

NONPROFIT

**ARTICLES OF INCORPORATION
OF
CROSSTIMBERS TOWNHOMES OWNERS ASSOCIATION, INC.**

THE UNDERSIGNED natural persons, being more than eighteen years of age, hereby establish a nonprofit corporation pursuant to the Colorado Nonprofit Corporation Act, and adopt the following Articles of Incorporation:

ARTICLE I

The name of the corporation is CrossTimbers Townhomes Owners Association, Inc. The corporation is sometimes hereinafter referred to as the "Association."

ARTICLE II

The corporation shall have perpetual existence.

ARTICLE III

As used in these Articles of Incorporation and in the Bylaws of the corporation, the terms "Allocated Interest," "Association Control Period," "Building," "Common Elements," "Common Expenses," "Project," "Declarant," "Declarant Control Period," "First Lienor," "Limited Common Elements," "Mortgagee," "Owner," "Plat," "Project," "Real Estate," and "Unit" shall have the same meanings as defined in the Declaration of Conditions, Covenants, Restrictions and Easements for CrossTimbers at Steamboat, a Colorado Common Interest Community, recorded or to be recorded in the real property records of Routt County, Colorado, as the same may be amended from time to time (herein called the "Declaration"). The terms defined in C.R.S. §38-33.3-103 shall have the same meanings when used in these Articles of Incorporation.

ARTICLE IV

(a) **Purposes.** The Association shall operate the Common Interest Community known as CrossTimbers at Steamboat (the "Project"), located in the City of Steamboat Springs, Routt County, Colorado, in accordance with the Colorado Common Interest Ownership Act ("CCIOA"), C.R.S. §38-33.3-101 et seq., and the Colorado Nonprofit Corporation Act, as either may be amended from time to time. The objects and purposes of the Association shall be: (i) to provide for the care, upkeep, operation, management, repair, maintenance and supervision of the Project; (ii) to provide for and accomplish the installation, construction, erection, repair, maintenance, conservation, administration, improvement, replacement, management, operation, insuring, restoration and supervision of the Common Elements in the Project and any and all real and personal property acquired (by purchase, lease or otherwise) by the Association or which the Association is otherwise

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obligated to maintain; (iii) to provide for architectural and aesthetic control within the Project; (iv) to enforce the provisions of the Declaration, as amended from time to time, these Articles of Incorporation, the Bylaws and the Rules and Regulations of the Association; (v) to define membership in the Association and the voting rights of the members; (vi) to regulate and control the relationships among the Owners of Units, in connection with their ownership of the Units; (vii) to provide for the pleasure and recreation of the Owners; (viii) to promote the health, safety, welfare and common benefit of the Owners of the Project, and to promote the best interests of the Owners for the purpose of securing for them the fullest utilization and enjoyment of the Project; and (ix) to pay the Common Expenses, and to assess and collect the Common Expense liability from the Owners.

(b) **Powers.** In furtherance of the foregoing purposes, the Association shall have and may exercise any and all powers and authority, and do any and all acts, which are delegated, described or provided, expressly or implicitly, to the Association in the Declaration, these Articles of Incorporation, the Bylaws and the Rules and Regulations of the Association, and shall have and may exercise any and all permitted acts, powers, rights, and privileges which are granted to a Common Interest Community Association under the laws of the State of Colorado. The foregoing statements of purposes and powers shall be construed as statements of both purposes and powers. The purposes and powers stated in each clause or phrase shall not be limited or restricted by reference to or inference from the terms or provisions of any other clause or phrase, but shall be broadly construed as independent purposes and powers. As part of the powers of the Association, but not in limitation of the full plenary power of the Association, the Association shall have the power:

(1) **Real and Personal Property.** To acquire, by gift, purchase, trade or any other method, and to own, lease from third parties, operate, build, manage, use, rent, sell, hold, develop, improve, encumber, and otherwise deal in and with real and personal property of every kind and character, tangible and intangible, wherever located, and interests of every sort therein.

(2) **Borrowing.** To borrow funds or raise money in any amount for any of the purposes of the Association and from time to time to execute, accept, endorse and deliver, as evidence of such borrowing, all kinds of instruments and securities, including, but without limiting the generality of the foregoing, promissory notes, drafts, bills of exchange, warrants, bonds, debentures, property certificates, trust certificates and other negotiable or non-negotiable instruments and evidences of indebtedness, and to secure the payment and performance of such securities by mortgage on, or pledge, conveyance, deed or assignment in trust of, the whole or any part of the assets of the Association, real, personal, or mixed, including contract rights, whether at the time owned or hereafter acquired, subject, however, to any limitations provided in the Declaration.

(3) **Contracts.** To enter into, make, amend, perform and carry out, or cancel and rescind contracts, leases, permits and concession agreements for any lawful purposes pertaining to its business.

(4) **Assessments.** To fix, determine, levy and collect general and special Common Expense assessments pursuant to the Declaration, including without limitation, assessments to fund any reserve deemed appropriate by the Executive Board or required by the Declaration, and to levy and collect fees (including, without limitation, attorneys' fees), late charges, costs and interest in accordance with the Declaration, and to exercise and enforce any and all remedies provided in the Declaration for collection of such assessments, fees, late charges, costs and interest. The Association shall commence levy and collection of general Common Expense assessments not later than the next month after the first Unit in the Project is sold and conveyed by Declarant.

(5) **Rule-Making.** To make and enforce rules and regulations with regard to the management, use, occupancy, appearance, and operation of the Units and the Common Elements (including the Limited Common Elements) of the Project and the assets of the Association.

(6) **Construction, Management, Maintenance and Repair.** To provide for the management, maintenance and repair of the Project, and to construct, install, erect, replace, maintain, repair, manage and supervise buildings, recreational facilities, structures and any improvements (whether like or unlike the foregoing) now or hereafter installed or existing on, under, within, or above the Common Elements or Association property.

(7) **General Powers.** To do everything necessary, suitable or proper for the accomplishment of any of the purposes, the attainment of any of the objects, or the furtherance of any of the powers above set forth, either alone or in connection with other corporations, firms or individuals, and either as principal or agent, to do every act or thing incidental or appurtenant to, or growing out of, or connected with any of the aforesaid objects, purposes or powers, and to do any act authorized or permitted by the Declaration.

(8) **Powers Conferred by Law.** The Association shall have all powers provided or permitted by the Declaration, and shall have all powers provided or permitted by the CCIOA and the laws of Colorado for nonprofit corporations.

The foregoing enumeration of specific powers shall not limit or restrict in any manner the general powers of the Association and the enjoyment and exercise thereof as now are or may hereafter be conferred by the laws of Colorado or the Declaration.

(c) **Restrictions Upon Purposes and Powers.** The purposes and powers of the Association are subject to the following limitations:

(1) The Executive Board of the Association may, for any taxable year of the Association, elect to have Section 528 of the Internal Revenue Code apply to the Association. So long as the Directors shall have so elected that said Section 528 apply to the next ensuing taxable year of the Association, then:

~ The Association shall be organized and operated solely as a "homeowners' association," as defined in and limited by Section 528(c) of the Internal Revenue Code, for such year;

~ The Association shall not for such taxable year receive more than 40% of its gross income from amounts other than membership dues, fees and assessments from Owners of townhouse units;

~ The Association shall not for such taxable year expend more than 10% of its gross expenditures for purposes other than the acquisition, construction, management, maintenance and care of real and personal property held by the Association and other property qualifying as "association property" under Section 528(c)(4) of the Internal Revenue Code.

(2) No part of the net earnings of the Association shall inure to the benefit of any member of the Association (other than by acquiring, constructing or providing management, maintenance, and care of such property of the Association qualifying as "association property" under Section 528(c)(4) of the Internal Revenue Code, and other than by a rebate of excess membership dues, fees of assessments); and

(d) Dividends, Distributions, etc. The Association shall not pay any dividends. No distribution of the corporate assets to members shall be made until all corporate debts are paid, and then only upon final dissolution of the Association. Upon dissolution and after winding up the affairs of the Association, funds remaining after payment of all debts shall be distributed among the Owners in accordance with their Allocated Interests, and assets other than funds shall be distributed, transferred and conveyed to the Owners as tenants-in-common, in accordance with their Allocated Interests.

ARTICLE V

The operations of the Association shall be conducted at such places within or outside of the United States as may from time to time be determined by the Executive Board in its discretion. The name and mailing address of the initial registered agent of the Association is Robert G. Weiss, P.O. Box 880550, Steamboat Springs, Colorado 80488. The street address of the initial registered agent is 2155 Resort Drive, Suite 210, Steamboat Springs, Colorado 80477.

ARTICLE VI

(a) **Members.** Any person or combination of persons owning an undivided fee simple interest in a Unit (including Declarant as respects Units from time to time owned by Declarant) in the Project shall automatically be a member of the Association. Such membership shall be continuous throughout the period that such ownership continues. After termination of the Common Interest Community pursuant to the Act, any person or combination of persons formerly owning an undivided fee simple interest in a Unit who is entitled to distributions of proceeds under C.R.S. §38-33.3-218, or the heirs, personal representatives, successors, or assigns of any such person, shall be a member of the Association. Termination of membership shall not relieve or release any former member from any liability or obligation incurred by virtue of or in any way connected with ownership of a Unit, or impair any rights or remedies which the Association or others may have against such former Owner and member arising out of in any way connected with such ownership or membership.

(b) **Individual Membership.** Any individual acquiring an ownership interest in a Unit shall automatically become an individual member of the Association.

(c) **Organizational Membership.** Any entity, other than an individual, who acquires an ownership interest in a Unit, such as a corporation, partnership, association, or trust, shall automatically become an organizational member of the Association. Each organizational member shall from time to time designate in writing to the Association one individual who may represent it with respect to such Unit at meetings and vote on behalf of such organizational member. The Association shall maintain a record of the person entitled to vote on behalf of such organizational member with respect to such Unit and, until the Association is notified in writing to the contrary, only such designated person, or the written proxy of such designated person, may cast the votes of the organizational member with respect to such Unit, and any action taken by such individual purporting to act on behalf of the organizational member shall be binding upon such organizational member. If an organizational member owns an interest in more than one Unit, such organizational member may designate separate individuals to represent such organizational member with respect to each separate Unit.

(d) **One Class.** The individual members and organizational members shall constitute one class of members of the Association, being Owners who own fee simple interests in Units as defined in the Declaration.

(e) **Number of Votes; Voting Rights.** Each Unit shall be allocated one (1) vote on all and any matters to be voted on by the members of the Association. The allocation of votes shall be calculated on the basis of one (1) vote per Unit. If a Unit is owned entirely by one individual or one organizational member, such individual member or the designated representative of the organizational member with respect to such Unit may cast and vote the vote allocated to such Unit. If, however, a Unit is owned in fee simple by two or more

persons, whether in joint tenancy or tenancy-in-common or otherwise, then all persons owning fee simple interests in such Unit shall from time to time, by majority vote amongst them or by any other method to which they all agree, select and designate in writing to the Association one individual who shall be entitled to vote and cast the vote allotted to such Unit. The Association shall maintain a record of the individual entitled from time to time to vote on behalf of all persons owning fee simple interests in such Unit, and until the Association is notified in writing to the contrary, only such designated individual, or the written proxy of such designated individual, may cast the vote allotted to such Unit, and any action taken by such individual purporting to act on behalf of such persons shall be binding upon such persons. Division of the votes allocated to a single Unit among multiple Owners of such Unit shall not be allowed; rather, the vote allotted to a Unit shall be voted entirely and undivided for or against or in abstention of an issue or matter put to vote among the members of the Association.

(f) **Quorum.** Except as otherwise provided in these Articles of Incorporation, including, without limitation, Article VII below, at any meeting of the members of the Association, the presence, in person or by proxy, of members holding at least one-half (1/2) of the votes entitled to be cast at such meeting shall constitute a quorum. An affirmative vote of a two-thirds (2/3) majority of the members present at any such meeting, either in person or by proxy, shall be required to transact the business of such meeting.

ARTICLE VII

(a) **Executive Board.** The control and management of the affairs of the Association and the disposition of its funds and property shall be vested in the directors. All of the directors shall constitute the Executive Board. The number of directors shall be not less than one nor more than five, as may be set by the Bylaws from time to time in effect, and each director shall serve for a term of one year to three years, as may be set by the Bylaws from time to time in effect and until his or her successor shall be duly elected and shall qualify. The affirmative vote of a majority of a quorum of directors shall be required for the transaction of the business of the directors at any meeting. Members shall be entitled to such votes in the election of directors as are provided for in Article VI. Cumulative voting shall not be allowed in the election of directors or for any other purpose. The name and address of each initial director, to serve until the first annual meeting of the Association and until his or her successor shall be duly elected and qualified, are as follows:

INITIAL DIRECTORS

<u>NAME</u>	<u>ADDRESS</u>
Stanley S. Beard	500 Texas Avenue, Suite 705 Midland, TX 79701 879-4351

Robert A. Mesecher

P.O. Box 774687
Steamboat Springs, CO 80477

Bonnie K. Beard

500 Texas Avenue, Suite 705
Midland, TX 79701

(b) Special Declarant Rights. Subject to paragraph (c) of this Article VII, Declarant reserves the right for Declarant, or any person designated by Declarant in a writing delivered to the Executive Board, to appoint and remove the members of the Executive Board and the officers of the Association at any time and from time to time, in the sole discretion of the Declarant or the designee of Declarant, with or without cause, but only during the Association Control Period described in the Declaration. The Declarant may voluntarily surrender the right to appoint and remove the members of the Executive Board and the officers of the Association before termination of the Association Control Period, but in that event the Declarant may require, for the duration of the Association Control Period, that specified actions of the Association or the Executive Board, as described in a recorded instrument executed by the Declarant, shall be approved by the Declarant before such actions become effective.

(c) Election of Directors. Pursuant to the CCIOA, as amended, not later than 60 days after conveyance of 25% of the Units that may be created in the Project under the Declaration to Unit Owners other than a Declarant, at least one member, and not less than 25% of the members of the Executive Board, shall be elected by Unit Owners other than a Declarant. Not later than 60 days after conveyance of 50% of the Units that may be created in the Project under the Declaration to Unit Owners other than a Declarant, not less than one-third of the members of the Executive Board must be elected by Unit Owners other than a Declarant.

ARTICLE VIII

The Association shall have such officers as may from time to time be prescribed by the Bylaws. Their terms of office and the manner of their designation or selection shall also be determined according to the Bylaws from time to time in effect, subject to Article VII above.

ARTICLE IX

The Executive Board shall have power from time to time to appoint a property manager or managing agent, which may be a corporation or other entity, to carry on and perform maintenance, repair, management, operations, billing and accounting and any other functions, responsibilities (whether like or unlike the foregoing) for the Association. The Association may record in the real property records of Routt County, Colorado from time to time, its acknowledged certification of the name and address of such manager or managing agent, which Certificate shall be conclusive evidence of the identity of such

managing agent until a later certificate is recorded. The Declarant, or any officer, director, partner, manager, shareholder or joint venturer of Declarant, or any entity controlled by Declarant, may be and act as managing agent or own or have an interest in the property management firm for the Association.

ARTICLE X

Each director and officer, whether or not then in office, shall be indemnified by the Association against all costs and expenses reasonably incurred by or imposed upon him in connection with or arising out of any action, suit or proceeding in which he may be involved, or to which he may be made a party, by reason of his being or having been such director or officer (such expenses to include the cost of reasonable settlement made with a view toward curtailment of the cost of litigation), except in relation to acts or omissions as to which he shall be finally adjudged in such action, suit or proceeding to have been wanton and willful.

ARTICLE XI

(a) No contract or transaction between the Association and one or more of its directors, or between the Association and any other corporation, partnership, association or other organization in which one or more of its directors or officers are directors, officers, members, managers or have a financial interest, shall be void or voidable solely for that reason or solely because the director or officer is present at or participates in the meeting of the Executive Board which authorizes, approves or ratifies the contract or transaction or solely because his or their votes are counted for such purpose if:

(1) The material facts as to his relationship or interest and as to the contract or transaction are disclosed or are known to the Executive Board and the Executive Board in good faith authorizes, approves or ratifies the contract or transactions by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors are less than a quorum; or

(2) The material facts as to his relationship or interest and as to the contract or transaction are disclosed or are known to the members, and the contract or transaction is specifically authorized, approved or ratified in good faith by vote of the members; or

(3) The contract or transaction is fair as to the Association.

(b) Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Executive Board which authorizes, approves or ratifies the contract or transaction.

(c) Nothing herein shall limit the power of the Association pursuant to Section 38-33.3-305 of the Colorado Common Interest Ownership Act.

ARTICLE XII

The initial Bylaws of the Association shall be as adopted by the Executive Board. The Executive Board shall have the power to alter or amend the Bylaws, and the Bylaws may also be amended, altered or repealed by the affirmative vote of 67% or more of the votes of the membership of the Association, except where a higher voting requirement is imposed by law, the Declaration, these Articles of Incorporation or the Bylaws. Any alteration or amendment in the Bylaws made by vote of the membership shall not be further altered or amended by the Executive Board. The Bylaws may contain any provisions for the regulation or management of the affairs of the Association which are not inconsistent with law, the Declaration, or these Articles of Incorporation.

ARTICLE XIII

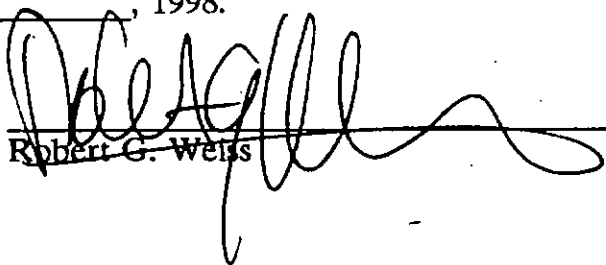
The Association reserves the right to amend, alter, change or repeal any provision contained in these Articles of Incorporation by the affirmative vote of the holders of 67% or more of the votes of the membership of the Association, except where a higher voting requirement is imposed by law, the Declaration or these Articles of Incorporation.

ARTICLE XIV

The name and address of the incorporator are:

Robert G. Weiss
2155 Resort Drive, Suite 210
P.O. Box 880550
Steamboat Springs, CO 80488

DATED this 6th day of May, 1998.


Robert G. Weiss