COMM: 8-0
FINAL: 7/3 8-0

Original

RESOLUTION 90-4

TO APPROVE CONVEYANCE OF A PORTION OF THE FORMER CITY HALL BUILDING LOCATED AT FOURTH AND WALNUT STREET TO THE BLOOMINGTON AREA ARTS COUNCIL, INC.

WHEREAS, the Bloomington Common Council by Resolution 89-16 expressed its intent to approve conveyance with reverters or lease of the portion of the former City Hall building once occupied by the Bloomington Police Department (hereinafter called Unit A), at Fourth and Walnut Street to the Bloomington Area Arts Council (BAAC) for renovation and operation as a community arts center, contingent upon the BAAC demonstrating financial commitment to the project by the end of 1989, and also contingent upon the BAAC submitting an adequate financial plan for operation of the community arts center; and

WHEREAS, on January 17, 1990, BAAC submitted to the City a Preliminary Operating Plan for the community arts center; and

WHEREAS, the Projects Committee reviewed BAAC's fundraising results and Preliminary Operating Plan and recommended that the Board of Public Works approve the same; and

WHEREAS, on February 13, 1990, the Board of Public Works by its Resolution 90-6 found that BAAC had demonstrated adequate financial commitment to this project, through its fundraising efforts as of December 31, 1989. The Board also found that the Preliminary Operating Plan was sufficiently realistic to justify the City of Bloomington lending its support to the proposed project; and

WHEREAS, the City administration and Council office have negotiated an agreement with BAAC for the conveyance of Unit A with reasonable terms and conditions calculated to serve the needs and protect the interests of both parties and of the public; and

WHEREAS, the conveyance shall occur under the provisions of I.C. 32-1-6 et seq., the Indiana Horizontal Property Act; and

WHEREAS, the conveyance agreement has received a favorable recommendation from the City administration;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

1. The Common Council of the City of Bloomington hereby approves execution by the City of Bloomington of the Declaration of Arts Square Horizontal Property Regime, attached hereto and made a part hereof, which shall submit both the present downtown fire station (hereinafter called Unit B) and the remainder of the former City Hall building (Unit A) to the provisions of I.C. 32-1-6 et seq., the Indiana Horizontal Property Act.

2. The Common Council approves conveyance of Unit A of the Arts Square Horizontal Property Regime to the Bloomington Area Arts Council, Inc. (BAAC), in accordance with the Quit Claim Deed, Purchase Money Real Estate Mortgage and Purchase Money Promissory Note, attached hereto and made a part hereof.

3. The initial Board of Directors of the Arts Square Horizontal Property Regime shall be composed of three members. One member shall be appointed by the Common Council; two members shall be appointed by the Mayor. The initial Board of Directors shall serve until one hundred and twenty (120) days after such time as the City ceases to own Unit B of the Regime in fee simple.

4. If the BAAC shows the City its need for the City to subordinate its purchase money mortgage to a construction mortgage for renovation of Unit A in the Arts Square Horizontal Property Regime, provision has been made for such possibility. However, subordination of the City's purchase money mortgage must receive the prior written approval, in resolution form, of the Common Council, which approval may be granted, conditioned or withheld in its complete and sole discretion.

5. Severability. If any section, sentence, or provision of this resolution, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared to be severable.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 3rd day of July, 1990.

Iris Kiesling

IRIS KIESLING, President
Bloomington Common Council

SIGNED and APPROVED by me upon this 5th day of July, 1990.

Tomilea Allison

TOMILEA ALLISON, Mayor
City of Bloomington

ATTEST:

Patricia Williams

PATRICIA WILLIAMS, Clerk
City of Bloomington

SYNOPSIS

This Resolution authorizes conveyance of the portion of the former City Hall building once occupied by the Bloomington Police Department by Quit Claim Deed to the Bloomington Area Arts Council, Inc. in accordance with the provisions of the Indiana Horizontal Property Act.

Signed copies to:
Legal Dept (2)
BAAC
Public Works

PURCHASE MONEY PROMISSORY NOTE

$270,000.00 Due Date: May 1, 2020

On or before the 1st day of May, 2020, for value received, the undersigned, THE BLOOMINGTON AREA ARTS COUNCIL, INC. ("Maker"), promises to pay to the order of THE CITY OF BLOOMINGTON, INDIANA ("Holder") the sum of Two Hundred Seventy Thousand Dollars ($270,000.00), at P.O. Box 100, Municipal Building, Bloomington, Indiana 47402, or at such other place as the holder hereof may direct in writing, without interest accruing thereon up to and including the date of maturity, whether by acceleration or otherwise, but with attorneys' fees and costs of collection, and without relief from valuation and appraisement laws.

This Note is delivered by Maker to Holder in connection with the conveyance of the following described real estate by Holder to Maker:

> Units A1, A2 + A3 in the Arts Square Horizontal Property Regime, as established by Declaration of Arts Square Horizontal Property Regime, dated July 3rd, 1990 and recorded July 27th, 1990 in Misc. Record Book 201, Pages 371 - 412 in the Office of the Recorder of Monroe County, Indiana, together with an undivided percentage interest in the Common Areas of Arts Square Horizontal Property Regime, as set out in the Declaration thereof and any subsequent amendments thereto (hereinafter referred to as the "Property").

Maker has agreed to continuously use at least seventy-two percent (72%) of the Property, from the date of completion of rehabilitation and renovation thereof ("Completion Date") through and including the due date stated above, as a community arts center oriented towards the advancement of education, arts and cultural interests for use by and for the benefit of community groups, individuals, and the general public of the City of Bloomington, Indiana (the "Maker's Use"). In the event Maker shall use the appropriate portion of the Property continuously for Maker's Use from the Completion Date through and including

RECORDED
A.M. ____ P.M. 12:24
AUG 03 1990
RECORDER MONROE CO., IN

the due date, this Promissory Note shall be deemed fully and completely satisfied without payment of the principal amount hereof by Maker to Holder. However, in the event Maker shall fail to fulfill its obligation to use the Property for such period for Maker's Use, then, in that event, this Note shall become immediately due and payable, upon written notice thereof from Holder to Maker. Provided, however, this Note will become due and payable only if the reverter provisions of the Quitclaim Deed from Holder, as Grantor, to Maker, as Grantee, have not caused title to the subject real estate to revert from Maker to Holder at or prior to the date of Maker's default hereunder.

Maker and all endorsers severally waive demand, presentment, protest, notice of protest and notice of nonpayment or dishonor of this Note, and each of them consents to extensions of the time of payment of this Note.

No delay or omission on the part of Holder hereof in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Holder hereof of any right or remedy shall preclude other or further exercise thereof or of any other right or remedy.

This Note, and any extensions or renewals hereof, is secured by a Purchase Money Real Estate Mortgage, of even date herewith, executed and delivered by Maker to Holder, to which reference is made for other rights as to prepayment, acceleration and satisfaction.

Signed and delivered at Bloomington, Indiana, this 31st day of July, 1990.

THE BLOOMINGTON AREA ARTS COUNCIL, INC.,
an Indiana not-for-profit corporation

By: Elizabeth P. Blumenthal
(Signature)

Its: Elizabeth P. Blumenthal, Pres. of Board.
(Printed Name and Title)

By: Jefrey L. Davidson
(Signature)

Its: JEFREY L. DAVIDSON, TREASURER
(Printed Name and Title)

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Before me, a Notary Public in and for said County and State, personally appeared Elizabeth P. Blumenthal and Jefrey L. Davidson, the President of the Board and Treasurer, respectively, of the Bloomington Area Arts Council, Inc., an Indiana not-for-profit corporation, who acknowledged the execution of the foregoing note as such officers acting for and on behalf of said corporation.

Witness my hand and Notarial Seal this 31st day of July, 1990.

Kara N. Kalb
(signature)

Kara N. Kalb
(printed name) Notary Public

My Commission Expires:
22 July 1993

County of Residence:
Monroe

This instrument was prepared by Robert E. Evans, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282; Telephone: (317) 236-2100.

008991

BOOK 201 PAGE 371

RECORDED
A.M. ____ P.M. 1:04
JUL 27 1990
RECORDER MONROE CO., IN

DECLARATION

OF

ARTS SQUARE

HORIZONTAL PROPERTY REGIME

THE CITY OF BLOOMINGTON, INDIANA

"DECLARANT"

INCLUDING THE

CODE OF BY-LAWS OF

THE ARTS SQUARE
CO-OWNERS ASSOCIATION, INC.

DECLARATION OF ARTS SQUARE HORIZONTAL PROPERTY REGIME

THIS DECLARATION OF ARTS SQUARE HORIZONTAL PROPERTY REGIME ("Declaration"), made this 3rd day of July, 1990, by THE CITY OF BLOOMINGTON, INDIANA ("Declarant"),

WITNESSETH:

WHEREAS, there exists certain real estate located at the corner of West Fourth and South Walnut Streets in The City of Bloomington, Indiana, which is more particularly described in Exhibit A attached hereto and made a part hereof and on which is erected and exists a certain three story building together with other improvements (hereinafter collectively called the "Real Estate"); and

WHEREAS, Declarant is the owner in fee simple of the Real Estate by virtue of certain deeds recorded in Deed Record Book 55, page 387, and Deed Record Book 66, page 61, in the office of the Recorder of Monroe County, Indiana; and

WHEREAS, Declarant desires to create upon the Real Estate a horizontal property regime in accordance with the provisions of the Horizontal Property Act of the State of Indiana by recordation of this Declaration;

NOW, THEREFORE, Declarant hereby makes this Declaration and declares that the Real Estate shall be a "Horizontal Property Regime" as provided in the Act, subject to and in accordance with the following terms and conditions:

Section 1. Definitions. The following terms, whenever used in this Declaration, shall have the following assigned meanings:

(a) "Act" means the Horizontal Property Act of the State of Indiana, Acts 1963, Chapter 349, Sections 1 through 31, as amended.

(b) "Association" means the incorporated association of Co-Owners of the Regime, more particularly described in Section 7.

(c) "Board of Directors" means the governing body of the Association appointed or selected in accordance with the By-Laws, and shall be synonymous with the term "Board of Directors" as used in the Act.

(d) "Building" shall mean the single building structure located on the Real Estate which contains the two Units which make up the Regime.

(e) "By-Laws" means the Code of By-Laws of Arts Square Co-Owners Association, Inc., an Indiana not-for-profit corporation, providing for the administration and management of the Association, a true copy of which is attached to this Declaration as Exhibit B and incorporated herein by reference.

(f) "Common Areas" means the Common Areas as defined in Section 4 of this Declaration.

(g) "Common Expenses" means expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas and all other costs and expenses incurred by the Association for the benefit of the Common Areas or for the common benefit of all Owners.

(h) "Co-Owners" means all of the Owners of all the Units in the Regime.

(i) "Declarant" means The City of Bloomington, Indiana, and any successor or assignee of its interest in all or any part of the Tract or in this Declaration under an instrument or instruments which expressly state that the successor or assignee thereunder shall become the Declarant for purposes of this Declaration.

(j) "Formula" means the method set forth in paragraph 14.B. of this Declaration for computing the Percentage Interest applicable to each Unit.

(k) "Managing Agent" means any person or entity to which the management responsibilities of the Association are delegated under Section 12 of this Declaration.

(l) "Mortgagee" means the holder, insurer, or guarantor of any mortgage on any Unit.

(m) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, which owns the fee simple title to a Unit; provided, that persons or entities owning a single Unit as tenants in common, joint tenants, tenants by the entireties, or any form of joint or divided ownership, shall be deemed one Owner for purposes of this Declaration.

(n) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the Common Areas appertaining to each Unit, as determined in accordance with Sections 5 and 14 of this Declaration.

(o) "Plans" means the floor and building plans of the Building and Units on the Real Estate and the site plan and survey of

the Real Estate and Building, duly certified by a registered architect or licensed professional engineer.

(p) "Property" means the Real Estate and appurtenant easements, the Units, the Building, and all other improvements of every kind and nature whatsoever, now or hereafter located upon the Real Estate and used in connection with the operation, use and enjoyment of the Regime.

(q) "Regime" means the Horizontal Property Regime created by this Declaration.

(r) "Unit" means any individual unit within the Regime which is to be transferred to an Owner for exclusive occupancy by said Owner or its successors or assigns, each individual unit being more particularly described and identified on the Plans and in Sections 2 and 3 of this Declaration.

Section 2. Description of Units. The Real Estate contains two (2) Units, as shown on the Plans recorded at the time of recording of this Declaration, as further described in Section 30 hereof. Said Units are identified and referred to in the Plans and in this Declaration as Units designated A and B. The legal description for each Unit shall consist of the letter designation of the particular Dwelling Unit and reference to this Declaration and any relevant Amendments then of record. Each Unit shall consist of all space within the boundaries thereof (as hereinafter described) and all fixtures, facilities, utilities, equipment, appliances, and structural components within said boundaries which are designed or intended to be solely and exclusively for the enjoyment, use and benefit of the Unit. Not included in any Unit are those fixtures, facilities, utilities, equipment, appliances, and structural components designed or intended for the use, benefit, support, safety or enjoyment of all Units, or which may be necessary for the same, or which are specifically defined or described herein as Common Areas, or which are normally intended for common use; provided, however, that all fixtures, equipment and appliances designed or intended for the exclusive enjoyment, use and benefit of a Unit shall constitute a part of such Unit, even if the same are located wholly or partly outside the boundaries of such Unit. Specifically, although partly outside the boundaries of Unit B, the wooden deck appurtenant to Unit B shall be considered a fixture of Unit B and is designed and intended for the exclusive enjoyment, use and benefit of the Owner of Unit B. In addition, the following shall apply:

(a) Roofs. As shown on the Plans, the roof of the Building is comprised of three (3) separate roofs, one (1) roof covering the entirety of Unit A and two (2) roofs covering Unit B. As each Unit is covered by separate and distinct roofs, the

roofs so covering each respective Unit constitute a part of such Unit and any and all costs or expenses for the repair, renovation and/or maintenance of such roof(s) are to be borne or incurred completely and entirely by the Owner of the respective Unit.

(b) Boiler Room and Boiler. Located within the boiler room, which is itself located within the boundaries of Unit A and thereby constituting a part thereof, the boiler is expressly deemed the property of the Owner of Unit A. Although the boiler currently benefits both Units, it is intended that, upon the separation of the utilities contemplated under Section 11 of this Declaration, the use, benefit and enjoyment of the boiler will run exclusively to the Owner of Unit A. However, until such separation of the utilities is implemented and completed, the cost or expense of the operation of the boiler shall be shared as a Common Expense and, pursuant to Section 9(b) hereunder, a temporary easement is granted to the Owner of Unit B for access to and the use and benefit of the boiler.

(c) Emergency Generator. Although located in the boiler room, which is a part of Unit A, the emergency generator is designed and intended to be solely and exclusively for the enjoyment, use and benefit of Unit B and to that end, is expressly deemed the personal property of the Owner of Unit B to be maintained, renovated, repaired, moved, removed, replaced or otherwise used or treated as necessary or proper in the sole and complete discretion of such Owner.

(d) Storage Areas. Storage areas, if any, shall be limited to the exclusive use of a particular Unit as designated on the Plans. The exclusive use of such storage areas shall pass with title to the Unit for which such Area is designated, even though not expressly mentioned in the document passing title. The storage areas and use thereof shall be subject to such rules and regulations as may be deemed appropriate and be adopted by the Board of Directors. An Owner may grant a license to any other Owner to use all or part of his storage area, provided such license shall expire when the Owner granting the license ceases to be an Owner of the Unit for which the storage area is designated. Any such license agreement shall be in writing and an executed copy thereof shall be furnished to the Board of Directors. The licensee shall be bound by and subject to all the obligations of the Owner with respect to such storage area, but the Owner granting such license shall not be relieved thereby from any of his obligations regarding such storage area.

(e) Entranceways and Walkways. The entranceways and hallways through which access to a Unit is obtained are limited to the use of the Owners of the Unit or Units served by such

entranceway. The walkways and stairways used for access to particular individual Units are limited to the use of the Owners of the Units so served.

Section 3. Boundaries. The boundaries of each Unit shall be as shown on the Plans. The vertical boundaries shall run from the interior, unfinished surfaces of the lowermost floors to the interior, unfinished surfaces of the uppermost ceilings, except those floors of each unit directly beneath a roof shall be bounded by the finished, exterior surface of the uppermost roof. The horizontal boundaries shall be the interior, unfinished drywall surfaces of the common walls and exterior walls and the unfinished interior surfaces of the doors and windows of each Unit, except that all glass, screens and air conditioning units shall be deemed a part of the Unit which they serve. In the event that any horizontal or vertical boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor, ceiling or roof of the Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Unit shall be deemed to be and treated for purposes of occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Unit in and to such space lying outside of the boundary lines of the Unit as indicated on the Plans, but within the walls, floors, and ceilings of the Unit as the same may actually exist.

Section 4. Common Areas. Common Areas shall include the following to the extent the same will exist, and except to the extent otherwise specifically designated in Section 2 or 3 as being within a Unit:

(a) sidewalks;

(b) exterior lighting fixtures and electrical service, except where separately metered to a particular Unit;

(c) electrical, gas, water, sanitary sewer, telephone, and cable television lines, mains, pipes, ducts, conduits, wiring and insulation;

(d) interiors of all structural walls and floors, including all exterior walls and attic space, walls between horizontally adjacent Units, and floors between vertically adjacent Units;

(e) foundations, exterior wall surfaces of the Building, and all other structural elements and components of the Building;

(f) all other structures, areas, and facilities not expressly included within the Units by Sections 2 or 3 of this Declaration.

Section 5. Ownership of Common Area and Percentage Interest. In connection with and as an inseparable part of the ownership of each Unit, each Owner thereof shall have an undivided interest in the Common Areas as tenant in common with all other Owners, such interest to be equal to the Percentage Interest applicable to the Unit. The Owner of each Unit shall have a Percentage Interest appurtenant to his Unit which is based upon the size of his Unit. In the attached Exhibit C there is designated the approximate interior square footage of floor space (unenclosed floor space) of each of the Units in the Regime and the Percentage Interest which corresponds with the approximate interior square footage of each Unit. The determination of the square footage and corresponding Percentage Interest, as they appear on said Exhibit C, shall be conclusive upon the Owners of the Units.

Section 6. Membership in Association and Voting. In connection with and as an inseparable part of the ownership of each Unit, each Owner shall be a member of the Association and shall have the right to vote on matters affecting the Co-Owner. Each Owner shall be entitled to cast a single vote at each meeting of the Association on each matter on which the Co-owners may vote under the terms of this Declaration, the Articles of Incorporation of the Association, or the By-Laws. Each Owner's vote so cast shall be of equal weight and value in relation to the vote of the other Unit Owner so cast. Unless otherwise stated in the Act, the By-Laws, or this Declaration, matters to be undertaken or performed by the Association shall be so undertaken or performed only upon the approval thereof by a unanimous vote of the Owners represented at the meeting of the Association at which such matter is considered. However, notwithstanding anything contained in this Declaration, the Articles of Incorporation, or the By-laws to the contrary, each and every instance where a deadlock has been reached by the Co-owners, the matter under consideration shall be presented to the Board of Directors of the Association at the next meeting thereof, or at a special meeting called for such purpose, and shall be decided upon by a two-thirds (2/3) vote thereof.

Section 7. Association of Owners. In order to provide for the maintenance, repair, replacement, administration and operation of the Property and in compliance with the provisions of the Act, an association of the Co-Owners of the Units in the Regime has been or shall be created by Declarant, to be known as the Arts Square Co-Owners Association, Inc. (herein referred to as the "Association"). Each Owner shall be a member of the Association, but membership shall terminate when such person or entity ceases to be an Owner, and such membership shall automatically transfer to the new Owner along with the transfer of the Unit, whether or not such transfer is stated in the conveyancing instrument. Declarant shall

appoint the members of the initial Board of Directors of the Association, which shall control, during the period of its incumbency, all matters which would be within the authority of either the Association or the Board of Directors under this Declaration, the By-Laws, or the Act, except that certain powers including the power of assessment shall be limited as provided in the By-Laws. Each Owner shall confer and shall be deemed to have conferred upon Declarant an irrevocable proxy to vote in such Owner's name, place, and stead on any and all matters on which the Co-Owners or any of them are entitled to vote under this Declaration, the By-Laws, or the Articles of Incorporation of the Association. Said initial Board of Directors shall serve until the time when Declarant turns over control of the Regime to the Co-owners, which shall take place no later than the earliest to occur of the following events:

(a) One hundred twenty (120) days after such time as Declarant ceases to own a Unit of the Regime in fee simple; or

(b) The tenth anniversary of the date of this Declaration.

The irrevocable proxy conferred upon Declarant shall terminate as of the date of such transfer of control, and at such time, Declarant shall make available to the Association all books, records, plans, and other information in its possession regarding the activities of said initial Board of Directors and the operation of the Regime prior to such turnover. Thereafter, the Association shall appoint or select a Board of Directors annually in accordance with and as prescribed by the By-Laws, and may take any other actions with respect to control of the Regime provided for by this Declaration, the By-Laws, or the Act. The Board of Directors shall be the governing body of the Association, representing all of the Co-Owners in providing for the management, maintenance, repair, replacement and upkeep of the Common Areas.

Section 8. Encroachments, Easements for Common Areas, and Existing Aerial Easement. If, by reason of the location, construction, settling, or shifting of a Unit, a Common Area now encroaches or shall hereafter encroach upon any Unit, then in such event an easement shall be deemed to exist and run to the Co-Owners and the Association for the maintenance, use and enjoyment of such Common Area. Each Owner shall have an easement in common with each other Owner to use all Common Areas, wherever located. In addition, although unrelated to the easements discussed in this Section 8 or Section 9 below, it is hereby acknowledged that an aerial or air-space easement for an elevated, suspension-like walkway encumbers the air space above a portion of Unit B, such walkway not in any way physically touching Unit B or the Building, but which easement may appear as an encumbrance on title to Unit B.

Section 9. Easement for Utilities. A transferable easement is also reserved by Declarant, to be granted to the appropriate

utilities and their agents, for ingress and egress for purposes of installation, replacement, repairing, and maintaining of utilities lines, mains, and other necessary facilities and equipment within the Regime, including, but not limited to, water, sewers, gas, telephones, and electricity; provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines, or other utilities, except as designed and approved by Declarant prior to turnover of control of the Association or as thereafter may be approved by the Board of Directors, nor permit substantial impairment of any Owner's use and enjoyment of his Unit, and the grantee of any such easement rights shall be responsible for repair or restoration of damage to any Property caused by its activity pursuant to such easement rights. Declarant and the Association, or either of them, shall have the right to grant such other easements, licenses, and rights-of-way as may be necessary for the proper operation and maintenance of the Regime and all electrical, plumbing and heating and cooling systems thereof. Further, the following easements are hereby expressly granted:

(a) For so long as the emergency generator, which generator is, pursuant to Section 2(c) herein, the personal property of the Owner of Unit B, is located within the boiler room, which boiler room is a part of Unit A, an easement is hereby granted to the Owner of Unit B, its heirs, successors, assigns or licensees, for access to such generator in order to maintain, renovate, repair, move, remove, or replace the same.

(b) Until such time as the separation of the utilities contemplated under Section 11 of this Declaration is complete, an easement is hereby granted to the Owner of Unit B its heirs, successors, assigns or licenses, for access to and the use and benefit of the boiler which is, pursuant to Section 2(b) herein, the property of the Owner of Unit A.

For so long as the easements created in subsections (a) and (b) above are valid and enforceable, access to both the generator and the boiler shall be permitted during regular business hours Monday through Friday, fifty-two (52) weeks a year, excluding national holidays. Also, the Owner of Unit B, as holder of the easements created herein, shall have a key or other appropriate means to access the generator and the boiler during times of emergency or when such access is deemed reasonably necessary in the sole and complete discretion of the Owner of Unit B. Further, the easements created within this Section 9 shall be kept clear of debris by the Owner of the burdened property such that access over, on and through such easements is not hindered in any way.

Section 10. Restrictions on Use. The following restrictions apply to the use and enjoyment of the Units, General Common Areas, and other Property:

(a) All Units shall be used in full and complete compliance with the applicable zoning ordinances or regulations as may be promulgated from time to time by Monroe County, the City of Bloomington, Indiana or any other governmental or quasi-governmental agency or organization which may have jurisdiction over such matters. Notwithstanding anything contained herein, no Unit within the Regime shall be used at any time for residential purposes.

(b) Other than as shown on the Plans filed with this Declaration or any Amendment, and except as may be permitted under Section 13 of this Declaration, no additional buildings shall be constructed within the Regime, nor shall any additions or exterior modifications to the Building be permitted.

(c) Nothing shall be done or kept in any Unit or in the Common Areas which will cause an increase in the rate of insurance on the Building or the contents thereof, unless the action is approved by the Association and the Unit Owner responsible therefore pays any additional premium costs incurred. No Owner shall permit anything to be done or kept in his Unit or in the Common Areas which will result in a cancellation of insurance on the Building or contents thereof, or which would be in violation of any law, ordinance, rule, or regulation of any duly constituted governmental authority or any publicly regulated utility.

(d) No waste shall be committed in the Units or the Common Areas.

(e) No animals of any kind shall be raised, bred, or kept in any Unit or in the Common Areas.

(f) Except as otherwise provided in Section 11 of this Declaration or as may be contemplated under the By-Laws, nothing shall be done or permitted in any Unit which will impair the structural integrity of the Building or which would structurally change the Building; nor shall any unit be used in any manner which causes or threatens injury to the reputation of the Regime or to cause nuisance, annoyance, inconvenience, or damage to other Owners or tenants of the Building.

(g) No awning, canopy, shutter, radio or television antenna, or other object or material shall be hung out, exposed on, or attached to any part of the windows or the exterior of the Building or the Common Areas other than one sign indicating the name and trade, business or function of each occupant of each Unit, such signs to comply with the then-existing sign ordinances for Monroe County and the City of Bloomington, Indiana, and to be otherwise acceptable to Declarant, or the

Board of Directors after such time as control of the Regime is turned over to the Association, such acceptance to be at the sole discretion of Declarant or Board of Directors to be given or withheld as so desired thereby.

(h) The Common Areas shall be kept free and clear of rubbish, debris, and other unsightly material by the Owners, except as to specific areas designed for temporary storage thereof.

(i) Notwithstanding anything contained in Section 10(g) to the contrary, no "For Sale", "For Rent" or "For Lease" signs, nor any window advertising display of any kind shall be maintained or permitted on any part of the Property, without the prior consent of the Board of Directors; provided, however, that the right is reserved by the Declarant and the Board of Directors to place or allow to be placed "For Sale" or "For Lease" signs on any unsold or unoccupied Unit.

(j) All Owners their guests, invitees or licensees, all lawful occupants of any Unit and all other persons entitled to use the same and to use and enjoy the Common Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be issued in writing by the Board of Directors governing the operation, use, and enjoyment of the Common Areas.

(k) All trash or refuse shall be stored in appropriate containers inside the Unit (including garage) or designated trash receptacles, and such areas shall be kept accessible for the regular trash collection system as established by the Owner of each Unit.

(l) No Owner shall install or maintain any interior or exterior window decor visible from outside the Unit without the prior written consent of the Board of Directors.

Section 11. Renovation of and Modifications to the Building. It is contemplated that substantial renovations or modifications to the Building will need to be made in order to accommodate future permitted uses of the Units. One specific renovation or modification contemplated herein is the complete separation of all mechanical, electrical, heating and cooling, and plumbing systems currently a part of the Building, such that after such renovation or modification, each Unit shall have separately functioning and metered utility systems. Unless otherwise agreed, the Owner of each Unit shall be solely responsible for all costs and expenses incurred in constructing any approved renovations or modifications to its respective Unit. Further, the Owner of each Unit shall be fully liable for any and all damage, injury or harm to the remaining Unit or any Common Area that is a result of, or arises out of, the renovations or modifications to its respective Unit. Prior to instituting any proposed modifications or beginning any renovations

to its respective Unit, the Owner shall submit architect plans and obtain the written approval of such plans by the Declarant (if prior to the turnover of control of the Regime) or the Board of Directors (if after the turnover of control), as may be applicable. The Declarant or the Board of Directors shall approve or deny such plans within thirty (30) days from the date of their submission. If the Declarant or Board of Directors do not so act within such time period, then the plans will be deemed approved. Except as otherwise agreed, the Declarant or the Board of Directors, as the case may be, shall have complete and absolute discretion as to the approval or denial of such plans and the decision so reached shall be final. If, in order to be properly instituted, the proposed renovations or modifications to a Unit require that renovations or modifications, structural or otherwise, also be made on or to any Common Area or the other Unit, the unanimous consent of the Unit Owners must be obtained prior to the commencement of such renovation or modification. If renovations or modifications are made to any Common Area or the other Unit as a result of renovations or modifications to an individual Unit, all costs and expenses for such renovations or modifications to the Common Area or the other Unit shall be borne solely by the Unit Owner seeking them. The renovations or modifications discussed in this Section 11 may be structural in nature, but may not in any way harm the structural security of the Building. If there is a conflict in the interpretation of this Section 11 and any other Section of this Declaration, this Section 11 shall control.

Section 12. Maintenance, Decoration, Repairs and Replacements.

A. Common Areas. Other than as is contemplated in Section 11 of this Declaration, the Association will be responsible for the maintenance, repair, decoration, restoration, and replacement of the Common Areas and such maintenance, decoration, repairs, and replacements of the Common Areas shall be furnished by the Association and the cost thereof shall be part of the Common Expenses. The Board of Directors of the Association may elect to delegate such duties to a Managing Agent and may enter into a management contract for such purpose, provided that such agent and the terms of such contract are approved by a two-thirds (2/3) vote of the Board of Directors. Declarant or an entity affiliated with Declarant shall serve as the Managing Agent for the Regime so long as Declarant retains control of the Association, and shall perform all property management functions on behalf of the Association. Any management contract made or which is deemed to arise between the Association and Declarant (or any affiliate) shall be terminable by the Association without cause and without penalty upon thirty (30) days' written notice at any time after Declarant relinquishes control of the Association. The Board of Directors has the right to adopt such rules and regulations concerning the maintenance, repairs, use and enjoyment of the Common Areas as it deems appropriate, including the appointment of committees to oversee the same. The Board of Directors shall have the exclusive right to determine the outside decor of the Building, including without

limitation the color and type of paint and all other decor appurtenant to the exterior thereof.

B. Units. Each Owner shall control and have the right to determine the interior decor of his Unit, but this shall not include the right to use interior decor which in the discretion of the Board of Directors adversely affects the external appearance of the Building, as more particularly set forth in Section 10 of this Declaration. No act or omission which constitutes waste shall be committed or suffered in or upon any Unit or the Common Areas. Each Owner shall maintain and repair at its sole cost and expense all fixtures, appliances, equipment, and other improvements constituting a part of his Unit under Sections 2 and 3 hereinabove, and each Owner shall promptly repair any condition or defect existing or occurring in its Unit which, if not repaired, might adversely affect any Unit or General Common Area. The Board of Directors and the Managing Agent shall have the right at reasonable times and upon reasonable prior notice (except in cases of emergency in which case no notice shall be required) to enter into the Units and the Common Areas adjacent to each Unit to replace, repair, and maintain such Common Areas. In the event that any Owner fails or is unable to maintain or repair any condition or defect for which it is responsible and the Board of Directors or the Managing Agent have a reasonable basis for believing that such condition or defect has caused or threatens to cause immediate and substantial harm to any person or to any property outside its Unit, the Board of Directors and the Managing Agent shall each have the right to enter such Owner's Unit to remedy or repair such condition or defect, and any costs or expenses incurred in connection therewith (including attorneys' fees) shall be payable by such Owner upon demand by the Board of Directors or the Managing Agent. Nothing herein contained shall be construed to represent a contractual liability to any Owner on the part of the Declarant, the Association, or the Board of Directors for maintenance, repair, or replacement of any Unit or Common Areas, and the liability of the Association, the Board of Directors, and the Managing Agent in this regard shall be limited to damages resulting from gross negligence, recklessness, or intentional misconduct, unless otherwise provided in the management contract in the case of the Managing Agent.

Section 13. Alterations, Additions, and Improvements. No Owner (other than Declarant) shall make any alterations, additions, or improvements to the Common Areas, nor make any alterations to his respective Unit which would substantially alter or adversely affect any structural portion of any Unit or impair any easement or hereditament, without the unanimous consent of the Co-owners. Further, any alteration, addition, or improvement made by any Owner to its respective Unit pursuant to this Section 13, or renovation or modification made thereto pursuant to Section 11 herein, shall remain the property of that Owner and shall be owned, maintained, and insured by that Owner as part of its Unit and deemed a part thereof for purposes of this Declaration. Upon the sale of the

Unit, such alterations, additions, improvements, renovations or modifications shall be transferred along with such Unit, and the purchaser shall be deemed to assume the prior Owner's maintenance and insurance obligations. If, in the reasonable discretion of the Board of Directors, such alteration, addition, improvement, renovation or modification is not being properly maintained, the Board of Directors or Managing Agent may perform any necessary maintenance work if such condition is not corrected by such Owner within ten (10) days after notice of such determination by the Board of Directors, and such Owner shall be liable for all costs incurred in connection with such maintenance, including attorneys' fees incurred for collection of the same.

Section 14. Assessments.

A. Liability for Assessments. As of the first day of the first month following the effective date of this Declaration, each Unit and the Percentage Interest appurtenant thereto shall be subject to the Regular Assessments and special Assessments for Common Expenses as provided in this Section 14, and all such Assessments shall constitute liens upon each Unit and appurtenant Percentage Interest as of the date of determination of each such Assessment by the Association, as further provided and described in the By-Laws. The date(s) on which Assessments are due and payable shall be as specified in this Declaration or the By-Laws, or if not so specified, then as determined by the Board of Directors. In addition, each Owner shall be personally liable for the amounts of any and all Assessments which become due and payable during the period in which such Owner holds title to a Unit. No Owner shall be personally liable for any Assessments which first became due and payable prior to the time such Owner took title to a Unit unless it expressly assumes such liability, except as may otherwise be required by the Act. However, a conveyance by an Owner of its Unit shall not operate to release or limit the liability of an Owner for Assessments becoming due and payable while such Owner holds title to a Unit. The lien of any Assessment shall be subordinate to any first mortgage on any Unit which was recorded before the time when said Assessment first became delinquent. Notwithstanding any other provision of this Declaration or the By-Laws, the Declarant shall not be liable for any Assessments on any unoccupied Unit(s) owned by Declarant until the later of: (i) the first day of the twenty-fourth (24th) calendar month following the month in which the closing of the sale of the first Unit occurs, or (ii) the date on which Declarant turns over control of the Association; subject however to any contrary provision of the Act and to the obligation to make up any deficits of the Association during such period, which deficits shall be made up by special Assessments which shall be shared by each Co-owner, including Declarant, according to the Percentage Interest of such Co-owner.

B. Collection of Assessments. Each Assessment shall be due and payable within ten (10) days of the due date thereof as specified in

this Declaration or in the By-Laws, or if not so specified, then within ten (10) days of any due date(s) determined by the Board of Directors, and the date marking the end of the applicable time period allowed herein for the payment of such Assessment is hereby termed the "Delinquency Date". Any Assessment which is not paid in full by the Delinquency Date shall be deemed delinquent without further notice or demand to the defaulting Owner, and shall bear interest on the unpaid balance thereof from the Delinquency Date until fully paid, at a rate of interest equal to fifteen percent (15%) per annum. In the event that any costs or expenses, including attorney's fees, are incurred by or on behalf of the Association with respect to the recovery or collection of any delinquent Assessment, all such costs and fees shall be due and payable immediately by such delinquent Owner and shall bear interest from the dates incurred until paid in full, at a rate of interest equal to fifteen (15%) per annum. All interest and all costs and expenses payable hereunder with respect to a delinquent Assessment shall be added to and deemed a part of such delinquent Assessment and shall constitute a lien on the delinquent Owner's Unit and Percentage Interest as of the date on which such delinquent Assessment first became a lien. In the event that any Assessment is not fully paid on or before the Delinquency Date, the Association shall be entitled to accelerate and declare due and payable in full all installments of Assessments due for the year in which such delinquency occurs, and to enforce payment of the same by foreclosure of said lien and/or other appropriate legal proceedings in accordance with the laws of the State of Indiana. Any such lien against a Unit and its Percentage Interest shall be subordinate to any first Mortgage covering such Unit and its Percentage Interest if and to the extent such Mortgage was recorded prior to the due date of the delinquent Assessments.

Section 15. Insurance.

A. The Association shall obtain fire, earthquake and extended coverage insurance insuring all Units in the Regime including all fixtures, appliances, and other improvements installed and sold by Declarant as a part thereof, and all Common Areas in the Regime, in an amount equal to the full replacement cost thereof from time to time, as determined by a qualified appraiser. Such insurance shall be in the form of a master casualty policy for the entire Regime and shall contain the following endorsements, if and to the extent obtainable at a reasonable cost in the State of Indiana: (i) replacement cost; (ii) inflation guard; (iii) demolition cost, contingent liability, and increased construction cost in connection with building code requirements; (iv) steam boiler coverage (if applicable); and (v) all matters customarily covered under a "special condominium endorsement." All such policies shall provide that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to Section 17. In the event that all or any

portion of the Regime shall be determined to be in a flood hazard zone, the Association shall also obtain a master policy of flood insurance on all Units and Common Areas within such flood hazard zone, in an amount at least equal to the lesser of 100% of the current replacement cost of all insurable property within the flood hazard area, or the maximum coverage available for such property under the National Flood Insurance Program. The amount of coverage shall be increased from time to time to cover all additions to the Regime, and all such policies shall meet the requirements of subsection E of this Section. The proceeds shall be payable to the Association, who shall hold and apply such proceeds as trustee for the individual Owners and Mortgagees, as their respective interests shall appear. The proceeds shall be used or disbursed only in accordance with the provisions of this Section 15 and of Section 17 of this Declaration, as applicable, and any surety bond or bonds obtained by the Board of Directors covering the officers of the Regime as provided in subsection D of this Section shall specifically include protections for any insurance proceeds so received.

B. The Association also shall obtain comprehensive public liability insurance, and shall obtain Workmen's Compensation Insurance and employers liability insurance, if applicable, and such other liability insurance, with such coverages and limits, as the Board of Directors deems appropriate; provided, however, that public liability insurance shall have liability limits of not less than One Million Dollars ($1,000,000) for personal injury and One Million Dollars ($1,000,000) for property damage; and provided further, that all such policies shall meet the requirements of subsection E of this Section 15. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors, and any managing agent or company acting on behalf of the Association. The individual Owners, as well as any lessees of any Owners, shall have the right to recover losses insured for their benefit.

C. Each Owner shall have the right to purchase any additional insurance as he may deem necessary, and each Owner shall be solely responsible for loss of or damage to the contents of his own Unit, however caused, including all floor and wall coverings, appliances, fixtures, and betterments installed by the Owner, and for loss of or damage to any of his personal property, whether or not stored or kept in his own Unit. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

D. The Association shall obtain a fidelity bond indemnifying the Association, the Board of Directors, and the Co-Owners for loss of funds resulting from fraudulent or dishonest acts of any employee or officer of the Association or of any other person handling the funds of the Association or the Co-Owners, which bond shall be least One Hundred Fifty Percent (150%) of the annual Common Expenses.

E. All policies of insurance of the character described in subsections A and B of this Section 15 shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, the Board of Directors, the Declarant, any Managing Agent, their respective employees and agents, or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of individual Owners whose interests are insured thereunder, and shall cover claims of one or more insured parties against other insured parties. All such policies shall name the Association, for the use and benefit of the Owners, as the insured; shall provide that the coverage thereunder is primary even if an Owner has other insurance covering the same loss; shall show the Association or insurance trustee, in trust for each Owner and Mortgagee, as the party to which proceeds shall be payable; shall contain a standard mortgage clause and name all Mortgagees as mortgagee; and shall prohibit any cancellation or substantial modification to coverage without at least ten (10) days prior written notice to the Association and to the Mortgagees. All policies of insurance maintained by the Association pursuant to this Section 15 shall provide such coverages and be in such amounts as may be required from time to time by the Mortgagees. Upon obtaining or changing any policies of insurance authorized or required by this Section 15, notice of the same shall be sent by the Secretary of the Association to each Owner and each Mortgagee whose interest may be affected thereby.

Section 16. Condemnation. In the event that all or any part of the Regime shall be taken or condemned by any competent authority, or if any condemnation proceeding shall be instituted with respect to all or any part of the Regime, the Association shall have the right to appear and defend in such proceedings on behalf of the Owners affected thereby and to prosecute on behalf of any such Owners any action or proceeding, at law or in equity, as it may deem appropriate for the adequate protection and compensation of all Owners affected by any confiscatory act of any public body. The proceeds obtained by the Association as a result of any such action or proceeding shall be received by the Association and shall be applied by the Association as follows: (a) the portion of such award which is allocated by the court making such award, or if not so allocated, then as determined by a two-thirds (2/3) vote of the Board of Directors at a special meeting called for the purpose of making such allocation, to the Building or Unit(s) taken (such portion hereinafter called the "Building Award"), shall be distributed among the Owners whose Unit(s) was/were taken in proportion to the relative fair market values of the Unit(s) so taken as of the date of such taking, or if such values cannot be determined, then equally among such Owners; (b) the balance of such award after payment of the Building Award shall be paid, first, to reimburse the Association for its costs and expenses in obtaining such award, and the balance, if any, shall be paid to each Co-Owner in the Regime in proportion to his Percentage Interest. No amounts or damages shall be paid by the Association to any Owner for any

partial taking, partial loss of use, or impedance of access as to any Unit, except to the extent that the amount of any such award is specifically determined by the court making such award or by a two-thirds (2/3) vote of the Board of Directors. Nothing in this Section 16 shall be construed to prevent any Owner affected by any condemnation or confiscatory action of any public body from participating in any condemnation proceedings or from prosecuting any action for any recovery for any confiscation of his property, but such Owner shall not be entitled to distribution out of the proceeds received by the Association to the extent that such Owner recovers sums or compensation for the same or similar damages as are the basis of the award to the Association. Nothing herein contained shall be construed to require payment of proceeds to an Owner in derogation of any rights such Owner's Mortgagee may have to such proceeds.

Section 17. Casualty and Restoration. In the event of any damage to or destruction of the Property by fire or other casualty, the following provisions shall be applicable:

(a) Partial Destruction. In the event of less than complete destruction (as defined in subsection (b) hereinbelow) of either of the Units in the Building, each such Unit and other Property shall be promptly repaired and restored. The proceeds of the insurance shall be applied to the cost of such repair and restoration. If the insurance proceeds are not adequate to cover the cost of reconstruction or in the event there are no proceeds, the amounts needed to complete the repair and restoration beyond available insurance proceeds shall be paid by all Co-owners as a Common Expense. The application and use of such proceeds shall be determined by the Board of Directors of the Association acting as trustee under subsection A of Section 15 of this Declaration and when so determined in good faith shall be binding upon all Owners and Mortgagees.

(b) Restoration in the Event of Complete Destruction. In the event that either of the two (2) Units in the Regime is damaged or destroyed by fire or other casualty, a special meeting of the Association shall be called. If, at that meeting, a determination is made, by a unanimous vote of the Co-owners, that a complete destruction has occurred so that the Building and other Property in the Regime shall not be repaired or restored, then the proceeds of insurance and the Property in the Regime shall be dealt with and disposed of in accordance with Sections 19 and 21 of the Act, as either may be amended from time to time, or in accordance with any substitute provisions governing such matters as may be enacted subsequent to the date of this Declaration, with distributions of proceeds to be made to the Owners in proportion to the relative fair market values of their respective Units as of the date of such destruction, if and

to the extent such values can be determined and if and to the extent such distribution is permitted by applicable law.

(c) Restoration, for purposes of subparagraphs (a) and (b) above, shall mean construction or rebuilding of the Unit(s) and other Property to substantially the same condition as they existed immediately prior to the destruction and with a similar quality of materials and workmanship and similar type of design and architecture, but excluding all improvements and property added to or kept in or about such Units by any Owner.

(d) In the event restoration of Units is necessary, and notwithstanding any provision in Section 18 of this Declaration to the contrary, the insurance funds for such restoration shall be disbursed by the Association. Each insurer shall be notified of this provision by the Association and each policy of insurance shall comply herewith. However, nothing contained in Section 18 shall be construed to require payment of any proceeds to an Owner in derogation of any rights such Owner's Mortgagee may have to such proceeds.

Section 18. Negligence. Each Owner shall be liable for the expense of any maintenance, repair, or replacement of any of the Property which becomes necessary by reason of its negligence or that of its guests, invitees, licensees, employees, agents, or lessees, to the extent that such expense is not covered by the proceeds of the insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by its use, misuse, occupancy, or abandonment of the Unit or its appurtenances or of the Common Areas.

Section 19. Real Estate Taxes. Real estate taxes are to be separately taxed to each Unit and the Percentage Interest connected therewith, as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Unit, but are assessed and taxed on the Real Estate as a whole, then each Owner shall pay its proportionate share of the real estate taxes. Each Owner's proportionate share will be equal to the Percentage Interest then appurtenant to the Owner's Unit due and payable in such year. The worksheets of the Monroe County Assessor shall be used to determine assessment valuation for purposes of this Section 19.

Section 20. Utilities. Each Owner shall pay for those utilities provided to its Unit which are separately billed or metered for its Unit. Until such time as the utility systems for each Unit are completely separated as is contemplated under Section 11 of this Declaration, all utilities which are not separately billed or metered shall be treated and paid as part of the Common Expenses.

Section 21. Use and Sale of Units. Declarant specifically reserves the mode and method of the original sale of each Unit until the last Unit in the Regime is sold. Declarant may designate any Unit owned by Declarant for location of a sales and/or management office, but no more than one Unit within the Regime shall be reserved for such purpose at any one time. Any Unit designated by Declarant for use as a model and/or as a sales and management office may, at Declarant's option, either be owned by Declarant or sold and leased back by Declarant for such purpose, and such leaseback may be for any term desired by Declarant. The right of Declarant to so designate and use such Unit shall continue so long as Declarant owns any Unit within the Tract, and no action of the Association or any Owner shall impair such right. Upon discontinuation of such use by Declarant, such Unit shall not become Common Area, but shall be treated as a Unit for all purposes of this Declaration.

Section 22. Amendment of Declaration. Except as otherwise provided in this Declaration, this Declaration may be amended in the following manner:

(a) Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered, including any annual meeting.

(b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or by any Owner.

(c) Meeting. The resolution concerning a proposed amendment must be adopted by a two-thirds (2/3) vote at a meeting of the Board of Directors duly called and held in accordance with the provisions of the By-Laws.

(d) Adoption. Any proposed amendment to this Declaration must be approved by a two-thirds (2/3) vote of the Board of Directors. In the event any Unit is subject to a mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the By-Laws.

(e) Amendments. No amendment to this Declaration shall be adopted which changes:

(1) The Percentage Interest with respect to any Unit or the share of an Owner's liability for Common Expenses, without the unanimous approval of the Co-owners and the approval of all Mortgagees having mortgages on any Unit in the Regime;

(2) The provisions of Section 17 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the unanimous approval of the Co-owners and the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the By-Laws.

Any Mortgagee which has been duly notified of the nature of any proposed amendment shall be deemed to have approved the same if said Mortgagee or a representative thereof fails to appear at the meeting in which such amendment is to be considered (if proper notice of such meeting was timely given to such Mortgagee). In the event that a proposed amendment is one permitted by this Section and is deemed by the Board of Directors to be one which is not of a material nature, the Board of Directors shall notify all Mortgagees whose interests have been made known to the Board of Directors of the nature of such proposed amendment, and such amendment shall be conclusively deemed not material if no Mortgagee so notified objects to such proposed amendment within thirty (30) days of the date such notices are mailed and if such notice advises the Mortgagees of the time limitation contained in this sentence.

(f) Recording. Each amendment to the Declaration shall be executed by Declarant only in any case where Declarant has the right to amend this Declaration without any further consent or approval, and otherwise by the President or Vice President and Secretary or Assistant Secretary of the Association; provided, that any amendment requiring the consent of Declarant shall contain Declarant's signed consent. All amendments shall be recorded in the Office of the Recorder of Monroe County, Indiana, and no amendment shall become effective until so recorded.

In addition, the provisions of this Section 22 are subject to the rights given to the Declarant by virtue of the irrevocable proxies held by Declarant on behalf of the respective Owners, as provided in Section 7 hereinabove.

Section 23. Amendments for Mortgage Purchaser. In the event that FNMA, FHLMC, FHA, VA, or other nationally recognized purchaser, guarantor, or insurer of a mortgage of any property in this Regime should impose any requirements pertaining to the attributes of the Regime or the provisions of this Declaration or the By-Laws, for purposes of qualifying for or agreeing to the purchasing, insuring, or guarantying of any such mortgage, the Declarant or Board of Directors may fully satisfy such requirements, and shall have the right to amend this Declaration in accordance therewith, without the approval or consent of any Owner or Mortgagee.

Section 24. Reservation of Rights. Notwithstanding anything contained in this Declaration to the contrary, Declarant reserves the right to amend this Declaration without consent of the respective Owners or the Association until the control of the Regime is turned over to the Association.

Section 25. Enforcement of Covenants and Restrictions. The various covenants and restrictions applicable to the use and enjoyment of the Units, as set forth in this Declaration, are for the mutual benefit and protection of the present and future Owners and shall run with the land and shall be binding upon and inure to the benefit of every Owner, the Co-Owners, or the Board of Directors on behalf of the Association, and their respective heirs, successors and assigns. Available relief in any action brought to enforce this Declaration shall include damages and injunctive relief against any violation or attempted violation of these provisions, and the recovery of any damages, costs, interest on expenses incurred, and attorneys' fees incurred by any party successfully enforcing this Declaration against any other party, but there shall be no right of reversion or forfeiture of title resulting from any violation. In addition, the Board of Directors is hereby authorized, during the period of any default or delinquency, to take actions to enforce compliance with such provisions, rules, regulations or decisions, including, without limitation: (i) the revocation of a defaulting Owner's right to use Common Areas designed for recreational purposes, if any, and (ii) the suspension of a defaulting Owner's voting privileges; provided, however, that no such enforcement action shall affect the rights of a Mortgagee hereunder.

Section 26. Costs and Attorneys' Fees. In a proceeding arising because of an alleged failure of an Owner to make any required payments or to comply with any provision of the Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, the party initiating such proceeding shall be entitled to recover its reasonable attorneys' fees incurred in connection with such proceeding, if it is found or agreed in such proceeding that a failure to make payment as required hereby or a violation of this Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, did occur.

Section 27. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants, and occupants of the Units shall be subject to and shall comply with the provisions of this Declaration, the Act, the By-Laws, and the rules and regulations as adopted by the Board of Directors, as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the Amendments, the Act, the By-Laws, and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or

occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. Each Owner agrees to execute and deliver such other documents, if any, as may be necessary or desirable to comply with the Act as it may be amended from time to time. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Unit or Units or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws, and the Rules and regulations applicable thereto, as each may be amended from time to time.

Section 28. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of his Unit. The Association does not waive the right to hold a lien on the Unit and foreclose same by any failure to take action when any payment of any Assessment is not timely made when due by any Owner.

Section 29. Construction and Severability. This Declaration and the By-Laws are intended to comply with the provisions of the Act, and shall be construed whenever possible to be consistent therewith. The invalidity of any covenant, restriction, condition, limitation, or other provision of this Declaration or the By-Laws filed herewith shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration or the attached By-Laws. If any of the options, privileges, covenants, rights, or interests created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or any analogous statutory provisions, (b) the rule restricting restraints or alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the date of the Declaration.

Section 30. Floor Plans. The Plans pertaining to the Real Estate, as described in Section 1(o) of this Declaration, are incorporated into this Declaration by reference, and have been recorded contemporaneously with the recording of this Declaration in the Office of the Recorder of Monroe County, Indiana, in H-B 95 #008990 7-27-90.

Section 31. Notices. Any notice required or permitted to be sent under this Declaration or the By-Laws shall be sufficient if delivered personally or sent by first-class U.S. Mail, postage prepaid, to the address shown on the records of the Association; provided, however, that notices to Mortgagees shall be sent by U.S. Certified Mail, Return Receipt Requested, or by U.S. Registered Mail, and shall not be deemed delivered unless and until actually received by the Mortgagee.

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

THE CITY OF BLOOMINGTON, INDIANA

ATTEST:

By: Tomilea Allison
Tomilea Allison, Mayor
City of Bloomington

Patricia Williams
Patricia Williams, Clerk
City of Bloomington

By: Iris F. Kiesling
Iris F. Kiesling, President
Bloomington Common Council

By: Frank N. Hrisomalos MD
Dr. Frank N. Hrisomalos, President
Bloomington Board of Public Works

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Before me, a Notary Public in and for said County and State personally appeared Tomilea Allison, Mayor, Iris F. Kiesling, President of the Common Council, and Dr. Frank N. Hrisomalos, President of the Board of Public Works all of the City of Bloomington, Indiana who acknowledged the execution of the above and foregoing Declaration of Horizontal Property Regime for and on behalf of the City.

Witness my hand and Notarial Seal this 3rd day of July, 1990.

Kara N. Kalb
(signature)

Kara N. Kalb
(printed name) Notary Public

My Commission Expires:
22 July 1993

Resident of Monroe County

This instrument was prepared by Robert G. Evans, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282; telephone: (317) 236-2100.

EXHIBIT A

ARTS SQUARE HORIZONTAL
PROPERTY REGIME

LEGAL DESCRIPTION

Lot 91, City of Bloomington, as recorded in Book A, Page 5, (Office of the Recorder) Section 33, Township 9 North, Range 1 West, Monroe County, Indiana. Containing 0.2 acres.

EXHIBIT B

CODE OF BY-LAWS OF ARTS SQUARE CO-OWNERS ASSOCIATION, INC., AN INDIANA NOT-FOR-PROFIT CORPORATION

ARTICLE I

Identification and Applicability

Section 1.01. Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration of Arts Square Horizontal Property Regime, to which these By-Laws are attached and of which they are made a part. The Declaration is incorporated herein by reference and all of the covenants, conditions, rights, restrictions, and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meanings in these By-Laws, and reference is hereby made to the definitions in Section 1 of the Declaration. The provisions of these By-Laws shall apply to the Property and to the administration and conduct of the affairs of the Association.

Section 1.02. Individual Application. All of the Owners, tenants, their guests, invitees, licensees or any other person who might now or hereafter enter upon use or occupy a Unit or any part of the Property shall be subject to the rules, restrictions, terms and conditions set forth in the Declaration, these By-Laws, and the Act, as the same may be amended from time to time.

ARTICLE II

Meetings of Association

Section 2.01. Purpose of Meetings. At least annually and at such other times as may be necessary or appropriate, a meeting of the Co-owners shall be held for the purpose of selecting or appointing the Board of Directors, approving the annual budget, providing for the collection of Common Expenses, and for such other purposes as may be required by the Declaration, these By-Laws, or the Act.

Section 2.02. Annual Meetings. The first annual meeting shall not be held until the time of turnover of control of the Regime by Declarant or at such earlier time or times as may be determined by the Declarant. All subsequent annual meetings shall be held on any date selected by the Board of Directors which is within five (5) days of the anniversary of the first annual meeting. At each annual meeting, the Co-owners shall appoint the Board of Directors of the Association in accordance with the provisions of these By-Laws and

transact such other business as may properly come before the meeting.

Section 2.03. Special Meetings. A special meeting of the members of the Association may be called upon a written petition of one of the Co-owners or one of the Directors. Notice of the petition shall be distributed to every Co-owner and/or Director of the Association, and shall state the purpose for which the meeting is to be called in accord with Section 2.04 hereof. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the Association shall be held at such location within the State of Indiana as may be designated by the Board of Directors. Written notice stating the date, time, place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Co-owner and, if applicable, to any Mortgagee not less than fourteen (14) days prior to the date of such meeting. If at any meeting an amendment to the Declaration or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. The notice shall be mailed by first-class U. S. Mail, postage prepaid, or delivered to the Co-owners at their respective addresses as the same shall appear upon the records of the Association, and by U.S. Certified Mail, Return Receipt Requested, to the Mortgagees at their respective addresses as they shall appear on the records of the Association, by such means as provided in Section 31 of the Declaration. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

(a) Unanimity Required. Due to the unique problem of having a two Unit Condominium Regime and therefore a two member Co-Owner's Association, unanimity between the Unit Owners will be required on each matter coming before each meeting of the Owners. However, notwithstanding anything contained in these By-Laws, the Articles of Incorporation or the Declaration to the contrary, each and every instance where a deadlock has been reached by the Co-owners, the matter under consideration shall be presented to the Board of Directors at the next meeting thereof, or at a special meeting called for such purpose, and shall be decided upon by a two-thirds (2/3) vote thereof.

(b) Number of Votes. At each meeting of the Owners, and concerning all matters over which a vote of the Owners is taken, each Owner shall be entitled to cast one vote per matter and each Owner's vote shall be of equal weight and value in relation to the vote of the other Unit Owner so cast.

(c) Multiple Owners. When the Owner of a Unit constitutes more than one person or entity, or is a partnership, there shall

be only one voting representative entitled to cast the vote allocable to that Unit. At the time of acquisition of title to a Unit by a multiple Owner or a partnership, those persons constituting such Owner or the partners shall file with the Secretary of the Association an irrevocable proxy appointing one of such persons or partners as the voting representative for such Unit, which shall remain in effect until such appointed representative relinquishes such appointment in writing, becomes incompetent, dies, or such appointment is otherwise rescinded by order of a court of competent jurisdiction. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall constitute relinquishment of his right to act as voting representative for the Unit at such meeting or meetings.

(d) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled.

(e) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to an officer of the Association prior to the commencement of the meeting.

(f) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, or the Act, the presence of all Owners or their duly authorized representatives constitute a quorum.

(g) Conduct of Meeting. The Chairman of the meeting shall be the President of the Association. He or she shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto.

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

(3) Budget. The proposed budget for the current calendar year shall be presented to the Co-owners for approval or amendment.

(4) Board of Directors. Two directors of the three member Board of Directors shall consist of each Owner, or the agent of each Owner who is not an individual, and each such director shall serve until they no longer own a Unit. The third director shall be a person of standing in the Bloomington, Indiana community who is appointed by the Mayor of the City of Bloomington, Indiana, upon the joint recommendation of the two Owner-Directors, and such director shall serve a one-year term. In the event the two Owner-Directors cannot agree upon a joint recommendation, or in the event their recommendation is unacceptable to the Mayor, then the Mayor shall appoint the third director in his or her sole discretion.

(5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a unanimous vote.

(6) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations assigned by the Board of Directors shall be presented.

(7) Adjournment. Upon completion of all business before the Association, the President, upon the motion of any Owner, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Co-owners for the upcoming year.

Section 2.06. Control During Development. Notwithstanding any other provision of the Declaration, the Act, or these By-Laws, from and after the date of the Declaration until the date when Declarant turns over control of the Regime to the Co-owners, as determined by Declarant within the limitations set forth in Section 7 of the Declaration, the Regime shall be governed by the initial Board of Directors appointed by Declarant. Said initial Board of Directors shall exclusively hold all rights and powers which a Board of Directors or the Association would have under the Declaration, the Act, or these By-Laws, except as specifically limited in this Section 2.06. Said initial Board of Directors may appoint from time to time from among the Co-owners committees to advise and assist it in the performance of its functions. The rights and powers of said initial Board of Directors shall be limited as follows:

(a) The power of assessment shall be limited in that the total monthly assessments in any month against Unit A during the first year after the date of the Declaration shall not exceed One Thousand Four Hundred and Four Dollars and Eighty Four Cents ($1,404.84) for Unit A, and Seven Hundred and Ninety Dollars and Twenty Two Cents ($790.22) for Unit B, these amounts being based on the percentage interest of each Unit multiplied by the total monthly assessment. Said amounts shall not be increased in any

subsequent year prior to turnover by more than ten percent (10%) over the assessment in the preceding year.

(b) Said initial Board shall have no power to reallocate Percentage Interests or Percentage Votes in a manner not consistent with the Formula.

(c) Said initial Board of Directors shall not take any action requiring the vote or consent of any Mortgagee unless the vote or consent of such Mortgagee is obtained.

Declarant shall have the right to waive, on behalf of the Association, the annual meetings and annual accountings provided for in this Article II and in the Declaration, so long as Declarant retains control of the Association. At the time of turnover of control by Declarant, the first annual meeting of the Association will be called, at which time the rights and powers of the initial Board of Directors shall terminate and the Regime shall thereafter be governed in accordance with the provisions of the Declaration, the Act, and these By-Laws other than this Section 2.06.

ARTICLE III

Board of Directors

Section 3.01. The affairs of the Association shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). The initial Board of Directors shall be composed of three (3) persons appointed by Declarant. After the expiration of the term of the initial Board of Directors as provided in Section 2.06 hereinabove, the constituency of such Board shall remain at three (3). Each Owner, or the agent of an Owner who is not an individual, shall serve as a Director so long as they own a Unit. In addition, a third director shall be appointed by the Mayor of the City of Bloomington, Indiana upon the joint recommendation of the Co-owners as provided in Section 2.05(g)(4) herein.

Section 3.02. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then the person entitled to cast the vote on behalf of such multiple Owner shall be eligible to serve on the Board of Directors.

Section 3.03. Duties of the Board of Directors. The Board of Directors shall perform or cause to be performed, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

(a) Maintenance, repair and replacement of the Common Area;

(b) Procuring of utilities and snow removal from the Common Areas;

(c) Assessment and collection from the Owners of the Owner's pro-rata share of the Common Expenses;

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

(e) Preparing and delivering annually to the Co-owners a full accounting of all receipts and expenses incurred during each year, which accounting shall be delivered to each Owner simultaneously with delivery of the annual budget;

(f) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours;

(g) Procuring and maintaining in force all insurance coverage required by the Declaration to be maintained for the whole Regime as specified by Section 15 of the Declaration.

Section 3.04. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) To employ a professional managing agent or real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties;

(b) To purchase for the benefit of the Co-owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;

(c) To procure for the benefit of the Owners fire, earthquake and extended coverage insurance covering the Building and the Property to the full insurable value thereof, to procure public liability and property damage insurance and Workmen's Compensation insurance, if necessary, and to procure all such other insurance as is required or permitted under the Declaration, for the benefit of the Owners and the Association;

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

(e) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(f) To open and maintain a bank account or accounts in the name of the Association; and

(g) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the Property; provided that the Board shall give written notice to the Co-owners of such rules and any revision, amendment, or alteration thereof.

Section 3.05. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority of the Owners.

Section 3.06. Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. The Secretary shall give notice of regular meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings. At any time after the tenure of the initial Board of Directors has expired, a special meeting of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice.

Section 3.07. Waiver of Notice. Before any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

ARTICLE IV

Officers

Section 4.01. Officers of the Association. The principal officers of the Association shall be the President, Vice-President, and Secretary/Treasurer, all of whom shall be members of the Board.

Section 4.02. Appointment of Officers. The officers of the Association shall be appointed annually by the Board at the first meeting of the Board. However, the President of the Board shall always be the third director who was appointed by the Mayor of the City of Bloomington, Indiana upon the joint recommendation of the two Owner-Directors as provided in Section 2.05(g)(4) herein.

Section 4.03. The President. The President shall always be the third director who was appointed by the Mayor of the City of Bloomington, Indiana upon the joint recommendation of the two Owner-

Directors as provided in Section 2.05(g)(4) herein, and shall be the chief executive officer of the Association. After the tenure of the initial Board of Directors, he or she shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Co-owners as he or she may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 4.04. The Vice-President. The Vice-President shall be appointed by the President from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him or her by the Board or by the President.

Section 4.05. The Secretary/Treasurer. The Secretary/Treasurer shall be appointed by the President from among the Directors but shall be held by someone other than the Vice-President. The Secretary/Treasurer shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall perform all other duties incident to the office of the Secretary/Treasurer, and such other duties as from time to time may be prescribed by the Board. The Secretary/Treasurer shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws. In addition, the Secretary/Treasurer shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of Secretary/Treasurer. He or she shall be legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the Association. He or she shall immediately deposit all funds of the Association coming into his or her hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Association.

ARTICLE V

Additional Rights and Duties of Board

Section 5.01. Right of Entry. An Owner or occupant of a Unit shall be deemed to have granted the right of entry to its Unit to the Board, the Managing Agent, or any person authorized by the Board in case of any emergency, in order to remedy any circumstance threatening the Unit, the Building in which it is located, or any person, whether the Owner is present at the time or not. Any Owner

shall permit persons authorized by the Board to perform any work, when required, to enter its Unit for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Section 5.02. Right of Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the operation of the Property as the Board may deem desirable, including but not limited to the use of the Common Areas. Such rules as are adopted may be repealed or amended by a vote of a two-thirds (2/3) vote of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

ARTICLE VI

Procedures for Assessments

Section 6.01. Annual Accounting. Annually, after the close of each calendar year and prior to the date for notice of the annual meeting of the Association, the Board of Directors shall cause to be prepared and furnished to each Owner a financial statement by an independent Certified Public Accountant, which statement shall show all receipts and expenses received, incurred, and paid by the Association during the preceding calendar year.

Section 6.02. Proposed Annual Budget. Annually, on or before the date for notice of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing calendar year estimating the total amount of the Common Expenses for the ensuing year, and furnish a copy of such proposed budget to each Owner prior to the annual meeting. The proposed annual budget shall be submitted to the Co-owners at the annual meeting of the Association for adoption, and if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the ensuing calendar year. At the annual meeting of the Co-owners, the proposed annual budget may be approved in whole or in part, or may be amended in whole or in part, by a unanimous vote of the Owners; provided, however, that in no event shall the annual meeting of the Co-owners be adjourned until an annual budget is approved at such meeting.

Section 6.03. Regular Assessments. The annual budget as adopted shall, based on the estimated cash requirement for the Common Expenses in the ensuing year as set forth in said budget, contain a proposed assessment against each Unit based on the Percentage Interest of each Unit times the total amount of said budget (herein

called the "Regular Assessment"). The Regular Assessment against each Unit shall be paid in twelve (12) equal monthly installments, commencing on the first day of the January immediately following adoption and continuing on the first day of each calendar month thereafter. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, that any Owner may elect to pay monthly Assessments in advance. The Regular Assessment for each year shall become a lien on each separate Unit as of the date of the adoption of the annual budget. Prior to Declarant's turning over of control of the Regime to the Co-owners, the Co-owners shall bear the Common Expenses of the Regime through payment of an initial Assessment fixed from time to time by the initial Board of Directors. During the first year following the date of the Declaration, the amount payable per month for the initial Assessment is fixed at One Thousand Four Hundred and Four Dollars and Eighty Four Cents ($1,404.84) for Unit A, and Seven Hundred and Ninety Dollars and Twenty Two Cents ($790.22) for Unit B. Each year thereafter, such initial Assessment may not be increased more than ten percent (10%) during each succeeding year in which Declarant controls the Association. Declarant shall be entitled to pay any Assessments for which it may be liable in lump sums for each Unit owned by it and may elect to pay the same in quarterly or semi-annual installments in advance during the calendar year. Any deficits during the period in which Declarant controls the Association shall be made up by a special Assessment shared by the Co-owner in accord with each Owner's Percentage Interest. Declarant shall also establish and maintain during such period a reserve fund for replacement or major repair of Common Areas based upon its good faith estimates of replacement costs and useful life of such Common Areas. After the turning over of control of the Regime to the Co-owners, each Unit Owner shall pay to the Association a Regular Assessment based on the Percentage Interest for each Unit for payment of the regular Common Expenses provided for in the annual budget, including expenses for maintenance and repair of the Common Areas, necessary insurance costs, reserve funds for replacements and maintenance, costs of operation of the community activities and facilities of the Association, and for any other necessary or appropriate expenses for maintenance and operation of the Regime.

Section 6.04. Special Assessments. In addition to the Assessments authorized above, the Association may levy such special Assessments as may be necessary for the purpose of defraying, in whole or in part: (1) the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto other than any such costs contemplated under Sections 11 and 13 of the Declaration, and (2) the expense of any other contingencies or events not provided for in the annual budget or the reserves and working capital of the Association; provided that no special Assessments shall be levied without the unanimous assent of the Owners at a meeting duly called for this purpose. Each Owner shall pay to the Association a special Assessment based on his Percentage Interest times total sum approved to meet the costs and expenses as heretofore provided. The

Association may, in connection with the levy of any special Assessment, specify that the same shall be payable in installments and specify the due dates thereof.

Section 6.05. Adjustments. In the event that the approved budget and Regular Assessments plus the reserves and working capital of the Association prove insufficient to meet the Association's actual expenses in any year, such deficiencies may be corrected through one or more special Assessments. In the event the approved and Regular Assessments exceed actual expenses in any year, such surplus shall be retained and used to offset expenses in the next year(s) or returned to the Co-owners in proportion to their Percentage Interests, as the Board of Directors shall elect.

Section 6.06. Temporary Budget and Assessments. If for any reason an annual budget and the annual Assessments for any year have not been determined as of the beginning of such year, the budget and Assessments in effect during the preceding year shall continue in effect until such time as the annual budget and annual Assessments are determined in accordance with the Declaration and these By-Laws; provided, however, that said preceding budget and Assessments may be increased by up to fifteen percent (15%) as the Board of Directors may deem necessary in said temporary budget and Assessments.

Section 6.07. Reserve and Working Capital Funds. The Association shall be obligated to establish a reserve fund for the repair and replacement of those Common Areas that must be replaced periodically, based upon good faith estimates of the useful lives and replacement costs of such Common Areas made or obtained by the Association. The reserve fund shall be funded through the payments by the Owners of Common Expenses and not by an extraordinary or special assessment. Extraordinary expenditures not originally included in the annual estimate that become necessary during the year shall be charged first against the reserve fund so established before any special Assessment is made or levied therefor. In addition to the reserve fund, a working capital fund shall be established and maintained by the Association. At the closing of the initial sale of each Unit to an Owner, the purchaser of such Unit shall deposit with the Association an amount equal to two months' installments of the Regular Assessment for Common Expenses for such Unit, which amount shall be retained by the Association as working capital. Thereafter, each Owner shall continue to maintain on deposit with the Association an amount at least equal to one-sixth (1/6) of the Regular Assessment for Common Expenses for his Unit for the current calendar year. Amounts paid or deposited into the working capital fund shall not relieve an Owner from this responsibility for the Regular Assessments due in accordance with this Article VI. All amounts held by the Association pursuant to this Section 6.07 shall be maintained in a federally-insured, interest-bearing account in a bank or savings and loan association doing business in Monroe County, Indiana, and all interest thereon shall be added to and deemed a part of such fund. Notwithstanding anything contained herein to the contrary, the Declarant shall not be required to maintain on deposit with the Association the

contribution to the working capital fund described in this Section 6.07; provided, however, that the Declarant shall be obligated to immediately make up any deficiency resulting from the excess of the Declarant's proportionate share of actual Common Expenses over the Declarant's Regular Assessments. Provided further, during the period when Declarant controls the Association, Declarant may maintain a single bank account for deposit of regular assessments and the deposit of working capital funds upon the sale of each unit.

Section 6.08. Status of Funds Collected by Association. All funds collected pursuant to this Article VI shall be held and expended by the Association solely for the purposes designated herein, and, except for any special Assessments that may be levied hereunder against less than all of the Owners, and except for such adjustments as may be required to reflect delinquent or prepaid assessments, shall be deemed to be held for the use, benefit, and account of all of the Owners for the payment of Common Expenses in accordance with the Owners' respective Percentage Interests.

ARTICLE VII

Amendment to By-Laws

These By-Laws may be amended by Declarant in the same manner and to the same extent as the Declaration; in addition, these By-Laws may be amended by a unanimous vote of the Owners in a duly constituted meeting called for such purpose, except that the right of amendment is exclusively reserved to the initial Board of Directors during the period set out in Section 2.06 above, and except as prohibited by any provision of the Declaration; the Act, or these By-Laws, as the same may be amended from time to time.

ARTICLE VIII

Notices and Mortgagees

Section 7.01. Notice to Association. Any Owner who places a first mortgage lien upon his Unit or the Mortgagee thereof shall notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and name required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgages and the name and address of the Mortgagee are furnished to the Secretary, either by Owner or by the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or these By-Laws shall be required, and no Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 7.02. Notice of Assessments. Upon ten (10) days written notice to the Association and the payment of a reasonable fee, the Association shall deliver to any Owner, Mortgagee, prospective

Mortgagee, title insurance company, purchaser or other prospective transferee of a Unit, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Unit, together with the amount of the current assessments for Common Expenses and the date(s) such assessments become due and payable. Any such written statement shall be binding upon the Association in favor of any person relying thereon in good faith.

Section 7.03. Financial Statements. The Association, upon the request of any Mortgagee, shall provide to said Mortgagee the most recent financial statement prepared on behalf of the Association pursuant to Section 5.02 of these By-Laws.

Section 7.04. Notices to Mortgagees. The Association shall promptly provide to any Mortgagee of whom the Association has been provided notice under Section 8.01 of these By-Laws notice of any of the following:

(a) Any condemnation or casualty loss that affects either a material portion of the Regime or the Unit securing its mortgage;

(b) Any delinquency in the payment of Regular or Special Assessments owed by the Owner of any Unit on which said holder, insurer, or guarantor holds a mortgage, if said delinquency continues for more than sixty (60) days;

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

(d) Any proposed action that requires the consent of a specified percentage of Mortgagees.

Section 7.05. Availability of Information. The Association shall keep and shall make available to prospective purchasers of Units, upon request at reasonable business hours, copies of the Declaration, By-Laws, current rules and regulations, if any, and the most recent financial statement of the Association.

CERTIFICATION

The undersigned, being first duly sworn, hereby certifies that the within and foregoing Code of By-Laws of Arts Square Co-Owners Association, Inc. are true and correct.

ARTS SQUARE CO-OWNERS
ASSOCIATION, INC.

By: _____
(signature)

Michael K. Davis
SECRETARY / TREASURER
(printed name and title)

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Subscribed and sworn to before me, a Notary Public, in and for said County and State this 19th day of July, 1990.

Nora Lee Whaley
(signature)

NORA LEE WHALEY
(printed name) NOTARY PUBLIC

My Commission Expires:

8/13/91

Resident of Monroe County

This instrument prepared by Robert G. Evans, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282; Telephone: (317) 236-2100.

PERCENTAGE INTERESTS

Unit	Approximate Interior Square Footage	Percent Interest
A	11,295	64%
B	6,256	36%

Exhibit C

009445

PURCHASE MONEY
REAL ESTATE MORTGAGE

BOOK A552 PAGE 414

THIS INDENTURE WITNESSETH, That the BLOOMINGTON AREA ARTS COUNCIL, INC., an Indiana not-for-profit corporation ("Mortgagor"), MORTGAGES AND WARRANTS to THE CITY OF BLOOMINGTON, INDIANA ("Mortgagee") the following described real estate located in Monroe County, Indiana:

> Units A2 & A3 in Arts Square Horizontal Property Regime, as established by a Declaration of Arts Square Horizontal Property Regime, dated July 3rd, 1990, and recorded July 27th, 1990 in Misc. Record Book 201, pages 371 - 412, in the Office of the Recorder of Monroe County, Indiana, together with an undivided percentage interest in the Common Areas of Arts Square Horizontal Property Regime, as set out in said Declaration and any subsequent amendments thereto;

together with all rights, privileges, interests, easements, hereditaments, appurtenances, fixtures and improvements now or hereafter belonging, appertaining, attached to, or used in connection therewith, and all the rents, issues, income and profits thereof (all of which is hereinafter called the "Mortgaged Premises").

This mortgage is given to secure the performance of the provisions hereof and the payment of a certain promissory note ("Note"), of even date herewith, in the principal amount of Two Hundred Seventy Thousand Dollars ($270,000.00), with interest as therein provided and with a final maturity date of May 1, 2020. Said principal and interest are payable as provided in the Note.

Mortgagor covenants and agrees with Mortgagee that:

1. PAYMENT OF INDEBTEDNESS. Mortgagor shall pay when due all indebtedness secured by this mortgage, on the dates and in the amounts, respectively, as provided in the Note or in this mortgage, without relief from valuation and appraisement laws, and with attorneys' fees. The Note may not be prepaid without the prior written consent of Mortgagee, which may be granted, conditioned or withheld in its sole and complete discretion, except as otherwise provided in Section 12 of this Mortgage. Provided, however, that in the event the indebtedness secured by this Mortgage is satisfied prior to the final maturity date, whether by acceleration, foreclosure or forgiveness, Mortgagee shall promptly release this Mortgage of record.

2. RENOVATION AND REHABILITATION OF MORTGAGED PREMISES. Mortgagor hereby acknowledges that the Mortgaged Premises are to be renovated by Mortgagor in order to accommodate the use thereof as a community arts center oriented towards the advancement of education, arts and cultural interests of the citizens of the City of Bloomington, Indiana. To that end, Mortgagor shall prepare and deliver to Mortgagee construction plans reflecting the proposed renovation and improvements to be made to the Mortgaged Premises. Such renovation and improvements shall not begin without the prior written approval of Mortgagee, by the City Engineer, which approval may be granted, conditioned or withheld in its sole and complete discretion. Provided, however, that the requirement that Mortgagor receive prior written approval of construction plans by the City Engineer is intended to address only the technical merits of the plans in order to assure that the renovation of Unit A will not have an adverse effect on the operation or marketability of Unit B. Said approval must be granted, conditioned or withheld within thirty (30) days after each submission of new or revised plans. If Mortgagee fails to notify Mortgagor of its decision within thirty (30) days after submission of a set of plans, said plans shall be deemed approved. Upon the approval thereof by Mortgagee,

RECORDED
A.M. ____ P.M. 12:23

AUG 03 1990

RECORDER MONROE CO., IN

Mortgagor shall cause such work to be performed in a good and workmanlike manner, and completed no later than May 1, 1993, unless extended in accordance with the terms of the Quitclaim Deed between Mortgagee, as Grantor, and Mortgagor, as Grantee. However, Mortgagee assumes no liability for approval of such renovation plans, and Mortgagor shall indemnify and hold harmless Mortgagee from any loss, cost or expense, including attorneys' fees, resulting from its approval of such renovation plans. Mortgagor agrees to assume all contractual and financial responsibility for renovating, rehabilitating, maintaining and repairing the Mortgaged Premises as necessary to carry out the intended use of the Mortgaged Premises as a community arts center and to bring the Mortgaged Premises within the general safety requirements of all applicable laws, codes, and ordinances, including but not limited to: the Monroe County, Indiana uniform building code; fire code; mechanical code; plumbing code; electrical code; energy conservation code; zoning ordinance and any other applicable City, County, State or National code specifications (hereinafter "Code Compliance"). In addition, Mortgagor hereby agrees that no such renovation, rehabilitation, maintenance or repair work shall begin until the plans and specifications therefore have been approved by Mortgagee. Further, Mortgagor hereby agrees that as part of the rehabilitation or renovation of the Mortgaged Premises contemplated herein, Mortgagor shall, solely at its expense, completely separate the mechanical, electrical, heating and cooling, and plumbing systems of the Mortgaged Premises from such systems which are currently in place within the building wherein the Mortgaged Premises are located. Such separation shall be carried out only upon the prior written approval by Mortgagee of the plans submitted by Mortgagor therefor and shall be done in such a manner so that each such system can be separately metered and can function independently of the mechanical, electrical, heating and cooling, and plumbing systems within the building wherein the Mortgaged Premises are located. Also, Mortgagor shall seal all entryways, doorways, or other openings that may now exist in the common party walls, except as otherwise directed by Mortgagee. Further, Mortgagor agrees to assume all contractual and financial responsibility for any repair, renovation, rehabilitation, replacement, or modification of or to the mechanical, electrical, heating and cooling, and plumbing systems in or for the benefit of Unit B in Arts Square Horizontal Property Regime necessitated by the separation of such systems required hereunder. Provided, however, that Mortgagor's obligation to separate the systems does not include bringing Unit B into Code Compliance because of such separation, other than providing service panels and meters that meet Code Compliance. Nothing herein shall relieve Mortgagor of its obligation to obtain appropriate building permits as required by law.

3. <u>SUBORDINATION</u>. While the intent of this mortgage is to create a purchase money mortgage security interest in the Mortgaged Premises, Mortgagee hereby recognizes that the Mortgagor may need additional financing to complete the renovation and rehabilitation of the Mortgaged Premises as contemplated herein and as a result thereof the provider of such financing may seek to obtain a security interest in the Mortgaged Premises. In recognition of this fact and in furtherance of Mortgagee's desire to see Mortgagor succeed in rehabilitating and renovating the Mortgaged Premises and in providing a community arts center to the general public of the City of Bloomington, Indiana, Mortgagee hereby agrees to subordinate this Mortgage to a construction or permanent loan mortgage if the lender thereof requires such subordination and if the terms of such Mortgage are satisfactory to the Mortgagee in its sole discretion. Mortgagee will not be deemed to have subordinated its interest herein unless and until Mortgagee gives its written consent to such subordination to Mortgagor and until a subordination agreement has been executed by Mortgagee, Mortgagor and Mortgagor's construction or permanent loan lender. In the event that the

Mortgagor defaults on such construction or permanent loan which has been granted priority over the lien of this mortgage, and the lienholder thereof institutes foreclosure proceedings, Mortgagor shall immediately notify Mortgagee, in writing, of the foreclosure proceedings. In the event Mortgagor shall execute and deliver a mortgage which becomes superior or subordinate to the lien of this Mortgage, Mortgagor shall keep and comply with all the terms, covenants and conditions thereof. Any event of default under any such subordinate or superior mortgage shall be deemed an event of default hereunder.

4. NO LIENS. Mortgagor shall not permit any lien of mechanics or materialmen to attach to and remain on the Mortgaged Premises or any part thereof for more than 45 days after receiving notice thereof.

5. REPAIR OF MORTGAGED PREMISES; INSURANCE. Mortgagor shall keep the Mortgaged Premises in good repair and shall not commit waste thereon. Mortgagor shall procure and maintain in effect at all times adequate insurance in insurance companies acceptable to Mortgagee against loss, damage to, or destruction of the Mortgaged Premises because of fire, windstorm and such other hazards and in such amounts, as Mortgagee may reasonably require from time to time. Mortgagor shall obtain a builder's risk policy at and during such time and in such amounts as Mortgagee may reasonably require. All such insurance policies shall contain proper clauses making all proceeds of such policies payable to Mortgagee and Mortgagor as their respective interests may appear. All such policies of insurance shall be delivered to and retained by Mortgagee until the indebtedness secured hereby is fully paid. Mortgagor is also solely responsible for obtaining insurance coverage for any and all items of personal property kept or maintained in the Mortgaged Premises. Mortgagor shall cause such insurance policy or policies to name Mortgagee as a certificate holder thereof, and such policies shall provide that the coverage thereunder may not be cancelled without thirty (30) days prior written notice to Mortgagee.

6. TAXES AND ASSESSMENTS. Mortgagor shall pay all taxes or assessments levied or assessed against the Mortgaged Premises, or any part thereof, as and when the same become due and before penalties accrue.

7. ADVANCEMENTS TO PROTECT SECURITY. Mortgagee, at its option, may advance and pay all sums necessary to protect and preserve the security intended to be given by this mortgage. All sums so advanced and paid by Mortgagee shall become a part of the indebtedness secured hereby and shall bear interest from the date or dates of payment at fifteen percent (15%) per annum. Such sums may include, but are not limited to, insurance premiums, taxes, assessments and liens which may be or become prior and senior to this mortgage as a lien on the Mortgaged Premises, or any part thereof, and all costs, expenses and attorneys' fees incurred by Mortgagee in respect of any and all legal or equitable proceedings which relate to this mortgage or to the Mortgaged Premises.

8. COVENANTS. In addition to any other covenants contained in this mortgage, Mortgagor hereby further covenants to Mortgagee that:

a. Mortgagor shall at all times use and maintain the Mortgaged Premises in accordance with the laws, codes, ordinances and regulations of the United States of America, the State of Indiana, County of Monroe and the City of Bloomington, Indiana;

b. Mortgagor shall at all times continue its existence as a not-for-profit tax exempt corporation under either Section 501(c)(3) of the Federal Internal Revenue

Code, or the Indiana Not-For-Profit Corporation Act of 1971, both as may be amended from time to time;

c. Mortgagor shall not discriminate upon the basis of race, color, creed, sex, national origin or ancestry in the use, occupancy, or rental of the Mortgaged Premises, any part thereof, or any improvements located thereon; and

d. Each and every contract for renovations, rehabilitation, repairs or improvements on the Mortgaged Premises, or any part thereof, shall contain an express, full, and complete waiver and release of any and all liens or claims or rights of lien against the Mortgaged Premises in accordance with the provisions of Indiana Code 32-8-3-1 et. seq.

9. DEFAULT BY MORTGAGOR; REMEDIES OF MORTGAGEE. The following constitute events of default, the occurrence of any one of which shall cause the entire indebtedness secured hereby to become immediately due and payable at the option of Mortgagee, without notice, and thereupon this mortgage may be foreclosed accordingly:

a. default by Mortgagor in any payment provided for herein or in the Note, or in the performance of any covenant or agreement of Mortgagor hereunder;

b. default by Mortgagor under the terms of any other mortgage encumbering the Mortgaged Premises;

c. After May 1, 1993 or any extension period granted by Mortgagee in accordance with the Quitclaim Deed, failure by Mortgagor to use at least seventy-two percent (72%) of the floor space of the Mortgaged Premises as a community arts center oriented towards the advancement of education, arts and cultural interests for use by and for the benefit of community groups, individuals, and the general public of the City of Bloomington, Indiana;

d. the abandonment of the Mortgaged Premises by Mortgagor; and

e. if Mortgagor shall be adjudged bankrupt, or if a trustee or receiver shall be appointed for Mortgagor or for any part of the Mortgaged Premises.

Upon such foreclosure, Mortgagee may continue the abstract of title to the Mortgaged Premises, or obtain other appropriate title evidence, and may add the cost thereof and of any title insurance policy to be issued in connection therewith to the principal balance due.

10. NON-WAIVER; REMEDIES CUMULATIVE. No delay by Mortgagee in the exercise of any of its rights hereunder shall preclude the exercise thereof so long as Mortgagor is in default hereunder, and no failure of Mortgagee to exercise any of his rights hereunder shall preclude the exercise thereof in the event of a subsequent default by Mortgagor hereunder. Mortgagee may enforce any one or more of his rights or remedies hereunder successively or concurrently.

11. EXTENSIONS; REDUCTIONS; RENEWALS; CONTINUED LIABILITY OF MORTGAGOR. Mortgagee, at its option, may extend the time for the payment of the indebtedness, or reduce the payments thereon, or accept a renewal note or notes therefor, without consent of any junior lien holder, and without the consent of Mortgagor if Mortgagor has then parted with title to the Mortgaged Premises. No such extension, reduction or renewal shall affect the priority of this mortgage or impair the security hereof in any manner whatsoever, or release, discharge or affect in any manner the

personal liability of Mortgagor to Mortgagee. This mortgage shall secure any notes or other evidence of indebtedness given in substitution for the Note.

12. DUE ON SALE. If all or any part of the Mortgaged Premises, or any interest therein, is sold, transferred, assigned or otherwise disposed of, or further encumbered by a mortgage or otherwise, without Mortgagee's prior written consent, Mortgagee, at its option, may declare all sums secured by this mortgage immediately due and payable. Any contract of sale of any kind including, without limitation, land contract, conditional sales contract, installment sales contract, lease with option to purchase (whether such option is oral or contained within such lease or in any other document) or any other transfer of interest in the Mortgaged Premises shall be deemed a transfer requiring prior written consent of Mortgagee. Mortgagee reserves the right, in its unlimited discretion, on any basis deemed appropriate to Mortgagee, to refuse such consent, to condition such consent on a change in the interest payable on the sums secured by this mortgage, and/or otherwise change the terms of this mortgage.

Provided, however, Mortgagee shall not unreasonably withhold its consent should Mortgagor request permission to further encumber the Mortgaged Premises by subsequent borrowing secured by mortgages subordinate to that of Mortgagee. Provided further, after May 1, 2000, Mortgagee shall consent to the sale of the Mortgaged Premises and shall accept prepayment of the indebtedness secured by this Mortgage, only in the following circumstances:

(A) The sole purpose of the sale is to permit the Mortgagor to relocate to another facility in order to enhance its community arts center activities; and

(B) The proposed facility is located within the corporate boundaries of the City of Bloomington, and Mortgagor presents Mortgagee with an accepted offer on said facility, which offer may be contingent only upon sale of the Mortgaged Premises with the consent of Mortgagee, and other customary contingencies such as financing (if necessary), satisfactory inspections, satisfactory title evidence, and the like; and

(C) Mortgagor submits to Mortgagee a financial plan acceptable to Mortgagee, which must include a showing of Mortgagor's financial ability to acquire and successfully operate the proposed facility, and to satisfy the indebtedness secured by this Mortgage. Approval of the financial plan and consent to sale of the Mortgaged Premises shall require action by the Common Council, the Board of Public Works and the Mayor of Mortgagee; such consent and approval shall not be unreasonably withheld. Such action shall occur within sixty (60) days after each submission of a new or revised financial plan. If Mortgagee fails to notify Mortgagor of its decision within sixty (60) days after submission of a financial plan, said plan shall be deemed approved; and

(D) Mortgagor shall have no right to prepay the indebtedness secured by this Mortgage, and Mortgagee shall be under no obligation to accept prepayment, unless and until the sale of the Mortgaged Premises by Mortgagor and the purchase of the new facility by the Mortgagor have been completed.

If Mortgagee exercises the option to accelerate payment of the indebtedness, all such indebtedness shall become due and payable within thirty (30) days after the mailing of a notice from

Mortgagee to Mortgagor setting forth the total sums due. In the event of the failure of Mortgagor to pay such sums prior to expiration of such thirty (30) day period, Mortgagee may, without further notice or demand, invoke any remedy permitted hereunder for default. Provided, however, if this acceleration remedy is elected by Mortgagee, Mortgagee hereby waives any right to reversion contained in the Quitclaim Deed from Mortgagee, as Grantor, to Mortgagor, as Grantee, pertaining to the Mortgaged Premises.

13. ASSUMPTION OF RISK; INDEMNIFICATION. Mortgagor expressly assumes all risk and responsibility for any accident, injury, or damage to persons or property as to itself or others, including the general public, in, on or about the Mortgaged Premises and agrees to hold Mortgagee harmless from and against all liability arising or resulting therefrom. Further, Mortgagor hereby agrees to maintain public liability insurance in the following amounts and coverages: liability limits of not less than One Million Dollars ($1,000,000) for personal injury and One Million Dollars ($1,000,000) for property damage.

14. GENERAL AGREEMENT OF PARTIES. All rights and obligations hereunder shall extend to and be binding upon the several representatives, successors and assigns of the parties to this mortgage. The titles of the several paragraphs of this mortgage are for convenience only and do not define, limit or construe the contents of such paragraphs.

IN WITNESS WHEREOF, the Mortgagor has executed this mortgage, this 31st day of July, 1990.

BLOOMINGTON AREA ARTS COUNCIL, INC.,
an Indiana not-for-profit corporation

By: Elizabeth P. Blumenthal
(signature)

Elizabeth P. Blumenthal, Pres of Board
(printed name and title)

By: Jeffrey L. Davidson
(signature)

JEFFREY L. DAVIDSON, TREASURER
(printed name and title)

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

BOOK A552 PAGE 420

Before me, a Notary Public in and for said County and State, personally appeared Elizabeth P. Blumenthal and Jefrey L. Davidson, the President of the Board and Treasurer, respectively, of the Bloomington Area Arts Council, Inc., an Indiana not-for-profit corporation, who acknowledged the execution of the foregoing mortgage as such officers acting for and on behalf of said corporation.

Witness my hand and Notarial Seal this 31st day of July, 1990.

Kara N. Kalb
(signature)

Kara N. Kalb
(printed name) Notary Public

My Commission Expires: 22 July 1993

County of Residence: Monroe

This instrument was prepared by Robert E. Evans, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282; Telephone: (317) 236-2100.

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BOOK 377 PAGE 13

QUITCLAIM DEED

THIS INDENTURE WITNESSETH, that THE CITY OF BLOOMINGTON, INDIANA ("Grantor") CONVEYS and QUITCLAIMS to THE BLOOMINGTON AREA ARTS COUNCIL, INC., an Indiana not-for-profit corporation ("Grantee"), for the sum of Ten Dollars ($10.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Monroe County, in the State of Indiana:

Units A1, A2 + A3 in the Arts Square Horizontal Property Regime, as established by a Declaration of Arts Square Horizontal Property Regime, dated July 3rd, 1990, and recorded July 27th, 1990, in Misc. Record Book 201, pages 371-412 in the Office of the Recorder of Monroe County, Indiana, together with an undivided Percentage Interest in the Common Areas of Arts Square Horizontal Property Regime, as set out in said Declaration and any subsequent amendments thereto (hereinafter called the "Real Estate").

Subject to the covenants, conditions, restrictions, limitations, reservations, easements, agreements and other provisions including but not limited to the provisions for the payment of money and the lien therefore, contained in the Declaration of Arts Square Horizontal Property Regime, or the By-Laws attached thereto and recorded therewith, or any amendment thereto;

Subject also to all easements, restrictions, rights-of-way, encumbrances, or other matters apparent or of record, and those matters which would be disclosed by an accurate survey and physical inspection of the Real Estate.

As part of the consideration for this conveyance, and by the acceptance of this instrument, the Grantee herein, for itself, its heirs, successors and assigns, does hereby agree that:

1. In the event the Real Estate is not rehabilitated and renovated in accordance with plans therefor submitted to and approved by Grantor's City Engineer by May 1, 1993, and/or the operation of a community arts center therein has not commenced by that date, all of the premises herein conveyed and quitclaimed shall, upon sixty (60) days written notice to Grantee, revert to Grantor, unless (a) the May 1, 1993 date is extended by Grantor, or (b) compliance occurs within such sixty (60) day period. Upon written request by Grantee, Grantor in its sole discretion may further extend such date to a reasonable time for compliance.

2. If, at any time after the Real Estate is placed into operation as a community arts center and prior to May 1, 2000, less than seventy-two percent (72%) of the floor space of the Real Estate is used as a community arts center, all of the premises herein conveyed and quitclaimed shall, immediately and without further action, revert to Grantor.

3. For the purposes of this Quitclaim Deed, the term "community arts center" shall mean as follows:

The use of the Real Estate by and for the educational, artistic, or cultural benefit of community groups, individuals and the general public of The City of Bloomington, Indiana.

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4. For the purposes of this Quitclaim Deed, the term "operation" or "placed into operation" shall mean as follows:

Fully operational, able to accept members of the general public, and open to the general public during reasonable, regularly scheduled business hours.

5. In the event of a reversion pursuant to paragraphs 1 or 2 above, Grantee herein or its heirs, successors or assigns, upon written request by Grantor, shall execute and deliver or cause to be executed and delivered to Grantor, its successors or assigns or nominee, a good and sufficient quitclaim deed, properly acknowledged, reconveying the Real Estate to Grantor or its successors or assigns or nominee. In the event of such reversion and upon the event of a subsequent sale of the Real Estate by Grantor, Grantor shall pay to Grantee, any proceeds of such sale, net of all sellers expenses, in excess of $270,000, but not to exceed the lesser of: (a) the cost of any improvements made to the Real Estate by Grantee, appropriately depreciated in accordance with applicable Internal Revenue Code provisions from the date such improvements were made to the Real Estate to the date of such sale, or (b) the fair market value of such improvements on the date of reversion; subject to appropriation by the Common Council of Grantor, and subject to Grantee, at its own expense, providing documentation of such amounts to the reasonable satisfaction of Grantor. Grantor shall make a good faith effort to sell the Real Estate in the event of a reversion.

6. In the event of a reversion pursuant to paragraphs 1 or 2 above, Grantee herein or its heirs, successors or assigns, shall at its sole cost and expense remove or cause to be removed from all of the said premises any and all personal property which they may have placed thereon or caused to be placed thereon, and leave said premises in a condition reasonably satisfactory to Grantor, or failing to remove such property within sixty (60) days after the date of reversion, Grantor or its successors or assigns or nominee may remove such property or any part thereof, and Grantee herein agrees for itself and its heirs, successors or assigns to pay to Grantor, upon demand, the entire cost and expense thereof.

The undersigned persons executing this Quitclaim Deed on behalf of Grantor represent and certify that they are officials of Grantor and have been fully empowered, by proper resolution of Grantor, to execute and deliver this deed on behalf of Grantor, and that all necessary action for the making of such conveyance has been taken and done. There is no Indiana gross income tax due upon the conveyance made hereby.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed this 31st day of July, 1990.

CITY OF BLOOMINGTON, INDIANA

DULY ENTERED
FOR TAXATION

AUG 0 3 1990

Margaret Cook
Auditor Monroe County, Indiana

By: Tomilea Allison
Tomilea Allison, Mayor
City of Bloomington

By: Iris F. Kiesling
Iris F. Kiesling, President
Bloomington Common Council

By: Frank N. Hrisomalos MD
Dr. Frank N. Hrisomalos, President
Bloomington Board of Public Works

Attest:

By: Patricia Williams
Patricia Williams, Clerk
City of Bloomington

Approved as to Legal Form:

Patricia S. Bernens
Patricia S. Bernens, City Attorney

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

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Before me, a Notary Public in and for said County and State, personally appeared Tomilea Allison, Mayor, Iris F. Kiesling, President of the Common Council, and Dr. Frank N. Hrisomalos, President of the Board of Public Works, of The City of Bloomington, Indiana, who acknowledged the execution of the foregoing Deed for and on behalf of the City of Bloomington, Indiana, and who having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and notarial seal this 31st day of July, 1990.

Nora Lee Whaley
(Signature)

NORA LEE WHALEY
(Printed Name) NOTARY PUBLIC

My Commission Expires:
8/13/91

My County of Residence:
Monroe

Send tax statements to:

Donna S. Robinson
Bloomington Area Arts Council, Inc.
202 East Sixth Street
Bloomington, IN 47408

This instrument was prepared by Robert G. Evans, Ice Miller Donadio & Ryan, One American Square, Box 8200, Indianapolis, Indiana 46282; Telephone: (317) 236-2100.

INTERLOCAL COOPERATION AGREEMENT BETWEEN
THE CITY OF BLOOMINGTON, INDIANA AND
THE BLOOMINGTON TRANSPORTATION CORPORATION

WHEREAS, Ind. Code §36-1-7-1, et seq., authorizes governmental entities to enter into agreements for the purpose of interlocal cooperation; and

WHEREAS, Ind. Code §36-9-4-12 authorizes the creation of the Bloomington Public Transportation Corporation, which is a municipal corporation, separate and independent from the City of Bloomington; and

WHEREAS, Ind. Code §36-9-4-33 authorizes the Board of Directors of a Public Transportation Corporation to contract with any person upon the terms and conditions the Board considers best for the Corporation; and

WHEREAS, the City of Bloomington, Indiana (hereinafter "City") provides services to the Bloomington Public Transportation Corporation (hereinafter "BPTC"), which if not so provided would have to be provided by the BPTC itself; and

WHEREAS, the BPTC wishes to compensate the City for the services provided; and

WHEREAS, these payments for services should be based upon statistically verifiable costs which may be applied to a formula which can be easily translated from year to year; and

WHEREAS, this Agreement is to be renewed each year only after both the City and BPTC review the services provided, so that the formula can be adjusted, if necessary.

NOW, THEREFORE, the City and BPTC agree as follows:

1. Duration

A. This Agreement shall be in full force and effect from January 1, 1989, until December 31, 1989.

B. The parties agree to renegotiate this Agreement at a mutually agreeable time to become effective for the calendar year 1989.

2. Purpose

The purpose of this Agreement is to establish that certain services shall be provided by the City to the BPTC, and that the BPTC shall compensate the City for these services.

3. Provision of Services

A. The City shall provide the BPTC with the services of the City's Personnel Department. Said services may include, but shall not be limited to: processing claims submitted to the Indiana Department of Employment and Training Services; processing employee's claims submitted to the BPTC's health insurance provider; and providing general advice regarding personnel issues and problems to Bloomington Transit management and the BPTC Board of Directors.

B. The City shall provide the BPTC with the services of the City's Controller's Office. Said services may include, but shall not be limited to: reviewing claims; issuing checks; assisting in the preparation of an annual budget; reporting to the BPTC Board of Directors regarding the financial status of the BPTC; investing idle funds; receiving cash receipts; reconciling bank statements; representing the BPTC before State Board of Tax Commissioners hearings; processing tax anticipation warrants; advising and assisting Bloomington management and the BPTC Board of Directors in fiscal matters; and data processing services, including but not limited to hardware and software consultation.

C. The City shall provide the BPTC with the services of the City's Legal Department. Said services may include, but shall not be limited to: preparing, negotiating, and reviewing contracts; representing the BPTC in legal matters; initiating and responding to legal actions on behalf of the BPTC; reviewing ordinances and resolutions; and advising and counseling Bloomington Transit management and the BPTC Board of Directors in legal matters.

D. The City shall provide the BPTC with the services of the City's Planning Department. Said services may include, but shall not be limited to: preparing studies and reports required by various state and federal agencies as a prerequisite for funding, and advising and assisting in Bloomington Transit management and the BPTC Board of Directors in planning matters.

4. Method of Payment

The BPTC shall pay the City at least $27,980.00 in 1989 for the provision of the aforementioned services. Payment shall be made in four installments of at least $6,995.00, due and payable on March 31, 1989, June 30, 1989, September 30, 1989, and December 31, 1989. The method of payment is based on the following formula:

A. Personnel Department

Budget	$103,625.00		
Fringe[1]	17,055.00		
Workers Comp[2]	894.00		
958 Sq. Ft.[3]	6,227.00		
	$127,801.00	x 3%	= $3,834.00

B. Controller's Office

Budget	$379,289.00		
Fringe[1]	45,398.00		
Workers Comp[2]	2,458.00		
1797 Sq. Ft.[3]	11,681.00		
	$438,826.00	x 4%	= $17,553.00

C. Legal Department

Budget	$181,536.00		
Fringe[1]	29,287.00		
Workers Comp[2]	1,589.00		
1132 Sq. Ft.[3]	7,358.00		
	$219,770.00	x 3%	= $6,593.00

D. Planning Department

The Planning Department often prepares reports, studies and other documents for the BPTC, that are submitted to various state and federal agencies, for which the Planning Department is reimbursed, at a specified rate. The BPTC shall pay the City the difference, if any, between the amount of reimbursement, if any, and the actual cost for the provision of services for all reports, studies and other documents prepared on behalf of, or benefitting the BPTC.

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[1] Fringe is determined by calculating the following benefits:
7.5% PERF
7.51% FICA
$548.88/yr Employee Life and Health Insurance
1% unemployment

[2] Workers' compensation is calculated by multiplying salaries by 1.0%.

[3] Space rental is calculated at $6.50 per square foot.

The actual cost to the Planning Department shall be determined by applying the same formula for reimbursement. The reimbursement formula is as follows:

Director	$17.57 per hour
Senior Planner	$14.21 per hour
Planner II	$12.58 per hour
Planner I	$10.26 per hour
Planning Technician	$ 8.81 per hour
Secretary II	Not Applicable
Secretary I	Not Applicable
Fringe[4]	42.1% of salaries
Indirect Cost[5]	40.3% of total

The Planning Department shall submit an accounting of all hours spent by Planning Department staff on BPTC projects to BPTC and the City/BPTC Controller. The Planning Department shall also submit, to the BPTC and the City/BPTC Controller, an accounting of the amount of money to be reimbursed by federal or state agencies, and the balance due by the BPTC. These accountings shall be submitted by March 15, 1989, June 15, 1989, September 15, 1989, and December 15, 1989.

Any money due the City, as a result of work performed by the Planning Department, shall be in addition to the $6,995.00 quarterly payment due from the BPTC to the City under the terms of this Agreement. However, the BPTC shall not be obliged to pay the City more than $3,000.00 for the services of the Planning Department during 1989.

5. Manner of Financing

The BPTC shall pay all monies due with money it receives from any available source, including but not limited to, federal grants, farebox revenues and taxes.

6. Administration

There is hereby established a Joint Board. The Joint Board shall consist of three members. One member shall be appointed by, and serve at the pleasure of the BPTC Board of Directors. One member shall be appointed by, and serve at the pleasure of the Mayor of Bloomington. The third member shall be appointed by the other two members.

The Joint Board shall meet from time to time, as necessary. All meetings of the Joint Board shall be conducted according to Robert's Rules of Order. A majority of Joint Board members must be present in order to conduct business, and a majority of Joint Board members present must agree before any action is taken.

The Joint Board shall select one member as chairperson, and another member as secretary. It shall be the secretary's responsibility to prepare agendas and minutes, and to maintain the records of the Joint Board.

It shall be the responsibility of the Joint Board to administer and interpret this Agreement, and to settle any dispute arising between the parties.

7. Termination and Amendment of Agreement

This Agreement may be terminated and/or amended only with the mutual written consent of both parties.

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[4] Fringe includes compensation for employee benefits, including worker's compensation and unemployment insurance; FICA; PERF; health, dental and life insurance; sick, vacation and personal business days; and holidays.

[5] Indirect Cost includes compensation for items such as secretarial services; phone calls; postage; copying; and office supplies.