

ARTICLES OF INCORPORATION

AZ. CORP. COMMISSION  
FOR THE STATE OF AZ.  
FILED

OF

SPANISH TRAIL COUNCIL OF CO-OWNERS

JAN 14 10 58 AM '02

APPR 11/15 FILED

DATE 11/15/02

The undersigned, having associated to form a private non-profit corporation under Arizona law, hereby adopt the following Articles of Incorporation:

50700.1

ARTICLE I - NAME

The name of the Corporation is "Spanish Trail Council of Co-Owners."

ARTICLE II - DEFINITIONS

For the purposes of these Articles of Incorporation, all terms shall be deemed to have the same meanings as are given those words and terms in Article II of the First Amended and Restated Declaration of Horizontal Property Regime and Conditions, Covenants and Restrictions for Spanish Trail Condominiums ("Declaration") recorded in the office of the County Recorder of Pima County, Arizona, in Book 6456, page 318, et seq. The Declaration shall be deemed incorporated by reference herein.

ARTICLE III - NON-PROFIT STATUS

The Council is organized pursuant to Arizona Revised Statutes Sections 10-415 et seq. as a non-profit corporation, without capital stock or shares. No part of the net income of the Council shall inure to the benefit of any Member, and no Member, director, officer or employee of the Association shall

receive any pecuniary profit of any kind therefrom, except reasonable compensation for services in effecting one or more of the Council's purposes, and no dividends or pecuniary profit shall ever be declared or paid to any of the Members of the Council. No Member, director or officer of the Council or any private individual shall be entitled to share in the distribution of any of the Council's assets on the dissolution of the Council.

#### ARTICLE IV - PURPOSE

The Council is formed for the specific purpose of providing necessary and appropriate action for the maintenance, repair, replacement, and management of all Common Elements as defined in the Declaration, and for these purposes to:

A. Exercise all of the rights and powers and perform all of the duties of the Council as stated in the Declaration, or which may be assigned to the Council pursuant to the Declaration, as the Members, directors and officers, in their reasonable discretion, determine necessary or desirable to further the purposes for which the Council was organized.

B. Improve, install and maintain streets, street signs and facilities within the property, including, without limitation, erecting of lights, planting of shrubbery and landscaping; and to arrange and/or provide for all services necessary to provide the above.

C. Exercise all rights and powers and perform all of the duties of the Council as set forth in the Declaration and accept any of the rights, powers and duties which may be

assigned to the Association under the terms of the Declaration.

D. Fix, levy and collect all charges or assessments in accordance with the Declaration, and enforce payments of such charges or assessments by any lawful means; in connection with the collection of charges or assessments, return to the Members or apply to reduce the next year's charges or assessments the remainder of annual charges or assessments not used for current expenditures; designate a portion of the charges or assessments to be used for capital improvements or replacements; and/or provide for a trust fund or escrow account to hold charges or assessments paid by Members until such time as such funds are needed for current expenditures.

E. Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, and dedicate for public use or otherwise dispose of, real or personal property in connection with the affairs of the Council.

F. Sue and be sued; contract in the name of the Association; borrow money and issue bonds, notes, debentures and any other evidence of indebtedness for the same, and to secure the payment thereof by mortgage, deed of trust, hypothecation, bonds or otherwise.

G. Act, if deemed necessary, on behalf of all of the users of the property and particularly on behalf of the Members in relation to any and all matters which might or may affect the interests of the Members.

H. Establish and promulgate By-Laws and rules and regulations for operation of the Council for the enjoyment of the facilities and properties managed by it.

I. Exercise all other powers now or hereafter conferred upon non-profit corporations, and perform all acts in connection with the purposes and powers of the Council as could be done by an individual and not inconsistent with the laws of the State of Arizona.

#### ARTICLE V - MEMBERSHIP AND VOTING RIGHTS

The Council shall have two classes of membership.

Class A--Class A members shall be every person or entity who becomes a record owner of a fee or undivided fee interest in any apartment which is subject to assessment, including contract purchasers. Class A members shall be entitled to one vote for each apartment in which they hold the interest required for membership. When more than one person holds such interest in any apartment, all such persons shall be members, and the vote for such apartment shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any apartment.

Class B--The Class B member shall be the Developer. The Class B Member shall be entitled to three (3) votes for each apartment in which it holds a fee interest on the date of filing of these Articles of Incorporation.

The affairs of the Council shall be managed by a Board of Directors of not less than three (3) persons, the number to be designated from time to time in the By-Laws, who shall be elected at the annual meeting of the Council. The By-Laws may provide that Directors shall be elected for staggered terms. The annual meeting of the Members shall be held on the first Tuesday in March of each calendar year, or at such other time as provided in the By-Laws.

The Board shall have power to: fill vacancies occurring in the Board, except vacancies occurring as a result of removal without cause, or in any office of the Council and the persons so chosen to fill the vacancy shall serve during the unexpired term of his predecessor or thereafter until his successor is elected and qualified; appoint from their own number an executive committee or committees and vest said committees with all the powers granted to the Board by these Articles of Incorporation; determine and fix fees for the use of any special facilities of the Association, including such uses by non-members as the By-Laws may permit; determine and fix annual or other periodic dues, charges or assessments of residents within the property, subject to any limitations stated in the Declaration, make all necessary rules and regulations to assure fair and equitable use of Association facilities among the residents within the property, and to enforce same, engage the services of such agents or employees as may be necessary to accomplish the objects and purposes of the Council, and pay reasonable compensation for such

services; and exercise all powers not expressly withheld from it by law, the Declaration or these Articles of Incorporation.

#### ARTICLE VII - INITIAL BOARD OF DIRECTORS

At a meeting held in Tucson, Arizona, on the 5th day of March, 1981, which meeting was preliminary to the incorporation of the Council, the following persons were elected as the initial Board of Directors:

- (1) Humberto S. Lopez, 109 South Scott Avenue,  
Tucson, Arizona 85701.
- (2) Thomas W. Ecker, 109 South Scott Avenue,  
Tucson, Arizona 85701.
- (3) John F. Battaille III, 2949 E. Broadway Blvd.,  
Tucson, Arizona 85716

The initial Board of Directors will serve either:

- A. For three years from the date of their election;  
or
- B. Until termination of all Class B stock held by  
the Developer, whichever event first occurs.

At the first annual meeting following the occurrence of A or B above, or at a special meeting of Council Members called by the initial Board of Directors for the purpose of election of a Board of Directors, the Members shall elect a Board of Directors to be divided into three classes, as nearly equal in number as possible. The term of office of those first class shall expire at the first annual meeting of Members after their election; the term of office of those of the second class shall expire at the second annual meeting of Members after their election; and the term of office of those of the third class shall expire at the

third annual meeting of Members after their election.

At each annual election of Directors held after the classification and election described in the preceding paragraph, Directors chosen to succeed those whose terms expire shall be elected for a term of office to expire at the third annual meeting of Members after their election. The manner of electing Directors may be changed by an amendment to the By-Laws.

#### ARTICLE VIII- OFFICERS

The officers of the Council shall consist of an president, vice president, secretary and treasurer, and such other officers as the Board may from time to time elect or appoint. Any two offices may be consolidated and may be held by one and the same person where the duties of such offices are not inconsistent. The officers shall be elected by the Board at their annual meeting after the annual meeting of the Members. The first officers of the Council shall be elected at the first annual meeting of the Board or thereafter until their successors shall have been elected or qualified.

#### ARTICLE IX - LIMITS OF LIABILITY

The highest amount of indebtedness or liability, direct or contingent, to which the Council is at any time to subject itself shall be the highest amount allowed by the laws of the State of Arizona.

#### ARTICLE X - INDEMNIFICATION

The Council shall indemnify any and all of its directors, and officers, or former directors and officers, against expenses incurred by them, including legal fees or judgments or penalties rendered or levied against any such person in an action brought against any such person for actions or omissions alleged to have been committed while acting within the scope of his employment as a Director or officer of the Association, provided that the Board shall determine in good faith that such person did not act, fail to act, or refuse to act willfully or with gross negligence or with fraudulent or criminal intent in regard to the subject matter of the action. Indemnification pursuant to this Article shall be mandatory in all circumstances where indemnification is permitted by law.

#### ARTICLE XI - COMMENCEMENT

The date of the commencement of the Council shall be the date of delivery of these Articles to the Arizona Corporation Commission for filing. The Council shall have perpetual succession.

#### ARTICLE XII - KNOWN PLACE OF BUSINESS

The known place of business of the Council is 8450 East Old Spanish Trail, Tucson, Arizona. The Board may designate other places in Pima County, Arizona, where meetings of the Board and of Members shall be held and all corporate business transacted.



#### ARTICLE XIII - STATUTORY AGENT

John F. Battaille III, 2949 East Broadway, Tucson, Arizona, who has been a bona fide, continuous resident of Arizona for more than three years, is hereby appointed the lawful statutory agent of the Council to accept and acknowledge service of all necessary processes and for all purposes required by law. The Board may revoke such appointment at will and shall have power to fill such vacancy.

#### ARTICLE XIV - INCORPORATORS

The names and addresses of the incorporators are:

<u>Name</u>	<u>Address</u>
Humberto S. Lopez	109 S. Scott Avenue, Tucson, AZ 85701
Thomas W. Ecker	109 S. Scott Avenue, Tucson, AZ 85701
John F. Battaille III	2949 E. Broadway, Tucson, AZ 85716

#### ARTICLE XV - AMENDMENT

These Articles of Incorporation and the By-Laws may be amended from time to time by a sixty percent (60%) majority vote of the Members present at a meeting called for that purpose, provided that a quorum is present and notice has been given. For purposes of amendment of these Articles, notice shall be given in writing to all Directors and Members at least ten (10) days prior to the meeting. Additional notice shall be given to the Members

by publication once a week for two successive weeks in a newspaper of general circulation in Pima County, Arizona, unless all members have executed a written waiver of notice prior to the meeting.

ARTICLE XVI - INTERPRETATION

In the event that any provision hereof is inconsistent with or in derogation of the Declaration, the provisions of the Declaration shall be deemed to control.

IN WITNESS WHEREOF, we, the incorporators, have subscribed our names to these Articles of Incorporation, this 5<sup>th</sup> day of January, 1982.

Humberto S. Lopez  
Humberto S. Lopez

Thomas W. Ecker  
Thomas W. Ecker

John P. Battalle III  
John P. Battalle III