

9125323

WHEN RECORDED, PLEASE MAIL TO:

Robert A. McConnell
PARR WADDOUPS BROWN GEE & LOVELESS
185 South State Street, Suite 1300
Salt Lake City, Utah 84111-1537

9125323
07/20/2004 04:37 PM 24.00
Book - 9016 Pg - 2655-2662
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
LANDMARK TITLE
BY: EHB, DEPUTY - MI 8 P.

**SECOND AMENDMENT
TO
DECLARATION OF CONDOMINIUM
GATEWAY BLOCK B CONDOMINIUM PROJECT
AND
AMENDMENT OF RECORD OF SURVEY MAP**

THIS SECOND AMENDMENT TO DECLARATION OF CONDOMINIUM FOR GATEWAY BLOCK B CONDOMINIUM PROJECT (the "Amendment") is entered into this 6th day of July, 2004, by **GATEWAY ASSOCIATES, LTD.**, a Utah limited partnership (together with its successors and assigns, "Declarant"), **GATEWAY BLOCK B CONDOMINIUM ASSOCIATION, INC.**, a Utah non-profit corporation ("Association"), **GATEWAY RETAIL HOLDINGS, L.C.**, a Utah limited liability company ("Owner: Retail Units 1, 2, & 3, Parking Unit 1 and CP Unit 1"), and **GATEWAY OFFICE 1, L.C.**, a Utah limited liability company ("Owner: Office Unit 1"). Capitalized terms used herein shall have the meaning given such terms in the Declaration, as that term is defined below, unless otherwise stated herein.

RECITALS

A. Whereas Declarant executed and caused to be recorded that certain Declaration of Condominium for Gateway Block B Condominium Project (as heretofore amended, the "Declaration"), dated February 23, 2001, and caused the same to be recorded in the office of the Salt Lake County Recorder on February 26, 2001, as Entry No.7828971 in Book 8427 at Page 4752-4829;

B. Whereas Declarant executed and caused to be recorded that certain Record of Survey Map for Gateway Block B, a Utah Condominium Project (the "Map"), and caused the same to be recorded in the office of the Salt Lake County Recorder on February 26, 2001, as Entry No 7828970 (2001P-39) in Book 8427 at Page 4751;

ORIGINAL

LTC 35207

C. Whereas Declarant executed and caused to be recorded that certain First Amendment to Declaration of Condominium for Gateway Block B Condominium Project and Amendment of Record of Survey Map (the "First Amendment"), and caused the same to be recorded in the office of the Salt Lake County Recorder on May 16, 2003, as Entry No 8235748 in Book 8598 at Page 7012;

D. Whereas the Declaration subjects that certain real property more particularly described on Exhibit A hereto to the provisions of the Act;

E. Whereas the Map supplements the Declaration and whereas Sections 3.04 and 18.03 of the Declaration provide, respectively, that the allocation of Limited Common Elements to Units may be altered upon the written consent of all Owners who are affected by such reallocation and that the Declaration may be amended by the Owners at any time by a vote of at least sixty-seven percent (67%) of the votes allocated to all Units; and

F. Whereas the undersigned represent the Association and the Owners of Units constituting more than sixty-seven percent (67%) of the votes allocated to all Units and desire to amend the Declaration and the Map as stated herein.

NOW, THEREFORE, in consideration of the mutual obligations set forth herein and for other good and valuable consideration, the legal sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. *Paragraph (bbb) of Section 1.01 is hereby deleted in its entirety and replaced with the following:*

(bbb) "SCM Unit" means a Unit consisting of a separately existing and specifically defined air space within which the Owner of the SCM Unit shall construct, maintain and operate an SCM Structure. SCM Units may be designated as either for retail or office use. Each SCM Unit shall be bounded by: (I) a lower and upper horizontal plane, the respective elevations of which shall be specifically set forth on the Map; and (II) four (4) vertical planes that are respectively formed by projecting vertically, upwards from the lower horizontal plane to the upper horizontal plane, the perimeter boundaries identified on the Map for such SCM Unit. Each SCM Unit shall include all improvements located within the SCM Unit including, without limitation, the columns, girders, beams, supports, perimeter and supporting walls, utility systems, mechanical systems, sprinkler systems, exhaust, heating and ventilation systems, storage areas, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, chimneys, drainage facilities, patios, balconies, decks, porches, courtyards, stoops, exits and entrances, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for the exclusive use of the SCM Unit. The SCM Units in the Project are identified as "Retail Unit 2," "Office Unit 1," and "Office Unit 2" on the Map. Notwithstanding any designation on the Map to the contrary, the east, west, and south exterior walls of Retail Unit 2, as well as the eastern portion of the north exterior wall of Retail Unit 2 from its

eastern most point to the point where it intersects with the eastern most boundary of Retail Unit 3 on "Level 02 Plan View" is not a "Common Element," as the said walls exist for the exclusive use of Retail Unit 2 and constitute a part of the SCM Structure constructed within Retail Unit 2. Notwithstanding any designation on the Map to the contrary, the eastern exterior wall of Office Unit 2 on Level 02, 03 and 04 Plan View, and all exterior walls and roof structures forming the physical boundary of Office Unit 2 and shown on the Map above and including Level 05 Plan View are not "Common Elements," as the said walls exist for the exclusive use of Office Unit 2 and constitute a part of the SCM Structure constructed within Office Unit 2. The following exterior walls of Office Unit 2 as shown on the Map constitute Common Elements: (i) all exterior walls surrounding the elevator lobbies and lift areas on Parking Levels 01 and 02 Plan View and Level 01 Plan View; (ii) the southern, northern and western exterior boundary walls on Level 02, 03 and 04 Plan View. Notwithstanding any designation in the Map to the contrary, the southern and eastern exterior walls forming the physical boundary of Office Unit 1 above and including Level 02 Plan View, the northern exterior wall forming the physical boundary of Office Unit 1 and shown on the Map above and including Level 05 Plan View, and all exterior walls and roof structures forming the physical boundary of Office Unit 1 and shown on the Map above and including Level 09 Plan View are not "Common Elements" as the said walls exist for the exclusive use of Office Unit 1 and constitute a part of the SCM Structure constructed within Office Unit 1. The following exterior walls of Office Unit 1, as shown on the Map, constitute Common Elements: (i) all exterior walls surrounding the elevator lobbies and lift areas on Parking Levels 01 and 02 Plan View and Level 01 Plan View; (ii) the northern and western exterior boundary walls on Level 02, 03 and 04 Plan View; and (iii) the western exterior boundary walls on Level 05, 06, 07 and 08 Plan View (but, with respect to Level 08, only such portion as is contiguous with Retail Unit 4).

2. *Section 3.01(a) is hereby deleted in its entirety and replaced with the following:*

3.01 The Building.

(a) The Improvements included in the Condominium Project are now or will be located on the Land. The significant Improvements contained in the Condominium Project include: one (1) Base Structure; three (3) SCM Structures; three (3) SCM Units (i.e. Retail Unit 2, Office Unit 1 and Office Unit 2); one (1) CP Unit; three (3) Retail Units (excluding Retail Unit 2); and one (1) Parking Unit in six (6) above-and-below-grade parking levels, storage areas, asphalt or concrete driveways, and the Common Elements. The location and configuration of the Improvements referred to in the foregoing sentence are depicted on the Map. The Condominium Project also contains other improvements of a less significant nature which are not depicted on the Map, such as outdoor lighting, area landscaping and concrete sidewalks and walkways. The Map shows the number of stories and the number of Units which are contained, or are to be contained, in the Building included in the Condominium Project.

3. *Section 3.02(a) is hereby deleted in its entirety and replaced with the following:*

3.02 Units.

(a) Declarant hereby creates: three (3) SCM Units (i.e., Retail Unit 2, Office Unit 1 and Office Unit 2); one (1) CP Unit; three (3) Retail Units (excluding Retail Unit 2); and one (1) Parking Unit within the Condominium Project. The Map shows the Unit Number of each Unit, its location, dimensions from which its Area may be determined, and the General Common Elements and Limited Common Elements to which it has access. Each Unit shall be capable of being separately owned, encumbered and conveyed. Each Owner of a Unit shall be entitled to the exclusive ownership and possession of such Owner's Unit, subject to the terms and conditions of this Declaration.

4. *To the extent that the modifications to the Declaration reflected in this Amendment are contrary to the Map, the Map shall be deemed and is hereby amended so as to be consistent with terms of the Declaration, as amended hereby.*
5. *To the extent the terms of this Amendment modify or conflict with any provisions of the Declaration, the terms of this Amendment shall control. All other terms of the Declaration not modified by this Amendment shall remain the same and are hereby ratified and affirmed. Capitalized terms not specifically defined herein shall have the same meaning as set forth in the Declaration unless a contrary intent is clearly implicated.*


ENTERED INTO AND AGREED TO on the first date set forth above.

"DECLARANT"

GATEWAY ASSOCIATES, LTD. a Utah limited partnership, by its general partner:

BOYER GATEWAY, L.C., a Utah limited liability company, by its manager:


THE BOYER COMPANY, L.C., a Utah limited liability company

By: 
Its: manager

(Signatures continue on the following page)

“ASSOCIATION”


**GATEWAY BLOCK B CONDOMINIUM
ASSOCIATION, INC.**, a Utah non-profit corporation,

By: 
Steven B. Ostler, Secretary

**“OWNER: RETAIL UNITS 1, 2, & 3, PARKING UNIT 1
AND CP UNIT 1”**

GATEWAY RETAIL HOLDINGS, L.C., a Utah limited
liability company, by its Manager:

GATEWAY RETAIL MANAGER, INC., a Utah
corporation

By: 
Steven B. Ostler, President

“OWNER: OFFICE UNIT 1”

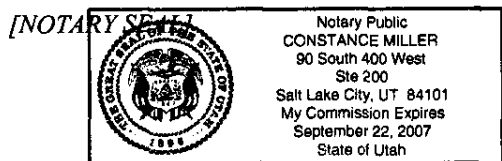
GATEWAY OFFICE 1, L.C., a Utah limited liability
company, by its Manager:

GATEWAY OFFICE MANAGER, INC., a Utah
corporation

By: 
Steven B. Ostler, Vice-President

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

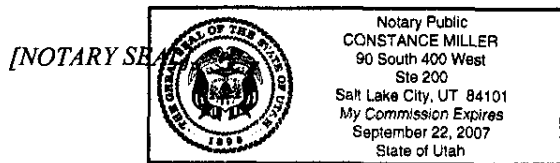
On this 6th day of July, 2004, before me personally appeared Steven B. Ostler, who acknowledged himself to be a Manager of The Boyer Company, L.C., the Manager of Boyer Gateway, L.C., the General Partner of Gateway Associates, Ltd., a Utah limited partnership, and being authorized to do so, he executed the foregoing instrument for the purposes therein contained, by signing the name of the Company, by himself as such officer.



Constance Miller
Notary Public

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

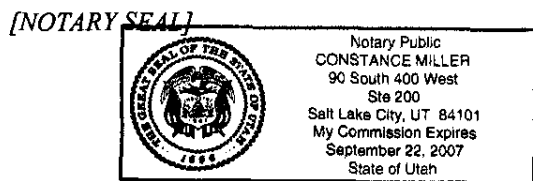
On this 6th day of July, 2004, before me personally appeared Steven B. Ostler, who acknowledged himself to be the Secretary of Gateway Block B Condominium Association, Inc., a Utah non-profit corporation, and being authorized to do so, he executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation, by himself as such officer.



Constance Miller
Notary Public

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On this _____ day of July, 2004, before me personally appeared Steven B. Ostler, who acknowledged himself to be the President of Gateway Retail Manager, Inc., a Utah corporation, the Manager of Gateway Retail Holdings, L.C., a Utah limited liability company, and being authorized to do so, he executed the foregoing instrument for the purposes therein contained, by signing the name of the Company, by himself as such officer.

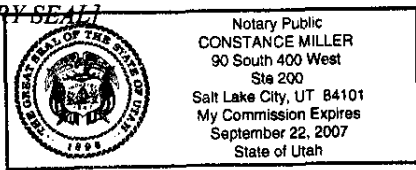


Constance Miller
Notary Public

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On this 6th day of July, 2004, before me personally appeared Steven B. Ostler, who acknowledged himself to be the Vice-President of Gateway Office Manager, Inc., a Utah corporation, the Manager of Gateway Office 1, L.C., a Utah limited liability company, and being authorized to do so, he executed the foregoing instrument for the purposes therein contained, by signing the name of the Company, by himself as such officer.

[NOTARY SEAL]



Constance Miller
Notary Public

EXHIBIT A
to
**Second Amendment to Declaration
Of Condominium
for Gateway Block B Condominium Project**

(Legal Description of the Land)

The "Land" referred to in the foregoing Second Amendment to Declaration of Condominium is located in Salt Lake County, Utah, and is more particularly described as follows:

Beginning at a point South 11.70 feet and West 1.35 feet from the Southeast corner of Block 80, Plat "A," Salt Lake City Survey; thence West 379.33 feet; thence North 738.81 feet; thence East 173.08 feet; thence South 79.61 feet; thence S38°16'34" E, 153.55 feet; thence East 111.13 feet; thence South 543.66 feet to the point of beginning. Containing 5.618 acres.

Tax Parcel I.D. No. 15-01-126-010

<< >>

[FOR REFERENCE PURPOSES ONLY: Current Tax Serial (Sidwell) Numbers 15-01-131-001 through 15-01-131-005, inclusive, and 15-01-131-007 through 15-01-131-015, inclusive]