



**EXHIBIT B
DECLARATION
OF
EASEMENTS, RESTRICTIONS, RESERVATIONS AND
COVENANTS**

STATE OF NEW MEXICO

COUNTY OF OTERO

This Declaration of Easements, Restrictions, Reservations and Covenants (Declarations) made on the 12 day of October, 2012 by C. Michael Shyne and Christina Shyne Williams, married people dealing with their sole and separate property, ("Declarant"), for the property more particularly known as the north 133 feet of the east 225.6 feet of Lot 7A of Marketplace 2 Subdivision to the City of Alamogordo, Otero County, New Mexico, and to include more of said Lot 7A as it is developed, hereinafter referred to as the "Property".

WITNESSETH:

WHEREAS, Declarant intends for the property to be developed for multi-use commercial purposes; and

WHEREAS, the Property will be owned by Declarant, or sold to various other persons and entities and these Declarations shall become binding upon each such Lot upon construction of a commercial building upon said Lot; and

WHEREAS, the Declarant intends to reserve, restrict and provide for the perpetual, reciprocal and non-exclusive easements over the "Common Areas" of the Property; and

NOW THEREFORE, Declarant as the owner of the Property, for itself, its successors and assigns, does herein declare and reserve the following easements, restrictions, reservations, terms, conditions and covenants upon the Property.

1. Declarant hereby grants to each and every person, partnership, corporation or other entity now or hereinafter owning or having any interest in the Property, or a portion thereof, a mutual, reciprocal and non-exclusive perpetual easement, in and over the paved parking areas, sidewalks and service areas, access ways for both pedestrian and vehicular passage, parking and use for water drainage, for ingress to and egress from the public streets adjoining the Property and for the installation, maintenance and connection of all over and underground utilities, including all utility lines, wires, pipes, conduits, sewers and drainage ways.
2. For the purpose of this Declaration the term "Common Area" shall mean all areas within the Property which are not dedicated to be improved with buildings or other permanent structures, but shall be adjacent thereto. The Common Areas shall consist of only that portion of each Parcel which shall be dedicated to and for use as driveways, pedestrian ways, sidewalks, parking areas, parking spaces, landscaped areas, and ingress to and egress from public roadways and for utility line and drainage way purposes.
3. The easements granted herein shall be for the benefit of and be restricted solely to the owner or owners, from time-to-time, of all or any portion of the Property designated "Common Areas". However, such owner or owners of each Parcel shall be authorized to grant the benefits of such easements to their lessees



and tenants, now or hereafter, occupying buildings or portions thereof for the period of such tenancy and to the customers and business invitees of tenants. This authorization is not intended and shall not be construed to create any rights in-and-for the benefit of the tenants or the general public.

4. Notwithstanding any other provision contained herein to the contrary, Declarant shall have the right at any time to add to the building area and/or to dedicate a portion of a Parcel Declarant owns for a public street and/or right of way to provide public access through a portion of the Property to an adjoining property, street or right of way.

5. With regard to the "Common Areas", the owner of each Parcel at its own cost shall be responsible for the following:

(a) The repair and maintenance of all lighting, paving, walk ways, sidewalks and landscaping within the respective Parcels.

(b) The maintenance of all parking and service areas located within the respective Parcels.

(c) The maintenance of all sidewalks and walkways adjacent to all buildings and improvements located within the respective Parcels.

(d) The cost of clean up, sweeping, striping and maintenance of all common areas within the respective Parcels.

6. All Parcel owners must keep their portion of the Common Areas, sidewalks, service-ways, trash dumpster area and loading docks, clean and reasonably free from rubbish, waste, and debris. All trash and garbage shall be stored in exterior containers, shall be tastefully shielded from view in a structure matching the surrounding buildings in construction and color or placed in a manner making the containers not visible from a public street and shall arrange for the regular pickup of trash and garbage.

7. The landscaped areas shall be of a uniform nature with the adjoining Parcel(s) and shall be kept properly tended and maintained. Each Parcel owner will keep its parking area properly striped, free of chuckholes and lighted at least from sundown to midnight daily, unless all of the Parcel owners agree in to reduce the number of hours of lighting by written agreement.

8. No fences, barriers, curbs or other obstructions of any kind shall be erected or maintained between each Parcel which would block or restrict the passage, ingress and egress of vehicular and pedestrian traffic through the Property and/or each Parcel. Notwithstanding the foregoing sentence, fences, barriers or curbs not to exceed two feet (2 ft.) in height may be erected by a Parcel owner to control parking, access, ingress and egress of vehicles and pedestrians within each Parcel. The location of all such fences, barriers or curbs shall not block or restricts the passage and ingress and egress of vehicular and pedestrian traffic through the Property and/or each Parcel of the Property. Each Parcel owner shall be subject to and comply with any Master Drainage Plan as approved by the City of Alamogordo, New Mexico. No Parcel owner shall place or construct any structure that would alter, divert or obstruct the drainage of water on the property at any time after the initial construction of the improvements on the property without the prior written approval of Declarant and any affected parcel owner(s). No owner shall change, modify, eliminate or restrict the driveways or points of ingress and egress from public streets without the prior written approval of Declarant. Each Parcel shall be developed with the required amount of parking to comply at all times with applicable governmental laws and ordinances. Employees, tenants and tenant employees of each Parcel owner's property shall not have the right to park on any other Parcel.

9. Declarant or any owner of a Common Area located in a Parcel shall have the right to close,

temporarily, a portion of said Common Area(s) to such an extent, when in the opinion of the owner that such Common Area is in need of repair or restoration or to prevent a dedication thereof or an accrual of any rights in any person or in the general public therein. Any temporary closing of Common Area(s) shall be performed in a manner which will cause minimal interference and interruption of the Common Areas.

10. If a Parcel owner is not maintaining its common area in a reasonably clean environment consistent with the intent of this Declaration, any other Parcel owner may give written notice to that Parcel owner not maintaining its Common Area, requesting that action be taken in order to maintain the environmental integrity of all Common Areas so that they are not degraded nor deteriorated. If a Parcel owner receiving such written notice fails to take corrective action within ten (10) days of the date of the notice being given, the other Parcel owner(s) may provide general maintenance, clean-up, sweeping and striping service to the Common Area owned by said Parcel owner. Any and all costs and expenses including but not limited to management and administrative costs and fees incurred by the Parcel owner(s) shall, on behalf of said Parcel owner failing to take such action, be due and payable.

If a Parcel owner fails or refuses to pay for the fees and costs of the clean-up and maintenance of its Common Areas as provided in this Declaration, upon ten (10) days written notice from the Parcel owner(s) expending such costs, that Parcel owner(s) shall have the right, in addition to all remedies available at law, to file an Affidavit of such non-payment which shall be recorded in the Real Property Records of Otero County, New Mexico and the recording of same shall be considered a lien upon said Parcel of the Property.

11. No owner of a Parcel or any part thereof shall use or permit any portion of such Parcel or building to be used for an adult entertainment establishment, including without limitation, an adult bookstore, adult motion picture theater, nude or semi-nude live entertainment club or sexually oriented business. Without limitation on any other remedy which may be available to an Owner for a breach of this restriction, this restriction may be enforced by injunction. The sale of pornographic magazines of the type consistent with those sold generally in national or regional convenience store chains in Alamogordo, shall not be restricted in any manner.

12. No metal skin of the vertical walls of the buildings or structures, nor chain link fencing may be built or located on the Property that is visible from White Sands Blvd., Alamogordo, New Mexico.

13. The easements, rights and privileges herein granted shall be used and enjoyed in such a manner as not to cause any unreasonable interference with the conduct and operations of any business existing and operating within the Property and its own Parcel.

14. The easements herein granted, the restrictions and reservations hereby imposed and the agreements and covenants herein contained shall be perpetual easements, restrictions, reservations and covenants running with the land and shall inure to the benefit of, and be binding upon the Declarant, its assigns and all future owners of all or any portion of the Property described herein and their respective heirs, legal representatives, successors and assigns.

15. Any dispute arising under the provisions of the declaration set forth below is subject to arbitration and in accordance with under the New Mexico General Arbitration Act.

16. This Declaration may be amended, changed and modified upon the affirmative vote of all of the Parcel owners. Only Declarant and the Parcel owner(s) shall have the right to enforce any covenant, easement, restrictions, reservations or provision contained herein or any amendments thereto. Any amendment to this agreement shall be filed in the Real Property Records of Otero County, New Mexico, and shall be effective and binding upon all Parcels and owners upon such filing.

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17. The Property shall be held, transferred, improved, leased, sold, conveyed, used and occupied subject to the Easements, restrictions, reservations and covenants described herein, which Easements, restrictions, reservations and covenants shall be covenants running with the Property and enforceable against all subsequent owners of all or any portion thereof.

18. The Easements, restrictions, reservations and covenants described herein shall be binding and enforceable by and against and shall inure to the benefit of any and all subsequent owners of the Property or any portions thereof and Declarant (so long as Declarant retains ownership of a part of the Property) and their respective agents, successors and assigns.

19. This Declaration shall be construed and governed in accordance with the laws of the State of New Mexico.

20. In the event any party to this Declaration employs attorneys to protect or enforce its rights hereunder, the prevailing party shall recover from the non-prevailing party all reasonable attorneys' fees and costs, incurred in enforcing the terms of this Declaration.

21. In the event that any one or more of the provisions of this Declaration should be held invalid or unenforceable for any reason, the remaining provisions of this Declaration will remain in full force and effect and in no way will be effected, impaired or invalidated.

22. Any waiver as to any of the terms or conditions of this Declaration shall not operate as a future waiver of the same terms and conditions or prevent the future enforcement of any of the terms and conditions hereof.

DECLARANTS:

BY: *C. Michael Shyne*
C. Michael Shyne

BY: *Christina Shyne Williams*
Christina Shyne Williams

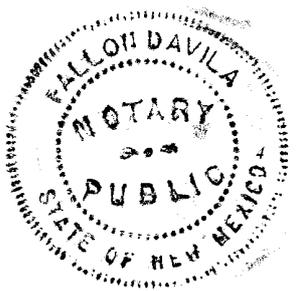
By C. Michael Shyne, Her Attorney in Fact

STATE OF ~~FLORIDA~~ NEW MEXICO
COUNTY OF OTERO

The foregoing instrument was acknowledged before me this 1st day of October 2012 by Christina Shyne Williams, ~~signed~~ *signed by C. Michael Shyne, Her Attorney in Fact.*

Fallon Davila
Notary Public, State of Florida

My commission expires: 01-08-14



STATE OF NEW MEXICO

COUNTY OF OTERO

The foregoing instrument was acknowledged before me this 1st day of October, 2012 by C. Michael Shyne.

Fallon Davila
Notary Public, State of New Mexico

My commission expires: 01-08-14

