office of the Clerk and Recorder of the County of Adams, State of Colorado, as Reception No. 20040721000641890.

Unit: The boundaries of each lot created by the Declaration are shown on the plat, as amended by the Affidavit of Plat Correction recorded on August 20, 2004, Reception No. 20040820000798160, as numbered lots 1, 2, 3, and 4. A Unit includes the buildings erected on the respective lots.

ARTICLE 3. ARCHITECTURAL CONTROL COMMITTEE "ACC"

Section 3.1 Creation of Committee. There is hereby created a standing committee of the Association to be known as the Architectural Control Committee, or "ACC," to be composed of not more than three individuals. Until the Declarant has sold 75% of the Units within SBS Minor Subdivision, the Declarant shall have the right to appoint and remove all members of the ACC. As long as Declarant owns at least one Unit, Declarant will have the right to appoint two members of the ACC. After Declarant has sold all Units, members of the ACC will be appointed by the Board of Directors.

Section 3.2. Purpose. The purpose of the ACC is to maintain the superior beauty and quality of the Improvements constructed on the Property, and the harmony thereof with the surroundings, and to evaluate the use and suitability of the proposed Improvements and the effect of the same on any adjacent or neighboring properties.

Section 3.3 Approval of Improvements. The prior written approval of the ACC is required for all plans and specifications in connection with: (A) exterior remodeling, rebuilding, refurbishing, or alteration of the Building, including, without limitation, the exterior appearance, color or texture; or (b) any Improvements or alterations to the Unit other than to the Building including but not limited to landscaping, roof, sidewalk, fence, parking structures or lot, grading, excavation, filling, common elements or similar disturbance of the surface of the land.

Section 3.4 Owner to Submit Plans. Before any construction work begins, the Owner of the Unit shall be responsible for submitting to the ACC complete plans, specifications and color/material/texture samples for the scheduled work and the qualifications of the parties to be performing the scheduled work. Until receipt by the ACC of all required plans and specifications, or amendments thereto, the ACC may postpone review of any plans submitted for approval.

Section 3.5 Action by ACC. The ACC's approval or disapproval as required by this Declaration shall be in writing.

Section 3.6 Construction of Improvements after Approval by ACC. Following approval of proposed Improvements by the ACC, the Owner shall cause the approved Improvements to be made to the Unit in a timely manner. The consent of the ACC shall be valid for a period of three (3) months. If substantial construction of any Improvement approved by the ACC does not commence within three (3) months of the date of the final approval by the ACC, said approval is void.

Section 3.7 Guidelines, Standards, and Procedures. The Declarant may prepare the initial Design Guidelines, which thereafter may be amended in whole or in part by the Board of Directors. Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only, and shall not apply to modifications to or construction of structures previously approved once the approved construction or modification has commenced. Design Guidelines shall include the procedures, materials to be submitted and additional factors that will be taken into consideration in connection with the approval of any

proposed Improvement. Design Guidelines may specify circumstances under which the strict application of limitations or restriction under this Declaration will be waived or deemed in whole or in part, and may waive the requirement or exempt certain Improvements from the requirement for approval, if such approval is not reasonably required to carry out the purposed of this Declaration. The Design Guidelines as the same shall be amended from time to time shall not be recorded but shall be considered incorporated herein by references throughout this Declaration and shall be enforceable as though set forth in full.

Section 3.8 Meetings of the ACC. The ACC shall meet from time to time as necessary to perform its duties hereunder. The ACC may, from time to time, by resolution unanimously adopted in writing, designate one of its members to take any action or perform any duties for and on behalf of the ACC, except the granting of variances. In the absence of such designation, the vote of any two (2) members of the ACC at a regularly called meeting, or the written consent of any two (2) members of the ACC taken without a meeting, shall constitute an act of the ACC.

Section 3.9 No Waiver of Future Approvals. The approval of the ACC to any site plan or other plans or specifications or drawings submitted for any work to be done, proposed, or in connection with any other matters requiring the approval and consent of the ACC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans, and specifications, drawings, or other matter whatever subsequently or additionally submitted for approval or consent.

Section 3.10 Compensation of Members of the ACC. The members of the ACC shall not be compensated for services performed. The ACC shall be entitled to reimbursement for costs of any services rendered to it, at the request of the ACC in the nature of professional services rendered in the inspection of any Improvements planned or erected; and, any correction of defects in any Improvements erected, to the extent that said construction and correction of construction is required to place the Improvements erected pursuant to the approval of the ACC in conformance with the plans and specifications submitted and approved by the ACC.

The cost of such inspection services shall be determined by the ACC and shall be borne by the applicant, Owner, or possessor seeking to obtain ACC approval.

The compensation provisions above set forth will apply only where the ACC has determined that it requires the services of an expert to determine whether plans submitted are feasible or to determine compliance with plans and specifications as to structures in progress of construction or completed, where the expertise required is beyond the normal scope of the ACC membership. The ACC will, by a majority vote thereof, determine its ability, and determine the need for hiring of an expert.

Section 3.11 Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

- a. Upon the completion of any Improvements for which approved plans are required, the applicant shall give prompt written notice of completion to the ACC.

- b. Within five (5) business days after receipt of the notice of completion, the ACC or its duly authorized representative may inspect such Improvements. If the ACC finds noncompliance with the approved plans, it shall notify the applicant in writing of such noncompliance within five (5) business days after inspection of the Improvements, specifying the particulars of noncompliance and shall require the Owner to remedy same.
- c. If, upon the expiration of a reasonable period of time, not to exceed thirty (30) days from the date of such notification, the applicant shall have failed to remedy such noncompliance, the ACC shall give the applicant a five (5) day final notice of the deficiencies involved and the remedial action required. Unless prompt action is taken to bring the defects into compliance, the ACC is authorized to proceed as it deems proper without further notice.
- d. If, for any reason, the ACC fails to notify the Owner of any noncompliance within ten (10) business days after receipt of said written notice of completion from the Owner, the Improvements shall be deemed to be approved.

Section 3.12 Nonliability of ACC Members. None of the ACC, any member thereof or the Board of Directors shall be liable to any Owner or to any other person for any loss, damage, or injury arising out of or in any way connected with, the performance of the ACC's duties under this Declaration. By granting its approval of proposed Improvement, the ACC will not be deemed to have approved or to have made any representation as to the safety, structural soundness, or compliance with local building codes or other governmental laws or regulations concerning the proposed Improvements.

Section 3.13 Original Jurisdiction. The ACC will have original jurisdiction to commence and maintain suits to require conformance with this Declaration. Proceedings for injunction and damages, or both, may be brought.

Section 3.14 Notice to ACC, Actions to Enforce Covenants. No action to enforce the provisions of this Declaration will be brought by any Owner until and unless the complainant gives written specific notice of the alleged violation to the ACC and has made reasonable efforts to furnish a copy to the entity and/or individuals allegedly to be in violation.

Upon receipt of a written specific notice of an alleged violation, the ACC or the ACC's designee will, within 10 days, review and present to the ACC a preliminary report and recommendation, a copy of which will be available for the complainant and the alleged violator. A prompt hearing will be set before the ACC giving reasonable notice to the affected parties. If, after the ACC has acted, the complainant is not satisfied with the results, the affected parties may proceed with any remedies available. The proceedings of the ACC shall be available to all Owners, lessees and possessors of property within the subdivision by notice to the Owners or Association members.

ARTICLE 4. PERMITTED AND RESTRICTED USES

Section 4.1 Use Restricted by Zoning Classification. The permitted uses of all Units contained within the plat of SBS Minor Subdivision, as presently existing, or as hereinafter amended, shall be controlled by the zoning classifications adopted by the governmental agency which has control of the subject property, and any applicable amendments or additions thereto; provided, however, that the additional use restrictions may apply under Article 4 of this Declaration.

Section 4.2 No Residential Use. No Unit is to be used for residential purposes.

Section 4.3 Changes in Use. Any change in use that may require rezoning must be approved by the Board of Directors prior to an owner submitting an application for rezoning to the local zoning authority.

Section 4.4 Completion of Construction. After commencement of construction of any structure, the applicant shall diligently pursue the work thereon, to the end that the structure shall not remain in a partially finished condition any longer than reasonably necessary for the completion thereof.

Section 4.5 Excavation. No excavation shall be made except in connection with the construction of Improvements, pursuant to the approved site plan and construction plans. Upon completion of the construction, all exposed openings shall be back filled and caused to be brought into compliance with said site plans and approved plans and specifications, and maintained thereafter in a sightly and well kept condition.

Section 4.6 Landscaping. Each Unit shall be landscaped pursuant to site plan, and approved by the ACC. Each Unit shall thereafter be maintained in a sightly and well-kept condition pursuant to said plans, as approved and may later be amended. All landscaping, as approved by the ACC shall be installed in a timely and proper fashion, weather permitting.

Section 4.7 Restricted Uses. The following uses are not permitted on the Property:

- a. No business engaged in the repair, towing, appraisal, customization, storage, restoration or sale of automobiles or other motorized vehicles shall be conducted in or on any Unit.
- b. No dry cleaning establishment or other business that may release hazardous materials as that term is defined in 40 C.F.R. part 261.
- c. No store, grocery or convenience business, bar or other establishment engaged in the sale of alcoholic beverages shall be conducted in any Unit; neither shall any alcoholic beverages be manufactured, sold, kept for sale, or otherwise dealt with on a commercial basis in such Unit.
- d. No Owner may use any Unit as a factory or facility of any kind or nature whatsoever for

engaging in heavy industry.

- e. There shall not be erected, on any portion of any Unit, any building which carries on business that is offensive, noxious or detrimental to the use of the land in the vicinity of the Unit. Nor shall any Unit be used for any purpose that, as a matter of common experience, tends to create a nuisance. Activities prohibited under this provision include, but are not limited to, the following: any business permitting the storage or parking of damaged or inoperable vehicles; any business engaged in the breeding or slaughter of animals; any business engaged in the collection, reuse or recycling of scrap materials; and any business engaged in the treatment, disposal or storage of sewage or other waste.
- f. No Unit shall be used for the manufacture or sale of any substance of any inherently dangerous nature, including, but not limited to, explosives and corrosive or flammable materials.
- g. Only vehicles for commercial use shall be permitted on the Property overnight. No commercial vehicles shall be permitted that weigh in excess of three tons.
- h. Nothing shall be done within or on the Common Elements or Units which could be in violation of any statute, rule, ordinance, regulation, permit, or validly imposed requirement of any governmental body.

Section 4.8 Restriction against signs and billboards—Size and number

No more than one marquee sign per Unit, indicating only the name and unit number of each tenant in a Unit shall be allowed. All signs and billboards must be approved in writing by the ACC. In addition, each tenant in a Unit may indicate its name and unit number on the door to its premises. Any other signage must be approved in writing in advance by the ACC.

ARTICLE 5. THE PROPERTY OWNERS ASSOCIATION

Section 5.1 General Purposes and Powers. The Association, through the Board of Directors or a managing agent shall perform functions and hold and manage property as provided in this Declaration so as to further the interest of Owners of Units in the Project. The Association shall have all the powers necessary or desirable to effectuate such purposes.

Section 5.2 Membership. The Owner of a Unit shall automatically be a member of the Association. Association membership shall be appurtenant to said Unit, and shall not be transferred, pledged, or alienated, in any way, except upon the transfer of title to said Unit or a portion thereof, and then only to the transferee of title to said Unit or portion thereof. Any attempt to make a prohibited transfer shall be void. Any transfer of title to said property shall operate automatically to transfer said membership to the new owner thereof. Membership in the Association shall be limited to Owners of Units, and each Unit shall be entitled to one vote on matters submitted for a vote, unless a different voting structure for particular matters is set forth in this Declaration.

Section 5.3 Board of Directors. The affairs of the Association shall be managed by a Board of Directors, which may, by resolution, delegate any portion of its authority to an executive committee or to a managing agent for the Association. Initially, there shall be three members of the Board of Directors, all of whom shall be appointed by the Declarant so long as Declarant owns all the Units. Once Declarant owns only three Units, then two members of the Board of Directors shall be appointed by the Declarant. The third member of the Board shall be elected by the remaining Unit Owner. Once Declarant owns only two Units, then the Board of Directors will consist of five members, three of whom shall be appointed by the Declarant. The other two members of the Board shall be elected by the majority vote of the Owners of Units other than the Declarant. Once Declarant owns only one Unit, then the Board of Directors will consist of seven members, four of whom shall be appointed by the Declarant. The other three members of the Board shall be elected by the majority vote of the Owners of Units other than the Declarant. Once Declarant ceases to be an Owner, each member of the Board of Directors shall be elected by majority vote of the Owners, on the basis of one vote per Unit.

Section 5.4 Bylaws and Articles. The purposes and powers of the Association and the rights and obligations with respect to Owners set forth in this Declaration may and shall be amplified by provisions of the Articles and Bylaws of the Association.

Section 5.5 Election of Officers. The Board of Directors may appoint officers.

Section 5.6 Duties of the Association. The administration and management of the Common Elements shall be vested exclusively in the Association. The Association, subject to any voting requirements specified in this Declaration, or in the Association's Articles of Incorporation or Bylaws, shall have the following duties, rights and powers:

- a. To accept and exercise jurisdiction over all property, real and personal, that may be conveyed to the Association by Owners including but not by way of limitation, easements for operation and maintenance purposes, and easements for the benefit of Association members. For the purposes of this section, a nonexclusive easement, license, or other contractual right to use in favor of the owners is not to be deemed a lien or encumbrance.
- b. To budget for and collect periodic Assessments from Owners; to collect delinquent Assessments by suit or otherwise; and to collect such other Assessments (including Extraordinary Assessments) as are authorized herein.
- c. Within thirty (30) days after the adoption of any proposed budget, the Association's Board shall mail by ordinary first class mail, or otherwise deliver, a summary of the budget to all Unit Owners. Unless 75% of the Owners reject the budget in writing within 30 days of mailing, it shall be deemed ratified. In the event of a rejection of the budget the periodic budget last ratified shall remain in force until such time as a subsequent budget is proposed and ratified as provided for herein.

- d. From funds collected, to provide for maintenance, construction, management, insurance, decoration, landscaping and care of Association property and Common Elements, and such other expenses as are enumerated in this Declaration, the Association ByLaws, or authorized by law.
- e. To lease, acquire and sell real or personal property in pursuance of its obligations.
- f. To pay all real property taxes and Assessments levied upon any property conveyed, leased or otherwise in the possession or control of the Association.
- g. To enjoin or seek damages from or assess fines (as an Extraordinary Assessment) against Owners for violation of this Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association, and the Rules promulgated by the Association for Owners, their guests or tenants.
- h. To employ workmen and others; to contract for services to be performed, including those of a manager; to purchase supplies and equipment; to enter into contracts; and generally to have the powers of a commercial property manager in connection with the matters herein set forth.
- i. To protect and defend the Common Elements from loss and damage by suit or otherwise.
- j. To obtain and maintain in force policies of insurance covering the liability of the Association for all activities of the Association and its directors and officers, and such other insurance as it deems advisable.
- k. To employ counsel, attorneys, accountants and auditors in connection with legal or accounting matters of the Association and in connection with any audit of its books and records, which audit shall be available to Owners and holders of deeds of trust for inspection at the Association office, as hereinafter provided.
- l. To carry over funds from year to year in the Association's operating account, if such funds are not necessary for immediate disbursements, with the intent of budgeting for major projects or for payment on long term projects.
- m. To file legal protests, formal or informal, with authorities against the granting by authorities of zoning ordinances or variances concerning any property within a reasonable proximity of the Properties that might affect the value of any Owner's interest in the Common Elements.
- n. To adopt Rules in accordance with the Bylaws for the regulation and operation of the Common Elements including, but not limited to, regulations governing the use, occupancy, conservation, maintenance, and enjoyment of the Common Elements,

and the regulation of parking.

- o. To suspend any Owner's right to the use of the Common Elements during any period in which such Owner is delinquent in payment of Assessments.
- p. To grant easements over, across, and under the Common Elements for public utilities and other public purposes.
- q. To exercise any power not specifically enumerated herein, but permitted under applicable law.

ARTICLE 6. AMENDMENTS TO THE DECLARATION

Section 6.1 Amendment to the Declaration, in General. So long as the Declarant is an Owner of at least one Unit, this Declaration may only be amended by the vote of a majority of the Units, plus the written consent of the Declarant; provided, however, that any amendment to Sections 3.1 and 5.3 must be approved by 100% vote of the Units.

Section 6.2 Limitation of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article must be brought within one year after the amendment is recorded.

Section 6.3 Recordation of Amendments. Each amendment to the Declaration must be recorded in the records of the Adams County Clerk and Recorder, and the amendment is effective only upon its recording therein.

Section 6.4 Execution of Amendments. An amendment to the Declaration that has been adopted in accordance with this Declaration must be prepared, executed, recorded, and certified on behalf of the Association by an officer of the Association designated for that purpose, or, in the absence of such a designation, by the president of the Association or a member of the Board of Directors.

ARTICLE 7. COMMON ELEMENTS

Section 7.1 Use of General Common Elements. Each Owner shall be entitled to exclusive ownership and possession of his/her Unit. Each Owner, his/her guests and invitees may, subject to the rules of the Association, use the Common Elements in common with the other Owners in accordance with the purpose for which they were intended, without hindering or encroaching upon the lawful rights of the other Owners.

Section 7.2 Limitations. Except as may be required by law, no Common Elements may be conveyed to any person or entity other than Unit Owners (in undivided fractional interests).

ARTICLE 8. MAINTENANCE

Section 8.1 Owners' Responsibility of Maintenance. Each Owner shall be responsible for maintenance, repair, alteration and remodeling of the building and within five feet of the building, including the sidewalks and all landscaping located within five feet of the building.

Section 8.2 Association Duty of Maintenance. Except as set forth in Section 8.1, all maintenance, repair or replacement to the Common Elements is the responsibility of the Association, including but not limited to upkeep of all roadways and parking lots, including removing snow, when appropriate. If such maintenance, repairs and replacements are necessitated by the negligence, misuse or neglect of an Owner, his/her guests, tenants, invitees or licensees, such expenses shall be charged to such Owner as an Extraordinary Assessment.

ARTICLE 9. ASSESSMENTS

Section 9.1 Covenant to Pay Assessments. Each Owner, by acceptance of a deed, agrees to pay the Association Assessments and charges established and collected from time to time as herein provided. Such Assessments, together with interest, the cost of collection and attorney's fees shall be charged to the Unit and shall be a continuing lien upon the Unit against which each Assessment is made in the event of delinquency in payment. Such Assessment, together with interest, costs and reasonable attorney's fees also shall be the obligation of the Owner at the time when the Assessment was made. Assessments against each Unit shall commence as of the date of the transfer of title to such Unit by the Declarant to a purchaser thereof.

Section 9.2 Basis for Assessments. All Assessments shall be allocated to each Unit on the basis of 25% of the total costs of the Association will be allocated to each Unit; provided, however, that the Board of Directors may, in its discretion, allocate Assessments on any other basis it deems reasonable under the circumstances, whether due to an Extraordinary Assessment or otherwise.

Section 9.3 Lien for Nonpayment of Common Expenses. All sums assessed against a Unit, but unpaid, including interest thereon at ten percent (10%) per annum shall constitute a lien on such Unit superior to all other liens and encumbrances except:

- a. Tax and special assessment liens in favor of any assessing authority; and
- b. All sums unpaid on any First Mortgage of record, including all unpaid sums as may be provided for by such encumbrance, and including additional advances made thereon prior to the filing of such lien.

To evidence such lien, the Board of Directors or the Association's managing agent may prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Unit and a description of the Unit. Such notice shall be signed by a member of the Board of Directors or by the managing agent or by counsel for the Association and shall be recorded in the Office of the Clerk and Recorder of Adams County, State of Colorado. Such lien shall attach from

the date the unpaid Assessment was made, and may be enforced by foreclosure on the defaulting Owner's Unit by the Association in like manner as a mortgage on real property and shall encumber all rents and profits issuing from the Unit. In any such foreclosure, the Owner shall be obligated to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien, and the reasonable attorney's and receiver fees of the Association, which shall be recoverable out of the foreclosure proceeds. The Owner shall also be required to pay the Association a reasonable rental for the Unit during the period of redemption, which payment shall be covered by the lien, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid on the Unit at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing same. Nothing herein shall be deemed to limit or diminish any statutory lien for Assessments, costs, damages or attorneys' fees, to which the Association is otherwise entitled.

Any encumbrancer holding a lien on a Unit may pay any unpaid Assessments payable with respect to such Unit, and upon such payment such encumbrances shall have a lien on such Unit for the amounts paid of the same rank as the lien of his encumbrance.

Section 9.4 Liability for Common Expenses Upon Transfer of Unit. Notwithstanding the personal obligation of each Owner of a Unit to pay all Assessments thereon and notwithstanding the Association's perpetual lien upon a Unit for such Assessments, all successors in interest to the fee simple title of a Unit shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees against such Unit, without prejudice to any such successor's right to recover from any prior Owner any amounts paid thereon by such successor; provided, however, that a successor in interest to the fee simple title of a Unit shall be entitled to rely upon the existence and status, or absence thereof, of unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees as shown upon any certificate issued by or on behalf of the Association to such named successor in interest as hereinafter set forth.

ARTICLE 10. INSURANCE

Section 10.1 Insurance Policy or Additional Insured. The Board of Directors shall either obtain notification that the Association is an additional insured on the property insurance policies held by individual Owners, or the Board of Directors shall obtain and maintain property insurance. The insurance will be cover the full insurable replacement cost, less applicable deductibles, from time to time, of the Common Elements.

The Board of Directors may determine the provisions of any such policy. In the event that an Owner's use of or Improvement to a Unit increases the cost of premiums for insurance, the Association may levy an Extraordinary Assessment against such Owner's Unit to pay such increased cost. No Owner shall obtain insurance that shall impair the Association's ability to insure or realize on insurance policies obtained by the Association. Any diminution in proceeds received by the Association resulting from such other insurance shall be a charge upon such Owner's Unit and an

Extraordinary Assessment levied therefor.

Section 10.2 Insurance for the Association. The Association may, if it deems advisable or necessary, obtain and maintain the following insurance:

- a. Insurance coverage upon the Common Elements, as recited above, and all property owned or leased by the Association;
- b. Comprehensive general liability insurance in a minimum amount of \$2,000,000.00 per single occurrence and Workmen's Compensation coverage upon employees and other liability insurance insuring the Association, the Board of Directors, managers and agents in connection with the Common Elements. The Declarant shall be included as an additional insured in its capacity as a Unit Owner on the general liability insurance, and the Unit Owners shall also be additional insureds to the extent of claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.
- c. Such other insurance as the Board of Directors may deem desirable for the benefit of the Owners.

Section 10.3 Insurance Proceeds Subordinate to Mortgage. In the event of substantial damage to, or destruction of the major portion of the Common Elements, and if the Common Elements are not restored, any distribution of insurance proceeds hereunder shall be made, pro rata, to the Owners and their respective Mortgagees, as their interests may appear, and no Owner or other party shall be entitled to priority over the holder of a mortgage on a Unit with respect to any such distribution; provided, however, that nothing in this Section 10.3 shall be construed to deny the Association the right to apply any or such proceeds to repair or replace damaged portions of the Common Elements.

Section 10.4 Association Not Liable for Damage. Notwithstanding the duty of the Association to maintain and repair the Common Elements, the Association shall not be liable for injury or damage caused by any condition of the Common Elements or by the conduct of another Owner or persons or by casualties for which insurance pursuant to these Covenants is not required, or for which insurance is not provided by the Association.

Section 10.5 Appraisals. The Board of Directors is authorized to obtain appraisals periodically for the purpose of establishing replacement cost of the project facilities and the actual cash value of the personal property, and the cost of such appraisals shall be a Common Expense.

Section 10.6 Fidelity Bonds. A blanket fidelity bond or dishonesty insurance coverage may be provided at the option of the Board of Directors for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond or insurance shall name the association as obligee and shall cover the maximum funds that will be in the custody of the Association at any time while the bond is in force. In no

event shall the bond or coverage be for an amount less than the sum of three months' Assessments plus reserve funds. The bond or coverage shall include a provision that calls for ten days' written notice to the Association, each holder of a Security Interest in a Unit, and the insurance trustee, if any, before the bond can be cancelled or substantially modified for any reason. The bond or coverage shall be in an amount equal to the maximum amount of funds in the custody and control of the Association when the bond or insurance is in effect. When either: (a) separate bank accounts for working funds and reserves are maintained and monthly checks are sent directly to the Association; (b) a management company maintains separate records and bank accounts for each association's reserve account; or (c) two Board of Directors members must sign any check written on the reserve account, then the fidelity bond or coverage may be in an amount equal to three months' Common Expense Assessments on all Units.

Section 10.7 Unit Owner Policies. An insurance policy issued to the Association does not preclude Unit Owners from obtaining insurance for their own benefit.

Section 10.8 Directors' and Officers' Liability Insurance. The Board of Directors may obtain and maintain directors' and officers' liability insurance, if available, covering all of the Directors and officers of the Association. This insurance shall have limits determined by the Board of Directors.

Section 10.9 Premiums. Insurance premiums for insurance carried or to be carried by the Association shall be a Common Expense.

ARTICLE 11. ALTERNATIVE DISPUTE RESOLUTION

Section 11.1 Purpose. The purpose of the Declaration is to establish a harmonious community. Because the prompt, efficient, fair and non-belligerent resolution of any disputes is desirable, any controversy arising out of or relating to this Declaration, or a breach thereof, or any other dispute between (1) the Declarant and (2) the Association or any Owner shall be resolved as set forth in this Article. Those disputes specifically described in Section 11.8, shall not be subject to the alternative dispute resolution ("ADR") requirements described in this Article.

Section 11.2 Direct Communication. The parties to the disagreement shall set forth their respective positions in the dispute in correspondence. Each party shall respond within seven days after receipt of a letter from the other until agreement is reached.

Section 11.3 Arbitration. If the dispute cannot be resolved through direct communication, the parties will mutually select an arbitrator. The initiating person shall give written notice of its decision to arbitrate by providing a specific statement setting forth the nature of the dispute, the amount involved and the remedy sought. The initiating person shall be responsible for all filing requirements and the payment of any fees. The written decision of the Arbitrator shall be final and binding on both parties.

Section 11.4 Costs of Arbitration. Each party shall bear its own costs of arbitration.

Section 11.5 Binding Nature. The consideration of the parties to be bound by arbitration is not only the waiver of access to determination by a court and/or jury, but also the waiver of any rights to appeal the arbitration finding. A judgment upon an award rendered by the arbitrator may be entered in any court having jurisdiction.

Section 11.6 Location. The arbitration proceeding shall be held in metropolitan area of Denver, Colorado.

Section 11.7 Sole Remedy: Waiver of Judicial Rights. The Declarant, the Association and each Owner of a Unit expressly consent to the procedures established in this Article as their sole and exclusive remedy, and expressly waive any right they may have to speak resolution of any dispute contemplated by this Article in any court of law or equity, and any right to trial by judge or jury. If a dispute involves the Declarant or the Association, no Person shall file a memorandum of lis pendens or similar instrument that would encumber or create a lien upon the land owned either by the Declarant or the Association.

Section 11.8 Disputes Regarding Assessment Liens Not Subject to ADR: In the event that an Owner fails to make timely payment of any Assessment levied by the Association, the Association shall have a lien against Owner's property as provided in Article 9. The Association may take any action provided by law to either foreclose on said lien or collect such unpaid Assessments without following the ADR procedures described herein.

ARTICLE 12. GENERAL

Section 12.1 Notices. Except as otherwise allowed by law or by these Covenants, all notices or demands intended to be served upon an Owner shall be personally delivered or sent by first class mail, postage prepaid, addressed in the name of such Owner in care of the Unit number and building address of such Owner, or at such other address as an Owner notifies the Association of from time to time. All notices, demands, or other notices intended to be served upon the managing agent or the Board of Directors of the Association or the Association shall be sent by certified mail, postage prepaid, to the Association's registered agent, who, at the date of recording hereof is: Dale A. Sand, 5380 Tennyson St. Denver, CO 80212 or to such other managing agent and/or registered agent whose names and addresses may be furnished from time to time. All notices, demands, or other notices shall be deemed given upon deposit in the United States mails, as herinabove specified. Any Owner may obtain from the Association, upon reasonable advance request and payment of the cost of furnishing it, a copy of the list of names and mailing addresses of all of the Owners. Notice from any Owner to all other Owners may be given as set forth herein. Nothing herein shall preclude notice (with mailing cost prepaid) being sent by certified, overnight, or other mailing process providing for a receipt or other evidence of mailing.

Section 12.2 Acceptance of Provisions of all Documents. The conveyance or encumbrance of a Unit shall be deemed to include the acceptance of all of the provisions of this Declaration, the Articles of Incorporation, the Bylaws and Rules and Regulations of the Association, and shall be binding upon each grantee or encumbrancer, its successors and assigns without the necessity of

inclusion of such an express provision in the instrument of conveyance or encumbrance.

Section 12.3 Declarant's Rights Assignable. The rights of the Declarant hereunder may be assigned voluntarily or by operation of law.

Section 12.4 Severability. If any of the provisions of these Covenants or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of these Covenants, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

Section 12.5 Supplemented by Colorado Law. Applicable Colorado law shall supplement the provisions of these Covenants. In the event of any inconsistency between applicable statutes and this Declaration, this Declaration shall control to the extent allowed by law; otherwise, the statutory provision shall be deemed controlling and incorporated herein.

Section 12.6 Rules of Construction. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender will include all genders.

Section 12.7 Governing Law. These Covenants shall be construed in accordance with Colorado law.

Section 12.8 Captions. The captions and headings throughout this Declaration are for convenience and reference only, and the words contained in such captions shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of this Declaration.

SBS HOLDINGS, LLC

By


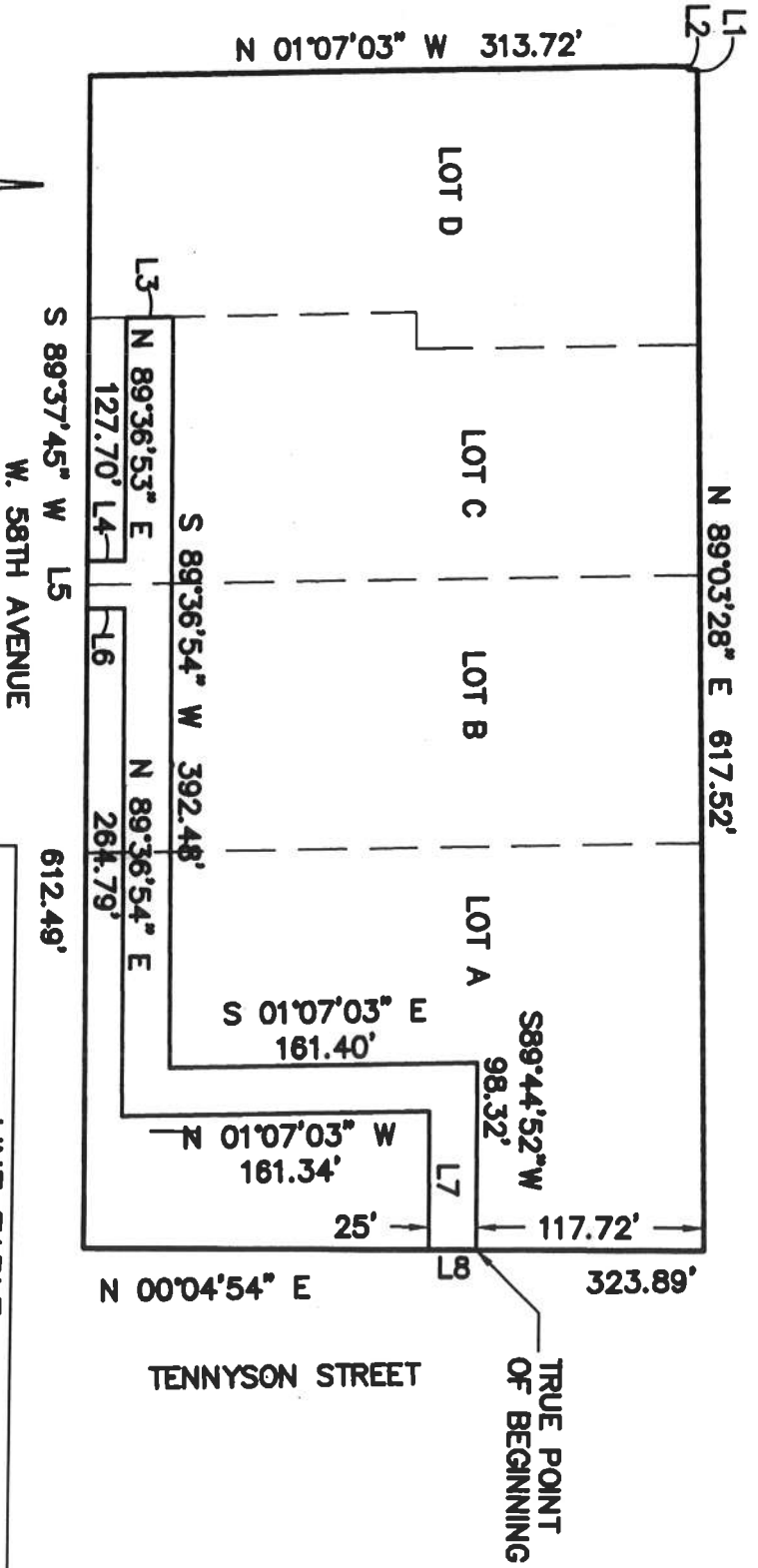

Dale A. Sand, Manager

EXHIBIT A SHEET 2 OF 2



LINE TABLE	
LINE	BEARING
L1	N00°54'44"W
L2	N89°39'00"E
L3	S01°07'03"E
L4	S00°27'44"E
L5	N89°37'45"E
L6	N00°27'44"W
L7	N89°44'52"E
L8	N00°04'54"E

PREPARED BY: LANE ENGINEERING SERVICE, INC.
9500 WEST 14TH AVENUE, LAKEWOOD, CO 80215
TEL: (303) 233-4042 FAX: (303) 233-0796

PREPARED: 10/22/2004
PROJECT NO. S209-2.1

EXHIBIT A

DESCRIPTION FOR INGRESS/EGRESS EASEMENT.

A TRACT OF LAND, 25 FEET IN WIDTH, LOCATED IN LOTS A, B, C AND D, SBS MINOR SUBDIVISION, A SUBDIVISION RECORDED IN THE ADAMS COUNTY CLERK AND RECORDER'S OFFICE IN INSTRUMENT NO. 20040721000641890, ADAMS COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT A; THENCE S. 00° 04' 54" W. ALONG THE EAST LINE OF LOT A, A DISTANCE OF 117.72 FEET TO THE TRUE POINT OF BEGINNING; THENCE S. 89° 44' 52" W. A DISTANCE OF 98.32 FEET; THENCE S. 01° 07' 03" E. A DISTANCE OF 161.40 FEET; THENCE S. 89° 36' 54" W. A DISTANCE OF 392.48 FEET TO A POINT ON THE EAST LINE OF LOT D; THENCE S. 01° 07' 03" E. ALONG THE EAST LINE OF LOT D, A DISTANCE OF 25.01 FEET; THENCE N. 89° 36' 53" E. A DISTANCE OF 127.70 FEET; THENCE S. 00° 27' 44" E. A DISTANCE OF 19.91 FEET, TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF WEST 58TH AVENUE; THENCE N. 89° 37' 45" E. ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 25.00 FEET; THENCE N. 00° 27' 44" W. A DISTANCE OF 19.92 FEET; THENCE N. 89° 36' 54" E. A DISTANCE OF 264.79 FEET; THENCE N. 01° 07' 03" W. A DISTANCE OF 161.34 FEET; THENCE N. 89° 44' 52" E. A DISTANCE OF 72.79 FEET; TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF TENNYSON STREET; THENCE N. 00° 04' 54" E. ALONG SAID WEST LINE, A DISTANCE OF 25.00 FEET TO THE TRUE POINT OF BEGINNING.

PREPARED BY
STEVEN D. LISTER
FOR AND ON BEHALF OF:
LANE ENGINEERING SERVICE, INC.
9500 W. 14TH AVENUE
LAKEWOOD, COLORADO 80215
303-233-4042

PROJECT S209-2.1
SHEET 1 OF 2
PREPARED 10/22/04