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This Instrument Prepared By:
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DECLARATION OF CONDOMINIUM
OF
THE DRY SLIPS AT BELLAGIO HARBOR VILLAGE,
A CONDOMINIUM

DTM Development, Inc., a Florida corporation (hereinafter called "Developer") does hereby declare as follows:

1. Introduction and Submission.

- 1.1 **The Land.** The Developer owns the fee title to certain land located in Sarasota County, Florida, and as more particularly described in Exhibit "A" annexed hereto (the "Land").
- 1.2 **Submission Statement.** The Developer hereby submits the Land and all improvements erected or to be erected thereon, including water and sewer utility facilities, all rights and appurtenances belonging thereto, and all other property, real, personal or mixed, now or hereafter situated on or within the Land – *but excluding all public and private (e.g., cable television) utility installations therein or thereon owned by the utility or entity furnishing services to the condominium* – to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act as it exists on the date hereof. Without limiting any of the foregoing, no property, real, personal or mixed, not located within or upon the Land as aforesaid shall for any purposes be deemed part of the Condominium or be subject to the jurisdiction of the Association, the operation and effect of the Florida Condominium Act or any rules or regulations promulgated pursuant thereto, except as described herein.
- 1.3 **Name.** The name by which this condominium is to be identified is The Dry Slips at Bellagio Harbor Village, a Condominium (hereinafter called the "Condominium"), with an address of 480 Blackburn Point Road, Osprey, Florida 34229.
- 1.4 **Plan of Development.** The Condominium is located in Osprey, Florida, adjacent to the Intercoastal Waterway, which provides water access to the Gulf of Mexico. The Condominium will have no residential units. The Condominium is subject to the

terms and provisions of that certain Master Declaration and General Protective Covenants, Conditions and Restrictions for Bellagio Harbor Village (the "Master Restrictions"). The Developer currently owns the entire Project Site.

The Condominium shall consist of up to an approximate total of two hundred four (204) Units. The Units will range in size from approximately 28' long x 8' high x 10' wide to 36' long x 15' high x 13.5' wide. The Units will all be contained in a single enclosed Building outfitted with "I" beam steel racks for boat storage.

Exhibit "B" to this Declaration sets forth the Building footprint and general size of each Unit that is contained in this Condominium.

Time-share estates shall not be created with respect to a Unit on any part of the property.

2. Definitions. The following terms when used in this Declaration and in its exhibits, and as it and they may hereafter be amended, shall have the respective meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- 2.1 "Act" means the Condominium Act (Chapter 718 of the Florida Statutes) as it exists on the date hereof.
- 2.2 "Articles" or "Articles of Incorporation" mean the Articles of Incorporation of the Association, as amended from time to time.
- 2.3 "Assessment" means a share of the funds which are required for the payment of Common Expenses which from time to time is assessed against the Unit Owner.
- 2.4 "Association" or "Condominium Association" means The Dry Slips at Bellagio Harbor Village Condominium Association, Inc., a Florida corporation not for profit, the sole entity responsible for the operation of the Condominium.
- 2.5 "Association Property" means the property, real and personal, in which title or ownership is vested in the Association for the use and benefit of its members.
- 2.6 "Board" or "Board of Directors" means the representative body which is responsible for administration of the Association.
- 2.7 "Building" means the structure situated on the Condominium Property in which the Units are located.
- 2.8 "By-Laws" mean the By-Laws of the Association, as they exist from time to time.

- 2.9 "Common Elements" means and includes: The portions of the Condominium property which are not included in the Units, including, without limitation, the following items:
- (a) Easements through Units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of Utility Services and/or heating, cooling, ventilation or other services to more than one (1) Unit or to the Common Elements, together with related property and installations.
 - (b) An easement of support in every portion of a Unit which contributes to the support of the Building, other Units and/or any part of the Common Elements.
 - (c) The property and installations required for the furnishing of utilities and other services to more than one (1) Unit or to the Common Elements.
 - (d) Any other parts of the Condominium Property designated as Common Elements in this Declaration or the Act.
- 2.10 "Common Expenses" mean all expenses incurred by the Association for the Condominium and charged, assessed or imposed against Units in the Condominium by the Association as set forth in this Declaration and the Act.
- 2.11 "Common Surplus" means the excess of all receipts of the Association collected on behalf of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, over the amount of Common Expenses.
- 2.12 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit; and when the context permits, the term includes all other appurtenances to the Unit.
- 2.13 "Condominium Property" means the Land, improvements and other personal property described in Section 1.1 hereof, subject to the limitations thereof and exclusions therefrom.
- 2.14 "County" means the County of Sarasota, State of Florida.
- 2.15 "Declaration" or "Declaration of Condominium" means this instrument, as it may be amended from time to time.

- 2.16 "Developer" means DTM Development, Inc., a Florida corporation, its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned. Developer may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with specific portions of the Condominium. In the event of any partial assignment, the assignee shall not be deemed the Developer, but may exercise such rights of Developer as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis.
- 2.17 "Improvements" mean all structures and artificial changes to the natural environment located on the Condominium Property, including, but not limited to, the Building and boat ramp facility.
- 2.18 "Institutional First Mortgagee" means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") any other lender generally recognized as an institutional lender, or the Developer, any of which hold a first mortgage on a Unit or Units and any and all investors, or the successors and assigns of such investors which have loaned money to Developer to acquire, or construct improvements upon the Property and who have a mortgage lien on the Property securing such a loan. A "Majority of Institutional First Mortgagees" shall mean and refer to Institutional First Mortgagees of Units by which greater than one-half (1/2) of the voting interests of Units subject to mortgages held by Institutional First Mortgagees are encumbered.
- 2.19 "Limited Common Elements" means those Common Elements the use of which is reserved to a certain Unit or Units to the exclusion of other Units, as specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided. It is anticipated that there will be no Limited Common Elements in this condominium.
- 2.20 "Master Association" means the Bellagio Harbor Village Master Owners' Association, Inc., a Florida not for profit corporation, the sole entity responsible for administration and operation of the Bellagio Harbor Village site "common areas" and enforcement of the Master Restrictions.
- 2.21 "Master Restrictions" means that certain Master Declaration and General Protective Covenants, Conditions and Restrictions for Bellagio Harbor Village to be recorded in the Public Records of Sarasota County, Florida prior to the recording of this Declaration.

- 2.22 "Primary Institutional First Mortgagee" means the Institutional First Mortgagee which owns, at the relevant time, Unit mortgages securing a greater aggregate indebtedness than is owed to any other Institutional First Mortgagee.
- 2.23 "Operator" means the third party hired by the Association to perform certain marine related tasks, including launching vessels.
- 2.24 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.
- 2.25 "Unit Owner" or "Owner of a Unit" or "Owner" means the holder of legal title to a Unit.
- 2.26 "Utility Service" means and is intended to include, but not limited to, electric power, gas, telephone, hot and cold water, heating and air conditioning ventilation systems, garbage and sewage disposal.

3. **Operator Selection.** The initial Operator shall be selected by the Developer. It is expected that a company affiliated with the Developer shall purchase a commercial unit in Bellagio Harbor Village for the purpose of offering marine services to all Unit Owners, including the launching of vessels as outlined herein. After the period of Developer control has ended, the Association shall have the right to seek third party bids for the Operator contract. If the Association elects to do so, it shall give Developer at least thirty (30) day written notice of such and will give any company affiliated with Developer preferred standing when soliciting Operator bids. "Preferred Standing" in this provision means that if a Developer company matches any bid from a third party for Operator services, the Association shall be obligated to award the Operator contract to the Developer company. If no Developer affiliated company submits a timely bid after receiving proper notice as provided herein, this provision shall be deemed null and void.

4. Description of Condominium.

- 4.1.1 **Common Elements.** In addition to the Units described below, the Condominium contains as part of the common elements the following:
- (a) An enclosed storage Building of approximately 178 feet by 258 feet, which Building will contain Units for boats up to 36 feet in length, plus up to three feet overhang in the center aisle, at the sole discretion of Developer. No part of any boat may extend below the lowest point of any structural section comprising the Unit.
 - (b) A boat launch facility.

4.1.2 **Identification of Units.** A Dry Slip Building containing 186 Units will be constructed on the Land. Each Unit is identified by number and Bay, for example, Unit 1, Lido. The designation of each of such Unit is set forth on Exhibit "B" attached hereto. Exhibit "B" consists of a survey of the Land, a graphic description of the Improvements located thereon. Including, but not limited to, the Building in which the Units are located, and a plot plan thereof. Said Exhibit "B", together with this Declaration, is sufficient in detail to identify the Common Elements and each Unit and their relative locations and dimensions. There shall pass with a Unit as appurtenances thereto (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration.

4.2 **Unit Boundaries.** Each unit shall include that part of the Building containing the Unit that lies within the following boundaries (as graphically depicted in Exhibit "B"):

(a) **Upper and Lower Boundaries.** The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries:

(i) **Upper Boundary:** The horizontal plane at the lowest point of the upper structural section comprising the Unit.

(ii) **Lower Boundary:** The horizontal plane at the highest point of the floor or lower structural section comprising the Unit.

(b) **Perimetrical Boundaries.** The perimetrical boundaries of the Unit shall be the vertical planes at the innermost points of vertical sidewalls or vertical structural supports comprising or bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries.

4.2.1 **Exclusions from Units.** Not included in the Units are:

(a) All pipes, ducts, vents, wires, conduits and other facilities, equipment, or fixtures running through any interior wall, or horizontal or vertical portion of

Unit or structural section for the furnishing of utility services, heating, cooling, or ventilation to Units, Common Elements, or Limited Common Elements.

- (b) All space and improvements lying outside the volume comprising and bounding the Unit, including that portion above the upper boundaries, below the lower boundaries, or beyond the perimetrical boundaries.

4.3 **Exceptions and Conflicts.** In the case of any conflict between the boundaries of the Unit as above described and the dimensions of the Unit shown on Exhibit "B", the above provisions describing the boundary of a Unit shall control, it being the intention of this Declaration that the actual as-built boundaries of the Unit as above described shall control over erroneous dimensions contained in Exhibit "B" attached hereto, and in the event it shall appear that any dimension shown on Exhibit "B" attached hereto is erroneous, the Developer or the President of the Association shall have the right to unilaterally amend the Declaration to correct such survey, and any such amendment shall not require the joinder of any Unit Owner or Institutional First Mortgagee so long as the purpose of the amendment is merely to correct an error and correctly describe the boundaries of a Unit. In the case of Unit boundaries not adequately described as provided above, the survey of the Units contained in Exhibit "B" shall control in determining the boundaries of a Unit. In the case of any conflict between the language of this Declaration describing the boundaries of any Unit, and in the language contained on Exhibit "B" describing the boundaries of a Unit, the language of this Declaration shall control.

4.4 **Easements.** The following easements are hereby created (in addition to any easements created under the Act):

- (a) **Support.** Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.
- (b) **Utility and Other Services; Drainage.** Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility, cable television, communications and security systems, other services and drainage and water management in order to serve the Condominium. A Unit Owner shall do nothing within or outside their Unit that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable television, communications and security systems, other service, or water management facilities or drainage facilities or the use of these easements. The Association shall have a right of access to each Unit during reasonable hours to maintain, repair or replace the pipes, wires, ducts,

vents, cables, conduits and other utility, cable television, communications and security systems, service and drainage facilities, and Common Elements contained in the Unit or elsewhere in the Condominium Property and to remove any Improvements interfering with or impairing such facilities or easements herein reserved; provided such right of access, except as necessary to prevent damage to the Common Elements or to another Unit or Units, shall not unreasonably interfere with the Unit Owner's permitted use of the Unit.

- (c) **Encroachments.** If (a) any portion of the Common Elements encroaches upon any Unit; (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements; or (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements made by or with the consent of the Association or Developer, as appropriate; or (iv) any repair or restoration of the Improvement (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of same so long as the Improvements shall stand.

- (d) **Ingress and Egress.** A non-exclusive easement in favor of each Unit Owner and their guests and invitees, shall exist for pedestrian traffic over, through and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as from time to time may be paved and intended for such purposes; and for vessel traffic over, through and across such portions of the Common Elements as from time to time may be open and intended for such purposes. None of the easements specified in this subparagraph (d) shall be encumbered by any leasehold or lien other than those on the Units. Any such lien encumbering such easements (other than those on Units) automatically shall be subordinate to the rights of Unit Owners and the Association with respect to such easements.

- (e) **Construction; Maintenance.** The Developer (including its designees, Contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter the Condominium Property and take all other action necessary or convenient for the purpose of completing the construction thereof, or any part thereof, or any Improvements or Units located or to be located thereon, and for repair, replacement and

maintenance purposes where the Association fails to do so or where the Developer, in its sole discretion, determines that it is required to do so. Notwithstanding the foregoing, this right shall at all times be subject to the provisions of Section 718.111(5) Florida Statutes.

- (f) **Sales Activity.** For as long as there are any unsold Units or Units leased to the Developer, the Developer, its designees, nominees, successors and assigns, shall have the right to use any such Units and parts of the Common Elements for sales and construction offices, to show Units and use Units, and to show and use the Common Elements to prospective purchasers and lessees of Units, and to erect on the Condominium Property signs and other promotional material to advertise Units for sale or lease.
- (g) **Easements.** Each Unit shall have an easement or right to the use of the air space on both ends of the Unit as defined by projecting the upper boundary, lower boundary, and vertical boundaries of the Unit outward to a distance set by the Association's rules and regulations for accommodating the protruding bow and stern of the boats and other personal property or fixtures while in storage, consistent with the contemplated use and limitations of the storage structure.
- (h) **Rack Adjustment Easement.** The Units have been constructed with adjustable racks for holding each boat. With the prior written consent of all neighboring effected Unit owners (i.e., only those Units immediately adjacent to the subject Unit, which adjacent Units must be adjusted together with the subject Unit), a Unit owner may request that the Association adjust the vertical location of the rack comprising a Unit in order to accommodate boats of varying size and design. Any neighboring Unit owner who so consents to such an adjustment shall be held to have granted an irrevocable license to the neighboring Unit owner to use a portion of the effected Unit's air space. The provisions of this paragraph shall be subject to regulation and approval by the Association.
- (i) **Additional Easements.** The Developer (as long as it owns any Units) and the Association, on their behalf and on behalf of all Unit Owners (each of whom hereby appoints the Developer and the Association as its attorney-in-fact for this purpose), each shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, cable television, security systems, communications or service easements (and appropriate deeds and bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocate any such existing easements or drainage facilities or water management facilities, in any portion of the

Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Developer or the Association shall deem necessary or desirable for the proper operation and maintenance of the Improvements, or any portion thereof, or for the general health or welfare of the Unit Owners, or for the purpose of carrying out any provisions of this Declaration, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units. Specifically, the owners of the Wet Slips adjacent to the Launch Facility shall have an easement for ingress and egress over the Condominium Property.

5. **Restraint Upon Separation and Partition of Common Elements.** The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the exclusive right to use all appropriate appurtenant Limited Common Elements, shall not be separated therefrom and shall pass with the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, except as elsewhere herein provided to the contrary, cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.

6. **Ownership of Common Elements and Common Surplus and Share of Common Expenses; Voting Rights.**

6.1 **Fractional Ownership and Shares.** The ownership of each Unit shall include an undivided fractional interest in the Land and other Common Elements as defined in §718.108 of the Florida Statutes and an undivided fractional interest in the Common Surplus, and the fractional share of the Common Expenses, appurtenant to each Unit, which, for each Unit shall be (the Unit's number of voting interests)/(the total number of voting interests at any time).

6.2 **Voting Interest.** Each Unit shall be entitled to one (1) vote to be cast by its Owner in accordance with the provisions of the respective By-Laws and Articles of Incorporation of the Association. Each Unit Owner shall be a member of the Association.

7. **Amendments.** Except as elsewhere provided herein, amendments may be effected as follows:

7.1 **By the Association.** Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be

considered. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors of the Association or by not less than one-third (1/3) of the Units in the Condominium. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the secretary at or prior to the meeting. Except as elsewhere provided, approvals must be by affirmative vote of:

- (a) Voting Interests in excess of 50% of the Voting Interests in the Condominium and by not less than 66-2/3% of the Board of Directors of the Association; or
- (b) Voting Interests in excess of 66-2/3% of the Voting Interests in the Condominium.

7.2 **By the Developer.** The Developer, during the time it has the right to elect a majority of the Board of Directors of the Association, may amend the Declaration, the Articles of Incorporation or the By-Laws of the Association to correct an omission or error, or affect any other amendment, except that this procedure for amendment cannot be used if such an amendment would materially and adversely affect substantial property rights of Unit Owners, unless the affected Unit Owners consent in writing.

7.3 **Execution and Recording.** An amendment, other than amendments made by the Developer alone pursuant to the Act or this Declaration, shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed with the same formalities required for the execution of a deed. Amendments by the Developer must be evidenced by a similar certificate executed by the Developer alone. An amendment of the Declaration is effective when the applicable certificate is properly recorded in the public records of the County.

7.4 **Proviso.** No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or mortgagees of Units or as otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Association without the consent of said Developer and mortgagees in each instance: any mortgagee consent shall not be unreasonably withheld. No amendment shall make any change in the sections hereof entitled "Reconstruction or Repair After Casualty", or "Condemnation", which amendment materially affects the rights or interests of the primary Institutional First Mortgagee, unless the Primary Institutional First Mortgagee shall join in the amendment. Such joinder shall not be

unreasonably withheld. The provisions of this Section 7.4 may not be amended in any manner.

7.5 **Form.** No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words inserted in the text shall be underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See provision ... for present text." Non material errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

8. Maintenance, Repairs and Replacements.

- 8.1 **Units and Limited Common Elements.** All maintenance, repairs and replacements of, in or to any Unit and Limited Common Elements appurtenant thereto, whether structural or nonstructural, ordinary or extraordinary, shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein.
- 8.2 **Common Elements.** Except to the extent (i) expressly provided to the contrary herein, or (ii) proceeds of insurance are made available therefor, all maintenance, repairs and replacements in or to the Common Elements (other than Limited Common Elements as provided above shall be performed by the Association and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense, except to the extent arising from or necessitated by the negligence, misuse or neglect of specific Unit Owner(s), in which case such cost and expense shall be paid solely by such Unit Owner(s).
- 8.3 **Specific Unit Owner Responsibility.** The obligation to maintain and repair any equipment, fixtures or other items of property which service a particular Unit or Units and are Limited Common Elements thereof shall be the responsibility of the applicable Unit Owners, individually, and not the Association, without regard to whether such items are included within the boundaries of the Voting Interests, are Limited Common Elements or are Common Elements other than Limited Common Elements. Notwithstanding the foregoing, the Association may provide maintenance for the Limited Common Elements and shall charge and collect such costs and charges incurred for said maintenance to the specific Unit entitled to use

the Limited Common Elements for which the maintenance and repairs were performed.

9. **Additions, Alterations or Improvements by the Association.** Whenever in the judgment of the Board of Directors, the Common Elements, or any part thereof, shall require capital additions, alterations or improvements (as distinguished from maintenance, repairs and replacements) costing in excess of \$50,000.00 in the aggregate in any calendar year, the Association may proceed with such additions, alterations or improvements only if the making of such additions, alterations or improvements shall have been approved by a majority of the Units represented at a meeting at which a quorum is attained. Any such additions, alterations or improvements to such Common Elements, or any part thereof, costing in the aggregate \$50,000.00 or less in a calendar year may be made by the Association without approval of the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses. For purposes of this section, "aggregate in any calendar year" shall include the total debt incurred in that year, if such debt is incurred to perform the above stated purposes, regardless of whether the repayment of any part of that debt is made beyond that year.

10. **Additions, Alterations or Improvements by Unit Owner.**

10.1 **Consent of the Board of Directors.** No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements, the Unit or any Limited Common Element, without the prior written consent of the Board of Directors. The Board shall have the obligation to answer any written request by a Unit Owner for approval of such an addition, alteration or improvement in such Unit Owner's Unit or Limited Common Elements within thirty (30) days after such request and all additional information requested is received. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. Once approved by the Board of Directors, such approval may not be revoked. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, and all other Unit Owners harmless from and to indemnify them for any expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association.

The Board may appoint an Architectural Control Committee to assume the foregoing functions on behalf of the Board.

10.2 **Additions, Alterations or Improvements by Developer.** The foregoing restrictions of this Section 10 shall not apply to Developer-owned Units. The Developer shall have the additional right, without the consent or approval of the Board of Directors or other Unit Owners, to (a) make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon any Unit owned by it and Limited Common Elements appurtenant thereto (including, without limitation, the removal of walls, floors, ceilings and other structural portions of the Improvements), and (b) expand, alter, add to or eliminate all or any part of the recreational facilities.

11. **Changes In Developer-Owned Units.** Without limiting the generality of the provisions of paragraph 10.2 above, the Developer shall have the right, without the vote or consent of the Association or Unit Owners, to (i) make alterations, additions or improvements in, to and upon Units owned by the Developer, whether structural or non-structural, interior or exterior, ordinary or extraordinary; and (ii) change the layout or number of any Developer-owned Units. Developer shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction in so doing. In making the above alterations, additions and improvements, the Developer may relocate and alter Common Elements adjacent to such Units, incorporate portions of the Common Elements, provided that such relocation and alteration does not materially adversely affect the market value (in the Developer's opinion) or ordinary use of Units owned by Unit Owners other than the Developer. Any amendments to this Declaration required by actions taken pursuant to this paragraph 11 shall be effective by the Developer acting alone. Without limiting the generality of Section 7.4 hereof, the provisions of this Section may not be added to, amended or deleted without the prior written consent of the Developer. Specifically, the provisions of this paragraph shall permit the Developer, in its sole discretion, to reconfigure and resize unsold Units, including the number of Units. Any such changes for Units already dedicated to this Condominium shall be by an Amendment and a revised surveyor's certificate indicating the new Unit Plan.

12. **Operation of the Condominium by the Association; Powers and Duties.**

12.1 **Powers and Duties.** The Association shall be the entity responsible for the operation of the Condominium. The powers and duties of the Association shall include those set forth in the Articles of Incorporation and the By-Laws of the Association (respectively, Exhibits "D" and "E" annexed hereto), as amended from time to time. In addition, the Association shall have the powers and duties set forth in the Act, as well as all powers and duties granted to or imposed upon it by this Declaration, including without limitation:

- (a) The irrevocable right to have access to each Unit from time to time during reasonable hours when necessary for the maintenance, repair or replacement

of any Common Elements therein, or of any portion of a Unit maintained by the Association pursuant to this Declaration, or at any time as necessary, for making emergency repair therein to prevent damage to the Common Elements or a Unit or Units.

- (b) The power to make and collect Assessments and other charges against Unit Owners and to regulate, administer, lease, maintain, repair and replace the Common Elements.
- (c) The duty to maintain accounting records according to good accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at all reasonable times upon prior request.
- (d) The power to contract for the management and maintenance of the Condominium Property and to authorize a management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of Common Elements with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted in the Condominium documents and the Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (e) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefor mortgages and security interests in property owned by the Association, if any, provided that such actions are approved by a majority of the entire membership of the Board of Directors and of the Voting Interests represented at a meeting at which a quorum has been attained, or by such greater percentage of the Board or Voting Interests as may be specified in the By-Laws with respect to certain borrowing, provided further that no such action shall be permitted while the Developer owns any Unit without the prior written consent of the Developer.
- (f) The power to adopt and amend rules and regulations concerning the details of the operation and use of the Condominium Property.
- (g) The power to charge a fee for the exclusive use of Common Elements (other than Limited Common Elements) or Association Property to any Unit Owner being granted, by the Association, a right to such exclusive use.

- (h) The power to establish from time to time the maximum overall length, width, height and weight of the boat which may be stored in each Unit.
- (i) All of the powers which a corporation not-for-profit in the State of Florida may exercise.

In the event of conflict among the powers and duties of the Association or the terms and provisions of this Declaration, exhibits attached hereto, this Declaration shall take precedence over the Articles of Incorporation, By-Laws and applicable rules and regulations; the Articles of Incorporation shall take precedence over the By-Laws and applicable rules and regulations; and the By-Laws shall take precedence over applicable rules and regulations, all as amended from time to time. Notwithstanding anything in this Declaration or its exhibits to the contrary, the Association shall at all times be the entity having ultimate control over the Condominium, consistent with the Act.

12.2 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Unit Owners regardless of whether or not same shall have been approved by the Association pursuant to Section 11 hereof. Further, the Association shall not be liable to any Unit Owner or lessee or to any other person or entity for any property damage, personal injury, death or other liability on the grounds that the Association did not obtain or maintain insurance (or carried insurance with any particular deductible amount) for any particular matter where such insurance is not required to be obtained or maintained by the Association when the Association is in compliance with Section 718.111(11), Florida Statutes, this Declaration and the Articles and By-Laws of the Association.

12.3 Restraint Upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit.

12.4 Approval or Disapproval of Matters. Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of all record Owners of the Unit is specifically required by this Declaration or By-Law.

12.5 **Acts of the Association.** Unless the approval or action of Units and/or a certain specific percentage of the Board of Directors of the Association, is specifically required in this Declaration, the Articles of Incorporation or By-Laws of the Association, applicable rules and regulations or applicable law, all approvals or actions required or permitted to be given or taken by the Association shall be given or taken by the Board of Directors, without the consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution. When an approval or action of the Association is permitted to be given or taken hereunder or thereunder, such action or approval may be conditioned in any manner the Association deems appropriate or the Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal.

13. **Determination of Common Expenses and Fixing of Assessments Therefor.** The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses of the Condominium and allocate and assess such expenses among the Unit Owners in accordance with the provisions of this Declaration and the By-Laws. The Board of Directors shall advise all Unit Owners promptly in writing of the Amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget, on which such Assessments are based, to all Unit Owners and (if requested in writing) to their respective mortgagees. The Common Expenses shall include the expenses of and reserve for (if required by law) the operation, maintenance, repair and replacement of the Common Elements, costs of carrying out the powers and duties of the Association, and any other expense designated as Common Expenses by the Act, this Declaration, the Articles or By-Laws of the Association, applicable rules and regulations, or by the Association; income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall determine from time to time, and need not be restricted or accumulated. Any Budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of the By-Laws.

14. **Collection of Assessments.**

14.1 **Liability for Assessments.** A Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments coming due while that person is the Unit Owner. In the case of a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor for the share of the Common Expenses up to the time of the conveyance, without prejudice to my right the grantee may have to recover from the grantor the amounts paid by the grantee. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments are made or otherwise.

- 14.2 **Default in Payment of Assessments for Common Expenses.** Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. The Association has a lien on each Unit for any unpaid Assessments on such Unit, with interest and for reasonable attorneys' fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien. The lien is effective as of the date of the recording of this Declaration and shall be evidenced by the recording of a claim of lien in the Public Records of the County, stating the description of the Unit, the name of the record Owner, the name and address of the Association, the amount due and the due dates. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until it is barred by law. The claim of lien shall secure (whether or not stated therein) all unpaid assessments, interest thereon, and costs and attorneys' fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure thereof. A claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid Assessments in the manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien. As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days prior written notice to the applicable Unit Owner, the Association may declare the next twelve (12) months of Assessment installments to be accelerated (or if acceleration to such extent is prohibited by the Act, then the Association may declare Assessments to the maximum extent permitted under the Act to be accelerated) and such shall thereupon be immediately due and payable. In the event that the amount of such installment changes during the period of which Assessments were accelerated, the Unit Owner or the Association, as appropriate, shall be obligated to pay or reimburse to the other the amount of increase or decrease within ten (10) days of same taking effect.
- 14.3 **Notice of Intention to Foreclose Lien.** No foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorneys' fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address, and upon

such mailing, the notice shall be deemed to have been given. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorneys' fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.

- 14.4 **Appointment of Receiver to Collect Rental.** If the Unit Owner remains in possession of the Unit and the claim of lien is foreclosed, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit and the Association is entitled to the appointment of a receiver to collect the rent.
- 14.5 **First Mortgagee.** In the event a First Mortgagee or its successors or assignees shall obtain title to the Unit as a result of foreclosure of its mortgage pursuant to proceedings in which the Association has been properly named as a junior lienholder, or as a result of a deed given in lieu of foreclosure or in satisfaction of debt, such Institutional First Mortgagee, its successors and assigns, shall be liable only for the share of Common Expenses or Assessments or other charges imposed by the Association pertaining to such Unit or chargeable to the former Unit Owner of such Unit which became due subsequent to that period of time commencing six (6) months preceding acquisition of title as a result of the foreclosure (provided the Association has been properly named as a defendant junior lienholder) or the acceptance of such deed.

In no event shall such first mortgage be liable for more than one (1) percent of the original mortgage debt. Such unpaid share of Common Expenses or Assessments or other charges shall be deemed to be Common Expenses collectible from all of the Unit Owners, including such acquirer, and such acquirer's successors and assigns.

- 14.6 **Developer's Liability for Assessments.** During the period from the date of recording of this Declaration until the earlier of (i) the date ONE (1) year after the first closing of the sale of a Unit, which period may be extended by the Developer for up to three additional one (1) year periods without the consent or approval of the Board of Directors or of the Unit Owners, or (ii) the date on which control of the Association is transferred to Unit Owners other than the Developer (the "Guarantee Expiration Date"), the Developer shall not be obligated to pay the share of the Common Expenses and Assessments attributable to Units it is offering for sale, provided that the regular monthly Assessments for Common Expenses imposed on each Unit Owner other than the Developer shall not increase during the initial one (1) year period over the amount set forth in the Estimated Operating Budget and Budget Distribution, attached hereto as Exhibit "C," a current copy of which was given to Unit Owner when such Owner contracted to purchase the Unit, and

thereafter may increase up to 10% per year, and provided further that the Developer shall be obligated to pay any amount of Common Expenses actually incurred during such period and not produced by the Assessments at the guaranteed level. For purposes of this Section, income to the Association other than Assessments (as defined herein and in the Act) shall not be taken into account when determining the deficits to be funded by the Developer. After the Guarantee Expiration Date, the Developer shall have the option of extending the guarantee by written agreement with a majority of non-Developer Unit Owners on the same terms or paying the share of Common Expenses and Assessments attributable to Units it is then offering for sale. No funds receivable from Unit purchasers or Owners payable to the Association or collected by the Developer on behalf of the Association, other than regular periodic Assessments for Common Expenses as provided in this Declaration and disclosed in the Estimated Operating Budget referred to above, shall be used for the payment of Common Expenses prior to the Guarantee Expiration Date. This restriction shall apply to funds including, but not limited to, capital contributions or start-up funds collected from Unit purchasers at closing. Notwithstanding anything to the contrary contained herein, capital contributions or start-up funds collected from Unit purchasers at closing may be used to reimburse Developer for start-up expenses of the Association, or otherwise as the Association shall determine from time to time and need not be restricted or accumulated.

14.7 Certificate of Unpaid Assessments. Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all assessments and other moneys owed to the Association by the Unit Owner with respect to their Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

14.8 Installments. Regular Assessments may be collected monthly or quarterly, in advance, at the option of the Association from time to time.

14.9 Use of Common Elements. The Association shall establish such fees and charges, if any, for the use by Unit Owners or others of the Common Elements or any Association Property, equipment, or employees, as the Association shall deem appropriate under the circumstances.

15. Insurance. Insurance covering the Condominium Property and the Association Property shall be governed by the following provisions:

15.1 Purchase, Custody and Payment.

(a) **Purchase.** All insurance policies described herein covering portions of the Condominium Property shall be purchased by the Association

and shall be issued by an insurance company authorized to do business in Florida.

- (b) **Approval.** Each insurance policy, the agency and company issuing the policy and the Insurance Trustee (if appointed) hereinafter described shall be subject to the approval of the Primary Institutional First Mortgagee in the first instance.
- (c) **Named Insured.** The named insured shall be the Association, individually and as agent for Owners of Units covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be deemed additional insureds.
- (d) **Custody of Policies and Payment of Proceeds.** All policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Insurance Trustee (if appointed).
- (e) **Copies to Mortgagees.** One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the Association upon request to each Institutional First Mortgagee who holds a mortgage upon a Unit covered by the policy. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy, or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate.
- (f) **Personal Property and Liability.** Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners to obtain insurance coverage upon the property lying within the boundaries of their Unit, including, but not limited to, their vessel, equipment, and other personal property, and for their personal liability and for any other risks not otherwise insured in accordance herewith.
- (g) **Hold Harmless.** Each Unit Owner hereby releases and agrees to indemnify and hold the Association and Developer harmless for any and all liability to personal injury, loss of life or property damage arising out of the ordinary negligence of the Association or its employees or agents in connection with: (1) the Association premises

or the use of storage space; (2) in connection with the Owner's boat, motor, accessories or contents while on the premises and (3) for loss or damage to the Owner's boat, motor, accessories or contents due to fire, theft, vandalism, collision, marina equipment failure, windstorm, rain, hurricane or other casualty loss.

15.2 **Coverage.** The Association shall use its best efforts to maintain insurance covering the following:

- (a) **Hazard Insurance.** All structures and Buildings (including all fixtures, installations or additions comprising that part of the Buildings within the boundaries of the Units and required by the Act to be insured under the Association's policy(ies), and all Improvements located on the Common Elements from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Elements or owned by the Association (collectively the "Insured Property"), shall be insured in an amount not less than 100% of the full insurable replacement value thereof, including foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against:
 - (i) Loss or Damage by Fire and Other Hazards covered by a standard extended coverage endorsement; and
 - (ii) Such other risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.
- (b) **Liability.** Comprehensive General Liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Directors of the Association, but with combined single limit liability of not less than \$1,000,000 for each accident or occurrence, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa.
- (c) **Worker's Compensation** and other mandatory insurance, when applicable.
- (d) **Flood Insurance** if required by the Primary Institutional First Mortgagee or if the Association so elects.

- (e) **Fidelity Insurance**, covering all directors, officers, employees and management agents of the Association who control or disburse Association funds, if any, such insurance to be in an amount not less than as required by Section 718.112(2)(j), Florida Statutes.
- (f) **Association Property**. Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Association Property, where such coverage is available.
- (g) Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Unit Owners individually and as a group; (ii) to pay only a fraction of any loss in the event of co-insurance or if other insurance carriers have issued coverage upon the same risk and (iii) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, a member of the Board of Directors of the Association, one or more Unit Owners or as a result of contractual undertakings. Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omissions of individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss.

15.3 **Additional Provisions**. All policies of physical damage insurance shall provide that such policies may not be canceled or substantially modified without at least forty-five (45) days prior written notice of all of the named insureds, including all mortgagees of Units. Prior to obtaining any policy of casualty insurance or any renewal thereof, the Board of Directors shall obtain an appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be effected pursuant to this Section.

15.4 **Premiums**. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense. Premiums may be financed in such manner as the Board of Directors deems appropriate.

15.5 **Unit Owner Coverage**. Each Unit Owner shall obtain and maintain at all times, Individual hull and liability policies insuring their vessel and any other property lying within the boundaries of their Unit and for their personal liability arising in the use of their own Unit and other areas of the Common Elements for which they have exclusive use, or for which they have an obligation to repair or replace.

15.6 **Insurance Trustee; Share of Proceeds.** All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee which may, but need not, be designated by the Board of Directors. References herein to the Insurance Trustee shall be deemed to apply to the Board of Directors if it elects to serve such functions pursuant to Section 16.11 hereof. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following shares, but shares need not be set forth on the records of the Insurance Trustee:

- (a) **Insured Property.** Proceeds on account of damage to the Insured Property shall be held in undivided shares for each Unit Owner, such shares being the same as the undivided shares in the Common Elements appurtenant to each Unit.
- (b) **Mortgagees.** No mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except for actual distributions thereof made to the Unit Owner and mortgagee pursuant to the provision as of this Declaration.

15.7 **Distribution of Proceeds.** Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:

- (a) **Expenses of the Trust.** All expenses of the Insurance Trustee shall be first paid or provision shall be made therefor.
- (b) **Reconstruction or Repair.** If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners thereof, remittances to Unit Owners and their mortgagees being payable jointly to them.
- (c) **Failure to Reconstruct or Repair.** If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated at among the beneficial owners as provided hereinabove, and distributed first to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages, and the balance, if any, to the beneficial owners.

(d) **Certificate.** In making distributions to Unit Owners and their mortgagees, the Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution.

15.8 **Association as Agent.** The Association is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner and for each owner of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies Purchased by the Association and to execute and deliver releases upon the payment of claims.

15.9 **Unit Owners' Personal Coverage.** Unless the Association elects otherwise, the insurance purchased by the Association shall not cover claims against an Owner due to incidents occurring within his Unit, nor casualty or theft loss to the contents of an Owner's Unit. It shall be the obligation of the individual Unit Owner, if such Owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance carried by the Association.

15.10 **Benefit of Mortgagees.** Certain provisions in this Section 15 entitled "Insurance" are for the benefit of mortgagees of Units and may be enforced by such mortgagees.

15.11 **Insurance Trustee Option.** The Board of Directors of the Association shall have the option in its discretion of appointing an Insurance Trustee hereunder. If the Association fails to or elects not to appoint such Trustee, the Association will perform directly all obligations imposed upon such Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses.

15.12 **Presumption as to Damaged Property.** In the event of a dispute or lack of certainty as to whether damaged property constitutes a Unit(s) or Common Elements, such property shall be presumed to be Common Elements.

16. **Reconstruction or Repair After Fire or Other Casualty.**

16.1 **Determination to Reconstruct or Repair.** In the event of damage to or destruction of the Insured Property as a result of fire or other casualty (unless 75% or more of the Insured Property is destroyed or substantially damaged and Unit Owners holding 80% or more of the Voting Interests in the Condominium elect not to proceed with repairs or restoration and a Majority of Institutional First Mortgagees approve such election), the Board of Directors shall arrange for the prompt repair and restoration of the Insured Property and the Insurance Trustee (if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

If 75% or more of the Insured Property is substantially damaged or destroyed and if Unit Owners holding 80% or more of the Voting Interests in the Condominium duly and promptly resolve not to proceed with the repair or restoration thereof and a majority of Institutional First Mortgagees approve such resolution, the Condominium Property will not be repaired and shall be subject to an action for partition instituted by the Association, any Unit Owner, mortgagee or lienor, as if the Condominium Property were owned in common, in which event the net proceeds of insurance resulting from such damage or destruction shall be divided among all the Unit Owners in proportion to their respective interests in the Common Elements (with respect to proceeds held for damage to the Insured Property other than that portion of the Insured Property lying within the Boundaries of the Unit), and among affected Unit Owners in proportion to the damage suffered by each such affected Unit Owner, as determined in the sole discretion of the Association (with respect to proceeds held for damage to that portion of the Insured Property lying within the boundaries of the Unit); provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such fund all mortgages and liens on his Unit in the order of priority of such mortgages and liens.

Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than sixty (60) days from the date the Insurance Trustee (if appointed) notifies the Board of Directors and Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, or not more than ninety (90) days after the Insurance Trustee (if appointed) notifies the Board of Directors and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work. The Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

- 16.2 **Plans and Specifications.** Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements and then applicable building and other codes; or if not, then in accordance with the plans and specifications approved by the Board of Directors of the Association and the applicable building and other codes, and if the damaged property which is to be altered is a Building or Dock Structure, by the Owners of not less than 80% of the Voting Interests in the Condominium, as well as the Owners of all Units (and their respective mortgagees) the plans for which are to be altered.
- 16.3 **Special Responsibility.** If the damage is only to those parts of the Property for which the responsibility of maintenance and repair is that of the respective Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and

repair, which shall be effected promptly and in accordance with guidelines established by the Board of Directors (unless insurance proceeds are held by the Association with respect thereto by reason of the purchase of optional insurance thereon, in which case the Association shall have the responsibility to reconstruct and repair the damaged Property, provided the respective Unit Owners shall be individually responsible for any amount by which the cost of such repair or reconstruction exceeds the insurance proceeds held for such repair or reconstruction on a Unit by Unit basis, as determined in the sole discretion of the Association). In all other instances, the responsibility for all necessary reconstruction and repair shall be that of the Association.

- (a) **Disbursement.** The proceeds of insurance collected on account of a casualty, and the sums collected from Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:
- (i) **Association – Lesser Damage.** If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than \$100,000, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors of the Association; provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional First Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction funds, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.
 - (ii) **Association – Major Damage.** If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$100,000, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subparagraph (i) above, but then only upon the further approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.
 - (iii) **Unit Owners.** If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be used by the Association to effect repairs to Property (if not insured or if under-insured), or may be distributed to Owners of Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction

and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Property. All proceeds must be used to effect repairs to the Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Property and promptly effect the repairs. Any balance remaining after such repairs have been effected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated.

- (iv) **Surplus.** It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund which has been established for reconstruction and repair not paid for by insurance, after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that part of a distribution to an owner which is not in excess of the contribution to the fund paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.
- (v) **Certificate.** Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone or upon the additional approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. The Insurance Trustee may rely upon a certificate of the Association, made by its President and Secretary, as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the names of the payees and the amounts to be paid.

16.4 **Assessments.** If the proceeds of the insurance are not sufficient to defray the a estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are

insufficient, Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective shares in the Common Elements.

16.5 **Benefit of Mortgagee.** Certain provisions in this Section 16 are for the benefit of mortgagees of Units and may be enforced by any of them.

17. **Condemnation.**

17.1 **Deposit of Awards with Insurance Trustee.** The taking of portions of the Condominium Property by the exercise of the power of eminent domain shall be deemed to be a casualty, and the awards for the taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee (if appointed). Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee (if appointed); and in the event of failure to do so, in the discretion of the Board of Directors of the Association, a charge shall be made against a defaulting Unit Owner in the amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.

17.2 **Determination Whether to Continue Condominium.** Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty.

17.3 **Disbursement of Funds.** If the Condominium is terminated after condemnation, the proceeds of the awards and special Assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee (if appointed) after a casualty, or as elsewhere in this Section 17 specifically provided.

17.4 **Unit Reduced but Useable.** If the taking reduces the size of a Unit and the remaining portion of the Unit can be made useable (in the sole opinion and discretion of the Association), the award for the taking of a portion of the Unit shall

be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

- (a) **Restoration of Unit.** The Unit shall be made useable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be charged to and payable by the Owner of the Unit.
- (b) **Distribution of Surplus.** The balance of the award in respect of the Unit, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and such mortgagees.
- (c) **Adjustment of Shares in Common Elements.** If the size of the Unit is reduced by the taking, the percentage share in the Common Elements and of the Common Expenses and Common Surplus appurtenant to the Unit shall not change.
 - (i) add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentage Balance"); and
 - (ii) divide each percentage for each Unit after reduction as aforesaid by the Remaining Percentage Balance.

The result of such division for each Unit shall be the adjusted percentage for such Unit.

17.5 **Unit Made Unusable.** If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made useable (in the sole opinion and discretion of the Association), the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

- (a) **Payment of Award.** The awards shall be paid first to the applicable Institutional First Mortgagees in amounts sufficient to pay off their mortgages in connection with each Unit which is not so useable; second, to the Association for any due and unpaid Assessments; third, jointly to the affected Unit Owners and other mortgagees of their Units. In no event shall the total of such distributions in respect of a specific Unit exceed the market value of such Unit immediately prior to the taking. The balance, if any, shall be applied to repairing and replacing the Common Elements.

- (b) **Addition to Common Elements.** The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association; provided that if the cost of the work therefor shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for capital improvements to the Common Elements.
- (c) **Adjustment of Shares.** The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Unit Owners (and among reduced Units). This shall be effected by restating the shares of continuing Unit Owners as follows:
- (i) add the total of all percentages of all Units of continuing Owners prior to this adjustment, but after any adjustments made necessary by subsection 17.4(c) hereof (the "Percentage Balance"); and
 - (ii) divide the percentage of each Unit of a continuing Owner prior to this adjustment, but after any adjustments made necessary by subsection 17.4(c) hereof, by the Percentage Balance. The result of such division for each Unit shall be the adjusted percentage for such Unit.
- (d) **Assessments.** If the balance of the award (after payments to the Unit Owners and such Owners' mortgagees as above provided) for the taking is not sufficient to alter the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the applicable percentage shares of those Owners after all adjustments to such shares effected pursuant hereto by reason of the taking.
- (e) **Arbitration.** If the market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Unit and the Association within thirty (30) days after notice of a dispute by any affected party, such value shall be determined by arbitration in accordance with the then existing rules of The Division of Florida Land Sales, Condominium and Mobile Homes of the Department of Business

Regulation and Florida Statute Section 718.1255. Except as set forth in Florida Statutes Section 718.1255(4)(c), (d) and (e), the cost of arbitration proceedings shall be assessed against all Unit Owners, including Owners who will not continue after the taking, in proportion to the applicable percentage shares of such Owners as they exist prior to the adjustments to such shares effected pursuant hereto by reason of the taking.

17.6 **Taking of Common Elements.** Awards for the taking of Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Directors of the Association; provided, that if the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for capital improvements to the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustments to these shares effected pursuant hereto by reason of the taking. If there is a mortgage on a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit.

17.7 **Amendment of Declaration.** The changes in Units, in the Common Elements and in the ownership of the Common Elements and share in the Common Expenses and Common Surplus that are effected by the taking shall be evidenced by an amendment to this Declaration of Condominium that is only required to be approved by, and executed upon the direction of, a majority of all Directors of the Association.

18. **Use Restrictions.** In order to provide for congenial use of the Condominium Property and for the protection of the values of the Units, the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions:

18.1 **Use.** Each Unit shall be used exclusively for dry storage of one (1) vessel with the overall length, width, height and weight established from time to time by the Association.

18.2 **Alterations.** Without limiting the generality of Section 10.2 hereof, no Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto, or Common Elements, including, but not limited to, painting or other decorating of any nature, installing any electrical wiring, or in any manner changing the appearance of any portion of the Building, without obtaining the prior written consent of the Association (in the manner specified in Section 10.1 hereof).

- 18.3 **Use of Common Elements.** The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use of Units.
- 18.4 **Nuisances.** No nuisances (as defined by the Association) shall be allowed on the Condominium Property, nor shall any use or practice be allowed which is a source of annoyance to Unit Owners, or which interferes with the peaceful possession or proper use of the Condominium Property.
- 18.5 **No Improper Uses.** No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section 18.5.
- 18.6 **Leases.** No portion of the Units (other than an entire Unit) may be rented. All leases shall be in writing utilizing a standard form of lease promulgated by the Association, be approved by the Association and shall provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, applicable rules and regulations, or other applicable provisions of any agreement, document or instrument governing the Condominium. Leasing of Units shall also be subject to the prior written approval of the Association and the Association may deny permission to lease any Unit on any reasonable grounds the Association may find. The Association shall have the right to charge a fee in connection with the review and approval of leases which fee shall be adjusted on an annual basis not to exceed the maximum rate permitted by law, or if no maximum shall be established by law, then the fee shall be the amount reasonably necessary to reimburse the Association for its costs and expenses. The Association shall have the right to require of all tenants that they deposit in escrow with the Association a sum not in excess of one (1) month's rent which may be used by the Association to repair any damage to the Common Elements or other property owned by the Association resulting from acts or omissions of tenants (as determined in the sole discretion of the Association). Regardless of whether or not expressed in the applicable lease, all Unit Owners shall be jointly and severally liable with their tenants to the Association for any amount which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence

of the tenant or for the acts and omissions of his tenant(s) which constitute a violation of, or non-compliance with, the provisions of this Declaration and of any and all rules and regulations of the Association. All leases shall also comply with and be subject to the provisions of Section 20 hereof. This Section shall also apply to subleases and assignments and renewals of leases. No lease approved by the Association shall be amended or modified without the Association's approval.

The Association may charge a lease approval fee not in excess of any amount provided for in the Act (as it may be amended from time to time) as a maximum amount for such fees, but no fee shall be charged in connection with the approval of an amendment, modification or extension of a previously approved lease. In making its determination as to whether to approve a lessee of a Unit, the Association shall not discriminate on the grounds of race, age, gender, religion, national origin or physical or mental handicap. The Association shall review rental rates from time to time and if necessary, shall have the authority to set a "floor" rental rate so that the value of all Units is not adversely affected.

- 18.7 **Exterior Improvements; Landscaping.** Without limiting the generality of Sections 10.1 and 17.4 hereof, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, or windows of a Building, nor to plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life, without prior written consent of the Association and the Architectural Review Committee.
- 18.8 **Effect on Developer; Association.** The restrictions and limitations set forth in this Section 18, except Sections 18.3 and 18.7, shall not apply to the Developer nor to Units owned by or leased to the Developer. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Section 18 for good cause shown.

APPLICABLE WARRANTIES OF THE DEVELOPER. IF ANY, SHALL BE VOIDED BY VIOLATIONS OF THESE RESTRICTIONS AND REQUIREMENTS.

19. **Selling of Units.** There are no restrictions on the sale or transfer of Units, except for the restrictions on leases.

20. **Compliance and Default.** Each Unit Owner and every user of a Unit and the Association shall be governed by and shall comply with the terms of this Declaration of Condominium and all exhibits annexed hereto, and the rules and regulations adopted pursuant to those documents, as the same may be amended from time to time. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:

- 20.1 **Negligence.** A Unit Owner shall be liable to the Association and other Unit owners for the expense of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent such expense is not met by the proceeds of insurance actually collected in respect of such negligence by the Association.
- 20.2 **Compliance.** In the event a Unit Owner or user fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines, to sue in a court of law for damages, to make a special charge against the Unit Owner and the Unit for the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance, to hire an attorney to make a charge against the Unit Owner and Unit for the costs of such reasonable attorneys' fees incurred in requiring performance and/or compliance of the Unit Owner and to collect such charge in the same manner as the collection of Assessments and to have a lien therefor as elsewhere provided. In addition, the Association shall have the right, for itself and its employees and agents, to enter the Unit and perform the work necessary to prevent damage to the common elements or to a Unit or Units.
- 20.3 **Fines.** In the event a Unit Owner or user fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to impose a fine against the Unit Owner and the Unit. The amount of any fine shall be determined by the Board of Directors of the Association, but in any event shall not exceed any maximum amount permitted by the Condominium Act, as such Act may be amended from time to time. Any fine shall be imposed by written notice to the Unit Owner or tenant, signed by an officer of the Association, which shall state the amount of the fine, the violation for which the fine is imposed, and shall specifically state that the Unit Owner or tenant has the right to contest the fine by delivering written notice to the Association within ten (10) days after receipt of the notice imposing the fine. If the Unit Owner or tenant timely and properly objects to the fine, the Board of Directors of the Association shall appoint a Committee of Unit Owners who conduct a hearing within thirty (30) days after receipt of the Unit Owner's or tenant's objection, and shall give the Unit Owner or tenant not less than ten (10) days written notice of the hearing date. At the hearing, the Committee shall conduct a reasonable inquiry to determine whether the alleged violation in fact occurred, and that the fine imposed is appropriate. The

Unit Owner or tenant shall have the right to attend the hearing and to produce evidence on his behalf, and if the Unit Owner or tenant fails to attend then the hearing shall be deemed waived and the Board of Directors may ratify the fine without further proceedings. At the hearing the Committee shall ratify, reduce or eliminate the fine and shall give the Unit Owner or tenant written notice of its decision. Any fine shall be due and payable within ten (10) days after written notice of the imposition of the fine, or if a hearing is timely requested within ten (10) days after written notice of the Committee decision at the hearing. If any fine is levied against a tenant and is not paid within ten (10) days after same is due, the Association shall have the right to evict the tenant as hereinafter provided.

20.4 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).

20.5 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

21. Termination of Condominium. The Condominium shall continue until (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration, or (ii) such time as withdrawal of the Condominium Property from the provisions of the Act is authorized by a vote of Owners owning at least 80% of the applicable interests in the Common Elements and by a majority of Institutional First Mortgagees. In the event such withdrawal is authorized as aforesaid, the Condominium Property shall be subject to an action for partition by any Unit Owner, mortgagee or lienor as if owned in common in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective interests in the Common Elements, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such net proceeds all mortgages and liens on his Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the basis of the termination and said certificate shall be recorded among the public records of the County.

This Section may not be amended without the consent of the Primary Institutional First Mortgagee and the Developer as long as it owns any Unit.

22. Additional Rights of Mortgagees and Others.

22.1 Institutional First Mortgagees shall have the right, upon written request to the Association, to: (i) examine the Condominium documents and the Association's books and records, (ii) receive a copy of the Association's financial statement for the immediately preceding fiscal year, (iii) receive notices of and attend Association meetings, (iv) receive notice of any alleged default in any obligations hereunder by any Unit Owner, on whose Unit such Mortgagee holds a mortgage, which is not cured within thirty (30) days of notice of default to the Unit Owner, and (v) receive notice of any substantial damage or loss to any portion of the Condominium Property.

22.2 Any holder, insurer or guarantor of a mortgage on a Unit shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Condominium Property or the affected mortgaged Unit, (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Unit, (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, (iv) any proposed termination of the Condominium, and (v) any proposed action which requires the consent of a specified number of mortgage holders.

23. **Covenant Running with the Land.** All provisions of this Declaration, the Articles, By-Laws and applicable rules and regulations of the Association shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Developer and subsequent owner(s) of the Land or any part thereof, or interest therein, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners, tenants and users of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-Laws and applicable rules and regulations, as they may be amended from time to time. The acceptance of a deed or conveyance, or the entering into of a lease, or the entering into possession of any Unit, shall constitute an adoption and ratification of the provisions of this Declaration, and the Articles, By-Laws and applicable rules and regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein.

24. **Additional Provisions.**

24.1 **Notices.** All notices to the Association required or desired hereunder or under the By-Laws of the Association shall be sent by certified mail (return receipt requested) or registered mail to the Association in care of its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by

notice in writing to all Unit Owners. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association.

- 24.2 **Interpretation.** The Board of Directors of the Association shall be responsible for interpreting the provisions hereof and of any of the Exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of legal counsel that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.
- 24.3 **Mortgagees.** Anything herein to the contrary notwithstanding, the Association shall not be responsible to any mortgagee or lienor of any Unit hereunder, and may assume the Unit is free of any such mortgages or liens, unless written notice of the existence of such a mortgage or lien is received by the Association.
- 24.4 **Exhibits.** There is hereby incorporated in this Declaration all materials contained in the Exhibits annexed hereto, except that as to such Exhibits, any conflicting provisions set forth therein as to their amendment, modification, enforcement and other matters shall control over those hereof.
- 24.5 **Signature of President and Secretary.** Wherever the signature of the President of the Association is required hereunder, the signature of a vice-president may be substituted therefor, and wherever the signature of the Secretary of the Association is required hereunder, the signature of an assistant secretary may be substituted therefor.
- 24.6 **Governing Law.** Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida.
- 24.7 **Severability.** The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

- 24.8 **Waiver.** No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, without regard to the number of violations or breaches which may occur.
- 24.9 **Ratification.** Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each user of a Unit, by reason of his use, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and By-Laws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects.
- 24.10 **Execution of Documents; Attorney-in-Fact.** Without limiting the generality of other Sections of this Declaration and without such other Sections limiting the generality hereof, each Owner, by reason of the acceptance of a deed to such Owner's Unit, hereby agrees to execute, at the request of the Developer, all documents or consents which may be required by all governmental agencies to allow the Developer and its affiliates to complete the plan of development of the Project as such plan may be hereafter amended, and each such Owner further appoints hereby and thereby the Developer as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of such Owners, any and all of such documents or consents. This Power of Attorney is irrevocable and coupled with an interest. The provisions of this Section may not be amended without the consent of the Developer.
- 24.11 **Gender; Plurality.** Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.
- 24.12 **Captions.** The captions herein and in the Exhibits annexed hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of the particular document or any provision thereof.
- 24.13 **Access of Developer to Building and Units.** For as long as Developer remain liable to any Unit Owner, or the Condominium Association, under any warranty, whether statutory, express or implied, for act of omission of Developer in the development, construction, sale and marketing of the Condominium, or any Units therein, then Developer and its agents shall have the right, in Developer's sole discretion, and from time to time, to enter the Condominium or any Units for the purpose of inspecting, testing and surveying same, to determine the need for repairs, improvements or replacements, so as to permit Developer to fulfill its obligations under such warranties. Failure of the Condominium Association or of a Unit Owner

to grant such access shall result in the appropriate warranty being nullified and of no further force or effect.

25. Master Association. By taking title to a unit in the Condominium, each unit owner becomes subject to the terms and conditions of the Master Restrictions as may be amended from time to time.

25.1 Membership in the Master Association. Each unit owner shall be a member in the Master Association, which membership shall carry such rights and obligations, and be exercised in such manner, as is more fully set forth in the Master Association Documents. The membership cannot be sold, conveyed or assigned separately from the unit.

25.2 Voting in the Master Association. As provided in Section 25.1 above, all unit owners in this Condominium are automatically members of the Master Association. Notwithstanding such membership, only authorized representatives of the members shall be entitled to vote on behalf of the members of the Master Association. At Master Association meetings, the votes shall be cast as provided in the Master Association Documents.

26. Harbormaster Unit Lease and Forklift Lease. Prior to the recording of this Declaration, the Association shall enter into a Lease for the Harbormaster Unit, which includes all of the fueling facilities, located in the Commercial Association of Bellagio Harbor Village, a copy of which is attached hereto as Exhibit “___,” and a Lease for the Wiggins Forklift, a copy of which is attached hereto as Exhibit “___” (collectively “Leases”). Each Unit owner, by accepting title to a Unit, hereby consents to both Leases. The Harbormaster Unit Lease shall provide the Association with an office for the Operator and a ship’s store which will contain food, drink and marine supplies. The Forklift will be used by the Operator for the launching of vessels. All Unit owners and the Association shall be subject to, and by taking title to a Unit, consent to the terms of both Leases. Both Leases shall include a lien in favor of the lessor therein over, among other things, all of the Common Elements of the Dry Slips at Bellagio Harbor Village, and each Unit owner agrees that the Association shall have the right to grant the liens set forth in both Leases.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed and corporate seals to be hereunto affixed this 6th day of July, 2006.

Signed, sealed and delivered
in the presence of:

Judy A. Putterger
Print Name:

BRENDA L BELLAMY
Print Name:

DTM Development, Inc.,
a Florida corporation

Len Nadolski
By: Len Nadolski, President

(Corporate Seal)

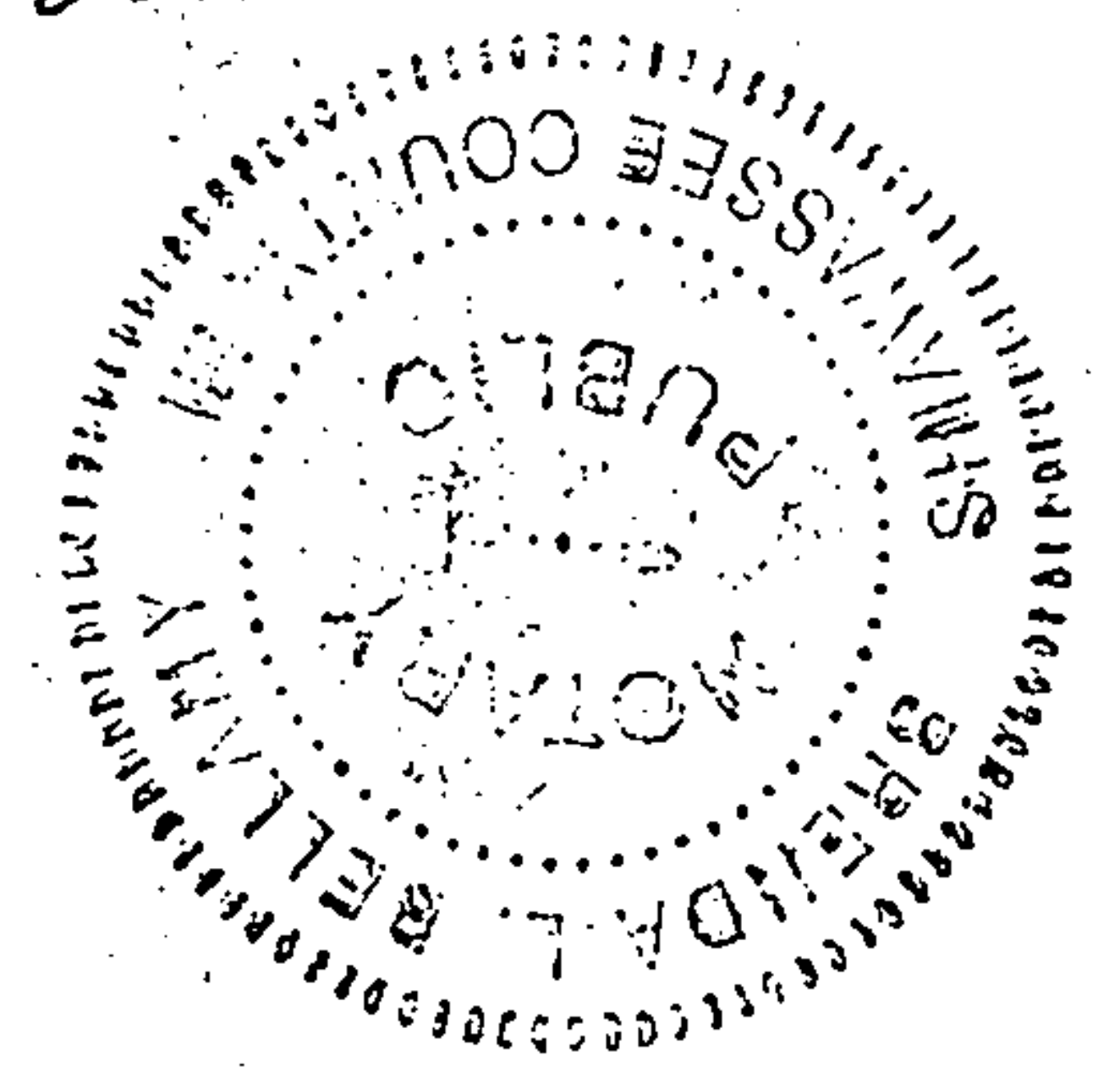
STATE OF Michigan
COUNTY OF Shiawassee

Acting in Livingston

The foregoing Declaration of Condominium was acknowledged before me this 6th day of July, 2006 by Len Nadolski as President of DTM Development, Inc., who has provided _____ as identification.

Brenda L Bellamy
BRENDA L BELLAMY
Notary Public, State of Michigan
My commission expires: 2-8-08

BRENDA L. BELLAMY
Notary Public, Shiawassee County, MI
My Commission Expires 02/08/2008



**EXHIBIT "A" to the Declaration
(Legal Description Bellagio Harbor Village)**

EXHIBIT A

LEGAL DESCRIPTION: BELLAGIO HARBOR VILLAGE
(PREPARED BY SAMPEY, BURCHETT AND KNIGHT, INC.)

COMMENCE AT THE N.E. CORNER OF SECTION 15, TOWNSHIP 38 SOUTH, RANGE 18 EAST, SARASOTA COUNTY, FLORIDA; THENCE N.89°50'40"W, ALONG THE NORTH LINE OF SAID SECTION, A DISTANCE OF 2706.58 FEET TO THE NORTHWEST CORNER OF BLACKBURN POINT WOODS SUBDIVISION AS RECORDED IN PLAT BOOK 34, PAGE 46 OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA, FOR A POINT OF BEGINNING;

THENCE S.00°09'20"W. ALONG THE WEST LINE OF SAID BLACKBURN POINT WOODS SUBDIVISION, A DISTANCE OF 827.17 FEET TO THE NORTHERLY LINE OF A RIGHT-OF-WAY AGREEMENT OF BLACKBURN POINT ROAD (73 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS INSTRUMENT _____ OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA;

THENCE N.88°19'49"W. ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 364.04 FEET TO THE EASTERLY LINES OF LANDS DESCRIBED IN OFFICIAL RECORDS INSTRUMENT 2002136648 OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA (THE FOLLOWING FOUR (4) CALLS ARE ALONG SAID LINE);

THENCE N.02°02'10"E., A DISTANCE OF 58.94 FEET;

THENCE N.88°16'40"W., A DISTANCE OF 9.16 FEET;

THENCE N.00°09'20"E., A DISTANCE OF 419.33 FEET;

THENCE S.89°07'04"W., A DISTANCE OF 156.43 FEET;

THENCE N.17°14'31"E., A DISTANCE OF 59.93 FEET TO THE INTERSECTION WITH THE APPROXIMATE MEAN HIGH WATER LINE OF LITTLE SARASOTA BAY;

THENCE MEANDERING SAID WATERS THE FOLLOWING EIGHTEEN (18) COURSES, THENCE N.83°53'31"W., A DISTANCE OF 14.02 FEET;

THENCE N.65°50'28"W., A DISTANCE OF 24.52 FEET;

THENCE N.70°55'29"E., A DISTANCE OF 13.23 FEET;

THENCE N.62°18'48"E., A DISTANCE OF 8.07 FEET;

THENCE N.15°52'50"E., A DISTANCE OF 17.99 FEET;

THENCE N.34°18'20"E., A DISTANCE OF 15.62 FEET;

THENCE N.38°38'53"E., A DISTANCE OF 24.72 FEET;

THENCE N.29°54'21"E., A DISTANCE OF 17.22 FEET;

THENCE N.22°40'56"E., A DISTANCE OF 10.65 FEET;

THENCE N.32°00'16"E., A DISTANCE OF 33.16 FEET;

THENCE N.26°41'02"E., A DISTANCE OF 15.33 FEET;

THENCE N.14°45'31"E., A DISTANCE OF 36.51 FEET;

THENCE N.28°33'55"E., A DISTANCE OF 2.85 FEET;

THENCE N.38°58'57"E., A DISTANCE OF 9.84 FEET;

THENCE N.35°54'31"E., A DISTANCE OF 6.87 FEET;

THENCE N.32°14'50"E., A DISTANCE OF 1.12 FEET;

THENCE N.09°49'37"E., A DISTANCE OF 57.36 FEET;

THENCE N.29°18'25"E., A DISTANCE OF 46.06 FEET TO A POINT ON THE NORTH LINE OF SECTION 15, TOWNSHIP 38 SOUTH, RANGE 18 EAST;


THENCE S.89°50'40"E. ALONG SAID NORTH LINE, A DISTANCE OF 407.24 FEET TO THE POINT OF BEGINNING.

Not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper.

BY: 
William R. Knight, Jr. Professional Surveyor & Mapper
Florida Registration Certificate No. 4554
Signing Date: 7/19/06

CONDOMINIUM DOCS FOR: DTM DEVELOPMENT, INC.

BELLAGIO HARBOR VILLAGE
LEGAL DESCRIPTION
SARASOTA COUNTY, FLORIDA

 **Sampey, Burchett & Knight, Inc.**
Professional Surveyors & Mappers
1588 Global Court
Sarasota, Florida 34240
Phone: 941-342-0349
Fax: 941-342-7490 LB No.: 7009

JOB NUMBER	REVISION	SECTION	TOWNSHIP	RANGE	SCALE	DATE	DRAWN BY	FILE NAME	SHEET
04-047		15	38	18	1" = N/A	7/06	CSJ	04-047CD	1 OF 2

EXHIBIT A

DRY SLIPS AT BELLAGIO HARBOR VILLAGE, A CONDOMINIUM LEGAL DESCRIPTION:

(PREPARED BY SAMPEY, BURCHETT AND KNIGHT, INC.)

COMMENCE AT THE NORTHEAST CORNER OF SECTION 15, TOWNSHIP 38 SOUTH, RANGE 18 EAST, SARASOTA COUNTY, FLORIDA; THENCE N.89°50'40"W, ALONG THE NORTH LINE OF SAID SECTION, A DISTANCE OF 2706.58 FEET TO THE NORTHWEST CORNER OF BLACKBURN POINT WOODS SUBDIVISION AS RECORDED IN PLAT BOOK 34, PAGE 46 OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA;

THENCE S.00°09'20"W, ALONG THE WEST LINE OF SAID BLACKBURN POINT WOODS SUBDIVISION, A DISTANCE OF 479.17 FEET;

THENCE N.89°50'40"W., A DISTANCE OF 40.00 FEET FOR THE POINT OF BEGINNING;

THENCE S.00°09'20"W., A DISTANCE OF 257.99 FEET;
 THENCE N.89°50'56"W., A DISTANCE OF 137.07 FEET;
 THENCE N.00°09'20"E., A DISTANCE OF 37.33 FEET;
 THENCE N.89°50'40"W., A DISTANCE OF 59.28 FEET;
 THENCE N.00°00'00"E., A DISTANCE OF 25.71 FEET;
 THENCE N.13°32'05"E., A DISTANCE OF 68.39 FEET;
 THENCE S.89°51'22"E., A DISTANCE OF 1.43 FEET;
 THENCE N.00°08'38"E., A DISTANCE OF 14.00 FEET;
 THENCE N.89°51'22"W., A DISTANCE OF 4.00 FEET;
 THENCE S.00°08'38"W., A DISTANCE OF 3.21 FEET;
 THENCE S.13°32'05"W., A DISTANCE OF 78.89 FEET;
 THENCE S.00°00'00"E., A DISTANCE OF 26.29 FEET;
 THENCE N.89°50'40"W., A DISTANCE OF 44.63 FEET;
 THENCE N.01°28'04"W., A DISTANCE OF 66.50 FEET;
 THENCE S.88°35'14"W., A DISTANCE OF 49.83 FEET;
 THENCE N.01°24'46"W., A DISTANCE OF 8.00 FEET;
 THENCE N.88°35'14"E., A DISTANCE OF 49.83 FEET;
 THENCE N.01°28'04"E., A DISTANCE OF 44.12 FEET;
 THENCE S.89°50'40"E., A DISTANCE OF 4.00 FEET;
 THENCE N.01°28'04"W., A DISTANCE OF 82.99 FEET;
 THENCE N.88°31'56"E., A DISTANCE OF 33.71 FEET;
 THENCE N.00°09'20"E., A DISTANCE OF 17.02 FEET;
 THENCE S.89°50'40"E., A DISTANCE OF 20.50 FEET;
 THENCE N.00°09'20"E., A DISTANCE OF 1.17 FEET;
 THENCE S.89°50'40"E., A DISTANCE OF 193.50 FEET TO THE POINT OF BEGINNING.

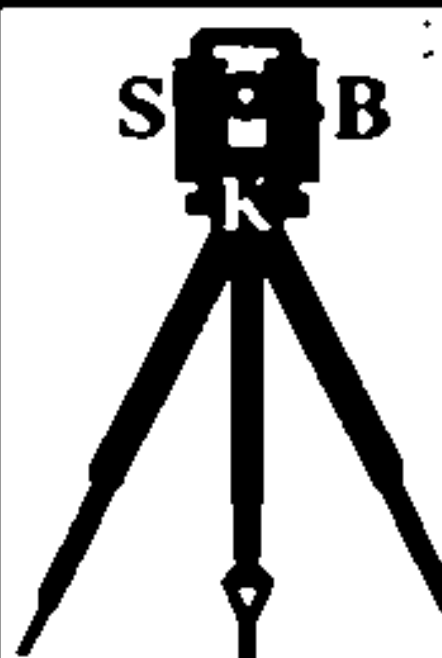
CONTAINING 58,878 SQUARE FEET, MORE OR LESS

Not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper.

BY: 
 William R. Knight, Jr., Professional Surveyor & Mapper
 Florida Registration Certificate No. 4554
 Signing Date: 7/19/06

CONDOMINIUM DOCS FOR: DTM DEVELOPMENT, INC.

**DRY SLIPS AT BELLAGIO HARBOR VILLAGE, A CONDOMINIUM
LEGAL DESCRIPTION
SARASOTA COUNTY, FLORIDA**

 **Sampey, Burchett & Knight, Inc.**
Professional Surveyors & Mappers
 1588 Global Court
 Sarasota, Florida 34240
 Phone: 941-342-0349
 Fax: 941-342-7490
 LB No.: 7009

JOB NUMBER 04-047	REVISION	SECTION 15	TOWNSHIP 38	RANGE 18	SCALE 1"= N/A	DATE 7/06	DRAWN BY CSJ	FILE NAME 04-047CD	SHEET 2 OF 2
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**EXHIBIT "B" to the Declaration
(Dry Slip Plot Plan)**

EXHIBIT B

NOTES:

1. SURVEY PERFORMED WITH THE BENEFIT OF A TITLE COMMITMENT POLICY ISSUED BY VOIGT & VOIGT, P.A., COMMITMENT NUMBER CM-1-0492-9700, EFFECTIVE DATE MAY 19, 2004.
2. FEATURES SUCH AS, BUT NOT LIMITED TO ELEVATIONS, TREES, SOIL TYPES, WETLANDS, ENVIRONMENTALLY SENSITIVE AREAS, DEED RESTRICTIONS, BUILDING SETBACKS, ZONING INFORMATION, SUBSURFACE IMPROVEMENTS AND FOUNDATIONS, ETC., HAVE NOT BEEN LOCATED EXCEPT AS SHOWN HEREON.
3. BEARINGS & DISTANCES ON THE BOUNDARY AND CONTROL TIES ARE PLAT OR DESCRIPTION AND MEASURED EXCEPT AS OTHERWISE SHOWN.
4. THIS SURVEY IS NOT TRANSFERABLE TO ANY PERSON OR ENTITY NOT NAMED AS BEING CERTIFIED TO ON THIS DRAWING.
5. SUBJECT PROPERTY LIES IN ZONE A12 (EL11, 12, & 13), V16 (EL 13) PER FEDERAL INSURANCE RATE MAP COMMUNITY PANEL 125144 0236 D, REVISED 5/1/84.
6. HORIZONTAL ACCURACY OF SURVEY: (ERROR OF CLOSURE EXCEEDS 1:10,000)
7. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF SECTION 15 TOWNSHIP 38 SOUTH, RANGE 18 EAST, BEING N 89°50'40" W.
8. DATE OF FIELD SURVEY: 06/05/04 FIELD BOOK 973/1
9. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
11. REFER TO THE DECLARATION OF CONDOMINIUM FOR DEFINITION AND DESIGNATION OF THE DRY SLIP BOUNDARY, LIMITED COMMON ELEMENT (L.C.E.), COMMON ELEMENT AND COMMON AREA.
12. EVERYTHING EXTERIOR TO THE DRY SLIPS ARE COMMON ELEMENTS UNLESS OTHERWISE DENOTED.

CERTIFICATE OF SURVEYOR:

THE UNDERSIGNED SURVEYOR HEREBY CERTIFIES:

AS TO THE REAL PROPERTY:

THAT THIS BOUNDARY SURVEY AND SITE PLAN REPRESENTS A FIELD SURVEY AND CORRECTLY REPRESENTS THE BOUNDARIES AND AREAS OF THE SUBJECT PROPERTY AND THE SIZE AND TYPE OF IMPROVEMENTS THEREON; THE LOCATION OF RIGHT-OF-WAY, EASEMENTS AND OTHER MATTERS OF RECORD (OF WHICH I HAVE KNOWLEDGE OR HAVE BEEN ADVISED, WHETHER OR NOT OF RECORD) AFFECTING OR BENEFITING THE SUBJECT PROPERTY; ABUTTING DEDICATED PUBLIC STREETS PROVIDING ACCESS TO THE SUBJECT PROPERTY TOGETHER WITH THE WIDTH AND NAME THEREOF; AND OTHER VISIBLE SIGNIFICANT ITEMS ON THE SUBJECT PROPERTY; THERE ARE NO VISIBLE ENCROACHMENTS UPON THE SUBJECT PROPERTY BY IMPROVEMENTS ON ADJACENT PROPERTY OR ENCROACHMENTS ON ADJACENT PROPERTY, STREETS, OR ALLEYS BY IMPROVEMENTS ON THE SUBJECT PROPERTY;

INGRESS TO AND EGRESS FROM THE SUBJECT PROPERTY IS PROVIDED BY BLACKBURN POINT ROAD, THE SAME BEING PAVED, DEDICATED PUBLIC RIGHT-OF-WAY MAINTAINED BY COUNTY OF SARASOTA, FLORIDA;

BUILDING SETBACK LINES SHALL BE IN ACCORDANCE WITH SARASOTA COUNTY ORDINANCES.

THE COMBINED ASSOCIATION PARCELS DESCRIBE A CONTIGUOUS PROPERTY WITHOUT GAPS, GORES OR OVERLAPS;

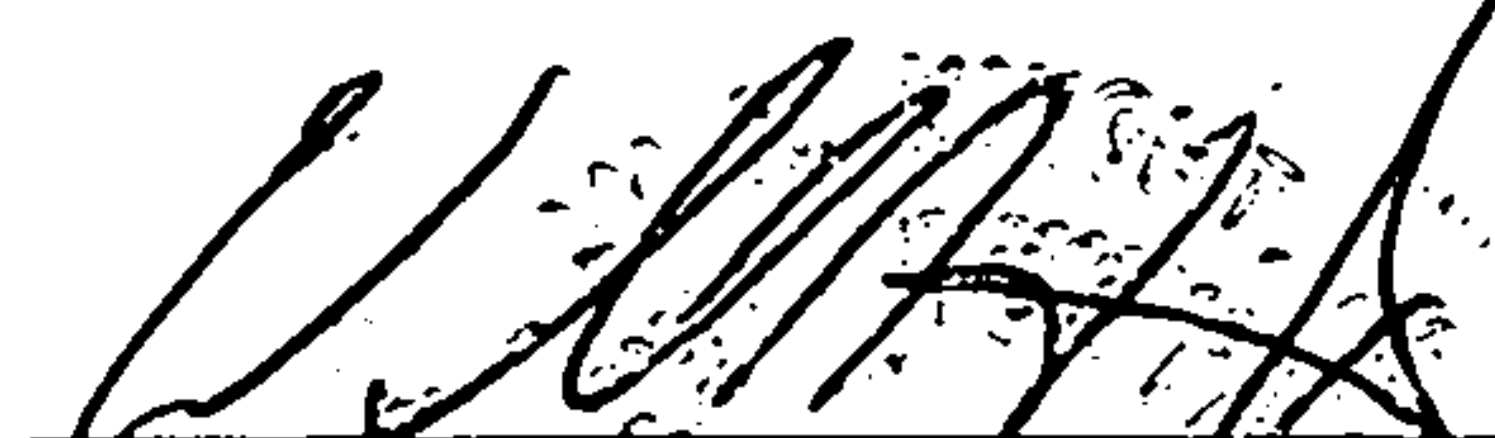
AS TO THE CONDOMINIUM:

THIS EXHIBIT "B", TOGETHER WITH THE DECLARATIONS OF CONDOMINIUM, DESCRIBING THE CONDOMINIUM PROPERTY, IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS AND SO THAT THE IDENTIFICATION, LOCATION, AND DIMENSIONS OF THE HORIZONTAL AND VERTICAL BOUNDARIES AND OF EACH DRY SLIP CAN BE DETERMINED FROM THESE MATERIALS.

THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA.


THIS CONDOMINIUM IS SUBSTANTIALLY COMPLETE.

Not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper.

BY: 
 William R. Knight, Jr., Professional Surveyor & Mapper
 Florida Registration Certificate No. 4554
 Signing Date: 7/14/06

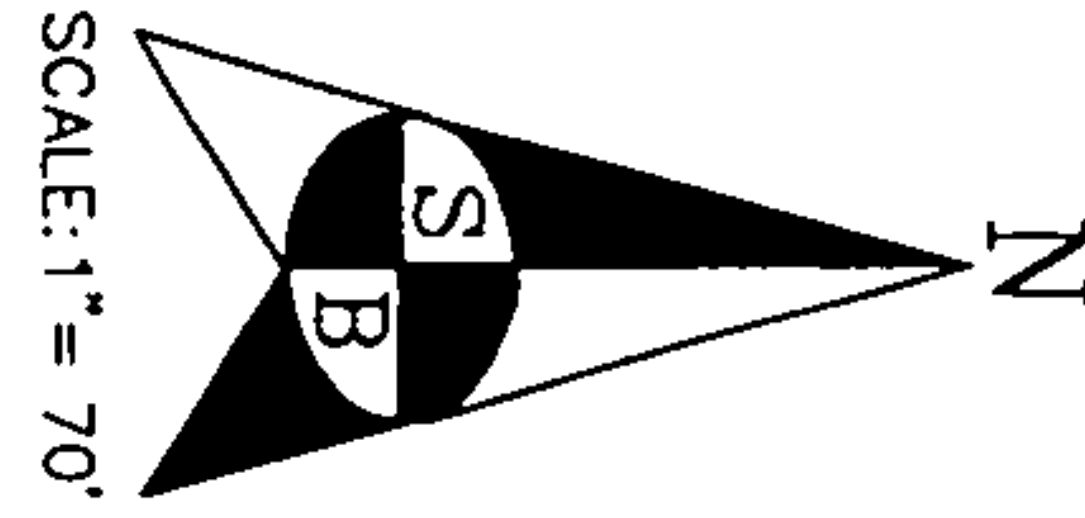
CONDOMINIUM DOCS FOR: DTM DEVELOPMENT, INC.

**DRY SLIPS AT BELLAGIO HARBOR VILLAGE, A CONDOMINIUM
 SURVEYORS NOTATIONS
 SARASOTA COUNTY, FLORIDA**

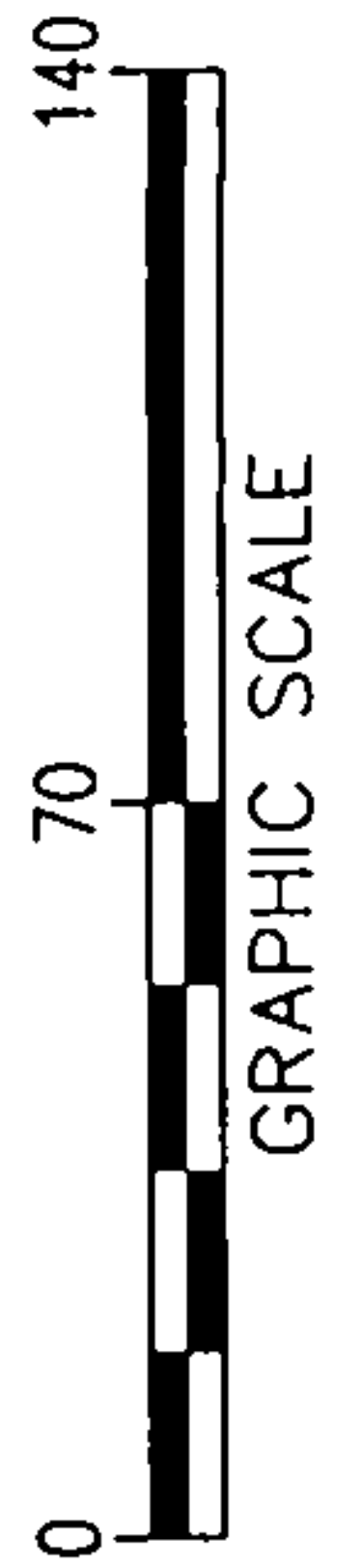
 **Sampey, Burchett & Knight, Inc.**
 Professional Surveyors & Mappers
 1588 Global Court
 Sarasota, Florida 34240
 Phone: 941-342-0349
 Fax: 941-342-7490 LB No.: 7009

JOB NUMBER 04-047	REVISION	SECTION 15	TOWNSHIP 38	RANGE 18	SCALE 1"= N/A	DATE 07/06	DRAWN BY CSJ	FILE NAME 04-047CD	SHEET 1 OF 10
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EXHIBIT B



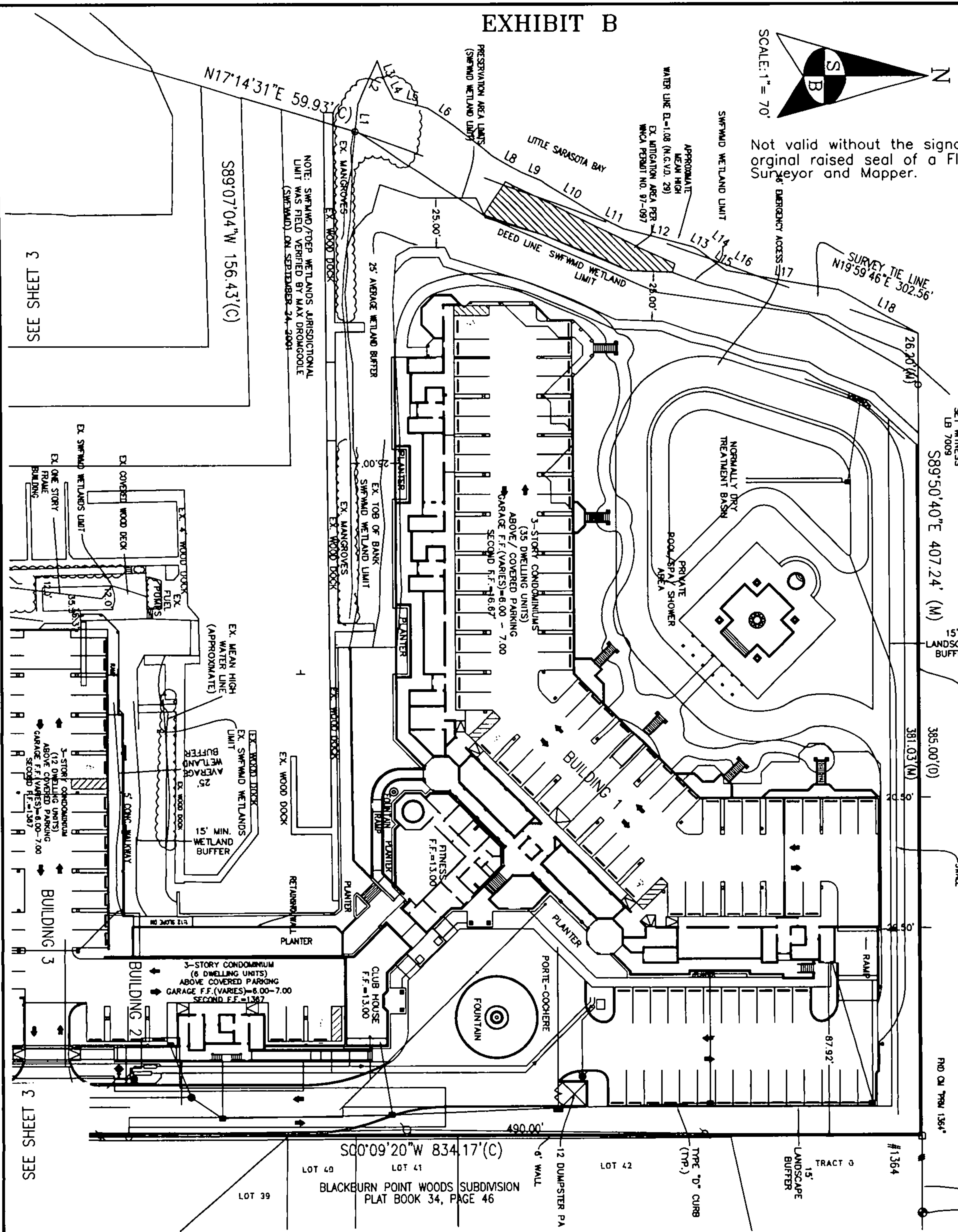
Not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper.



SARABAY ACRES P.B. 4 PG. 62

POINT OF COMMENCEMENT
NORTH EAST CORNER OF
SECTION 15-36-18
DNR DOC 73839

N89°50'40"W
2706.58'(M)
2708.23'(D)



S89°07'04"W 156.43'(C)

NOTE: SWFWMD/DEEP WETLANDS JURISDICTIONAL LIMIT WAS FIELD VERIFIED BY MAX DROMGOOLE (SWFWMD) ON SEPTEMBER 24, 2001

SURVEY TIE LINE
N19°59'46"E 302.56'

S00°09'20"W 834.17'(C)

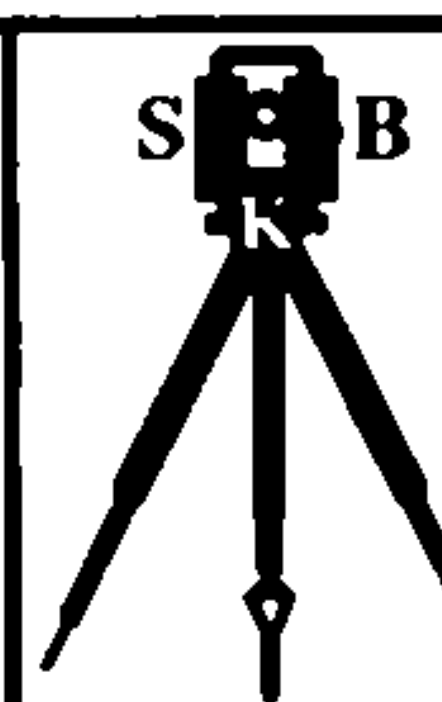
BLACKBURN POINT WOODS SUBDIVISION
PLAT BOOK 34, PAGE 46

SEE SHEET 3

SEE SHEET 3

CONDOMINIUM DOCS FOR: DTM DEVELOPMENT, INC.

DRY SLIPS AT BELLAGIO HARBOR VILLAGE, A CONDOMINIUM
OVERALL BOUNDARY SURVEY
& DRY SLIP CONDOMINIUM SITE PLAN
SARASOTA COUNTY, FLORIDA



Sampey, Burchett & Knight, Inc.
Professional Surveyors & Mappers
1588 Global Court
Sarasota, Florida 34240
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Fax: 941-342-7490
LB No.: 7009

JOB NUMBER 04-047	REVISION	SECTION 15	TOWNSHIP 38	RANGE 18	SCALE 1" = 70'	DATE 07/06	DRAWN BY CSJ	FILE NAME 04-047CD	SHEET 2 OF 10
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SEPTEMBER 24, 2001

SEE SHEET 2

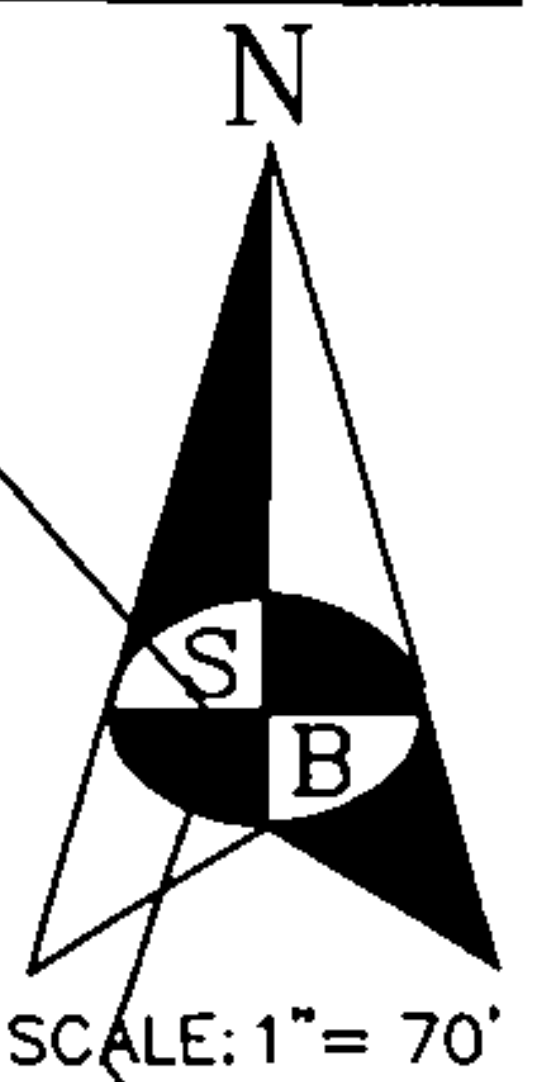
EXHIBIT B

EX. WOOD DOCK

RETAINING WALL PLAN

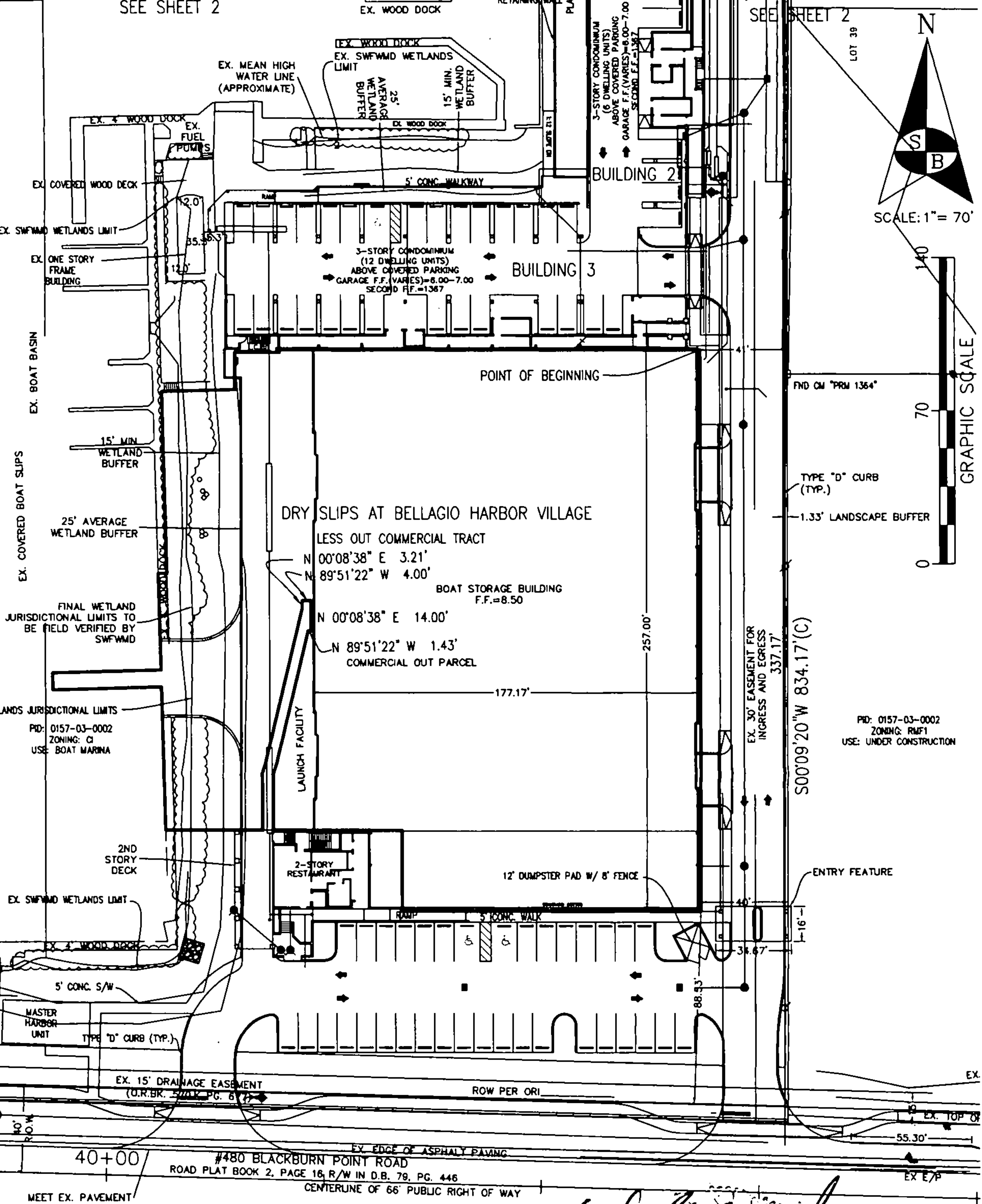
SEE SHEET 2

LOT 39



156.43'(C)

N00°09'20"E 419.33'(C) 418.94'(D)

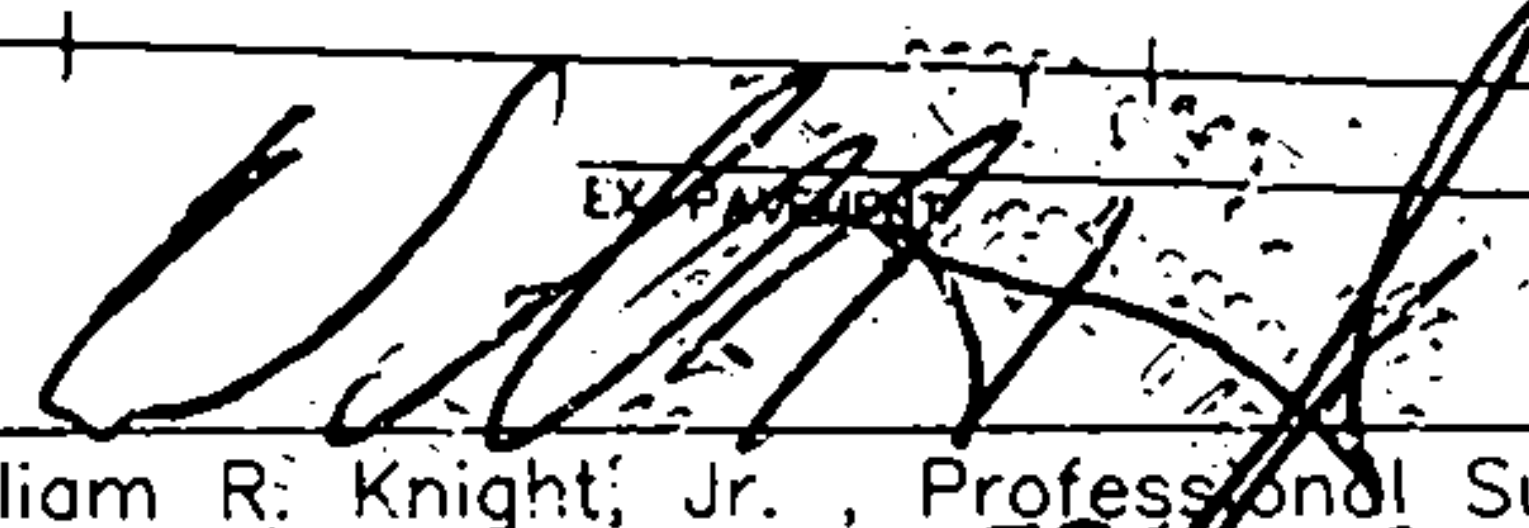


PD: 0157-03-0002
ZONING: RUF1
USE: UNDER CONSTRUCTION


#480 BLACKBURN POINT ROAD
ROAD PLAT BOOK 2, PAGE 18, R/W IN D.B. 79, PG. 446

Not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper.

CONDOMINIUM DOCS FOR: DTM DEVELOPMENT, INC.

BY: 
William R. Knight, Jr., Professional Surveyor & Mapper
Florida Registration Certificate No. 4554
Signing Date: 7/14/06

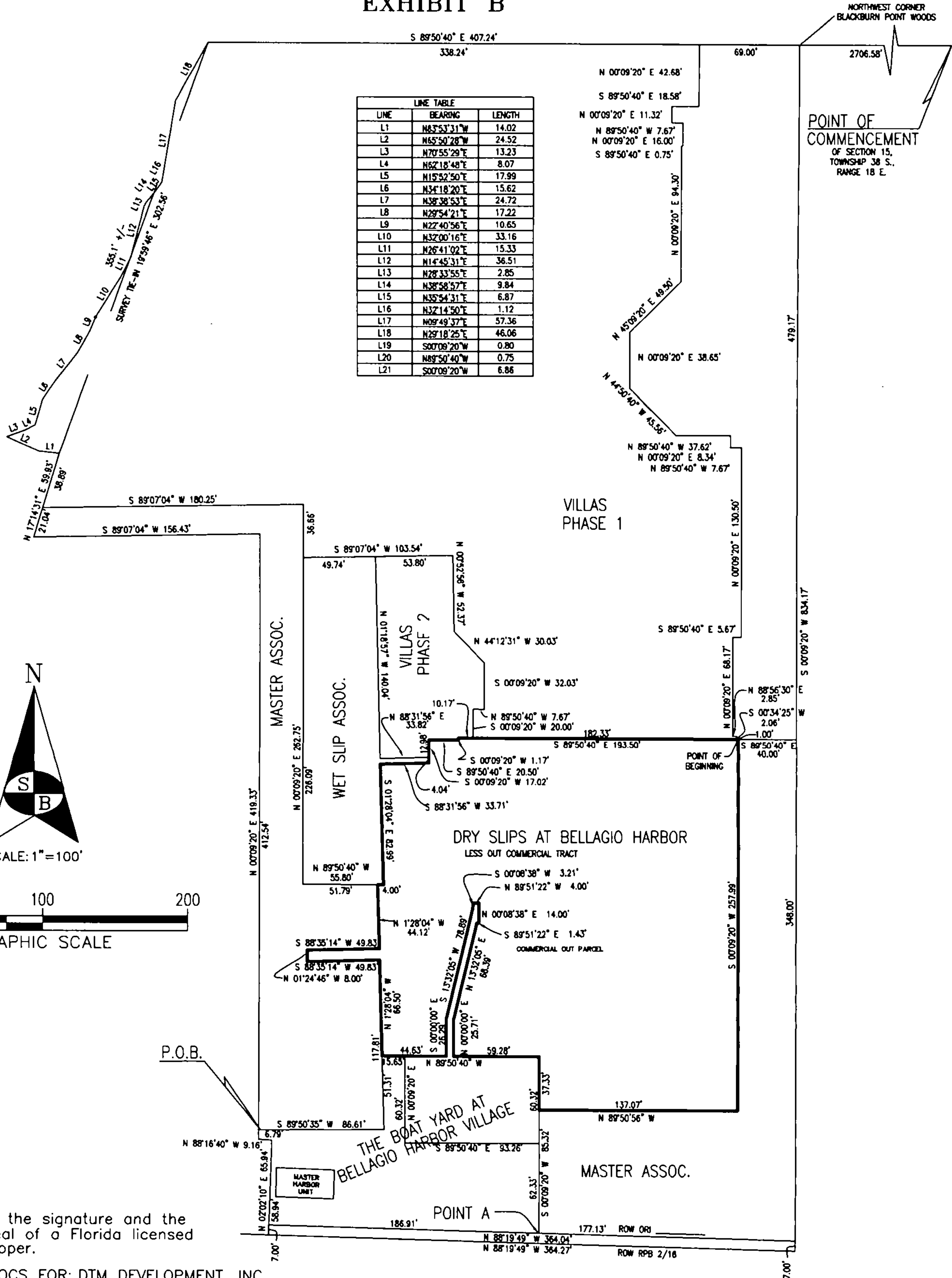
**DRY SLIPS AT BELLAGIO HARBOR VILLAGE, A CONDOMINIUM
OVERALL BOUNDARY SURVEY
& DRY SLIP CONDOMINIUM SITE PLAN
SARASOTA COUNTY, FLORIDA**

S B  **Sampey, Burchett & Knight, Inc.**
Professional Surveyors & Mappers
1588 Global Court
Sarasota, Florida 34240
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LB No.: 7009

JOB NUMBER 04-047	REVISION	SECTION 15	TOWNSHIP 38	RANGE 18	SCALE 1" = 70'	DATE 07/06	DRAWN BY CSJ	FILE NAME 04-047CD	SHEET 3 OF 10
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EXHIBIT B

LINE	BEARING	LENGTH
L1	N83°53'31"W	14.02
L2	N65°50'28"W	24.52
L3	N70°55'29"E	13.23
L4	N62°18'48"E	8.07
L5	N15°52'50"E	17.99
L6	N34°18'20"E	15.62
L7	N38°38'53"E	24.72
L8	N29°54'21"E	17.22
L9	N22°40'56"E	10.65
L10	N32°00'16"E	33.16
L11	N26°41'02"E	15.33
L12	N14°45'31"E	36.51
L13	N28°33'55"E	2.85
L14	N38°58'57"E	9.84
L15	N35°54'31"E	6.87
L16	N32°14'50"E	1.12
L17	N09°49'37"E	57.36
L18	N29°18'25"E	46.06
L19	S00°09'20"W	0.80
L20	N89°50'40"W	0.75
L21	S00°09'20"W	6.86



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CONDOMINIUM DOCS FOR: DTM DEVELOPMENT, INC.

DRY SLIPS AT BELLAGIO HARBOR VILLAGE, A CONDOMINIUM ASSOCIATION LIMIT DETAIL

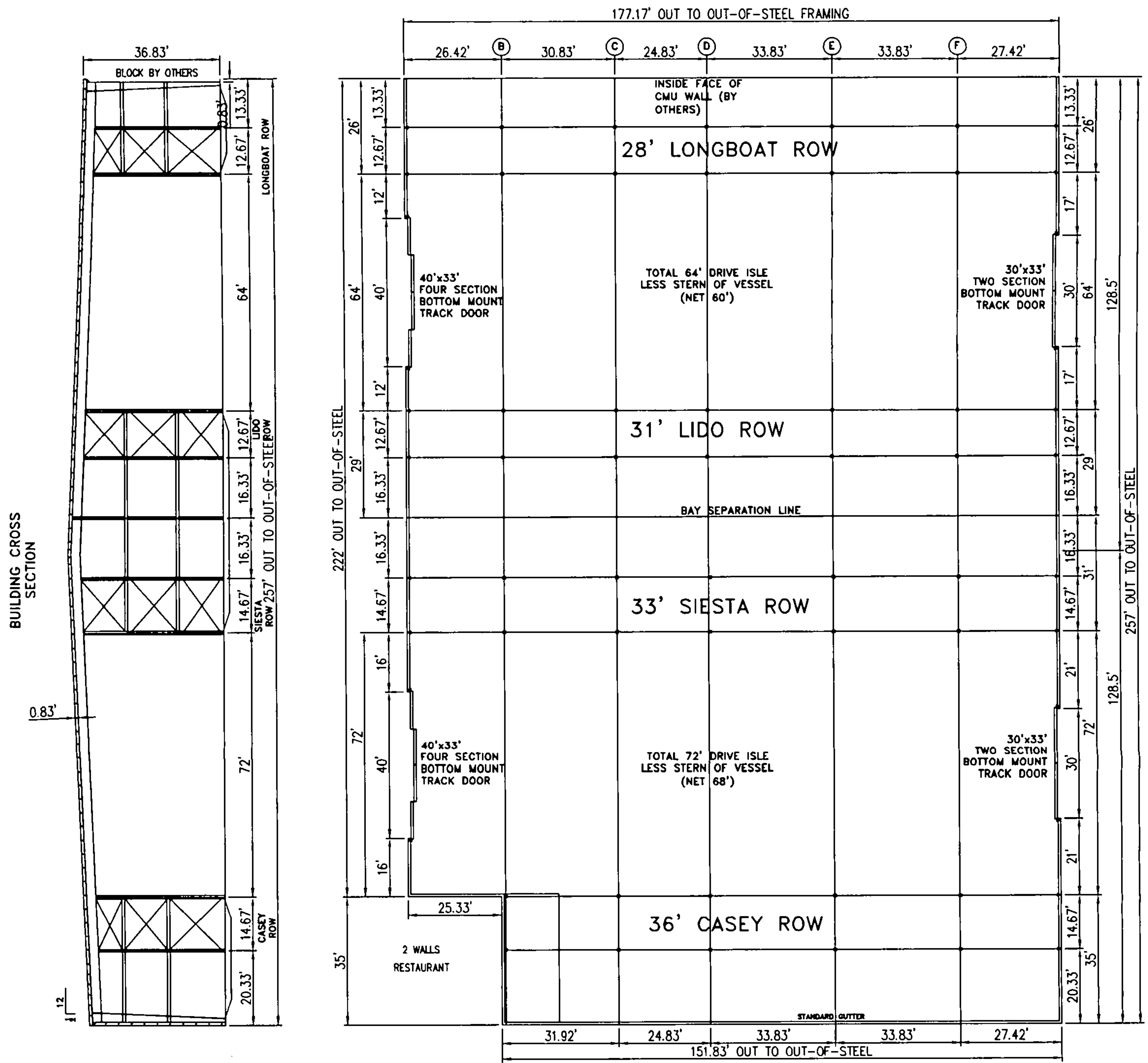
SARASOTA COUNTY, FLORIDA



Sampey, Burchett & Knight, Inc.
 Professional Surveyors & Mappers
 1588 Global Court
 Sarasota, Florida 34240
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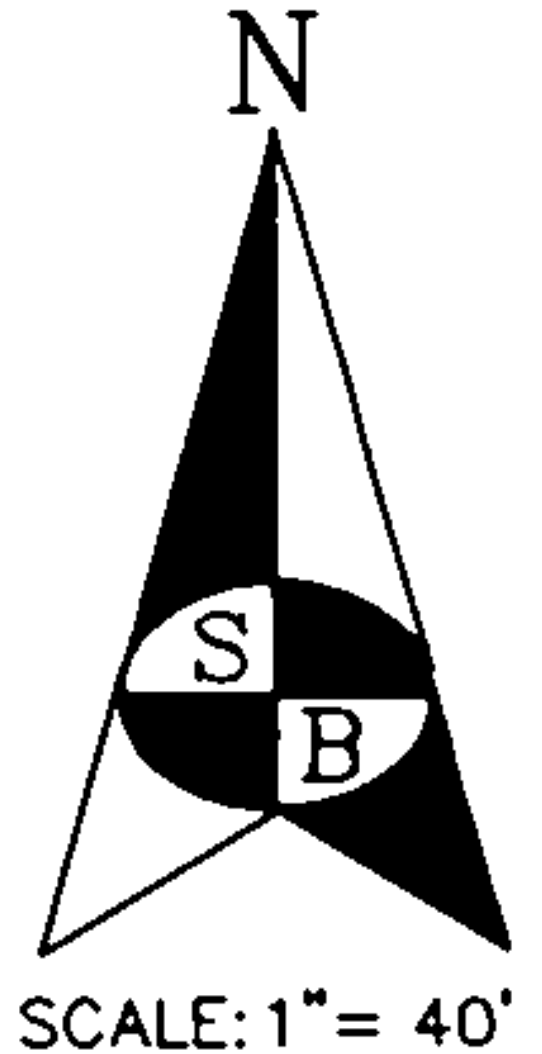
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EXHIBIT B



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CONDOMINIUM DOCS FOR: DTM DEVELOPMENT, INC.

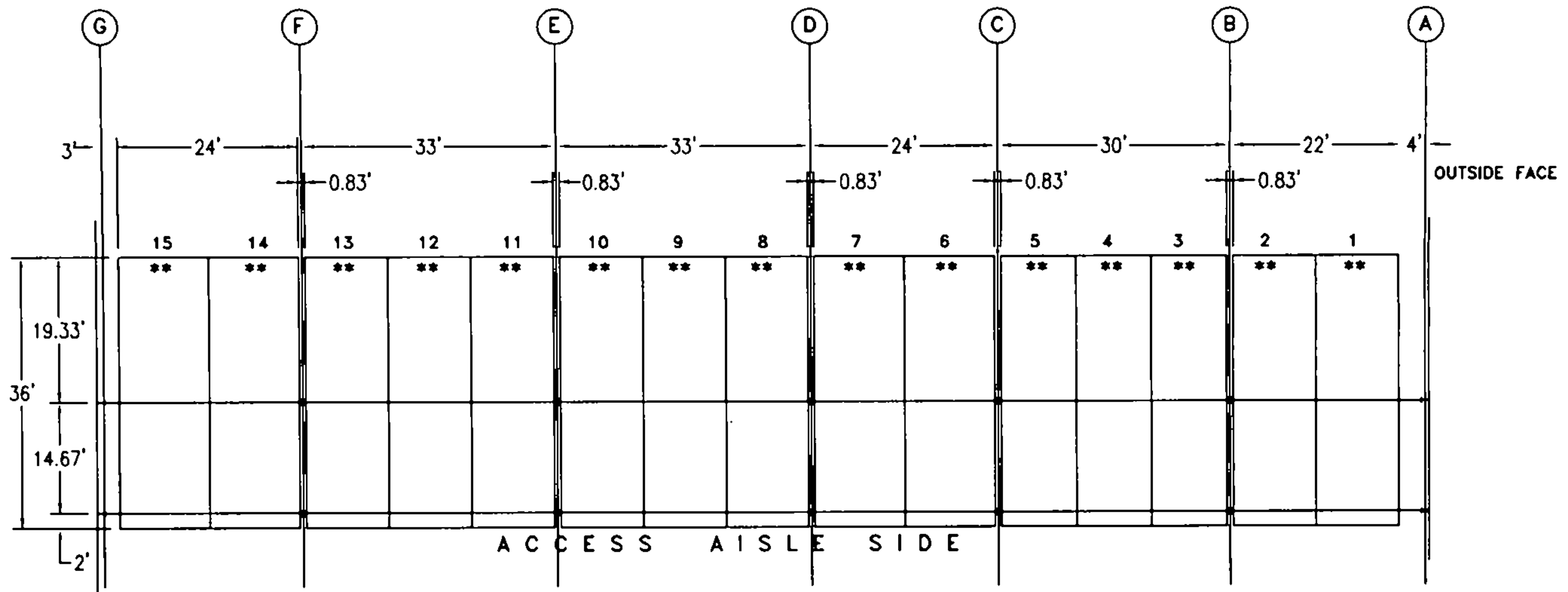


DRY SLIPS AT BELLAGIO HARBOR VILLAGE A CONDOMINIUM
CROSS SECTION &
FLOOR PLAN AT GROUND LEVEL
SARASOTA COUNTY, FLORIDA

S B *Sampey, Burchett & Knight, Inc.*
 Professional Surveyors & Mappers
 1588 Global Court
 Sarasota, Florida 34240
 Phone: 941-342-0349
 Fax: 941-342-7490
 LB No.: 7009

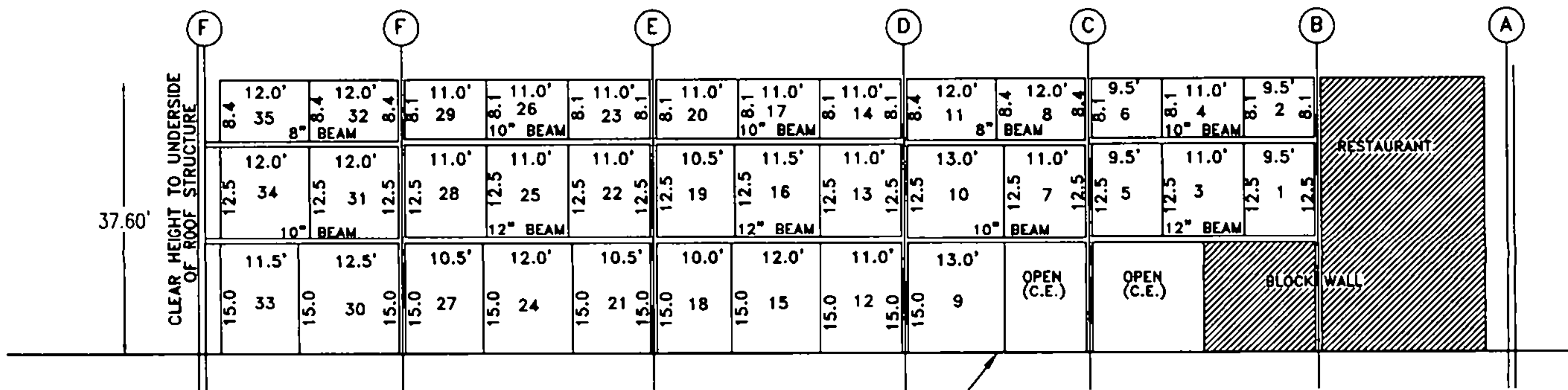
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EXHIBIT B



RACK PLAN - 36' CASEY ROW
1" = 30'

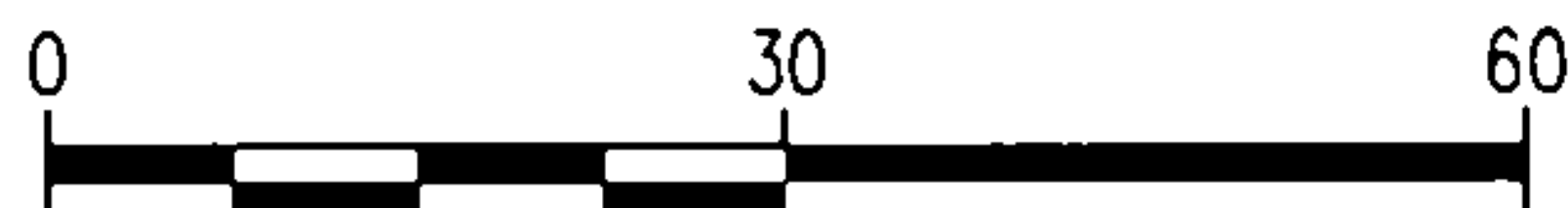
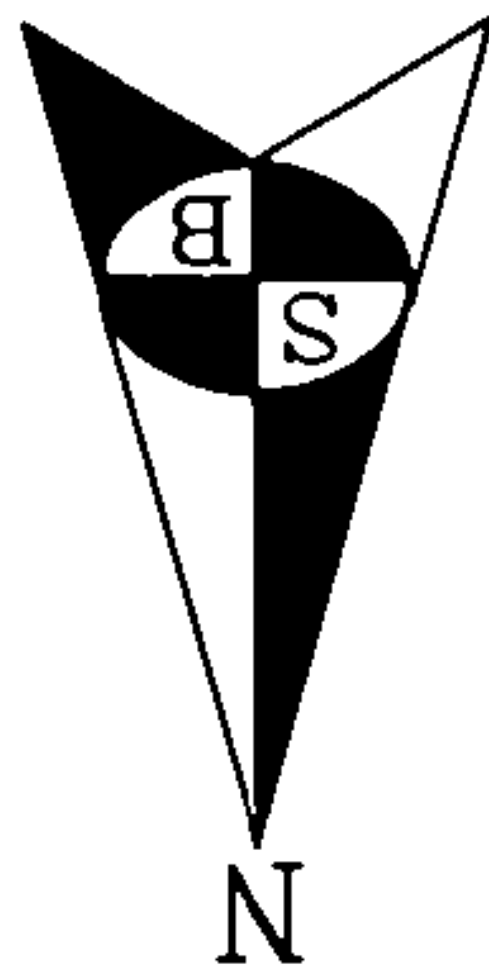
** INDIVIDUAL CUBE WIDTHS VARY - SEE 'AISLE SIDE ELEVATION' FOR WIDTH AND HEIGHT DIMENSIONS



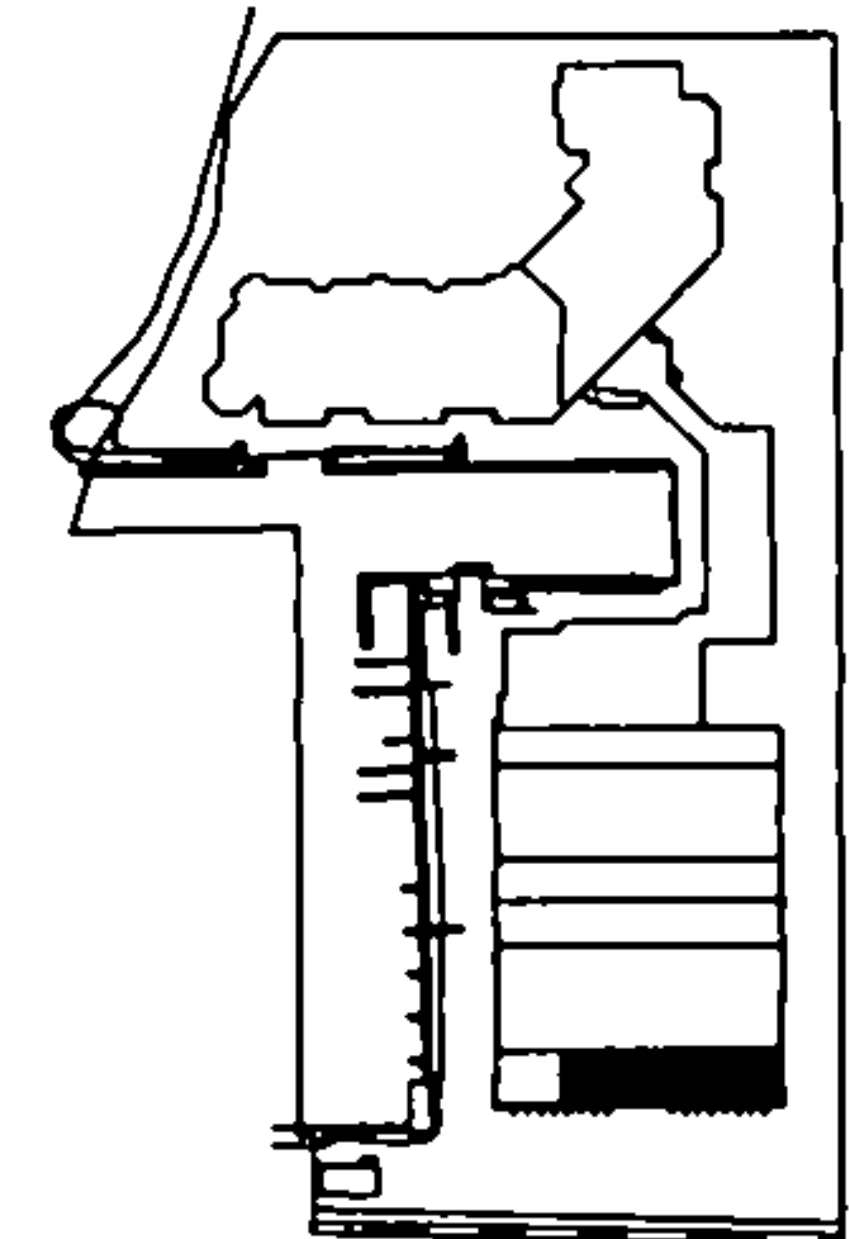
AISLE SIDE ELEVATION - 36' CASEY ROW
1" = 30'

HORIZONTAL PLANE OF CONCRETE SLAB IS UNIT BOUNDARY OF LOWER UNITS

SCALE: 1" = 30'



GRAPHIC SCALE



KEYMAP
(NOT TO SCALE)

Not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper.

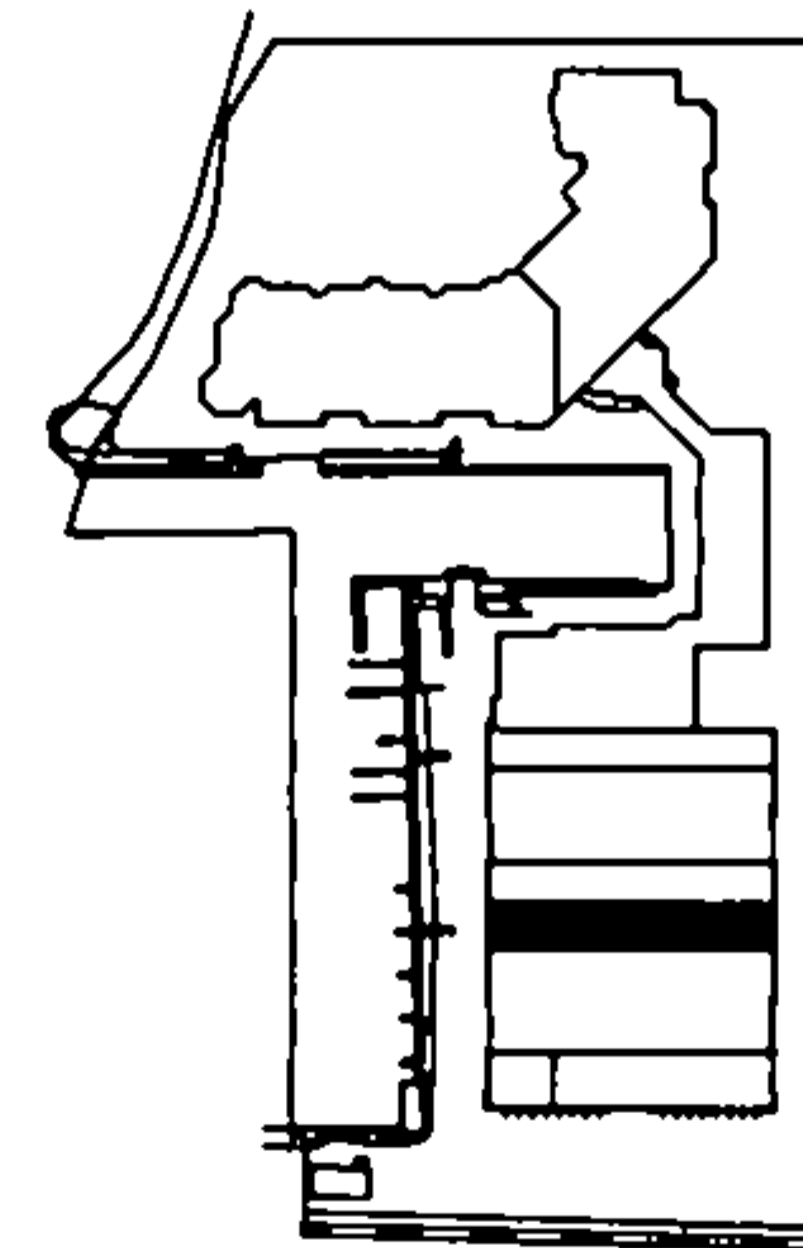
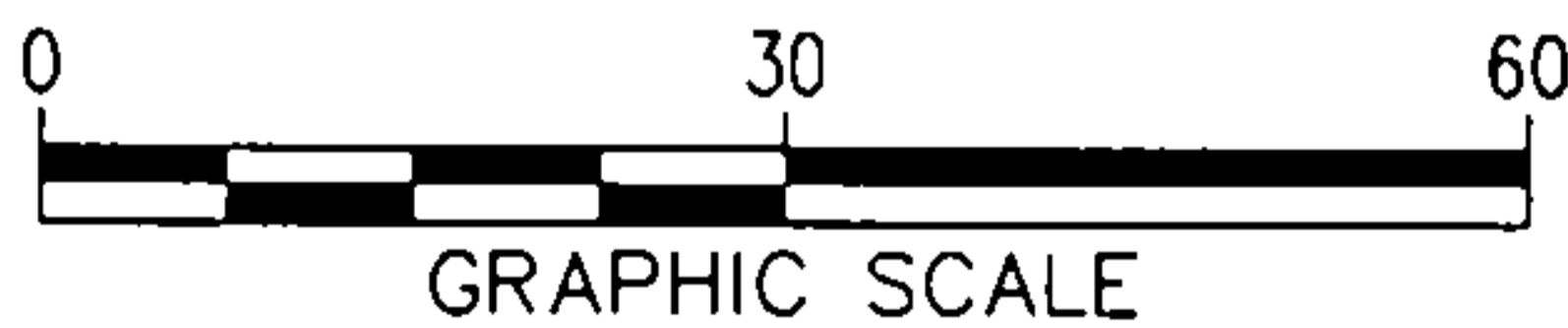
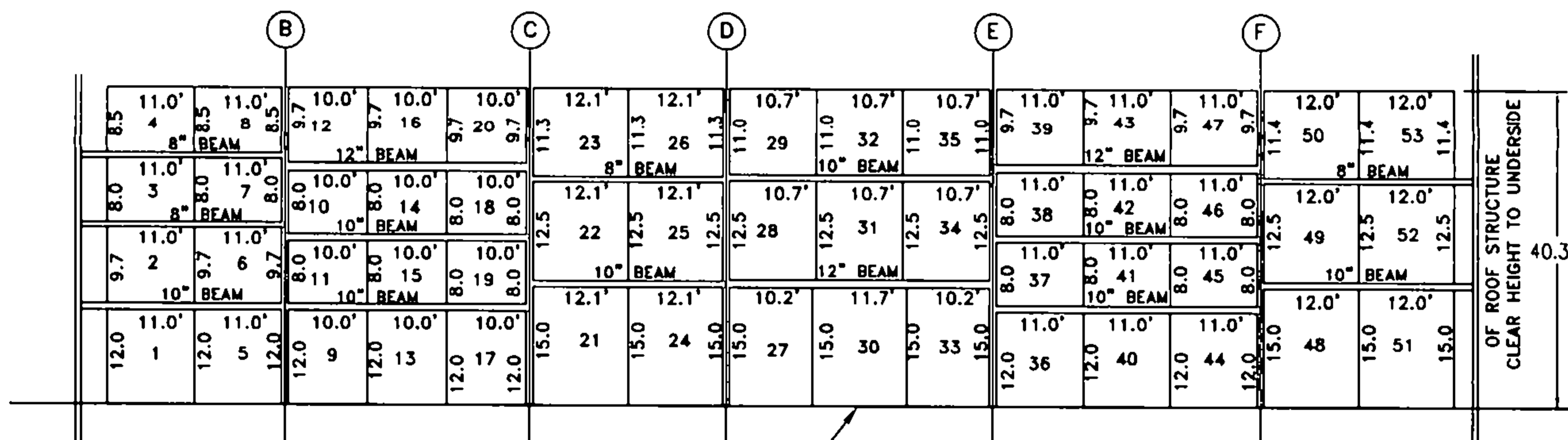
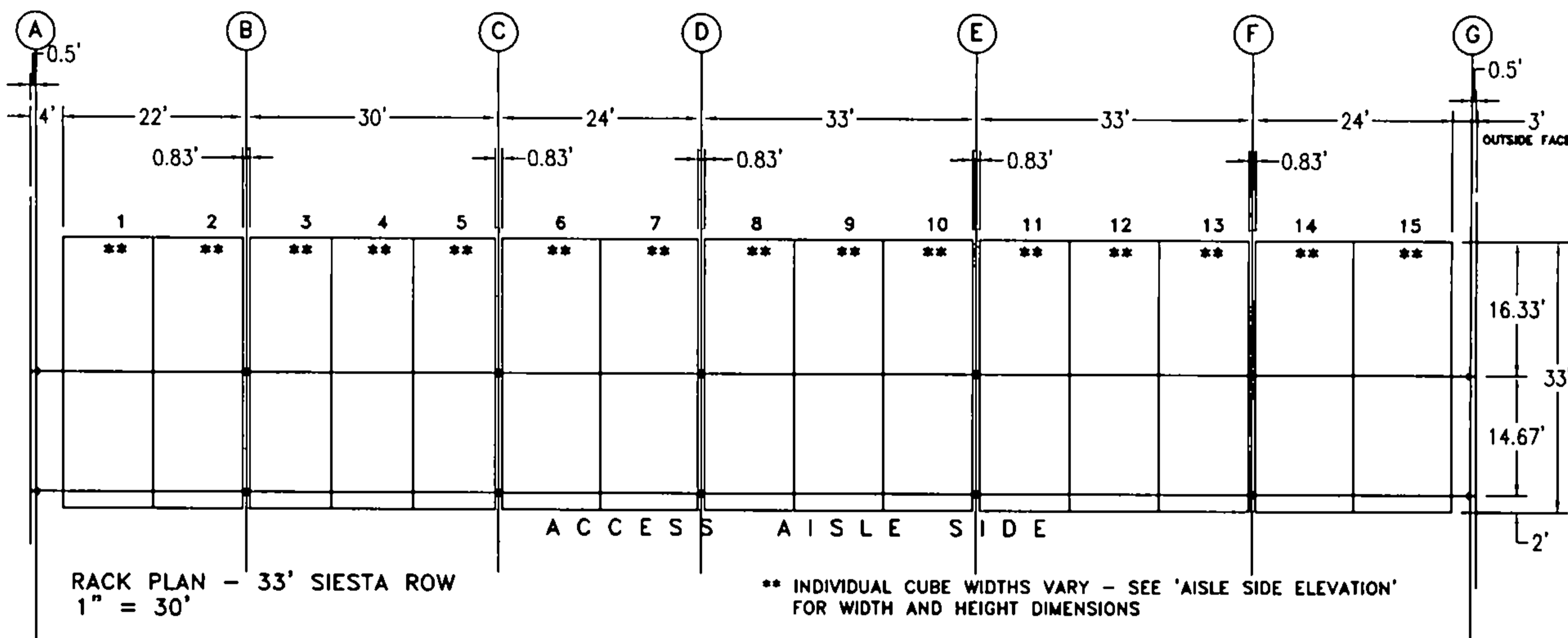
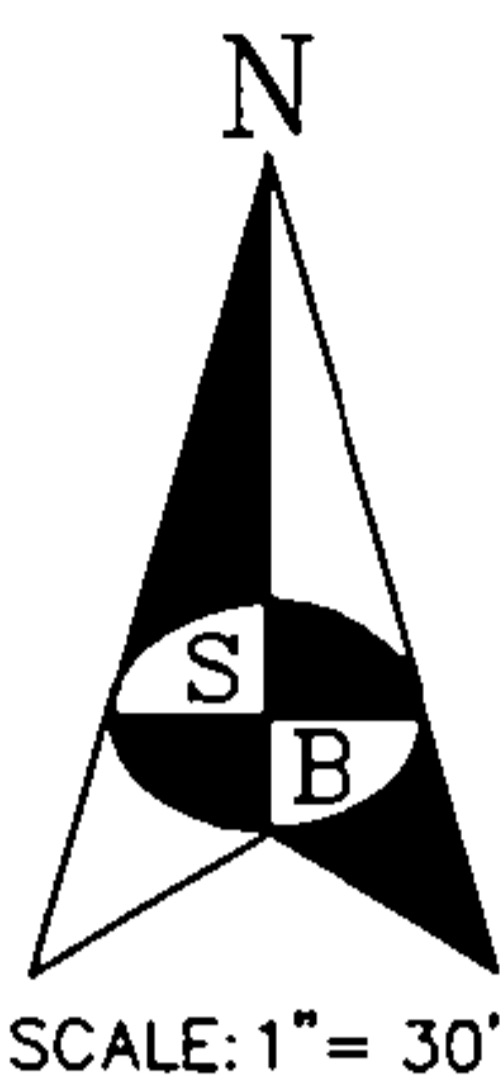
CONDOMINIUM DOCS FOR: DTM DEVELOPMENT, INC.

DRY SLIPS AT BELLAGIO HARBOR VILLAGE, A CONDOMINIUM
CASEY ROW
RACK PLAN & AISLE SIDE ELEVATIONS
SARASOTA COUNTY, FLORIDA

S B *Sampey, Burchett & Knight, Inc.*
Professional Surveyors & Mappers
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LB No.: 7009

JOB NUMBER 04-047	REVISION	SECTION 15	TOWNSHIP 38	RANGE 18	SCALE 1" = 30'	DATE 07/06	DRAWN BY CSJ	FILE NAME 04-047CD	SHEET 6 OF 10
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UNIT BOUNDARY OF LOWER UNITS
EXHIBIT B



KEYMAP (NOT TO SCALE)

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CONDOMINIUM DOCS FOR: DTM DEVELOPMENT, INC.

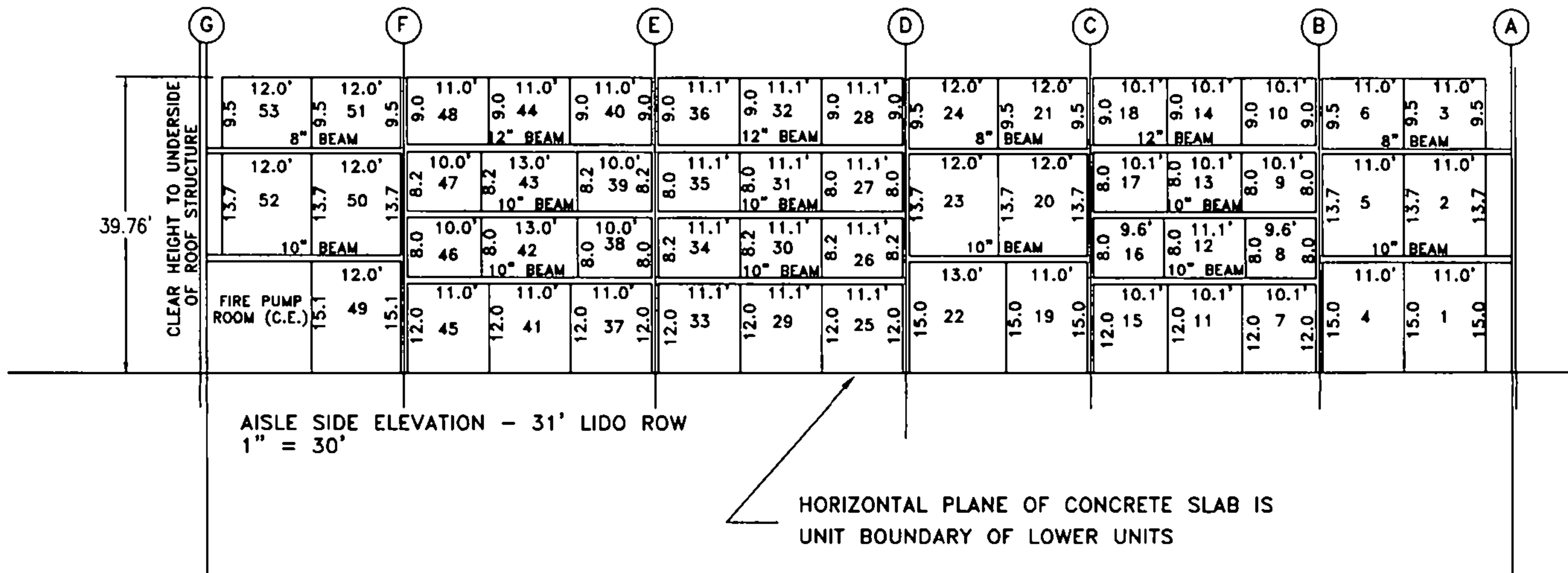
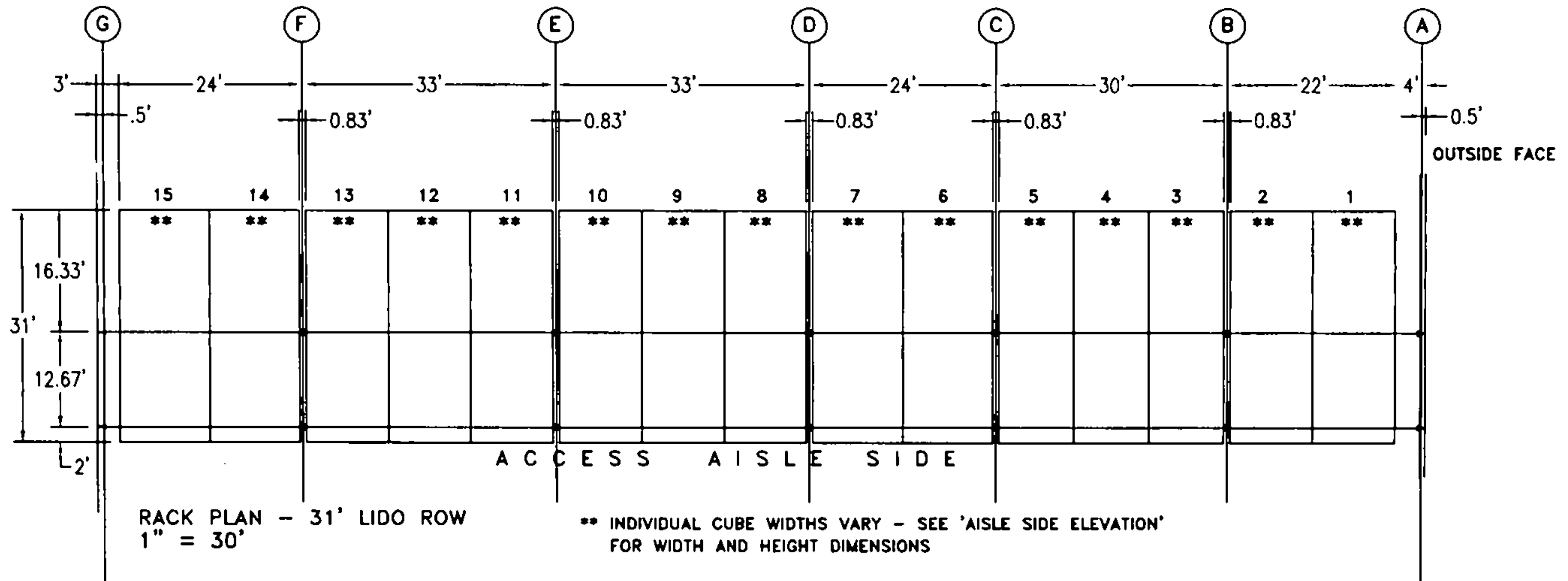
**DRY SLIPS AT BELLAGIO HARBOR VILLAGE, A CONDOMINIUM
SIESTA ROW
RACK PLAN & AISLE SIDE ELEVATIONS
SARASOTA COUNTY, FLORIDA**



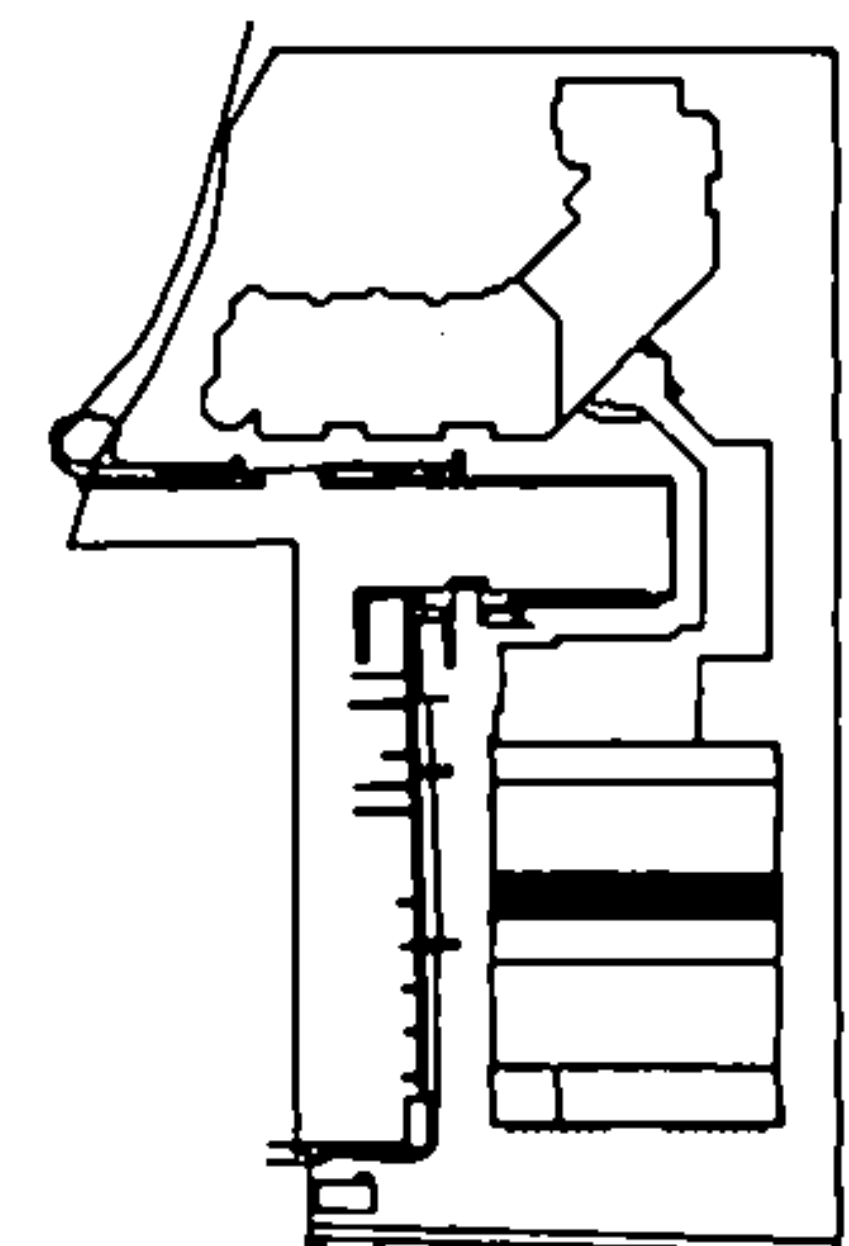
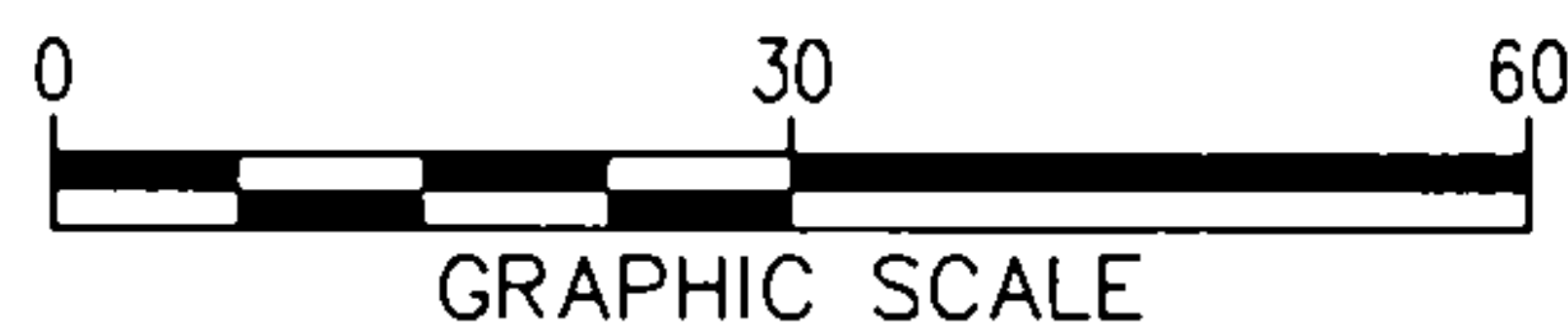
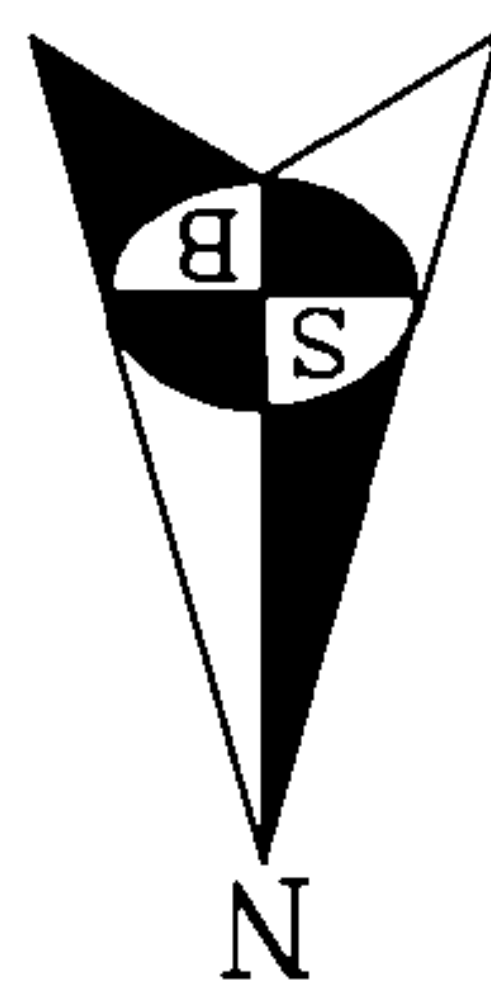
Sampey, Burchett & Knight, Inc.
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JOB NUMBER 04-047	REVISION	SECTION 15	TOWNSHIP 38	RANGE 18	SCALE 1" = 30'	DATE 07/06	DRAWN BY CSJ	FILE NAME 04-047CD	SHEET 7 OF 10
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EXHIBIT B



SCALE: 1" = 30'



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CONDOMINIUM DOCS FOR: DTM DEVELOPMENT, INC.

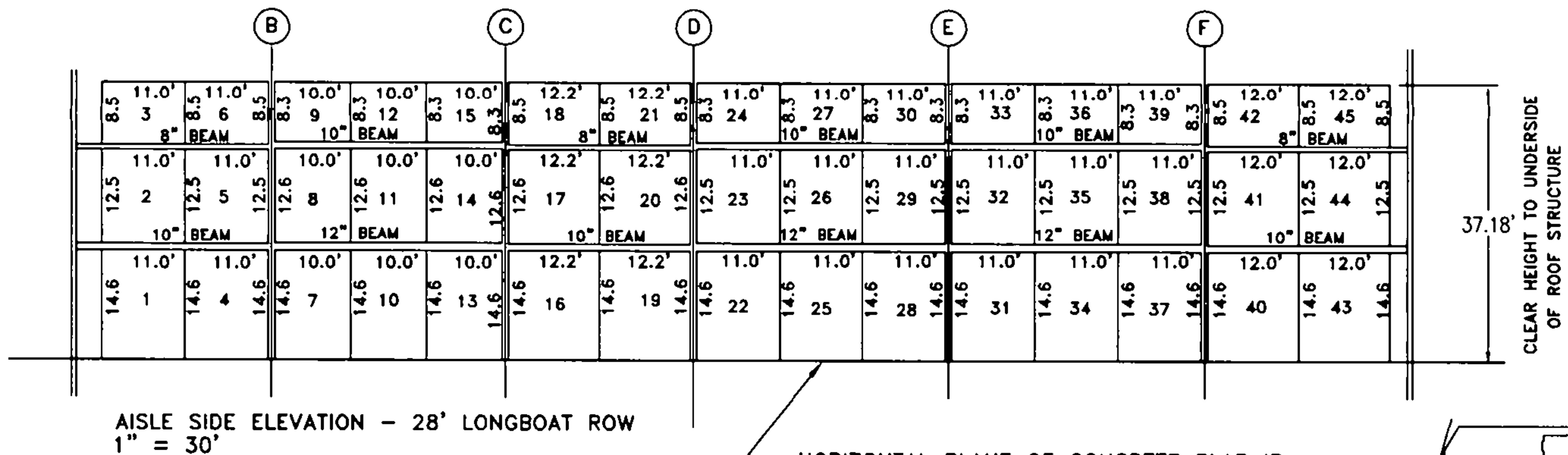
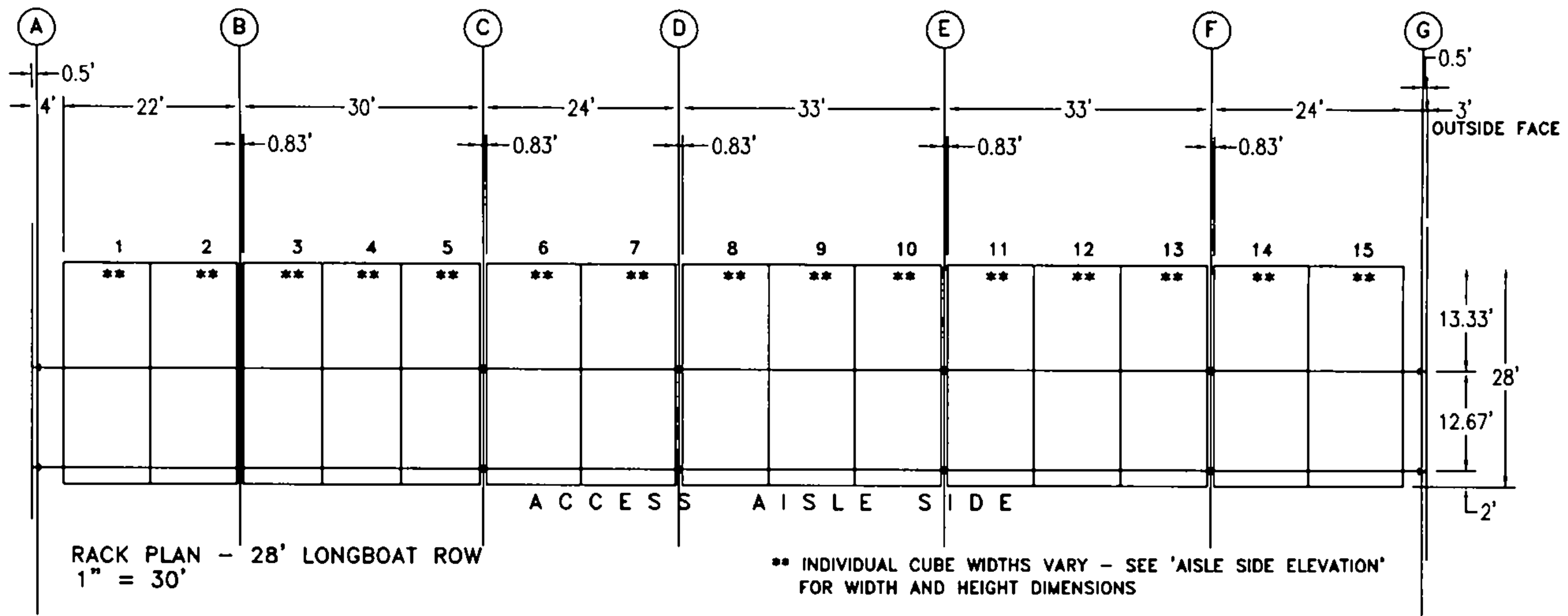
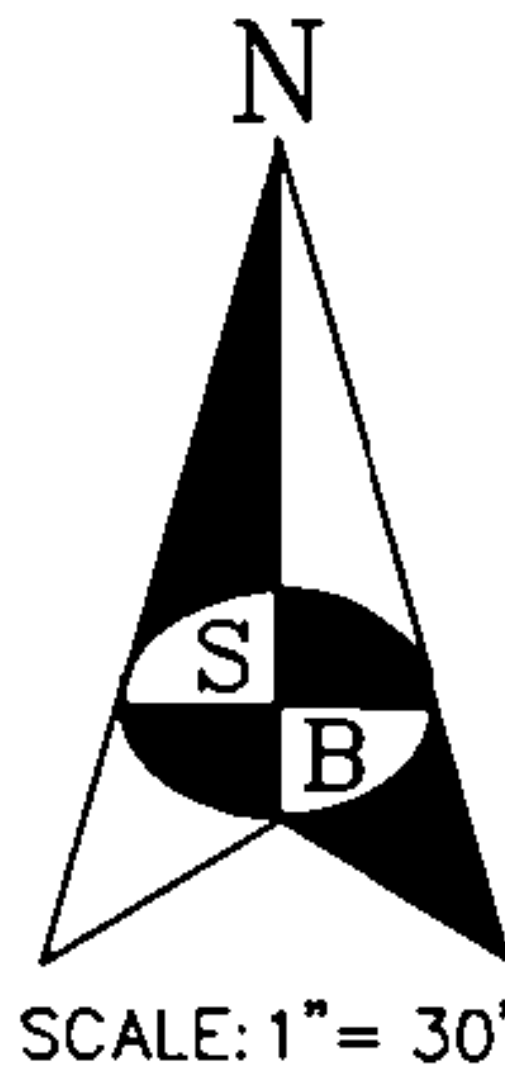
DRY SLIPS AT BELLAGIO HARBOR VILLAGE, A CONDOMINIUM
LIDO ROW
RACK PLAN & AISLE SIDE ELEVATIONS
SARASOTA COUNTY, FLORIDA

S B

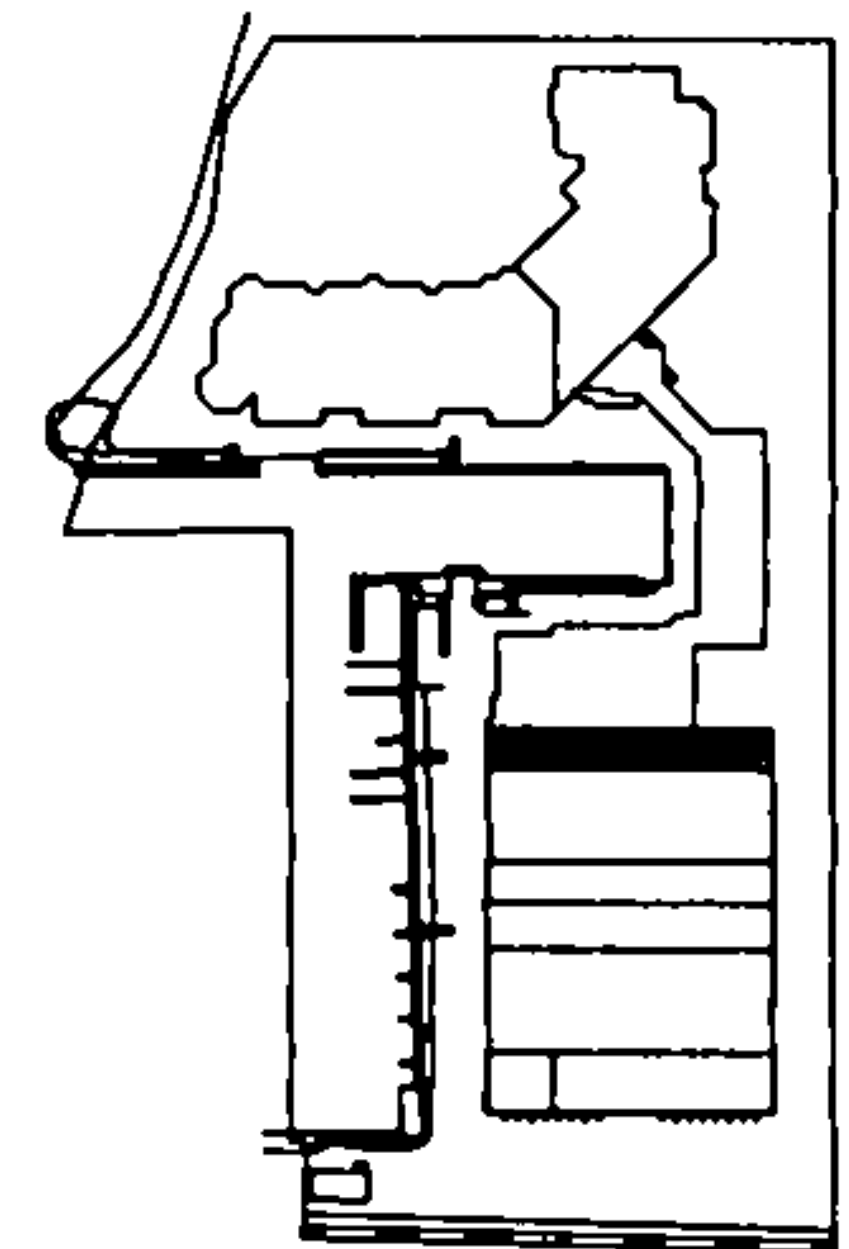
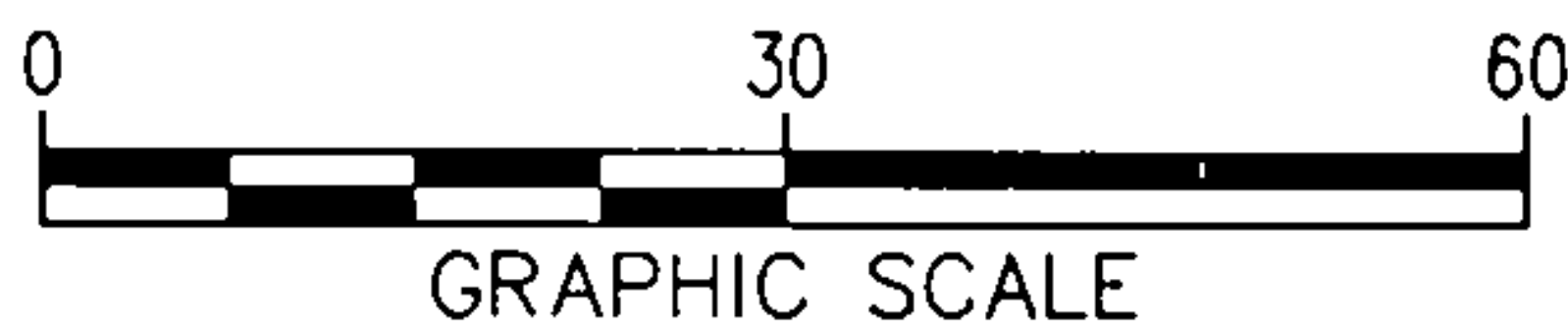
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JOB NUMBER 04-047	REVISION	SECTION 15	TOWNSHIP 38	RANGE 18	SCALE 1" = 30'	DATE 07/06	DRAWN BY CSJ	FILE NAME 04-047CD	SHEET 8 OF 10
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EXHIBIT B



HORIZONTAL PLANE OF CONCRETE SLAB IS UNIT BOUNDARY OF LOWER UNITS



KEYMAP (NOT TO SCALE)

Not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper.

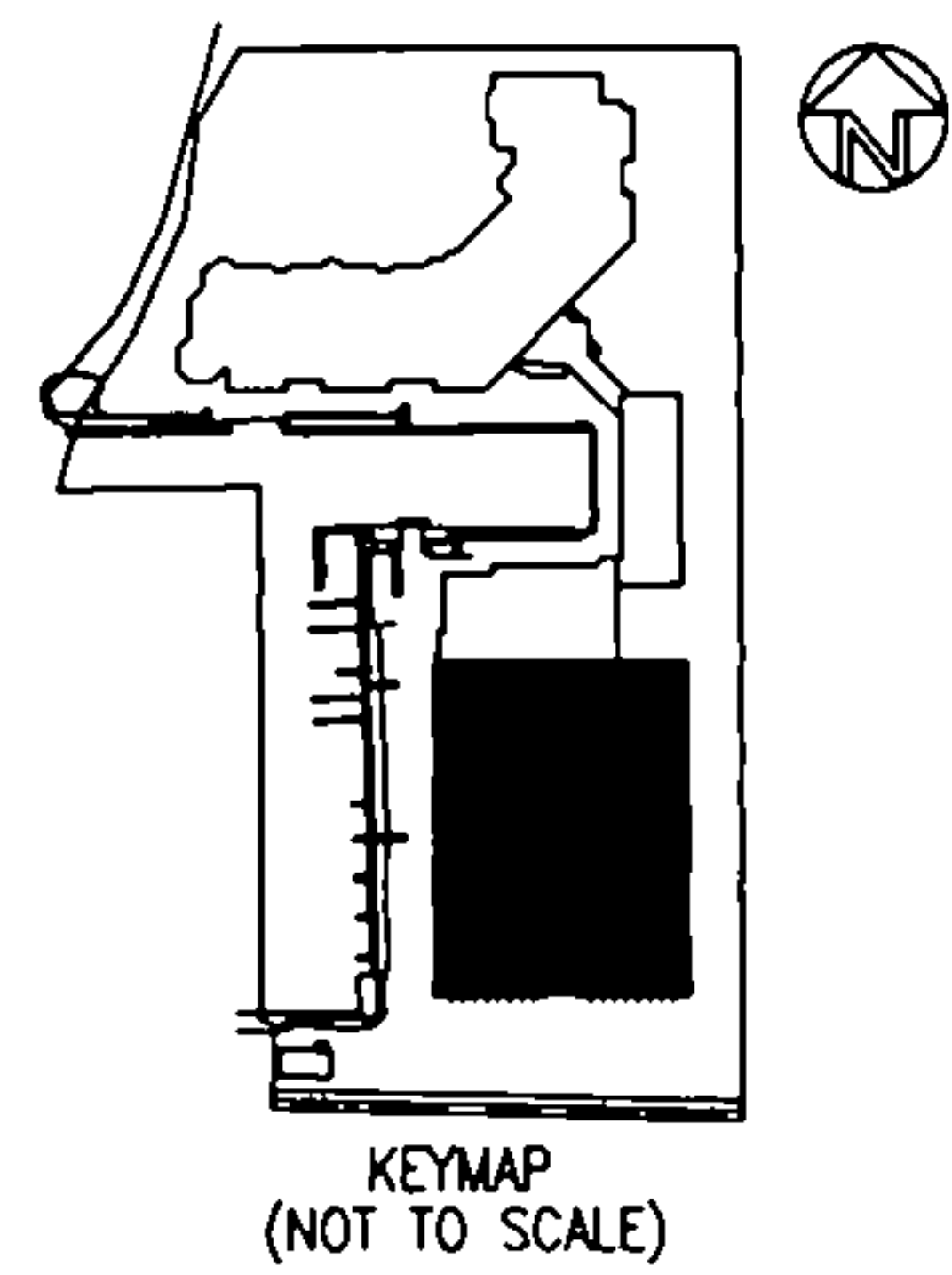
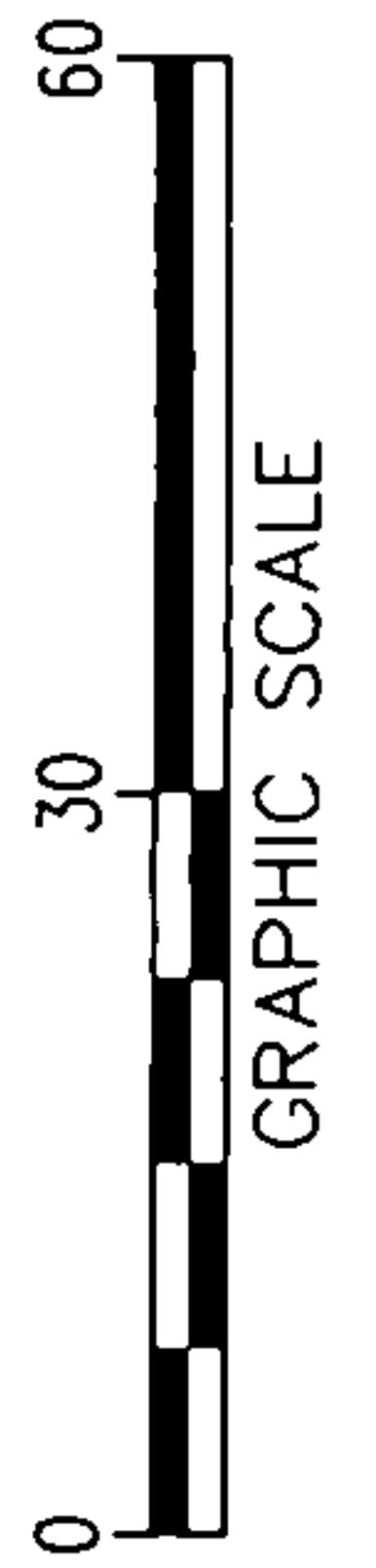
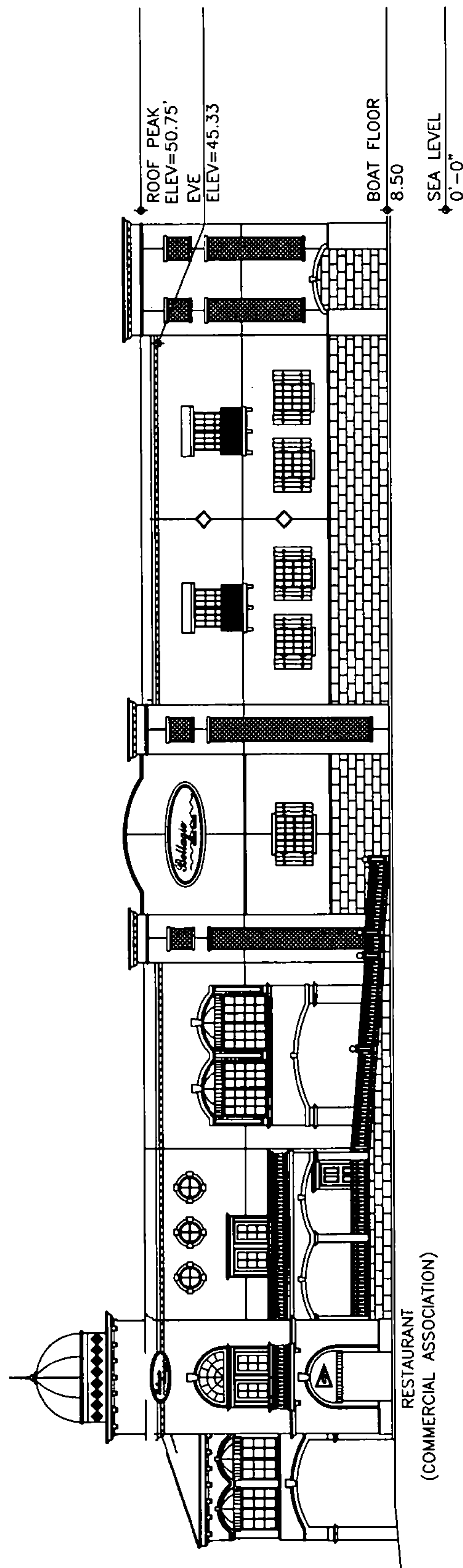
CONDOMINIUM DOCS FOR: DTM DEVELOPMENT, INC.

**DRY SLIPS AT BELLAGIO HARBOR VILLAGE, A CONDOMINIUM
LONGBOAT ROW
RACK PLAN & AISLE SIDE ELEVATIONS
SARASOTA COUNTY, FLORIDA**

S B *Sampey, Burchett & Knight, Inc.*
Professional Surveyors & Mappers
1588 Global Court
Sarasota, Florida 34240
Phone: 941-342-0349
Fax: 941-342-7490
LB No.: 7009

JOB NUMBER 04-047	REVISION	SECTION 15	TOWNSHIP 38	RANGE 18	SCALE 1" = 30'	DATE 07/06	DRAWN BY CSJ	FILE NAME 04-047CD	SHEET 9 OF 10
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EXHIBIT B



Not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper.

CONDOMINIUM DOCS FOR: DTM DEVELOPMENT, INC.

DRY SLIPS AT BELLAGIO HARBOR VILLAGE, A CONDOMINIUM
 BUILDING 4
 SOUTH ELEVATION
 SARASOTA COUNTY, FLORIDA

S B *Sampey, Burchett & Knight, Inc.*
 Professional Surveyors & Mappers
 1588 Global Court
 Sarasota, Florida 34240
 Phone: 941-342-0349
 Fax: 941-342-7490
 LB No.: 7009

JOB NUMBER 04-047	REVISION	SECTION 15	TOWNSHIP 38	RANGE 18	SCALE 1" = 30'	DATE 07/06	DRAWN BY CSJ	FILE NAME 04-047CD	SHEET 10 OF 10
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5

**EXHIBIT "C" to the Declaration
(Joinder and Consent of Mortgagee)**

JOINDER AND CONSENT OF MORTGAGEE

WACHOVIA BANK, NATIONAL ASSOCIATION, (the "Mortgagee"), being the owner and holder of that certain Mortgage and Security Agreement recorded May 19, 2004 in Official Records Instrument #2004096375 of the Public Records of Sarasota County, Florida as amended by instrument recorded February 9, 2005 in Official Records Instrument #2005027895 of the Public Records of Sarasota County, Florida as further amended by instrument recorded March 14, 2006 in Official Records Instrument #2006047646 of the Public Records of Sarasota County, Florida, does hereby approve, adopt, join in and consent to the foregoing Declaration of Condominium of The Dry Slips at Bellagio Harbor Village, a Condominium, and each exhibit attached thereto, and agrees that the lien of said Mortgage and Security Agreement shall be subject to the provisions of said Declaration of Condominium; provided, however, notwithstanding anything contained herein to the contrary, this Consent shall not be deemed in any way to obligate Mortgagee to assume or perform any of the obligations of the Developer, as developer, under the foregoing Declaration.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this instrument on this 6th day of July, 2006.

Signed, sealed and delivered in the presence of:

Wachovia Bank, National Association

Lucy Rodriguez
Print Name: Lucy Rodriguez

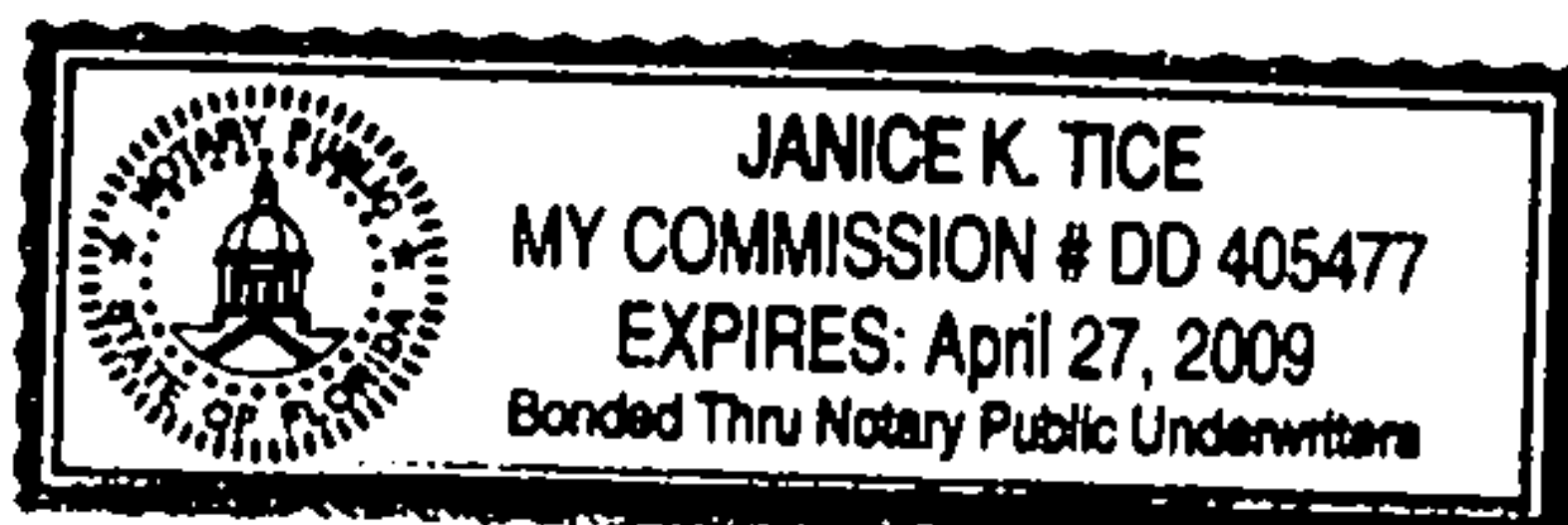
Valerie A. Girrens
By: Valerie A. Girrens
Its: Vice President

Janice K Tice
Print Name: Janice K Tice

(Corporate Seal)

STATE OF FLORIDA
COUNTY OF ~~SARASOTA~~ Hillsborough

The foregoing Consent of Mortgagee was acknowledged before me this 6th day of July, 2006 by Valerie A. Girrens, as Vice President of Wachovia Bank, who has provided personally known as identification.



Janice K Tice
Janice K. Tice
Notary Public, State of Florida At Large
My commission expires:

**EXHIBIT "D" to the Declaration
(Condominium Association Articles of Incorporation)**

State of Florida



Department of State

I certify from the records of this office that THE DRY SLIPS AT BELLAGIO HARBOR VILLAGE CONDOMINIUM ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on July 6, 2006.

The document number of this corporation is N06000007195.

I further certify that said corporation has paid all fees due this office through December 31, 2006, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code, 006A00044035-070706-N06000007195-1/1, noted below.

Authentication Code: 006A00044035-070706-N06000007195-1/1

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Seventh day of July, 2006



Sue M. Cobb
Sue M. Cobb
Secretary of State



July 7, 2006

FLORIDA DEPARTMENT OF STATE
Division of Corporations

THE DRY SLIPS AT BELLAGIO HARBOR VILLAGE CONDOMINIUM AS
480 BLACKBURN POINT ROAD
OSPREY, FL 34229

The Articles of Incorporation for THE DRY SLIPS AT BELLAGIO HARBOR VILLAGE CONDOMINIUM ASSOCIATION, INC. were filed on July 6, 2006, and assigned document number N06000007195. Please refer to this number whenever corresponding with this office.

Enclosed is the certification requested. To be official, the certification for a certified copy must be attached to the original document that was electronically submitted and filed under FAX audit number H06000173444.

A corporation annual report/uniform business report will be due this office between January 1 and May 1 of the year following the calendar year of the file/effective date year. A Federal Employer Identification (FEI) number will be required before this report can be filed. Please apply NOW with the Internal Revenue Service by calling 1-800-829-3676 and requesting form SS-4 or by going to their website at www.irs.ustreas.gov.

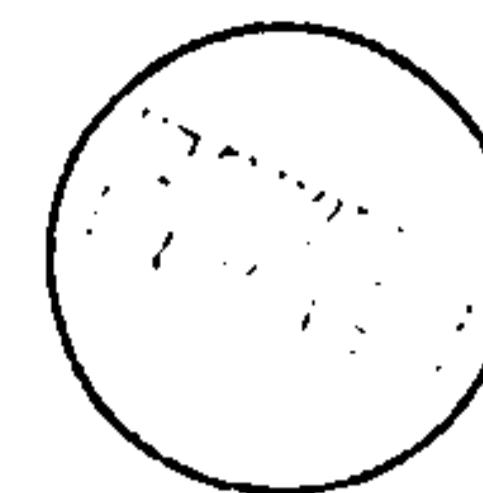
Please be aware if the corporate address changes, it is the responsibility of the corporation to notify this office.

Should you have questions regarding corporations, please contact this office at the address given below.

Doris Brown
Document Specialist
New Filings Section
Division of Corporations

Letter Number: 006A00044035

P.O BOX 6327 - Tallahassee, Florida 32314



Florida Department of State
 Division of Corporations
 Public Access System

Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

(((H06000173444 3)))

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To:

Division of Corporations
 Fax Number : (850) 205-0381

From:

Account Name : VOIGT & VOIGT, P.A.
 Account Number : I20030000017
 Phone : (941) 925-2324
 Fax Number : (941) 925-2924

FLORIDA PROFIT/NON PROFIT CORPORATION

THE DRY SLIPS AT BELLAGIO HARBOR VILLAGE CONDOMINIUM

Certificate of Status	1
Certified Copy	0
Page Count	09
Estimated Charge	\$78.75

Electronic Filing Menu

Corporate Filing Menu

Help

ARTICLES OF INCORPORATION
OF
THE DRY SLIPS AT BELLAGIO HARBOR VILLAGE
CONDOMINIUM ASSOCIATION, INC.

We, the undersigned, hereby associate ourselves together for the purpose of becoming a corporation not for profit under the laws of the State of Florida, by and under the provisions of the statutes of the State of Florida, providing for the formation, liability, rights, privileges and immunities of a corporation not for profit.

ARTICLE I.
NAME OF CORPORATION

The name of this corporation shall be The Dry Slips at Bellagio Harbor Village Condominium Association, Inc., hereafter referred to as the Association.

ARTICLE II.
GENERAL NATURE OF BUSINESS

The general nature of the business to be conducted by the Association shall be the operation and management of the affairs and property of The Dry Slips at Bellagio Harbor Village, a Condominium, located in the County of Sarasota, Florida, and to perform all acts provided in the Declaration of Condominium of said Condominium and the Condominium Act, Chapter 718, Florida Statutes.

ARTICLE III.
POWERS

The Association shall have all of the condominium law and statutory powers of a corporation not for profit and all of the powers and duties set forth in said Condominium Act, the Declaration of Condominium of The Dry Slips at Bellagio Harbor Village, a Condominium, and the Bylaws of The Dry Slips at Bellagio Harbor Village, a Condominium. The Association may enter into lease agreements and may acquire and enter into agreements acquiring leaseholds, memberships and other possessory or use interests for terms up to and including 99 years, whether or not contiguous to the lands of the condominium, intended to provide for the enjoyment, recreation or other use or benefit of the members; including but not limited to lease of recreation areas and facilities. The Association may contract for the management and maintenance of the Condominium Property and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Elements with such

funds shall be made available by the Association for such purposes. The Association may obtain loans for purposes of meeting the financial needs of running the Condominium it operates, and as security therefor, mortgage Association property or pledge the income from Assessments collected from Unit Owners. The Association and its officers shall, however, retain at all times the powers and duties granted by the Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.

ARTICLE IV.
MEMBERS

All persons owning a vested present interest in the fee title to any of the condominium units of The Dry Slips at Bellagio Harbor Village, a Condominium, as evidenced by a duly recorded proper instrument in the Public Records of Sarasota County, Florida, shall be members. Memberships shall terminate automatically and immediately as a member's vested interest in the fee title terminates, except that upon termination of the entire condominium project, the membership shall consist of those who were members at the time of each conveyance of the respective units to the trustee as provided in said Declaration of Condominium. In the event a unit is owned by a legal entity other than a natural person, the officer, directors, or other official so designated by such legal entity shall exercise its membership rights.

Membership in the Association shall be evidenced in the Association records by delivery to the Secretary of a copy of a deed or other instrument of conveyance and as otherwise provided in the Bylaws.

Prior to the recording of said Declaration of Condominium in the public record of said county, the subscribers hereto shall remain the members of the Association and shall each be entitled to one vote.

ARTICLE V.
VOTING RIGHTS

Each condominium unit shall be entitled to one vote at the Association meeting, unless subsequently subdivided. In the event of a joint ownership of a condominium unit, the vote to which that unit is entitled shall be voted in accordance with the limitations set forth in the Bylaws.

ARTICLE VI.
INCOME DISTRIBUTION

No part of the income of this corporation shall be distributable to its members, except as compensation for services rendered in accordance with the Bylaws.

ARTICLE VII.
EXISTENCE

This corporation shall exist perpetually unless dissolved according to law.

ARTICLE VIII.
REGISTERED AND PRINCIPAL OFFICE AND REGISTERED AGENT

The principal office of the corporation shall be located at 480 Blackburn Point Road, Osprey, Florida, 34229 and the registered agent shall be Stephen F. Voigt, Jr., 2042 Bee Ridge Road, Sarasota, Florida 34239.

ARTICLE IX.
NUMBER OF DIRECTORS

The business of the corporation shall be conducted by a Board of Directors which shall consist of three (3) members in accordance with the Bylaws. The method of election of directors is stated in the Bylaws.

ARTICLE X.
FIRST BOARD OF DIRECTORS AND OFFICERS

The names and post office addresses of the members of the first Board of Directors and officers, all of whom shall hold office until their successors are duly elected and qualified, are as follows:

<u>Name</u>	<u>Office</u>	<u>Address</u>
Leonard Nadolski	President & Treasurer	480 Blackburn Pt. Rd. Osprey, FL 34229
Tom Lefevre	Director	480 Blackburn Pt. Rd. Osprey, FL 34229
Doug Hamborsky	Director	480 Blackburn Pt. Rd. Osprey, FL 34229

ARTICLE XI.
INDEMNIFICATION OF OFFICERS AND DIRECTORS

A. Indemnity. The Association shall indemnify any person who was or is a party of is threatened to be made a party to any threatened, pending or contemplated action, suit or proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that such

person is or was a director, employee, officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceedings, unless (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that such person did not act in good faith, nor in a manner such person reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, that such person had reasonable cause to believe their conduct was unlawful, and (b) such court further specifically determines that indemnification should be denied. The termination of any action, suit or proceedings by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

B. Expenses. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorney's fees and appellate attorneys' fees) actually and reasonably incurred by them in connection therewith.

C. Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceedings upon receipt of an undertaking by or on behalf of the affected director, officer, employee or agent to repay such amount unless it shall ultimately be determined that such person is entitled to be indemnified by the Association as authorized in this Article XI.

D. Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of members or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs and personal representatives of such person.

E. Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving, at the request of the Association, as a director, officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

F. Amendment. Anything to the contrary herein notwithstanding, the provisions of this Article XI may not be amended without the prior written consent of Seventy-five Percent (75%) voting interest of the members.

ARTICLE XII.
RIGHTS OF DEVELOPER

DTM Development, Inc., a Florida corporation, which is the Developer of The Dry Slips at Bellagio Harbor Village, a Condominium, shall have full right and authority to manage the affairs and exclusive right to elect the directors of the Association (who need not be Unit Owners) until the following shall occur:

(a) One-third. When unit owners other than the Developer own fifteen percent (15%) or more of the units in any one condominium that will be operated ultimately by the Association, they shall be entitled to elect no less than one-third (1/3) of the members of the Board of Directors.

(b) Majority. Unit owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors at the earliest of:

(1) three (3) years after fifty percent (50%) of the units that ultimately will be operated by the Association have been conveyed to purchasers; or

(2) three (3) months after ninety percent (90%) of the units that ultimately will be operated by the Association have been conveyed to purchasers; or

(3) when all units that ultimately will be operated by the Association have been completed, some of them have been conveyed to purchasers and none of the others are being offered for sale by the Developer in the ordinary course of business; or

(4) when some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or

(5) Seven (7) years after recordation of the Declaration of Condominium. The Developer is entitled to elect at least one member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the units in the Condominium operated by the Association. Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-owned units in the same manner as any other unit owner except for purposes of reacquiring control of the Association or selecting the majority members of the Board of Directors.

(c) Developer member. The Developer is entitled to elect at least one member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business at least one percent (1%) of the units that ultimately will be operated by the Association.

(d) Election. Within seventy-five (75) days after the unit owners other than the Developer are entitled to elect a member or members of the Board of Directors, the Association shall call, and give not less than sixty (60) days notice of a meeting of the unit owners to elect the member or members of the Board of Directors. The meeting may be called and the notice given by any unit owner if the Association fails to do so.

(e) Relinquishment of control. At the time that unit owners other than the Developer elect a majority of the members of the Board of Directors, the Developer shall relinquish control of the Association and the unit owners shall accept control. Simultaneously, the Developer shall deliver to the Association all property of the unit owners and of the Association held or controlled by the Developer, including but not limited to those items specified in the Act.

(f) Compelling compliance. In any action brought to compel transfer of Association control and election of Directors by unit owners other than the Developer, the summary procedure provided for in F.S. 51.011 may be employed, and the prevailing party shall be entitled to recover reasonable attorneys' fees.

(g) Early transfer. Nothing contained in this Section 3.20 shall be deemed to prevent the Developer from transferring control of the Association to unit owners other than the developer before the occurrence of the events described in this Section.

ARTICLE XIII.
BYLAWS

The first bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided by the bylaws.

ARTICLE XIV.
SUBSCRIBERS

The names and street addresses of the subscribers to these Articles of Incorporation are as follows:

<u>Name</u>	<u>Office</u>	<u>Address</u>
Leonard Nadolski	President	480 Blackburn Pt. Rd. Osprey, FL 34229

ARTICLE XV.
AMENDMENTS

The corporation reserves the right to amend, alter, change or repeal any provisions contained in these Articles of Incorporation by a Seventy-five Percent (75%) vote of all voting rights of all members of the corporation and all rights conferred upon the members herein are granted subject to this reservation. Any amendment material to the rights of a first mortgagee shall be joined and consented to by said holder of a first mortgage lien on units subject to assessment by the Association.

IN WITNESS WHEREOF, we, the undersigned subscribers to these Articles of Incorporation, have hereunto set our hands and seals this 6 day of July, 2006.

By: 

Its: President

Leonard Nadolski

((H06000173444 3))

**STATE OF FLORIDA
DEPARTMENT OF STATE**

Certificate Designating Place of Business or Domicile for the Service of Process Within This State,
Naming Agent Upon Whom Process May Be Served

The following is submitted, in compliance with Chapter 48.091, Florida Statutes:

The Dry Slips at Bellagio Harbor Village Condominium Association, Inc.

a corporation organized (or organizing) under the laws of the State of Florida with its principal office at 480 Blackburn Pt. Rd., Osprey, Florida, 34229 in the County of Sarasota, State of Florida, has named Stephen F. Voigt, Jr., 2042 Bee Ridge Road, Sarasota, Florida, County of Sarasota, State of Florida, as its agent to accept service of process within this State.

I agree as Resident Agent to accept Service of Process; to keep office open during prescribed hours; to post my name (and any other officers of said corporation authorized to accept service of process at the above Florida designated address) in some conspicuous place in office as required by Law.



STEPHEN F. VOIGT, JR.
Registered Agent

F:\Data\Bellagio\DRY SLIPS ARTICLES OF INCORPORATION.wpd

((H06000173444 3))

**EXHIBIT "E" to the Declaration
(Condominium Association By-Laws)**

**BYLAWS
OF
DRY SLIPS AT BELLAGIO HARBOR VILLAGE
CONDOMINIUM ASSOCIATION, INC.**

These are the Bylaws of DRY SLIPS AT BELLAGIO HARBOR VILLAGE Condominium Association, Inc., (the Association), a corporation not-for-profit under the laws of the State of Florida, organized for the purpose of administering that certain condominium located in Sarasota County, Florida, and known as DRY SLIPS AT BELLAGIO HARBOR VILLAGE, a Condominium (the Condominium).

ARTICLE I. IDENTITY

1.1 Principal office.

The principal office of the Association shall be at: 480 Blackburn Point Road, Osprey, Florida 34229, or at such other place as may be designated by the Board of Directors.

1.2 Fiscal year.

The fiscal year of the Association shall be the calendar year.

1.3 Seal.

The seal of the Association shall bear the name of the corporation, the word "Florida", the words "corporation not-for-profit" and the year of incorporation.

1.4 Definitions.

For convenience, these Bylaws shall be referred to as the "Bylaws"; the Articles of Incorporation of the Association as the "Articles"; and the Declaration of Condominium for the Condominium as the "Declaration". The other terms used in these Bylaws shall have the same definitions and meaning as those set forth in Chapter 718, Florida Statutes. The Condominium Act (the Act), as well as those set forth in the Declaration and the Articles, unless provided to the contrary in these Bylaws, or unless the context otherwise requires.

ARTICLE II. MEETINGS OF MEMBERS AND VOTING

2.1 Annual meeting.

The annual meeting of the members shall be held on the date and at the place and time as determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and no later than thirteen (13) months after the last annual meeting.

The purpose of the meeting shall be to elect directors and to transact other business authorized to be transacted by the members.

2.2 Special meetings.

Special meetings of the members shall be held at such places as provided for annual meetings and may be called by the president or by a majority of the Board of Directors of the Association, and must be called by the president or secretary on receipt of a written request from at least forty percent (40%) of the members of the Association entitled to vote at the meeting. Requests for a meeting by the members shall state the purpose for the meeting and business conducted at any special meeting shall be limited to the matters stated in the notice.

2.3 Notice of annual meeting.

Written notice of the annual meeting shall be mailed to each unit owner at least fourteen (14) days and not more than sixty (60) days before the annual meeting. A copy of the notice shall be posted in a conspicuous place on the Condominium property at least fourteen (14) days before the annual meeting. The post office certificate of mailing shall be retained as proof of the mailing. Unit owners may waive notice of the annual meeting.

2.4 Notice of special meetings, generally.

Except as modified by the specific requirements for special kinds of members' meetings as set out in these Bylaws, notice of special meetings, generally, shall be in writing, shall state the place, day and hour of the meeting and the purpose or purposes for which the meeting is called. The notice shall be delivered to each member entitled to vote at the meeting not less than ten (10) or more than sixty (60) days before the date of the meeting, either personally or by first class mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears in the records of the Association, with postage prepaid. Payment of postage for notice of any special meetings, by whomever called, shall be an obligation of the Association.

2.5 Notice of budget meeting.

The Board of Directors shall mail a notice and a copy of the proposed annual budget to the unit owners not less than thirty (30) days before the meeting at which the Board will consider the budget.

2.6 Notice of meeting to consider excessive budget.

If a budget adopted by the Board of Directors requires assessment against the unit owners for any calendar year exceeding one hundred fifteen percent (115%) of similar assessment for the

preceding year, the Board, on written application of ten percent (10%) of the unit owners to the Board, shall call a special meeting of the unit owners within thirty (30) days, or not less than ten (10) days written notice to each unit owner.

2.7 Notice of meeting to consider recall of Board members.

A special meeting of the unit owners to recall a member or members of the Board of Directors may be called by ten percent (10%) of the unit owners giving notice of the meeting as required for a meeting of unit owners, stating the purpose of the meeting.

2.8 Notice of meeting to elect Non-Developer Directors.

Notice of a meeting to elect a director or directors from unit owners other than the Developer shall be given not less than sixty (60) days before the meeting. The meeting may be called and notice given by any unit owner if the Association fails to do so.

2.9 Quorum.

A quorum at meetings of members shall consist of persons entitled to cast, represented at the meeting either in person or by proxy, representing a majority of the voting interest of the entire membership. Absentee ballots, alone, may not be counted in determining a quorum.

2.10 Voting.

(a) Number of votes.

In any meeting of members, the owners of units shall be entitled to cast one vote for each unit owned. The vote of a condominium unit is not divisible.

(b) Majority vote.

The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum is present shall be binding on all unit owners for all purposes unless the Act, the Declaration, the Articles, or these Bylaws require a larger percentage of vote, in which case that larger percentage shall control.

2.11 Membership-designation of voting member.

Persons or entities shall become members of the Association on the acquisition of fee title to a unit in the Condominium after approval of the acquisition in the manner provided in the Declaration. Membership shall be terminated when a person or entity no longer owns a unit in the Condominium. If a unit is owned by more than one natural person, any record owner of the unit may vote in person or by proxy, provided that there shall be no more than one vote per unit. In the

case of conflict among the owners of the unit, the vote for that unit shall not be counted as to the matter under consideration in which the conflict arose, and whether the conflict appears by vote in person or by proxy. Ballots may be cast for units owned by corporations or partnerships by a president, vice president, a partner, or any other person designated in a written certificate filed with the secretary of the Association and signed by a president or vice president of a corporation or a partner of a partnership.

2.12 Proxies; Powers of Attorney.

Votes may be cast in person or by proxy. Each proxy shall set forth specifically the name of the person voting by proxy and the name of the person authorized to vote the proxy for him. Each proxy shall contain the date, time and place of the meeting for which the proxy is given. If the proxy is a limited proxy, it shall set forth those items that the holder of the proxy may vote and the manner in which the vote is to be cast. The proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings. No proxy shall be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given, and it may be revoked at any time at the pleasure of the unit owner or owners (if more than one) or by the appropriate officer or partner of a corporation or partnership or other designated person mentioned in Section 2.11, or the duly authorized attorney-in-fact of that person or persons (provided the power of attorney is filed with the secretary of the Association). The proxy shall be filed with the secretary before or at the meeting for which the proxy is given. One holding power of attorney from a unit owner, properly executed and granting such authority, may vote that unit.

2.13 Adjourned meetings.

If any meeting of members cannot be organized because a quorum is not present, the members who are present, either in person or proxy, may adjourn the meeting from time to time until a quorum is present. The time and place to which the adjournment is taken and a notice shall be posted in a conspicuous place on the Condominium property as soon thereafter as may be practical stating the time and place to which the meeting is adjourned.

2.14 Waiver of notice.

Unit owners may waive their right to receive notice of any meeting, whether annual or special, by a writing signed by them to that effect. The waiver shall be filed with the secretary of the Association either before, at or after the meeting for which the waiver is given.

2.15 Action by members without a meeting.

Unless otherwise prohibited by law, unit owners may take action by written agreement without a meeting, as long as written notice is given to the unit owners in the manner prescribed elsewhere in these Bylaws appropriate to the subject matter to be agreed on, unless that notice is waived as provided in these Bylaws. The decision of a majority of the unit owners, or a larger

percentage vote as otherwise may be required by the Act, the Declaration, the Articles or these Bylaws (the decision to be evidenced by written response to be solicited in the notice), shall be binding on the membership, provided a quorum submits a response. The notice shall set forth a time period within which responses must be made by the members.

2.16 Minutes of meetings.

The minutes of all meetings of unit owners shall be kept in a book available for inspection by unit owners or their authorized representatives, and Board members at any reasonable time. The minutes shall be retained by the Association for a period of not less than seven (7) years. Unit owners and their authorized representatives shall have the right to make or obtain copies of the minutes at the reasonable expense, if any, of the Association member.

2.17 Order of business.

The order of business at annual meetings of members and as far as practical at other members' meetings, shall be:

- (a) Call to order
- (b) Election of a chairman of the meeting, unless the president or vice president is present, in which case he shall preside
- (c) Election of directors
- (d) Calling of the roll, certifying of proxies, determination of a quorum
- (e) Proof of notice of the meeting or waiver of notice
- (f) Reading and disposal of any unapproved minutes
- (g) Reports of officers
- (h) Reports of committees
- (i) Unfinished business
- (j) New business
- (k) Adjournment

2.18 Actions specifically requiring unit owner votes.

The following actions require approval by the unit owners and may not be taken by the Board of Directors acting alone:

(a) Amendments to the Declaration, except those made by the Developer pursuant to the authority provided in the Declaration and those made by recording a certificate of surveyor.

(b) Merger of two or more independent condominiums of a single complex to form a single condominium.

(c) Purchase of land or recreation lease.

(d) Cancellation of certain grants or reservations made by the Declaration, a lease or other document and any contract made by the Association before the transfer of control of the Association from the Developer to unit owners.

(e) Providing no reserves, or less than adequate reserves.

(f) Recall of members of Board of Directors.

(g) Other matters contained in the Declaration, the Articles or these Bylaws that specifically require a vote of the members.

2.19 Secret ballots, proxy.

Any vote to amend the Declaration to change the percentage of ownership in the common elements or the sharing of the common expense must be conducted by secret ballot. Unit owners wishing to vote a secret ballot by proxy shall be mailed a ballot slip on a paper separate from that containing the proxy and notice of meeting. The proxy shall be only for the purpose of establishing a quorum at the meeting at which the secret ballot is to be conducted, and shall not contain on its face instructions as to how the proxy holder should vote the secret ballot. Provision shall be made for the secret ballot to be returned to the secretary of the Association in a sealed, unmarked envelope, separate from the proxy, which shall be placed in a larger envelope containing the sealed ballot. At the meeting at which the secret ballot is to be taken, the secretary will present the unopened envelopes to the inspectors of election, who will then examine and verify the proxies separately from the secret ballots in a manner that will ensure the integrity of the secret vote. The inspectors of election will then tally the secret ballots of those present at the meeting together with those of the unit owners voting by proxy and announce the results.

2.20 Proof of Notice of Meetings.

Any officer of the Association shall provide an affidavit, to be include in the official records of the Association, affirming that notices of the Association meeting were mailed or hand delivered in accordance with this provision, to each unit owner at the address last furnished to the Association.

ARTICLE III. DIRECTORS

3.1 Number and qualifications.

The affairs of the Association shall be managed initially by a board of three (3) directors selected by the Developer. When unit owners other than the Developer are entitled to elect a majority of the Directors, the Board shall be composed of five (5) directors.

3.2 Election of Directors.

Directors shall be elected at the annual meeting of members by a plurality of the votes cast. Each voter shall be entitled to cast votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

3.3 Term.

Each Director's term of service shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he is removed in the manner provided in Section 3.5. The members, however, at any annual meeting after the Developer has relinquished control of the Association and in order to provide a continuity of experience, may vote to create classes of directorships having a term of one, two or three years so that a system of staggered terms will be initiated.

3.4 Vacancies.

Except as to vacancies resulting from removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by majority vote of the remaining Directors. Any Director elected to fill a vacancy shall hold office only until the next election of Directors by the members; irrespective of the length of the remaining term of the vacating Director.

Notwithstanding the foregoing, if both the Developer and the unit owners are entitled to representation on the Board of Directors pursuant to the provisions of Section 3.20, only Developer may vote, in person or by proxy, to fill a vacancy on the Board of Directors previously occupied by a Board member elected or appointed by Developer, in which case a quorum for the purposes of that voter shall consist of a majority of units owned by Developer. Only unit owners other than the

Developer may vote, in persons or by proxy, to fill a vacancy on the Board previously occupied by a Board member elected or appointed by unit owners other than Developer, in which case a quorum for purposes of that vote shall consist of a majority of unit owners other than Developer.

3.5 Removal.

Any Director, except those selected by the Developer, may be recalled and removed from office with or without cause by the vote or agreement in writing of a majority of all voting interests. A special meeting of the unit owners to recall a member or members of the Board of Directors may be called by ten percent (10%) of the voting interests giving notice of the meeting as required in these Bylaws. The notice shall state the purpose of the meeting. Any vacancy on the Board of Directors thus created shall be filled by the members of the Association at the same meeting. If more than one Director is subject to recall, there shall be a separate vote on the question to remove each Director.

3.6 Disqualifications and resignation.

Any Director may resign at any time by sending or personally delivering a written notice of resignation to the Association, addressed to the secretary. The resignation shall take effect on receipt by the secretary unless it states differently.

3.7 Organizational meeting.

The organizational meeting of a newly elected Board of Directors shall be held within ten (10) days of their election at a place and time that shall be fixed by the Directors of the meeting at which they are elected.

3.8 Regular meetings.

The Board of Directors may establish a schedule of regular meetings to be held at a time and place as a majority of them shall determine from time to time. Notice of regular meetings, however, shall be given to each Director personally or by mail, telephone or telegraph, at least three (3) days before the day named for the meeting with the notice of each meeting posted conspicuously on the Condominium property at least forty-eight (48) hours before the meeting, except in an emergency.

3.9 Special meetings.

Special meetings of the Board of Directors may be called by the president and, in his absence, by the vice president, and must be called by the secretary at the written request of one third (1/3) of the directors. Notice of the meeting shall be given personally or by mail, telephone or telegraph. The notice shall state the time, place and purpose of the meeting and shall be transmitted not less than three (3) days before the meeting. A copy of the notice of any special meeting shall be posted

conspicuously on the Condominium property at least forty-eight (48) hours before the meeting, except in an emergency.

3.10 Waiver of notice.

Any Director may waive notice of a meeting before, at or after the meeting and that waiver shall be deemed equivalent to the giving of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of the meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

3.11 Quorum.

A quorum at the meetings of the Directors shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number is required by the Declaration, the Articles or these Bylaws.

3.12 Adjourned meetings.

If there is less than a quorum present at any meeting of the Board of Directors, the majority of those present may adjourn the meeting until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted. Notice of any such adjourned meeting shall be given to the Directors who are not present at the time of adjournment and, unless the time and place of the adjourned meeting are announced at the time of adjournment, to the other Directors. Adequate notice of the adjourned meeting shall be posted conspicuously on the Condominium property at least forty-eight (48) hours in advance, except in an emergency.

3.13 No proxy.

There shall be no voting by proxy at any meeting of the Board of Directors.

3.14 Joinder in meeting by approval of minutes.

A Director may join in the action of a meeting by signing and concurring in the minutes of that meeting. That concurrence, however, shall not constitute the presence of that Director for the purpose of determining a quorum.

3.15 Meetings open to members.

Meetings of the Board of Directors shall be open to all unit owners. Unit owners shall have the right to speak at such meetings with reference to all designated agenda items. The Association

may adopt written reasonable rules governing the frequency, duration and manner of unit owner's statements at meetings of the Board of Directors. Notice of any meeting in which assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and set out the nature of the assessments. Written notice of any meeting at which non-emergency special assessments will be considered shall be mailed or delivered to unit owners and posted conspicuously on the Condominium property not less than fourteen (14) days prior to the meeting.

3.16 Presiding officer.

The presiding officer at Board meetings shall be the president or, in his absence, the vice president, and in his absence, the Directors present shall designate any one of their number to preside.

3.17 Minutes of meetings.

The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by unit owners or their authorized representative and Board members at any reasonably time. The Association shall retain these minutes for a period of not less than seven (7) years. Unit owners and their authorized representative shall have the right to make or obtain copies of the minutes at the reasonable expense, if any, of the Association member.

3.18 Compensation.

Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred in the discharge of their duties.

3.19 Order of business.

The order of business at meetings of Directors shall be:

- (a) Calling of roll
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading and disposal of any unapproved minutes
- (d) Reports of officers and committees
- (e) Election of officers
- (f) Unfinished business

(g) New business

(h) Adjournment

3.20 Election of Directors by Unit Owners other than the Developer.

(a) One-third. When unit owners other than the Developer own fifteen percent (15%) or more of the units in any one condominium that will be operated ultimately by the Association, they shall be entitled to elect no less than one-third (1/3) of the members of the Board of Directors.

(b) Majority. Unit owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors at the earliest of:

(1) three (3) years after fifty percent (50%) of the units that ultimately will be operated by the Association have been conveyed to purchasers; or

(2) three (3) months after ninety percent (90%) of the units that ultimately will be operated by the Association have been conveyed to purchasers; or

(3) when all units that ultimately will be operated by the Association have been completed, some of them have been conveyed to purchasers and none of the others are being offered for sale by the Developer in the ordinary course of business; or

(4) when some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or

(5) Seven (7) years after recordation of the Declaration of Condominium. The Developer is entitled to elect at least one member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the units in the Condominium operated by the Association. Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-owned units in the same manner as any other unit owner except for purposes of reacquiring control of the Association or selecting the majority members of the Board of Directors.

(c) Developer member. The Developer is entitled to elect at least one member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business at least one percent (1%) of the units that ultimately will be operated by the Association.

(d) Election. Within seventy-five (75) days after the unit owners other than the Developer are entitled to elect a member or members of the Board of Directors, the Association shall call, and give not less than sixty (60) days notice of a meeting of the unit owners to elect the member

or members of the Board of Directors. The meeting may be called and the notice given by any unit owner if the Association fails to do so.

(e) Relinquishment of control. At the time that unit owners other than the Developer elect a majority of the members of the Board of Directors, the Developer shall relinquish control of the Association and the unit owners shall accept control. Simultaneously, the Developer shall deliver to the Association all property of the unit owners and of the Association held or controlled by the Developer, including but not limited to those items specified in the Act.

(f) Compelling compliance. In any action brought to compel transfer of Association control and election of Directors by unit owners other than the Developer, the summary procedure provided for in F.S. 51.011 may be employed, and the prevailing party shall be entitled to recover reasonable attorneys' fees.

(g) Early transfer. Nothing contained in this Section 3.20 shall be deemed to prevent the Developer from transferring control of the Association to unit owners other than the developer before the occurrence of the events described in this Section.

3.21 Failure to elect Director quorum.

If the Association or the Board of Directors fails to fill vacancies on the Board of Directors sufficient to constitute a quorum, any unit owner may apply to the circuit court within whose jurisdiction the Condominium is situated for the appointment of a receiver to manage the affairs of the Association, in the manner prescribed in the Act. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs, and attorneys' fees. The receiver shall have all the powers and duties of a duly constituted Board of Directors and shall serve until the Association fills vacancies on the Board sufficient to constitute a quorum.

ARTICLE IV. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

All of the powers and duties of the Association existing under the Act, the Declaration, the Articles and these Bylaws shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors or employees, subject only to the approval by unit owners when that approval is specifically required. The powers and duties of the Board shall include, but shall not be limited to, the following:

4.1 Maintenance, management and operation of the Condominium property.

4.2 Contract, sue or be sued.

After control of the Association is obtained by unit owners other than the Developer, the Association may institute, maintain, settle or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest, including, but not limited to, the common

elements and commonly-used facilities. The statute of limitations for any actions in law or equity that the Association may have shall not begin to run until the unit owners have elected a majority of the members of the Board of Directors.

4.3 Right of access to units.

The Association has the irrevocable right of access to each unit during reasonable hours as necessary for the maintenance, repair or replacement of any common elements or for making emergency repairs necessary to prevent damage to the common elements or to another unit or units.

4.4 Make and collect assessments.

Assessments and installments on such assessments paid on or before ten (10) days after the date when due shall not bear interest, but all sums not paid on or before ten (10) days after the date when due shall bear interest at a rate of eighteen percent (18%) per year from the date when due, until paid. An administrative late fee in addition to interest in an amount not to exceed the greater of Twenty Five Dollars (\$25.00) or five percent (5%) of each assessment or installment of the assessment shall be due the Association on each late payment. Any payment received by the Association shall be applied first to interest accrued by the Association, then to the administrative late fee, then to any costs and reasonable attorneys' fees incurred in collection, and then to the delinquent assessment or installment of the assessment.

4.5 Lease, maintain, repair and replace the common elements.

4.6 Lien and foreclosure for unpaid assessments.

The Association has a lien on each Condominium unit for any unpaid assessments with interest and for reasonable attorneys' fees incurred in the collection of the assessment or enforcement of the lien. It also has the power to purchase the Condominium unit at the foreclosure sale and to hold, lease, mortgage or convey it.

4.7 Authorize certain amendments.

If it appears that through a drafter's error in the Declaration that the common elements, common expenses or common surplus has been stated or distributed improperly, and amendment to the Declaration correcting that error may be approved by the Board of Directors or a majority of the unit owners. No unit owners except those directly affected must join in the execution of the amendment.

4.8 Adopt rules and regulations.

The Association may adopt reasonable rules and regulations for the use of the common elements, common areas and recreational facilities serving the Condominium.

4.9 Maintain accounting records.

4.10 Obtain insurance.

The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association and the common elements.

4.11 Furnish annual financial reports to members.

4.12 Give notice of liability exposure.

If the Association may be exposed to liability in excess of insurance coverage in any legal action, it shall give notice of the exposure to all unit owners, who shall have the right to intervene and defend.

4.13 Provide certificate of unpaid assessment.

Any unit owner, mortgagee or other record lienholder has the right to require from the Association a certificate showing the amount of unpaid assessments respecting the unit owners condominium unit.

4.14 Pay the annual fee to the Division of Florida Land Sales and Condominium for each residential unit operated by the Association.

4.15 Approve and disapprove unit transfers and impose fees.

The Association may charge a preset fee in connection with the approval or disapproval of any proposed transfer, lease, sale or other disposition of a unit in the Condominium; provided the Association is required to approve such transfer. However, if the approval is for a renewal of a lease or sublease with the same lessee or sublessee no charge shall be made.

4.16 Contract for maintenance and management of the Condominium.

4.17 Pay taxes or assessments against the common elements or Association property.

4.18 Pay costs of utilities services rendered to the Condominium and Association property and not billed directly to individual unit owners.

4.19 Employ personnel.

The Association may employ and dismiss personnel as necessary for the maintenance and operation of the Condominium property and may retain those professional services that are required for those purposes.

Unless otherwise prohibited by law, the Board of Directors may disapprove the prospective tenant of any unit owner who is delinquent in the payment of assessments for common expenses.

ARTICLE V. OFFICERS

5.1 Executive officers.

The executive officers of the Association shall be a president, who shall be a Director, a treasurer and a secretary. The officers shall be elected annually by the Board of Directors and may be removed without cause at any meeting by a vote of a majority of all of the Directors. A person may hold more than one office except that the president may not also be the secretary. No person shall sign an instrument nor perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

5.2 President.

The president shall be the chief executive officer of the Association. He shall have all of the powers and duties that usually are vested in the office of president of an association, including, but not limited to, the power to appoint committees from among the members to assist in the conduct of the affairs of the Association as he in his discretion may determine appropriate. He shall preside at all meetings of the Board.

5.3 Secretary.

The secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He shall keep the records of the Association, except those of the treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the president.

5.4 Treasurer.

The treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. He shall submit a treasurer's report to the Board at reasonable intervals and shall perform all other duties incident to the office of treasurer. All money and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board.

5.5 Compensation.

The compensation, if any, of all officers and other employees of the Association shall be fixed by the Board of Directors. This provision shall not preclude the Board from employing a Director as an employee of the Association or preclude the contracting with a Director for the management of the Condominium.

ARTICLES VI. FISCAL MANAGEMENT

6.1 Board adoption of budget.

The Board of Directors shall adopt a budget for the common expenses of the Association in advance of each fiscal year at a special meeting of the Board called for that purpose at least forty-five (45) days before the end of the fiscal year.

6.2 Budget requirements.

The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, when applicable, but not limited to:

- (a) Administration of the Association
- (b) Management fees
- (c) Maintenance
- (d) Taxes on Association property
- (e) Insurance
- (f) Security provisions
- (g) Other expenses
- (h) Fees payable to the Division of Florida Land Sales and Condominiums
- (i) Reserve accounts for capital expenditures and deferred maintenance, including, but not limited to, roof replacement, building painting and pavement resurfacing.

6.3 Notice of budget meeting.

The Board of Directors shall mail a meeting notice and copies of the proposed annual budget to the unit owners not less than thirty (30) days before the meeting at which the budget will be considered. The meeting shall be open to all the unit owners.

6.4 Member rejection of excessive budget.

If a budget adopted by the Board of Directors requires assessment against the unit owners in any fiscal year exceeding one hundred fifteen percent (115%) of the assessment for the previous year, the Board, on written application of ten percent (10%) of the unit owners shall call a special meeting of the unit owners within thirty (30) days. The special meeting shall be called on not less than ten (10) days' written notice to each unit owner. At the special meeting, unit owners shall consider and enact a budget by not less than a majority vote of all unit owners. Provisions for reasonable reserves for repair or replacement of all the Condominium property, nonrecurring expenses and assessments for betterments to the Condominium property shall be excluded from the computation in determining whether assessments exceed one hundred fifteen percent (115%) of similar assessments in the previous year.

6.5 Alternative budget adoption by members.

At its option, for any fiscal year, the Board of Directors may propose a budget to the unit owners at a meeting of members or in writing. If the proposed budget is approved by the unit owners at the meeting or by a majority of all unit owners in writing, the budget shall be adopted.

6.6 Budget restraints on Developer.

As long as the Developer is in control of the Board of Directors, the Board shall not impose an assessment for any year greater than one hundred fifteen percent (115%) of the previous year's assessment without approval of a majority of all unit owners.

6.7 Accounting records and reports.

The Association shall maintain accounting records in the county in which the Condominium is located, according to good accounting practices. The records shall be open to inspection by unit owners or their authorized representatives at reasonable times. The records shall include, but are not limited to: (a) a record of all receipts and expenditures and (b) an account for each unit, designating the name and current mailing address of the unit owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amount paid on the account and the balance due. Within sixty (60) days after the end of each fiscal year, the Board of Directors shall mail or furnish by personal delivery to each unit owner a complete financial report of actual receipts and expenditures for the previous twelve (12) months.

6.8 Fidelity bonding.

The Association shall obtain and maintain fidelity bonding of all persons who control or disburse funds of the Association. The fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. The cost of fidelity bonding shall be a common expense of the Association.

ARTICLES VII. ASSESSMENTS AND COLLECTION

7.1 Assessments, generally.

Assessments shall be made against the unit owners not less frequently than quarterly in the discretion of the Board of Directors. The assessments shall be made in an amount no less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. The assessment funds shall be collected against unit owners in the proportions or percentages provided in the Declaration. Unit owners' shares of common expenses shall be in the same proportions as their ownership interest in the common elements.

7.2 Emergency assessments.

Assessments for common expenses of emergencies that cannot be paid from the annual assessment for common expenses shall be made by the Board of Directors after thirty (30) days' notice given to the unit owners. These assessments shall be paid at the time and in the manner that the Board may require in the notice of assessment.

7.3 Payment of charges.

Charges by the Association against members for other than common expenses shall be payable in advance. Charges for other than common expenses may be made only after approval of members or when expressly provided for in the Declaration or other Condominium documents. These charges may include, without limitation, charges for the use of the Condominium property or recreation area, maintenance services furnished at the expense of a member and other services furnished for the benefit of a member.

7.4 Liability for assessments.

Each unit owner, regardless of how title is acquired, shall be liable for all assessments coming due while he is the unit owner. The unit owner and his grantee in a voluntary conveyance shall be jointly and severally liable for all unpaid assessments due and payable up to the time of the voluntary conveyance. A first mortgagee who acquires title by foreclosure or deed in lieu of foreclosure, however, shall not be liable for unpaid assessments of previous owners unless those assessments are evidenced by a lien recorded before the foreclosed mortgage. The liability for assessments may not

be avoided by waiver of the use or enjoyment of any common element or by abandonment of the unit for which the assessments are made.

7.5 Collection; Interest, application of payment.

Assessments and installments on them, if not paid within ten (10) days after the date they become due, shall bear interest at the rate of eighteen percent (18%) per year until paid. An administrative late fee in addition to interest in an amount not to exceed the greater of Twenty Five Dollars (\$25.00) or five percent (5%) of each assessment or installment of the assessment shall be due the Association on each late payment. Any payment received by the Association shall be applied first to interest accrued by the Association, then to the administrative late fee, then to any costs and reasonable attorneys' fees incurred in collection, and then to the delinquent assessment or installment of the assessment.

7.6 Lien for assessment.

The Association has a lien on each condominium unit for any unpaid assessments with interest and for reasonable attorneys' fees incurred by the Association incident to the collection of the assessment or enforcement of the lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the condominium unit is located. The claim of lien shall secure all unpaid assessments, interest, costs and attorneys' fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure. The lien is subordinate to any mortgage on the condominium unit recorded before it.

7.7 Collection: suit, notice.

The Association may bring an action to foreclose any lien for assessment in the manner that a mortgage on real property is foreclosed. It also may bring an action to recover a money judgment for the unpaid assessment without waiving any claim of lien. The Association shall give notice to the unit owner of its intention to foreclose its lien at least thirty (30) days before the foreclosure action is filed. The notice shall be given by delivery of a copy of it to the unit owner or by certified mail, return receipt requested, addressed to the unit owner.

ARTICLE VIII. ASSOCIATION CONTRACTS, GENERALLY

Any contracts made by the Association before the unit owners assume control from the Developer must be fair and reasonable. All contracts from the operation, maintenance or management of the Association or property serving the unit owners, made by the Association, whether before or after assumption of control of the Association by the unit owners, must not be in conflict with the powers and duties of the Association or the rights of the unit owners. Contracts made by the Association before the unit owners assume control may be canceled by the unit owners after assumption of control in the manner and under the circumstances as provided in the Act.

IX. ROSTER OF UNIT OWNERS AND MORTGAGEES

Each unit owner shall file with the Association a copy of the deed or other instrument showing his ownership, together with a copy of any mortgage on his unit and any satisfaction of that mortgage. The Association shall maintain these documents in a suitable binder for reference as required in the exercise of its powers and duties.

X. COMPLIANCE AND DEFAULT

10.1 Notice of Violation - Remedies.

In the case of a violation (other than the nonpayment of an assessment) by a unit owner of any of the provisions of the Act, the Declaration, the Articles, these Bylaws or any lawfully adopted rules and regulations, the Association by direction of its Board of Directors may transmit to the unit owner by certified mail, return receipt requested, a notice of the violation. If the violation shall continue for a period of thirty (30) days from the date of the notice, the Association shall have the right to treat the violation as an intentional and material breach of the provision cited in the notice. The Association, at its option, may take the following actions:

- (a) File an action to recover for its damages on behalf of the Association or on behalf of other unit owners.
- (b) File an action for injunctive relief requiring the offending unit owner to take or desist from taking certain actions.
- (c) File an action for both damages and injunctive relief.

A unit owner may bring an action against the Association for damages, injunctive relief, or both, if the Association fails to comply with the provisions of the Act, the Declaration, the Articles, these Bylaws or the rules and regulations.

10.2 Attorneys' fees.

In any action brought pursuant to the provisions of Section 10.1, the prevailing party is entitled to recover reasonable attorneys' fees.

10.3 No waiver of rights.

Neither a unit owner nor the Association may waive a provision of the Act if that waiver would adversely affect the rights of a unit owner or the purposes of the provision, except that unit owners or Board members may waive notice of specific meetings in writing.

ARTICLE XI. ARBITRATION OF INTERNAL DISPUTES

Internal disputes arising from the operation of the Condominium among unit owners, the Association, their agents and assigns may be resolved by voluntary binding arbitration. Each party to the dispute first must agree to the arbitration process and, in such case, the arbitrator's decision will be final. If judicial proceedings are taken after arbitration, the arbitrator's final decision will be admissible in evidence. Any party may seek enforcement of the arbitrator's final decision in a court of competent jurisdiction. Nothing in this Article shall preclude any party from proceeding alternatively in the manner prescribed in Article X above.

ARTICLE XII. LIABILITY SURVIVES MEMBERSHIP TERMINATION

Termination of membership in the Association shall not relieve or release a former member from any liability or obligation incurred with respect to the Condominium during the period of membership, nor impair any rights or remedies that the Association may have against the former member arising out of his membership and his covenants and obligations incident to that membership.

ARTICLE XIII. LIMITATIONS ON UNIT OWNER LIABILITY FOR USE OF COMMON ELEMENTS

Each unit owner may be personally liable for the acts or omissions of the Association relating to the use of the common elements. That liability shall be shared with other unit owners in the same percentages as their respective interests in common elements. No individual unit owner's liability shall exceed the value of his unit.

ARTICLE XIV. PARLIAMENTARY RULES

ROBERTS' RULES OF ORDER (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Act, the Declaration, the Articles or these Bylaws.

ARTICLE XV. RULES AND REGULATIONS

15.1 Board of Directors may adopt rules and regulations.

The Board of Directors may adopt and amend, from time to time, reasonable rules and regulations governing the details of the use and operation of the common elements, common areas and recreational facilities serving the Condominium.

15.2 Posting and furnishing copies.

A copy of the rules and regulations adopted from time to time by the Board of Directors, and any amendments to existing rules and regulations, shall be posted in a conspicuous place on the Condominium property and a copy furnished to each unit owner. No rule, regulation or amendment shall become effective until thirty (30) days after posting, except in the case of an emergency, in which case the rule, regulation or amendment shall become effective immediately upon posting.

15.3 Limitations on authority.

The Board of Directors may not unreasonably restrict any unit owner's right to peaceably assemble or right to invite public officers or candidates for public office to appear and speak on common elements, common areas and recreational facilities. The Board may not deny any resident of the Condominium, whether tenant or owner, access to any available franchised or licensed cable television service or exact a charge or anything of value in excess of charges normally paid for like services by residents of single-family homes within the same franchise or license area.

15.4 Reasonableness test.

Any rule or regulation created and imposed by the Board of Directors must be reasonably related to the promotion of the health, happiness and peace of mind of the unit owners and uniformly applied and enforced.

ARTICLE XVI. RESTRICTIONS

Restrictions contained in the Declaration and any amendments duly adopted by a vote of the unit owners shall be valid and in the nature of covenants running with the land.

ARTICLE XVII. INDEMNIFICATION

Every officer and director of the Association shall be indemnified by the Association against all expenses and liabilities, including reasonable attorneys' fees incurred and imposed in connection with any proceedings to which he may be a party, or in which he may become involved by reason of his being or having been an officer or Director of the Association, whether or not he is an officer or Director at the time the expenses are incurred. The officer or Director shall not be indemnified if he is adjudged guilty of gross negligence or willful misconduct or shall have breached his fiduciary duty to the members of the Association. The Association shall not be liable, however, for payment of a voluntary settlement unless it is first approved by the Board of Directors. The foregoing rights

shall be in addition to and not exclusive of all other rights to which the Director or officer may be entitled.

**ARTICLE XVIII. DEFECTIVE CONDOMINIUM DOCUMENT,
CURATIVE PROVISIONS**

The Association or a unit owner may petition the circuit court having jurisdiction in the county in which the Condominium property is situated to correct an error or omission in the Declaration or any other documents required to establish the Condominium, affecting its valid existence, and which errors or omissions are not correctable by the amendment procedures in the Declaration or the Act. In any case, after three (3) years from the filing of the Declaration, it shall be deemed to be effective under the Act to create a condominium, whether in fact it substantially complies with the mandatory requirements of the Act or not.

ARTICLE XIX. AMENDMENTS

Amendments to these Bylaws shall be proposed and adopted in the following manner:

19.1 Notice.

Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

19.2 Adoption.

An amendment may be proposed either by a majority of the Board of Directors or by not less than one-quarter (1/4) of the members of the Association. The amendment shall be adopted if it is approved by not less than seventy five (75%) of the votes of the entire membership of the Association.

19.3 Limitation.

No amendment shall be made that is in conflict with the Act or the Declaration, nor shall any amendment abridge, alter or amend the rights of the Developer or mortgagees of units without votes of the entire membership of the Association.

19.4 Recording.

A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of the Declaration and Bylaws. The certificate shall be executed by the president or vice president and attested by the secretary or assistant secretary of the

Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the county, with the Book and Page of the Public Records where the Declaration of Condominium operated by the Association is recorded being identified on the first page thereof.

19.5 Format.

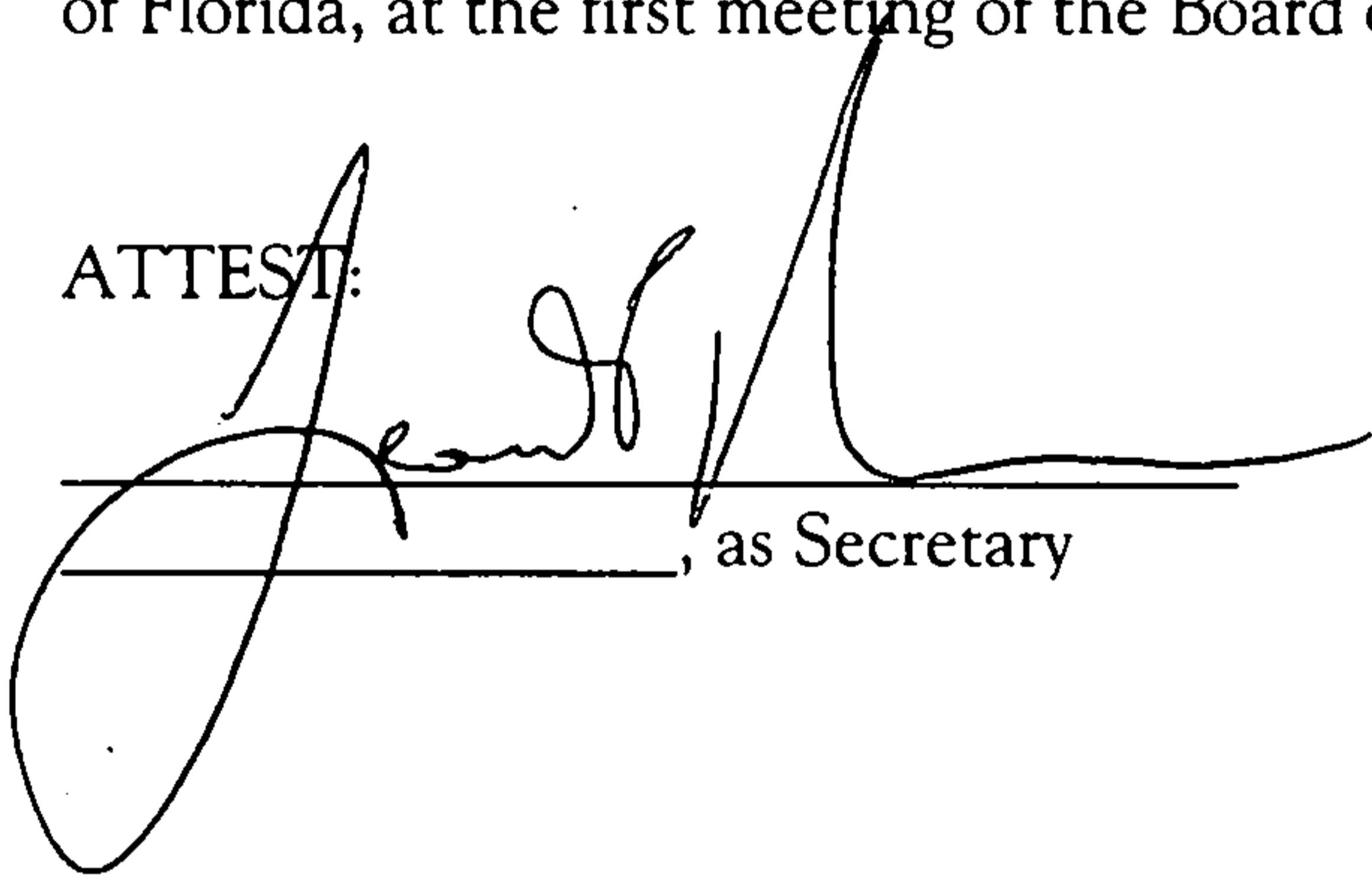
Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying "SUBSTANTIAL REWORDING OF BYLAW. SEE BYLAW NUMBER FOR PRESENT TEXT."

ARTICLE XX. CONSTRUCTION

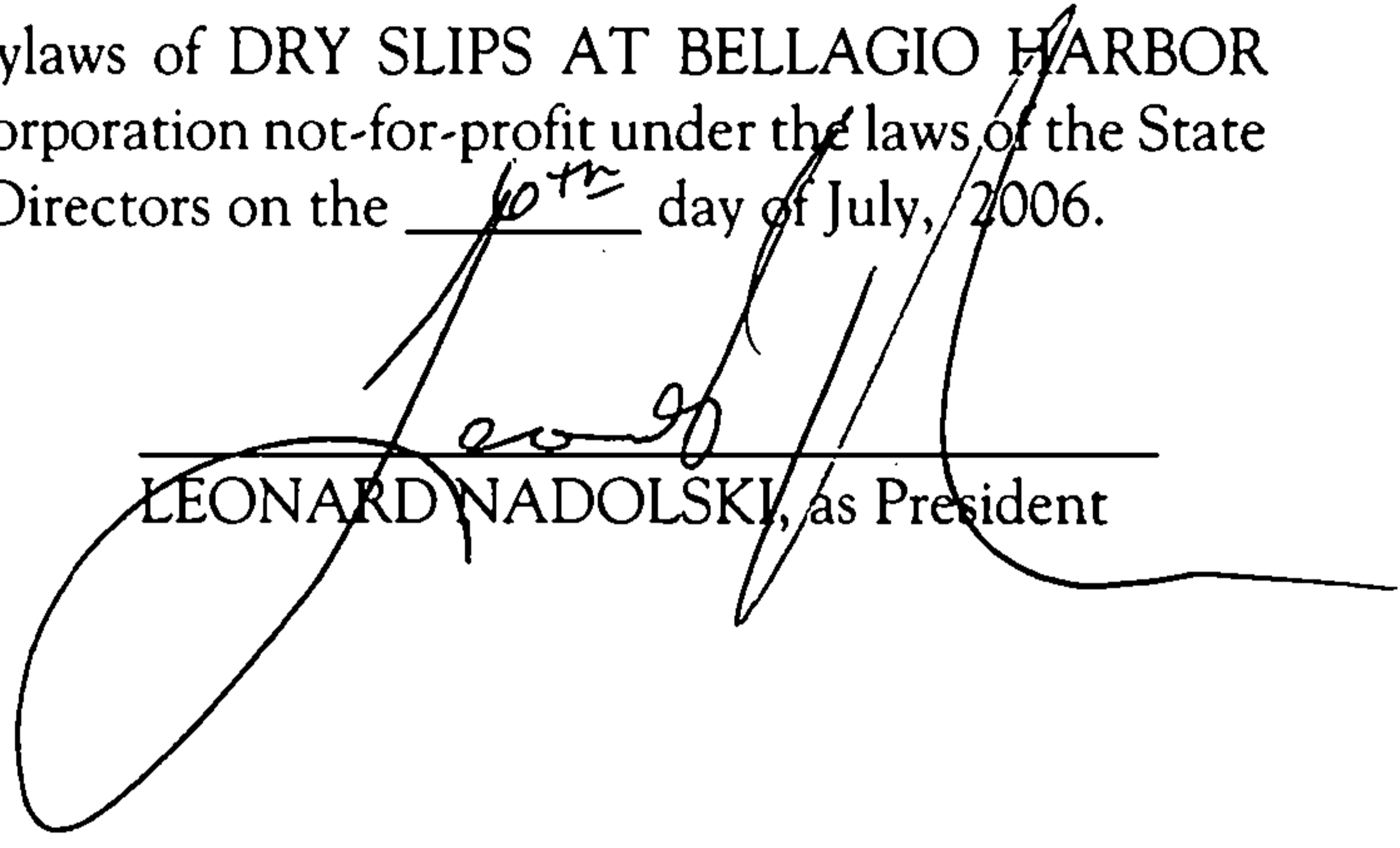
Whenever the context permits or requires, the singular shall include the plural, the plural shall include the singular and the use of any gender shall be deemed to include all genders.

The foregoing were adopted as the Bylaws of DRY SLIPS AT BELLAGIO HARBOR VILLAGE Condominium Association, Inc., a corporation not-for-profit under the laws of the State of Florida, at the first meeting of the Board of Directors on the 10th day of July, 2006.

ATTEST:



_____, as Secretary



LEONARD NADOLSKI, as President

**EXHIBIT "F" to the Declaration
(Harbormaster Unit Lease)**

LEASE AGREEMENT BETWEEN
SKIDS INVESTMENTS, LLC ("LESSOR")

AND

THE DRY SLIPS AT BELLAGIO HARBOR VILLAGE
CONDOMINIUM ASSOCIATION, INC. ("LESSEE")

DATED

6/23, 2006

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LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease"), entered into this 23 day of June 2006, between **Skids Investments, LLC, a Florida Limited Liability Company**, whose address is 5000 E. Grand River, Howell Michigan, 48843 (hereinafter referred to as "Lessor" or "Landlord"), and **The Dry Slips at Bellagio Harbor Village Condominium Association, Inc., a Florida Incorporation**, whose address is 510 Blackburn Point Road, Osprey, Florida 34229 (hereinafter referred to as "Lessee" or "Tenant").

WITNESSETH:

WHEREAS, Lessor is the owner of a portion of the retail portion of the real property described as Bellagio Harbor Village, which retail portion of the Bellagio Harbor Village project is described in its entirety on **Exhibit "A"** attached hereto (hereinafter referred to as the "Property"); and

WHEREAS, Lessee wishes to lease from Lessor that certain space within the Property described in **Exhibit "B"** attached hereto, located at Bellagio Harbor Village consisting of 13,311 square feet (more or less) and incorporated by reference (hereinafter referred to as the "Premises"), which Premises are to be used for the operation of a marine retail supply store and fuel service facility; and

WHEREAS, Lessor wishes to lease the Premises to Lessee in accordance with the terms and conditions hereof.

NOW, THEREFORE, for and in consideration of the sum of \$10.00, the exchange of mutual promises (including the promises set forth in the above-referenced recitals) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **PREMISES.** Lessor hereby leases to Lessee and Lessee leases from Lessor the Premises. The Premises shall include all portions of the condominium unit described on **Exhibit "B"** attached, all as more particularly defined/described in the condominium documents governing the unit of which the Premises is a part, and shall include all portions of the building and/or dock space(s) which are defined as, or which are otherwise intended to be part of the subject condominium unit. The Premises shall not include Common Areas as defined herein. Lessee covenants, as a material part of the consideration for this Lease, to keep and perform each and all of the terms, covenants, and conditions herein set forth.

2. **LEASE TERM/COMMENCEMENT DATE.** This Lease shall be for a term of ninety nine (99) years, which term shall begin upon the Commencement Date, as herein defined, and expire on the date ninety nine (99) years thereafter (the "Lease Term"). The phrase "Lease Term" shall include the initial lease term, plus any renewal term or terms, if any, as may be exercised by Lessor pursuant to the terms hereof. The Commencement Date shall occur five (5) business days following the issuance of a certificate of occupancy for the building of which the Premises is a part, provided however, the parties recognize that Lessor does not yet hold title to the Property of which the Premises is a part. Consequently, this Lease is expressly conditioned upon Lessor's acquisition of fee title to the Premises, and if, for any or no reason whatsoever, Lessor fails to, refuses, or otherwise does not acquire fee title to the Premises on the earlier to occur of (a) the Commencement Date or (b) September 31, 2006, Lessor may terminate this Lease without any liability to Lessee, upon which this Lease shall be null and void and of no further force and effect. Lessor and Lessee acknowledge that certain obligations under various provisions of this Lease may commence prior to the Commencement Date, and agree that this is a binding enforceable agreement as of the date Lessor and Lessee execute this Lease, subject however to Lessor's termination rights set forth in the preceding sentence.

3. **CONDITION, INSPECTION AND ACCEPTANCE OF PREMISES.** On the Commencement Date, Lessee shall accept the Premises, including any improvements, fixtures, and equipment thereon, in their then existing condition as of the Commencement Date, without any responsibility or obligation on the part of Lessor to effect any repairs, alterations, or additions thereto. No representation, statement, or warranty, express or implied,

has been made by or on behalf of Lessor as to such condition, or as to the use that may be made of the Premises. Lessor shall not be responsible for any patent, latent or other defects or changes of condition in the Premises, the building of which the Premises are a part, the Property or any improvements or personalty therein, and the rent and other sums payable hereunder shall not be withheld or diminished, nor shall Lessee assert the existence of any actual or constructive eviction on account of any changes or defects nor for any damages thereto or arising by reason thereof. The taking of possession of the Premises by Lessee shall be conclusive evidence that Lessee accepts the same "as is" and "where is" and that the Premises are in good condition at the time possession is taken by Lessee.

4. **QUIET ENJOYMENT/PERMITTED USE.** Subject to: (a) Lessee observing and obeying all applicable laws, ordinances, rules and regulations concerning the Premises and Common Areas; (b) Lessee performing all of the covenants, conditions and provisions required of Lessee herein, including reasonable rules and regulations as may from time to time be imposed by Lessor; and (c) to the reservations and conditions of any mortgages, liens, easements, restrictions or ordinances which may at any time effect and/or encumber the Premises and/or the Property, Lessee shall have quiet possession of the Premises during the Lease Term. Lessee shall use and occupy the Premises solely as a (a) retail marine store utilizing a name approved by Lessor, in Lessor's sole discretion; and (b) the delivery of fuel from 8:00 am to 6:00 pm, seven days a week, to the owners, occupants, and/or guests of (i) residential condominium units within the Bellagio project, (ii) dock and rack spaces within the Bellagio project, and (iii) third party patrons (the "Permitted Use") and shall not use or occupy the Premises for any other purpose whatsoever without Lessor's prior written consent. Lessee agrees that the use of the Premises is an interdependent enterprise, that the Property's success is dependent on the continued operation of Lessee's business for the Permitted Use, and that the maintenance of the character and quality of the Property is enhanced by the continued occupancy of the Premises and the regular conduct of Lessee's business therein for the Permitted Use. Accordingly, Lessee agrees to continue operation of the Premises for the Permitted Use on the Commencement Date and operate one hundred percent (100%) of the Premises during the entire Term for the Permitted Use. Lessee will operate the Premises for the Permitted Use with due diligence, efficiency, and with a standard of care and quality appropriate for, or otherwise consistent with a first class, high quality residential and retail project. Lessor shall have the right from time to time to advise Lessee, and Lessee shall thereafter use its best efforts to satisfy the standard of care to which Lessor expects Lessee to adhere when operating the Premises for the Permitted Use (the determination of which may be made in Lessor's sole judgment consistent with the provisions of high end, high quality product and customer service). Lessor shall also have the right to approve the standard/level of service provided by Lessee from time to time to insure, at all times during the term hereof, a level of service, a degree of cleanliness, and an image consistent with the upscale nature of the Bellagio project. Lessee shall conduct, or cause a third party to conduct, its business in the Premises seven (7) days per week, between the hours of 8:00 am and 6:00 pm. Lessee shall maintain, or cause a third party to maintain, an appropriate level of service which shall be fully operational and available to residents, tenants, and guests, during these hours, as well as adequate levels of appropriately trained staff to fully satisfy its obligations hereunder. A vacation of Premises or cessation of operation by any other tenant(s) in the Property shall not in any way release Lessee from Lessee's obligations under this Lease, such obligations being independent covenants of this Lease.

Lessee shall not interfere with nor conduct any activity which may injure or annoy other lessees or occupants within the Property nor use or occupy the Premises in violation of any law, ordinance, rule, regulation, or directive. In addition, Lessee shall: (a) keep and maintain the Premises and interior portions of windows, doors, and other plate glass fixtures in a neat, clean, sanitary and safe condition; (b) neither solicit business nor cause to be distributed advertising matter or handbills in the parking or other common areas, nor distribute nor cause to be distributed or place same in or upon automobiles parked upon the Property; and (c) not place any weight upon the floors which shall exceed 100 pounds per square foot of floor covered. Notwithstanding anything contained herein to the contrary, and in addition to Lessor's other remedies hereunder, should Lessor determine, in its sole discretion, that Lessee has not adequately responded to any alleged violation, Lessor reserves the right to cure any alleged default or violation thereunder, and charge Lessee the full cost thereof.

Lessee shall use its best efforts to minimize its use of available parking spaces, and agrees that the adjacent retail facilities, including the restaurant and the rack storage facility, shall have priority with regard to any available

parking. Lessee agrees that it, its employees, agents, suppliers and customers shall park only in areas designated by Lessor from time to time.

5. **RENT.**

(1) **Base Rent.** For the first year of the Lease Term, Lessee shall pay to Lessor without notice, demand, deduction or set off whatsoever, in lawful United States currency, Base Rent in the sum of One Hundred and Two Thousand Dollars (\$102,000.00) per annum, together with all sales, use and other taxes assessed thereon. All Base Rent and taxes shall be paid in equal monthly installments, beginning on the Commencement Date and continuing on the first day of each and every calendar month thereafter during the Lease Term. Lessee understands that with its payment of Base Rent, it shall also pay sales tax thereon, as well as any other Additional Rent due hereunder, such as common area maintenance expenses and its portion of real estate taxes. In the event the Commencement Date is other than the first day of a calendar month, the Base Rent (as well as all Additional Rents, sums, and charges reserved hereunder) for the portion of the calendar month of the Commencement Date shall be prorated on the basis of a thirty (30) day month and shall be paid immediately on the Commencement Date. Notwithstanding the foregoing, commencing with the first day of the first calendar month immediately following the first anniversary of the Commencement Date, and upon each subsequent anniversary of that date during the Lease Term, the Base Rent then in effect shall be increased by the greater of: (a) five percent (5%); or (b) the percentage of increase, if any, in the "CPI Index" based on the previous twelve month period, with "CPI Index" being defined as the revised Consumer Price Index for all urban consumers prepared by the Bureau of Labor Statistics of the US Department of Labor or any other measure hereafter employed by the Bureau of Labor Statistics in lieu of such Price Index. In no event shall Base Rent be decreased. Base Rent is in addition to Common Area Maintenance charges and other charges described herein.

(2) **Late Charge.** In the event that any payment of Base Rent or any other payment required by Lessee hereunder is not paid within three (3) days of the date any such sum is due, Lessee agrees to pay to Lessor a late charge equal to fifteen percent (15%) of the unpaid amount or \$1000.00, whichever is greater, to defray Lessor's administrative charges with respect to such late payment. In the event any payment has not been received within ten (10) days after the due date of such payment, Lessee shall be in default hereof and Lessor shall be entitled to the remedies set forth herein.

(3) **Bad Checks.** Should a check from Lessee be dishonored or returned by the bank for any reason, Lessor shall be entitled to apply, in addition to the above assessments, a service charge of one thousand dollars (\$1000.00) for each such occurrence.

(4) **Draft Withdrawal of Rent.** Instead of requiring Lessee to pay Rent in the manner set forth in Paragraph 5(1) above, Lessor may require Lessee, within thirty (30) days after notice to Lessee, to execute and deliver to Lessor any documents or authorization required by Lessor to give effect to an automated debiting system, whereby any and all payments of Base Rent by Lessee shall be debited monthly from such account as Lessee shall designate from time to time, and such amounts shall be credited to Lessor's bank account as Lessor shall designate from time to time. Lessee shall maintain sufficient funds in Lessee's account to cover all such payments. Lessee shall promptly pay all service fees and other charges connected therewith, including without limitation, any charges resulting from insufficient funds in Lessee's bank account or any charges imposed on Lessor. Lessee shall remain responsible to Lessor for all payments of Rent, even if Lessee's bank account is insufficiently debited in any given month. Such insufficient amounts shall be immediately due and payable to Lessor without notice or demand.

6. **APPLICATION OF PAYMENTS FROM LESSEE.** Except as expressly set forth herein, Lessor shall apply payments from Lessee in the following order: First, toward any interest charges accrued against Lessee's account as permitted hereunder; Second, toward administrative fees, late fees, service charges or other legal expenses assessed against Lessee's account as permitted hereunder; Third, toward Lessor's reimbursable expenses, being those expenses incurred by Lessor on behalf of Lessee as permitted hereunder, and; Fourth, towards the payment of Base Rent, Common Area Maintenance charges, taxes and items of Additional Rent (as defined herein) not otherwise specifically referenced in this Section.

7. **USE OF COMMON AREAS.** The use and occupancy by Lessee of the Premises shall include the use in common with others use of the common areas within the Property as are or may be, from time to time, designated by Lessor (collectively referred to as the "Common Areas"), provided, however, the use of the Common Areas by Lessee shall be subject at all times to the rules and regulations prescribed therefore by Lessor. Lessor shall have the right to establish, modify, change, and enforce reasonable rules and regulations with respect to the Common Areas, and Lessee agrees to abide by and conform to such rules and regulations.

In addition to Base Rent and sales tax thereon, from and after the Commencement Date, but subject to adjustment as provided in this paragraph, Lessee shall pay to Lessor as Additional Rent (hereinafter defined as any and all sums, exclusive of Base Rent and Sales Tax, payable by Lessee to Lessor pursuant to this Lease), on the same day of each calendar month of the Lease Term as Base Rent is due and payable, an amount estimated by Lessor to be Lessee's proportionate share of the costs total associated with the Common Areas, the Premises, and the Property for the prior month ("Common Area Maintenance charges") and all sales and other taxes thereon. Such charges shall include, without limitation, all sums expended in connection with the operation, maintenance, management, protection and repair of the Common Areas, the Premises, and the Property, including, without limitation: the costs of ad valorem and other taxes upon the Property; assessments relative to the Property, Property insurance; reasonable management fees; general maintenance, repair, janitorial services and cleaning costs for the Property and the Common Areas, including all parking areas; operation, maintenance, repair and/or replacement of signs, sprinkler systems, landscaping, lighting, utility systems, storm drainage systems; the cost of all lighting water sewer, gas, electricity, fuel, heat, power and other utilities for the Common Areas; the costs of trash removal; taxes, assessments, impact fees and taxing districts imposed upon or against the Property and/or Lessor; adequate public liability, property damage, plate glass, and fire and extended coverage insurance for the Property and/or Common Areas and any other insurance of reasonable amounts now or hereafter carried by Lessor with respect to the Property and/or Common Areas; and reserves for the purpose of paying future Common Area Maintenance charges. Lessee's above-referenced proportionate share of such charges shall be a fraction: (a) the numerator of which is the number of square feet of floor space within the Premises; and (b) the denominator of which is the number of square feet of space within the Property. In addition, Lessee shall be required to pay, as part of its share of the Common Area Maintenance charges, a management/administration fee to be determined by Lessor; however such management/administration fee shall not exceed five percent (5%) of the Base Rent payable by Lessee. Lessor may adjust the estimated monthly Common Area Maintenance charge at the end of any calendar quarter on the basis of Lessor's reasonably anticipated costs. Within ninety (90) days following the end of each calendar year, Lessor shall furnish to Lessee a statement covering the calendar year or quarter just expired, showing the total of the Common Area Maintenance costs, the amount of Lessee's share thereof, and the Common Area Maintenance charges paid by Lessee with respect to such period. If Lessee's share (exclusive of the above referenced management/administration fee) exceeds the payments so made by Lessee, Lessee shall pay to Lessor the deficiency within fifteen (15) days after receipt of such statement. If said payments (exclusive of the above referenced management/administration fee) exceed Lessee's share, such excess shall be credited against the next sums becoming due from Lessee hereunder. Lessee shall not be entitled to set off or deduct from any Base Rent or other payments due Lessor hereunder, any disputed Common Area Maintenance charges. It is in the intention of the parties that this Lease constitutes a "Triple Net Lease," meaning Lessee shall be responsible for its proportionate portion of all taxes, insurance, maintenance, and other expenses associated with the Premises and Property of which it is a part.

8. **INTENTIONALLY OMITTED**

9. **SIGNS AND STOREFRONTS.** Lessee shall not place, erect or install signage, awnings or canopies, whether temporary or permanent, nor allow to be erected or installed any signs, printed displays, advertisements or window lettering, visible from outside the Premises: (a) except upon the prior written consent of Lessor; and (b) unless Lessee does so in strict accordance with all applicable laws, rules, regulations and ordinances.

10. **ALTERATION OF PREMISES AND IMPROVEMENTS.**

(a) Construction. The parties acknowledge that Lessor is responsible for completing the Premises in accordance with plans and specifications now or hereafter prepared and/or approved by Lessor, in Lessor's sole and absolute discretion. Lessor further reserves the right to make any changes, alterations, deletions, modifications, substitutions, and/or additions to any such plans and/or specifications, in its sole discretion.

(b) Alteration and Improvements by Lessee. Lessee shall not make any improvements or alterations to the Premises without Lessor's prior written consent. Subject to the provisions set forth herein, any and all approved alterations, additions and improvements in or to the Premises shall be at the sole expense of Lessee, and shall become and remain a part of the Property and become the property of Lessor upon expiration or earlier termination of this Lease. The interest of Lessee in the Premises and the Property is not subject to liens for improvements or alterations made by Lessee. Lessee shall comply with the Mechanic's Lien Law of the State of Florida as set forth in Chapter 713, Florida Statutes. Lessee will not create, nor permit to be created, nor remain as a result of any action or work done or contracted for by Lessee, any lien, encumbrance or charge levied on account of any imposition, or any mechanic's, laborer's or materialman's lien which might be, or become a lien, encumbrance or charge upon the Premises. Any mechanic's, laborer's or materialman's lien shall be promptly discharged by Lessee in accordance with Florida law, or Lessee shall promptly transfer such lien to a proper surety or cash bond as provided by Chapter 713, Florida Statutes, time being of the essence. The foregoing obligations of Lessee shall survive the Lease Term, and the failure of Lessee to comply with the foregoing shall be a material default hereunder.

(c) Alteration of Premises and Improvements by Lessor. Lessor hereby reserves the right to decorate, alter, repair or improve the Premises, including the Common Areas and appurtenances thereto, and Lessor or its representatives, for that purpose, may enter unto the Premises with such material and equipment as Lessor may deem necessary, may erect scaffolding and any necessary structures and may close or temporarily suspend operations within the Premises, including the closing of entrances, doors, corridors, and other facilities. Lessee agrees that any such work performed by Lessor or on Lessor's behalf and/or any additional costs to Lessee by reason thereof, shall not constitute grounds for diminution or abatement in the Base Rent or any additional sums payable hereunder, or for a constructive or actual eviction based upon any inconvenience, disturbance, discomfort, interruption or loss of business, or other matters suffered by Lessee because of Lessor's activities as referenced in this Section, notwithstanding any such inconvenience, disturbance, discomfort, or interruption of business or other matters suffered by Lessee.

11. REPAIRS BY LESSEE. Lessee will, at its sole cost and expense, keep and maintain the Premises and every part thereof as well as all doors, hardware, signage and storefronts designated by Lessor which are not within the Premises but which serve and/or are located in close proximity to the Premises in good order and repair throughout the Lease Term. Without limiting the foregoing, Lessee will keep in good order and repair, and maintain and replace as needed: ceilings, roofs, walls, floors, plate glass and all fixtures in, on and about the Premises, including but not limited to HVAC, water, plumbing, sewer, electrical and utility systems, and Lessee shall be liable for any damage to such systems occurring during the Lease Term, except for any damage caused by Lessor's intentional misconduct. Lessee shall return the Premises to Lessor at the expiration or termination of this Lease in the same good condition and repair as when first received, ordinary wear and tear accepted. All damage or injury to the Property, Premises or the Common Areas caused by Lessee, its officers, directors, principals, agents, employees, patrons, customers or visitors, shall be promptly reported to Lessor, and shall be promptly repaired by Lessee at its sole cost and expense to the satisfaction of Lessor. Commencing with the sooner of occur of (a) the first day of January immediately following the Commencement Date; or (b) the first of June immediately following the Commencement Date, and upon each subsequent six month anniversary of such date during the Lease Term, Lessee shall, without further notice, provide Lessor with all written evidence and proof (including, but not limited to, receipts, invoices, estimates, reports and proof of payment) that Lessee has performed, on at least a semi-annual basis, all necessary and/or reasonable repairs, maintenance and replacement relative to the Premises and every part thereof (including, but not limited to HVAC, plumbing, sewer, electrical and utilities systems). Lessor may make such repairs, or perform such maintenance, which are not promptly made by Lessee and charge Lessee for the cost thereof, and Lessee hereby agrees to pay such amounts on demand as Additional Rent.

12. **REPAIRS OF HEAT, VENTILATION, AND AIR CONDITIONING (HVAC) SYSTEMS.**

Throughout the Term of this Lease, Lessee shall be solely responsible for: (a) maintaining all fixtures pertaining to the HVAC systems which are in, on or about the Premises including but not limited to, compressors, fans and duct work; and (b) repairing or replacing all HVAC units on the Premises (regardless of the age or condition of said units), if the need for repair or replacement becomes necessary for any reason throughout the Term. Following the expiration or earlier termination of this Lease, Lessee shall insure, by hiring a licensed and reputable contractor to inspect the same, that the HVAC systems on the Premises are operating properly and have not suffered from neglect or lack of maintenance and that the condition of the HVAC systems are in the same condition as at the inception of this Lease, ordinary wear and tear excepted. If the HVAC systems are not in such condition, then Lessee shall, at its expense, promptly have the HVAC systems repaired or replaced, as necessary, by a licensed and reputable contractor approved by Lessor.

13. **RUBBISH REMOVAL.** Lessee shall keep the Premises clean, both inside and outside, and will routinely remove all refuse from the Premises in accordance with such rules and regulations as may be established by Lessor for same. Lessee shall cooperate with other occupants/owners of space within the Property to coordinate rubbish removal within the Bellagio Harbor Village project. Lessee shall not burn any materials or rubbish of any description upon the Premises, Property or Common Areas. In the event Lessee fails to keep the Premises in the proper condition, Lessor may cause the same to be done for and on account of Lessee, and Lessee hereby agrees to pay the expense thereof on demand as Additional Rent.

14. **UTILITIES.** Lessee shall maintain and pay the cost of water and sewer, gas, electricity, fuel, light, heat, power, telephone, cable and any and all other utilities furnished to the Premises, whether such utility costs are determined by separate metering or are billed by Lessor as Additional Rent. Lessor and Lessee hereby acknowledge and agree that Lessee shall, to the extent possible, obtain at its expense separate meters for its water, sewer, electricity and other utilities. Notwithstanding the foregoing, Lessor shall, at its sole expense and in providing the Premises to Lessee, provide adequate main water, sewer line and electrical hook-ups as will be adequate for the reasonably permitted use of the Premises. Lessee acknowledges that such utilities are currently, or will be, as of the Commencement Date, in place.

15. **LIABILITY AND OTHER INSURANCE/INDEMNITY.**

(a) **Lessee's Insurance.** Lessee, throughout the term hereof, shall obtain and keep in full force and effect, at Lessee's cost and expense, (a) a policy of comprehensive general liability insurance, with personal injury and property damage coverage, with respect to the Premises, the sidewalks in front of the Premises, signs constructed by Lessee, and the business operated by Lessee in the Premises, with limits of liability of not less than \$2,000,000.00 per person for any occurrence and \$4,000,000.00 per occurrence for personal injury, bodily injury and death, and of not less than \$100,000.00 for property damage resulting from any one occurrence, and (b) a storage tank liability and cleanup policy of insurance, with limits of liability of not less than \$2,000,000.00 per any occurrence. Such policies shall contain a contractual liability endorsement covering Lessee's obligations to indemnify Lessor under this Lease. Such policies shall also contain provision for reimbursement/payment to Lessor of any loss of rents for any period of time for which the Premises is untenable under this Lease. Lessor shall be named as an additional insured in each such policy. Lessee, throughout the term hereof, also shall obtain and maintain, at Lessee's cost and expense, fire and extended coverage (including vandalism and malicious mischief) insurance at full replacement cost covering Lessee's furniture, fixtures, equipment, leasehold improvements, signs and inventory. Such policy shall name Lessor as a loss payee, as Lessor's interest may appear, shall contain a cross liability endorsement and shall permit a waiver of subrogation clause. All policies maintained by Lessee shall contain a clause reciting that the insurer will not cancel or change the insurance without first giving Lessor thirty (30) days' prior written notice, shall be primary policies (not contributing with and not in excess of coverage Lessor may carry), and shall not be subject to any deductible in excess of Five Hundred Dollars (\$500.00) without Lessor's prior written consent. All such insurance policies shall be with an insurance company approved by Lessor and a copy of the policies or a certificate of insurance and renewals thereof shall be delivered to Lessor. If Lessor's insurance adviser reasonably concludes (based on the coverages generally carried for similar buildings in the Sarasota, Florida area) that the amount of comprehensive general liability coverage provided for hereinabove is no longer adequate, then such amount of coverage shall be proportionately increased, or obtained, as the case may be. Lessee agrees that it will not keep, use, sell or offer for sale in or upon the Premises any article, which may be prohibited by the standard form of fire and extended coverage insurance policy. Lessee shall not make any use of

the Premises which would make void or voidable or would in any way impair or diminish any policy of fire or extended coverage insurance covering the Property or any portion thereof. Lessee shall not suffer anything to be or upon the Premises any trade or occupation, or do or suffer to be done anything which may render an increased or extra premium payable for the insuring of the building of which the Premises is a part against loss by fire and other perils included under Lessor's extended coverage insurance without the prior written consent of Lessor. Lessee agrees to pay any increase in premiums for fire, casualty and extended coverage insurance that may be charged during the term of this Lease on the amount of such insurance which may be carried by Lessor on the Premises or any part or all of the Property resulting from acts or use of the Premises by Lessee, whether or not Lessor has consented to the same. In determining whether the increase in the premiums is the result of Lessee's acts or use of the Premises, a schedule, issued by the insurance company or other organization setting the insurance rates on the Premises or the Property, showing the various components of such rates, shall be conclusive proof of the several items and charges which make up the fire, casualty and extended coverage insurance rates on the Premises or the Property and the basis for the increase in the premiums. Bills for such additional premiums shall be rendered by Lessor to Lessee at such times as Lessor may elect, and shall be due from, and payable by, Lessee when rendered, and the amount thereof shall be deemed additional rent.

(b) Indemnity. Lessee will indemnify Lessor, its officers, members, principals, agents, directors, and employees, against and save each harmless from any and all demands, claims, causes of action, fines, penalties, damages, losses, liabilities and expenses (including attorneys fees and court costs) incurred in connection with or arising from, or otherwise relating to: (a) the use or occupancy of the Premises by Lessee or any person claiming under Lessee, including the employees, invitees, agents, patrons, or visitors of Lessee; (b) any activity, work or thing done, suffered or permitted by Lessee in or about the Premises; (c) any acts, omissions or negligence of Lessee or any person claiming under Lessee, or the employees, invitees or visitors of Lessee or any such person; (d) any breach, violation or nonperformance by Lessee or any person claiming under Lessee or the employees, agents, contractors, invitees or visitors of Lessee or any such person of any term, covenant or provision of this Lease or any law, ordinance or governmental requirement of any kind; or (e) any injury or damage to the person, property or business of Lessee, its employees, agents, contractors, invitees, visitors or any other person entering upon the Premises under the express or implied invitation of Lessee (except for injury or damages caused by the willful misconduct of Lessor). In the event any action or proceeding is brought against Lessor, its employees or agents by reason of any such claim, Lessee, upon notice from Lessor, shall defend the claim at Lessee's expense with counsel reasonably satisfactory to Lessor.

(c) Lessor's Insurance. Lessee shall not stock, use or sell any article or do anything in or about the Premises, Common Areas or the Property which may be prohibited by Lessor's insurance policies or any endorsements or forms attached thereto, or which will increase any insurance rates and premiums relative the Premises, Common Areas and/or Property. In the event Lessee violates the provisions of this subsection, Lessee shall indemnify and hold Lessor harmless and shall, on demand, pay Lessor the increased cost of such insurance as Additional Rent.

(d) Workers Compensation Insurance. Lessee shall provide and keep in full force and effect workers' compensation insurance, in a form prescribed by laws of the State in which the Premises are located, and employers' liability insurance with limits of not less than Five Million Dollars (\$5,000,000).

(e) Waiver of Subrogation. If any property owned by Lessee and located in the Premises shall be stolen, damaged or destroyed by an insured peril, Lessor shall not have any liability to Lessee, nor to any insurer of Lessee, for or in respect of such theft damage or destruction, and Lessee shall use its best efforts to require all policies of insurance carried by it on its property in the Premises to contain or be endorsed with a provision by which the insurer designated therein shall waive its right of subrogation against Lessor.

16. EXCULPATION. Lessor, its officers, directors, partners, employees, principals and agents, shall not be liable for injury to Lessee's business or any loss of income therefrom or from damage to Lessee's merchandise, inventory, equipment or any other property of Lessee, or injury to Lessee's officers, directors, employees, invitees, customers, patrons or any other persons in or about the Premises from any cause whatsoever, whether said damage or injury results from conditions arising upon the Premises, Common Areas and/or Property (specifically including water, sewer, soil, pipes or other leakage), or from other sources or places, and regardless of

the cause of such damage or injury, except where such injury or damage is a direct result of Lessor's gross negligence. All property of Lessee kept or stored on the Premises shall be so kept or stored at the sole risk of Lessee and Lessee shall hold Lessor harmless from any claims arising out of damage to the same. Lessor shall not be liable for any damages arising from any criminal act or any act or neglect of any other lessee/occupant/owner of any portion of the Property or any third party.

17. **LESSEE'S PROPERTY/PLATE GLASS.** Lessee shall be responsible for and shall pay before delinquent all municipal, county or state taxes assessed during the term of this Lease against any personal property of any kind owned by Lessee or placed in, upon or about the Premises by Lessee. Lessor shall not be liable for any damage to property of Lessee or of others located on the Premises, or for the loss or damage to any property of Lessee or of others by theft or otherwise. Lessor shall not be liable for any injury or damage to persons or property resulting from any cause whatsoever, including, without limitation, fire, explosion, falling plaster, steam, gas, electricity, water or rain, or leaks from any part of the Property or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place. Lessor shall not be liable for any damage or injury of whatsoever kind or nature caused by other tenants or persons in the Premises or the Property, occupants of property adjacent to the Property, or the public, or caused by operations in the construction of any private, public or quasi-public work. Lessor shall not be liable for any latent defect in the Premises or in the building of which they are a part. All property of Lessee kept or stored in, on or about the Premises shall be so kept or stored at the risk of Lessee only, and Lessee shall indemnify and hold Lessor harmless from any claims arising out of damage to the same unless such damage shall be caused by the willful act of Lessor. Lessee shall give immediate notice to Lessor in case of fire or accidents in the Premises or in the building of which the Premises are a part or defects therein or in any fixtures or equipment of Lessee.

Lessee, at its own cost and expense, shall replace any and all plate glass damaged or broken from any cause whatsoever, whether or not the proceeds of any plate glass insurance obtained by Lessee are sufficient therefore.

18. **DAMAGE OR DESTRUCTION.** If the Premises and/or the Property shall be damaged or destroyed by fire, the elements, unavoidable accidents, or other casualty not due to the fault or neglect of Lessee, or its employees, contractors, officers, directors, agents, customers or invitees, whereby the Premises are rendered substantially or wholly untenable, Lessor may, at its option, cause such damage to be properly repaired, and the Base Rent meanwhile shall be abated during such repairs, or Lessor may terminate this Lease. If any such damage cannot be repaired within one hundred eighty (180) days of said occurrence, Lessor shall have the option of terminating this Lease in writing, whereby after all Base Rent and additional charges hereunder shall have been paid to the date of damage, there shall be no further liability upon either party. If the Premises shall be so damaged or destroyed as described herein whereby the Premises are not rendered substantially or wholly untenable, then Lessor shall cause such damage to be properly repaired and Lessee shall not be entitled to any temporary or other reduction in Base Rent following such damage or destruction. Notwithstanding the foregoing, Lessee agrees and acknowledges that Lessor's responsibility to make the foregoing repairs is specifically limited to the amount of insurance proceeds actually recovered by Lessor.

19. **CONDEMNATION.** If the Premises, Common Areas and/or Property, or any part thereof, shall be acquired or taken by eminent domain for any public or quasi-public use or purpose, and such acquisition or taking renders at least a portion of the Premises unsuitable for the use described in herein, Lessor and Lessee shall each have the right to terminate this Lease by written notice given to the other within sixty (60) days after the date of title vesting in such proceeding. In the event of such termination, all rents and other sums payable hereunder shall be paid by Lessee up to the date of termination and Lessor shall make an equitable refund of any rents and other sums paid by Lessee in advance and not yet earned. All damages or compensation awarded or paid for any such taking, whether for the whole or a part the Premises, Common Areas and/or Property shall belong to and be the property of Lessor without any participation by Lessee whether such damages or compensation shall be awarded or paid for diminution in value of the fee or any interest of Lessor in any ground or underlying lease of the Premises, Common Areas and/or Property or the leasehold estate create hereby, and Lessee expressly waives and relinquishes all claims to such awards and compensation or any part thereof and of the right to participate in any such condemnation proceedings against the owners of any interest in the Premises, Common Areas and Property, provided, however, nothing herein shall be construed to preclude Lessee from prosecuting any claim directly against the condemning authority, but not against Lessor, for the value of or damages to and/or the cost of removal

of Lessee's fixtures and/or other personal property which under the terms of this Lease would remain Lessee's property upon the expiration of the Lease Term, as may be recoverable by Lessee, provided further that no such claims shall diminish or adversely affect Lessor's award. Each party hereto agrees to execute and deliver to the other all instruments as may be reasonable required to effectuate the provisions of this Section.

20. **ASSIGNMENT AND SUBLETTING.** Lessee shall not assign, sublet, mortgage or encumber this Lease, in whole or in part, or sublet all or any portion of the Premises without Lessor's prior written consent, which Lessor may withhold in its sole discretion. Lessee may permit a service provider to operate the Premises, with Lessor's written consent, in Lessor's sole discretion. However, no such agreement shall confer any real property interest in and to the Premises. Although Lessor is not obligated to give its consent to a service agreement, a subletting or an assignment, Lessor shall be entitled to consider all factors which it deems relevant to any proposed consent to a service agreement, a subletting or an assignment, including, but not limited to the following: (a) the financial responsibility of the proposed party, sublessee or assignee; (b) the business reputation, experience and acumen of the proposed party, sublessee or assignee in the field of the permitted uses set forth in Section 4 herein; and (c) the need for alteration of the Premises. If such consent is obtained, any such service agreement, subletting or assignment shall be subject to and conditioned upon the following: (a) at the time of any such proposed service agreement, subletting or assignment Lessee shall not be in default under any of the terms, provisions, conditions, or provisions of this lease; (b) the provider, sublessee or assignee shall occupy the Premises and conduct its business in accordance with the permitted uses set forth herein; (c) if the Base Rent, Additional Rent, or any other sums required to be paid by any such sublessee or assignee exceeds the Base Rent, or other sums required to be paid hereunder then Lessee shall pay to Lessor such monthly excesses, which shall be deemed to be Additional Rent; (d) Lessee and the provider, assignee or sublessee shall execute, acknowledge and deliver to Lessor a fully executed counterpart of a written assignment of lease or sublease, or service agreement, as the case may be, duly consented to by Lessee's guarantors, if any, by the terms of which: (i) in case of an assignment, Lessee will assign to such assignee Lessee's entire interest in this Lease together with all prepaid rents and rights to Security Deposit hereunder and the assignee will accept said assignment and assume and agree to perform, directly for the benefit of Lessor, all of the terms, covenants and conditions of this Lease on Lessee's part to be performed hereunder; or (ii) in case of a service agreement or subletting, the service agreement, sublease and the sublessee's and/or provider's interest therein will in all respects be subject and subordinate all of the terms, covenants, and conditions of this lease and the provider/sublessee thereunder will agree to be bound by and to perform all of the terms, covenants and conditions of this lease on Lessee's part to be performed hereunder, except the payment of Base Rent, Additional Rent and all other charges and sums payable hereunder, which Lessee shall continue to pay to Lessor; and (e) notwithstanding any such service agreement, assignment or subletting under the terms of this Section, both Lessee and its guarantors, if any, will not be released or discharged from any liability whatsoever under this Lease and will continue to be fully liable thereon. This prohibition against any assignment or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law. Notwithstanding the foregoing, If the Premises, or any part thereof, be sublet or occupied by any person or entity other than Lessee, with or without the consent of Lessor, Lessor may collect rent from the assignee, sublessee or occupant and apply the net amount collected to the rent herein reserved, but such collection shall not be deemed a waiver of the requirement provided for herein for Lessor's consent. Notwithstanding any assignment or sublease, whether or not consented to by Lessor, Lessee shall remain fully liable under this Lease and shall not be released from performing any of the terms, provisions, covenants, promises, conditions and obligations to be performed by Lessee hereunder.

Lessee shall not, without the prior written consent of Lessor, which consent may be unreasonably withheld or delayed, in each instance, engage in or permit to occur a Change of Control. Change of Control shall be deemed an assignment hereunder. "Change of Control" of Lessee shall mean: (i) the issuance or sale by Lessee or the sale by any shareholder, stockholder, member, partner or owner of equity interests of equity interests of Lessee of a controlling interest in Lessee (which shall mean the effective voting control of Lessee); (ii) the sale, conveyance or other transfer of all or substantially all of the assets of Lessee (whether by operation of law or otherwise); or (iii) any transaction, or series of transactions, pursuant to which Tenant is merged with or consolidated into another entity and Lessee is not the surviving entity, or (iv) the sale, assignment, transfer, exchange or other disposition of the stock, membership interest, general interest, or other legal or beneficial interest in Lessee (or any direct or indirect owner thereof) which results in a direct or indirect change or transfer of management or control of, Lessee or a merger, consolidation or other combination of Lessee (or any direct or indirect owner thereof) with another entity which results in a change or transfer of management or control of Lessee.

21. **DEFAULT.**

(1) **Immediate Default-Bankruptcy, Receivership, Insolvency.** Any of the following acts by Lessee shall constitute an immediate default, without the necessity of Lessor giving notice to Lessee:

(i) if Lessee shall file for or commit an act of bankruptcy, receivership, insolvency, reorganizations, dissolution, liquidation, or if other similar proceedings shall be instituted by Lessee for all or any part of its property under the Federal Bankruptcy Act or other law of the United States or of any state or other competent jurisdiction; or

(ii) if any act of bankruptcy, receivership, insolvency, reorganizations, dissolution, liquidation or if other similar proceedings shall be instituted against Lessee for all or any part of Lessee's property under the Federal Bankruptcy Act or any law of the United States or of any state or other competent jurisdiction, and Lessee shall either consent thereto or fail to cause the same to be discharged within thirty (30) days; or

(iii) if Lessee discontinues business, or otherwise abandons the Premises for a continuous period of ten (10) days.

(2) **Monetary Default.** If Lessee shall fail to pay all Base Rent, Additional Rent, taxes and Common Area Maintenance charges within three (3) days of the date when due under this Lease, or if Lessee shall fail to pay any of the other monetary obligations required by this Lease within three (3) days of the date when due, then Lessee shall be in immediate default hereunder without notice and Lessor shall have those remedies set forth in Section 22 below.

(3) **Non-Monetary Defaults.** If Lessee fails to perform any of the other covenants, duties, agreements, undertakings or terms of this Lease, Lessor shall give Lessee fifteen (15) days written notice to cure the same. If Lessee does not cure the breach within fifteen (15) days after Lessor gives notice, Lessor shall have those remedies set forth in Section 22 below.

22. **LESSOR'S DEFAULT REMEDIES.** If Lessee is in default hereunder and fails to cure said default as provided above, Lessor may do one or more of the following at its sole option and without limiting any other right or remedy to which Lessor may be entitled:

(i) charging to Lessee, as Additional Rent hereunder, the amount of any default in payment, together with expenses and costs incurred by Lessor, plus interest at the highest rate allowed by Florida law, which total sum shall be due and payable by Lessee upon the next Base Rent payment date.

(ii) cancel and terminate the Lease, as well as all of the right, title, possession and interest of Lessee hereunder. In the event of such termination, Lessee shall immediately relinquish possession of the Premises to Lessor. Notwithstanding Lessor's termination of the Lease hereunder, Lessee's liability under the Lease will continue until the end of the Lease Term;

(iii) continue to hold Lessee liable for all rent and any other monies due Lessor under the Lease, without taking possession of the Premises, in which event Lessor has the option to periodically sue Lessee for past rent and other charges due without waiving any right to sue for future rent and other charges;

(iv) accelerate all rent, including Base Rent and Additional Rent and any other monies due Lessor under the Lease for the balance of the Lease Term whereupon such accelerated sums shall become immediately due and payable;

(v) re-enter and repossess the Premises with Lessee remaining liable to Lessor for all sums and charges as provided herein. Lessor, at its sole option, may relet the Premises on any terms, for any period of time and at any rental as Lessor in its reasonable discretion may deem appropriate. Lessee hereby irrevocably constitutes and appoints Lessor as its special attorney in fact, coupled with an interest, for purposes of reletting the

Premises pursuant to the immediately preceding sentence. In the event that Lessor shall elect to so relet the Premises on behalf of Lessee, then rentals received by Lessor from such reletting shall applied:

(a) First, to reimburse Lessor for the costs and expenses of such reletting (including, without limitation, costs and expenses of retaking or repossessing the Premises, removing persons and property therefrom, securing new lessees, real estate commissions paid, legal fees and, if Lessor shall maintain and operate the Premises, the costs thereof) and necessary, reasonable alterations.

(b) Second, to the payment of any indebtedness of Lessee to Lessor other than Base Rent, Common Area Maintenance charges and other sums due and unpaid hereunder.

(c) Third, to the payment of Base Rent, Common Area Maintenance charges and other sums due and unpaid hereunder, and the residue, if any, shall be held by Lessor and applied in payment of other or future obligations of Lessee to Lessor as the same may become due and payable.

(d) Should the rentals received from such reletting, when applied in the manner and order indicated above, at any time be less than the total amount owing from Lessee pursuant to this Lease, then Lessee shall pay such deficiency to Lessor, and if Lessee does not pay such deficiency within ten (10) days of its receipt of written notice, Lessor may bring an action against Lessee for recovery of such deficiency or pursue its other remedies hereunder in addition to any other remedies Lessor may have at law or in equity; and/or

(vi) pursue any action at law or equity available to Lessor.

23. **LESSOR'S LIEN.** Lessor shall have a valid and subsisting lien for the timely performance of the terms and provisions hereof, including, without limitation, the payment of all rents, charges and other sums to be paid by Lessee hereunder upon (a) all of Lessee's goods, wares, equipment, signs, fixtures, licenses, furniture and other personal property now or at any time after the Commencement Date located in or used in connection with the Premises and (b) that certain real property more particularly described on **Exhibit "C"** attached hereto and incorporated herein by this reference, which includes, without limitation, the boat ramp, the launch facility, certain dock spaces not forming a part of the Premises and owned by Lessee, the portions of the rack storage facility not owned by third parties, and other common elements/areas owned or otherwise controlled by the Lessee (hereinafter referred to the "Liened Property"). Lessee agrees and acknowledges that this Lease serves as a security agreement under Chapter 679, Florida Statutes, to impose a lien upon the Liened Property and to secure the timely performance of the terms hereof, including the payment of all rents, additional rents, and other sums to be paid by Lessee hereunder and Lessee agrees to execute, acknowledge and deliver to Lessor such liens, mortgages, financing statements and other instruments as Lessee may request in order to commemorate the foregoing within ten (10) days after Lessor's request therefore. Lessee hereby nominates and empowers Lessor as Lessee's attorney-in-fact coupled with an interest, irrevocably and with power of substitution, to execute and file, to the extent permitted by law from time to time in effect, during the lease Term, any financing statement thereto or any continuation statement which Lessor may deem necessary to perfect, protect, or enforce the foregoing provisions. Upon the occurrence of any default by Lessee as set forth herein, Lessor, may, in addition to any other remedies provided herein or by law, (a) enter upon the Premises and take possession of any and all goods, wares, equipment, signs, fixtures, licenses, furniture, and other personal property of Lessee located in the Premises without liability for trespass or conversation and sell the same with or without notice at public or private sale at which Lessor may purchase and/or (b) foreclose upon its lien upon any real property forming a part of the Liened Property, and apply the proceeds thereof less any and all expenses connected with the taking possession and the sale of the Liened Property, as a credit against any sums due by Lessee to Lessor. Any surplus shall be paid to Lessee and Lessee agrees to pay any deficiency upon demand. Lessor, at its option, may foreclose said lien as provided by law. The liens granted herein to Lessor shall be in addition to any lien that may arise in favor of Lessor as otherwise provided by law.

Lessee further agrees that a breach of the terms hereof shall also constitute a breach of any lease/license for the use of equipment within, or otherwise required for the operation of the Premises and/or boat rack facility, including the lease pertaining to the lift providing boat rack facility access to the water.

24. **RENEWAL TERMS.** If Lessee is not in default at the end of the Lease Term, and has not been in default of this Lease during the Lease Term, Lessor may, in its sole discretion, extend this Lease for one (1) additional period of ninety nine (99) years, under each of the following terms and conditions:

(a) All terms and conditions of this Lease are to remain the same and in full force and effect, with Base Rent continuing to be subject to the annual increases set forth above.

(b) Lessor must deliver notice to Lessee in writing at least thirty (30) days prior to the end of the Lease Term that it has elected to renew for the additional term.

25. **ANTICIPATORY BREACH.** In the event of a threatened or eminent breach by Lessee of any of the agreements, terms, covenants or conditions of this Lease, Lessor shall have the right to treat such threat as a default hereunder and shall, in addition to other rights available to Lessor as a result of Lessee's default hereunder, have the right of injunction to restrain the same and the right to invoke any remedy allowed by law or in equity.

26. **RIGHTS AND REMEDIES.** The various rights and remedies herein granted to Lessor may be exercised concurrently, and shall be cumulative and in addition to any others Lessor may be entitled to by law, and the exercise of one or more rights or remedies shall not impair Lessor's right to exercise any other right or remedy. The failure or forbearance of Lessor to enforce any right or remedy in connection with any Default shall not be deemed a waiver of such Default, nor consent to a continuation thereof, nor a waiver of the same Default at any subsequent date. Any waiver of rights by Lessor must be in writing and shall apply only to that written waiver and shall not have general or prospective application.

27. **SURRENDER OF PREMISES.** At the expiration or earlier termination of this Lease, Lessee shall surrender the Premises to Lessor broom clean and in as good a condition and repair as when received, ordinary wear and tear accepted. If not then in Default, Lessee shall, except as provided otherwise within this Lease, have the right at the end of this Lease to remove any readily moveable and non-affixed equipment, furniture, or other personal property placed in the Premises by Lessee, provided Lessee promptly repairs any damage to the Premises or the Property caused by such removal. Any and all fixtures, installed equipment and other property secured or affixed to the Property shall remain within the Premises and become the property of Lessor. Any liability of Lessee hereunder shall survive the expiration or termination of this Lease. If Lessee fails to remove any of such personal property belonging to it within seven (7) days of Lessor's notice to remove such property, or subsequent to a court order directing such removal, all such property shall be deemed abandoned by Lessee and shall become the property of Lessor. However, Lessee shall remain liable to Lessor for any costs and expenses associated with Lessor's transportation and removal of said personal property from the Premises. Lessee hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Lessee being evicted or dispossessed for any cause, or in the event of Lessor obtaining possession of the Premises, by reason of the violation by Lessee of any of the covenants or conditions of this Lease, or otherwise.

28. **NOTICES.** Any notice required to be given hereunder, including copies thereof which are to be concurrently transmitted to such parties as Lessor or Lessee may designate from time to time, shall be in writing, and may be given by personal delivery or by United States certified mail, postage prepaid, return receipt requested. Any notice required to be given to Lessor pursuant to this Lease shall be delivered to Lessor at:

SKIDS INVESTMENTS, LLC
Attn: Leonard P. Nadolski
5000 East Grand River
Howell MI 48843
Phone: 517-545-8800
Fax: 517-545-3317
lnadolski@champion-chev.com

Any notice required to be given to Lessee pursuant to this Lease shall be mailed to Lessee at:

**THE DRY SLIPS AT BELLAGIO HARBOR VILLAGE
CONDOMINIUM ASSOCIATION, INC.**

510 Blackburn Point Road,
Osprey Florida, 34229
Attn: President

29. **RULES AND REGULATIONS.** Lessor reserves the right to promulgate, and Lessee hereby agrees to strictly comply with, such rules and regulations for the parking area, grounds, Common Areas, Premises and/or the Property. If promulgated, Lessor shall provide Lessee with a copy of the current rules and regulations, which Lessor may modify from time to time throughout the Lease Term. Lessee hereby also agrees to strictly comply with any covenants, deed restrictions, restrictions, rules and/or regulations promulgated by the association(s) governing the Premises and/or the Property.

30. **INTENTIONALLY OMITTED**

31. **ATTORNEY'S FEES.** If any legal matter, dispute, action or proceeding exists or is commenced by Lessor or Lessee to enforce the other's obligations under this Lease, the non-prevailing party shall be liable for and shall pay the prevailing party for the expense of its reasonable attorney's fees and costs in such matter unless said dispute, action or proceeding is adjudicated, and then in such an event, the non-prevailing party shall be liable for and shall pay the expense of the prevailing party's reasonable attorney's fees and court costs. If Lessor hereto without fault is made a party to any litigation instituted by or against Lessee, Lessee shall indemnify and hold harmless Lessor, against all costs and expenses, including reasonable attorney's fees incurred in connection therewith.

32. **NONASSERTION OF COUNTERCLAIMS.** In the event Lessor commences any action or proceeding against Lessee relative to any matter arising out of or in any way connected with this Lease, the relationship of Lessor and Lessee created hereby, Lessee's use and occupancy of the Premises, or claim for injury, damage or loss, Lessee agrees not to interpose any noncompulsory counterclaim in any such proceeding.

33. **INTEREST ON PAST DUE OBLIGATIONS.** Any amount due from Lessee to Lessor hereunder which is not paid when due, shall bear interest at one and one-half percent (1½%) per month from the due date until paid. In the event the interest payable by Lessee hereunder exceeds the lawful limits allowed to be imposed under Florida law, said interest rates shall be the maximum rate allowable under Florida law payable in monthly installments.

34. **TIME OF ESSENCE.** Time is of the essence with respect to the performance of each of Lessee's covenants of this Lease, and the strict performance of each shall be a condition precedent to Lessee's rights to remain in possession of the Premises or to have this Lease continue in effect.

35. **HOLDOVER TENANCIES.** Should Lessee continue in occupancy of the Premises after expiration of this Lease, Lessee shall become a tenant from month to month upon each and all of the terms herein provided, and any such holding over shall not constitute a renewal or extension of this Lease. During any such holding over Lessee shall pay Base Rent in an amount which is double the amount which was payable by Lessee immediately prior to such holding over. Nothing herein shall be constructed to eliminate or diminish the termination of this Lease at the expiration of the Lease Term.

36. **AMERICANS WITH DISABILITIES ACT COMPLIANCE.** Lessee acknowledges that the Premises and the and/or the Property may constitute a place of public accommodation or a commercial facility under Title III of the Americans With Disabilities Act ("ADA") and that the ADA is applicable to owners and lessees of places of public accommodation and commercial facilities. Lessee further acknowledges that, pursuant to the ADA, any structural alteration to the Premises must comply with accessibility standards set forth in the rules promulgated by the United States Department of Justice, 28 CFR Section 36.101 et seq., as may subsequently be

amended. In the event Lessee makes any alterations to the Premises which would require compliance with Title III of the ADA and the accessibility standards promulgated by the United States Department of Justice, Lessee agrees to design and build such structural alterations so as to comply with the ADA and such accessibility standards. Lessee hereby agrees to indemnify and hold Lessor harmless from and against any and all liabilities, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and causes of action (including attorney fees and costs) which in any way arise from or relate to any alteration of the Premises by Lessee.

37. **PARTIAL INVALIDITY.** Any provision of this Lease which shall be held to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

38. **BROKERS.** Lessee and Lessor represent and warrant that they: (a) have had no dealing with, nor utilized the services of any real estate broker or agent in connection with the negotiation of this Lease; and (b) know of no real estate broker or agent who is or might be entitled to a commission in connection with this Lease. Lessee agrees to indemnify and hold Lessor harmless from any and all claims for any brokerage commissions in connection with this Lease.

39. **WAIVER.** Lessor's approval of any act by Lessee requiring Lessor's consent shall not be deemed to render unnecessary the obtaining of Lessor's approval again of any subsequent act by Lessee that requires Lessor's approval. Lessor may, at its sole option, accept partial payments of Base Rent, Common Area Maintenance charges, Additional Rent or other charges hereunder without waiving any rights concerning the existence of any monetary or non-monetary Default under this Lease, which Default shall serve and continue unaffected by the receipt of any such partial payment. Lessor's failure to insist upon a strict performance of any of the agreements, terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies that Lessor may have and shall not be deemed a waiver of any subsequent breach or default of any agreements, terms, covenants and conditions of this Lease.

40. **SUBORDINATION.** This Lease shall be subject and subordinate at all times to the liens of all present and future mortgages, assignment of rents, and encumbrances placed upon the Premises and/or the Property. No further instrument or act by Lessee shall be necessary to effectuate such subordination; however, Lessee shall execute and deliver, upon demand of Lessor or any such mortgagee, proposed mortgagee, or other person, all further instruments evidencing subordination of this Lease to the lien of such mortgage or other encumbrance. Lessee irrevocably appoints Lessor as its attorney-in-fact to execute and deliver all such instruments for and on behalf of Lessee. In the event that Lessor elects, in its sole discretion, to place any form of financing on the Premises, Lessee agrees to promptly enter into, execute and deliver to the requesting party a commercially reasonable subordination, non-disturbance and attornment agreement with any such lender, which shall acknowledge that this Lease, Lessee's interest hereunder and Lessee's leasehold interest in and to the Premises are junior, inferior, subordinate and subject in right, title, interest, lien, encumbrance, priority and all other respects to any such mortgage (which term when used anywhere in this Lease includes deeds of trust and other security instruments and interest in the Premises, or any portion thereof, and to all collateral assignments by Lessor to any third party or parties of any Lessor's rights under this Lease or the rents, issues and profits thereof or therefrom as security for any liability or indebtedness, direct, indirect or contingent, of Lessor to such third party or parties, and to all future modifications, extensions, renewals, consolidations and replacements of, and all amendments and supplements to any such mortgage, mortgages or assignments. If Lessee shall fail or refuse or shall have not executed any such subordination, non disturbance and attornment agreement, Lessee shall be in breach and default of its obligation to do so and of this Lease and Lessor shall be entitled thereupon to exercise any and all remedies available to Lessor pursuant to this Lease or otherwise provided by law.

41. **ESTOPPEL CERTIFICATE.** Lessee agrees to execute, acknowledge and deliver to Lessor, within ten (10) days after the request of Lessor at any time during the Lease Term, a statement in writing certifying:

(i) that this Lease is unmodified and in full force and effect, or if there have been modifications, that this Lease is in full force and effect as modified and stating such modifications;

(ii) the dates to which Base Rent, if any, and other charges due to Lessor hereunder have been paid by Lessee;

(iii) whether or not Lessor is in default in the performance of any of its obligations under this Lease, if any, and if so, the detailed nature of any such default;

(iv) the terms of this Lease; and

(v) such other matters a Lessor may reasonably require.

42. **RIGHT OF ENTRY.** Lessor shall have the right to enter the Premises at all hours throughout the Lease Term for the purpose of examining the Premises or making such repairs or alterations therein as may be necessary for the safety and preservation thereof. Lessor, its agents or representatives shall also have the right, but not the obligation, to enter upon the Premises to perform annual inspection of the Premises to confirm that Lessee is performing all of Lessee's obligations under this Lease, and that Lessee has not violated any of its covenants under this Lease. Upon completion of such inspection, Lessor may deliver to Lessee a written report ("**Inspection Report**") outlining certain defaults, if any, in Lessee's obligations hereunder. Within ten (10) days of Lessee's receipt of such Inspection Report, Lessee shall either: (i) object to Lessor in writing as to any portion of the Inspection Report, specifically describing such objection; or (ii) begin to perform any and all required work outlined in the Inspection Report which Lessee has not objected to, and diligently complete such work. If Lessee objects to any items in the Inspection Report, then within ten (10) days of Lessor's receipt of Lessee's objection notice, both Lessor and Lessee shall select a third party licensed engineer mutually satisfactory to Lessor and Lessee or if a single engineer cannot be agreed upon, then Lessor and Lessee shall each, at their own cost, select a license engineer and the two chosen engineers shall select a third licensed engineer, the cost of the third engineer being paid equally by Lessor and Lessee. The engineer(s) shall determine, by majority vote, if the work outlined in the Inspection Report should be performed by Lessee. Such determination shall be final and binding on the parties.

43. **ENTIRE AGREEMENT.** This Lease is the entire agreement between the parties hereto, and supersedes any and all prior agreements or understandings with respect to the subject matter hereof.

44. **AMENDMENTS AND MODIFICATIONS.** This Lease may not be amended, modified or otherwise revised unless done so in writing and signed by all parties hereto. Notwithstanding the foregoing, Lessee hereby consents to any modification to this Lease that is required by, or otherwise requested by any institutional lender providing financing for Lessor secured by the Premises.

45. **GOVERNING LAW, JURISDICTION AND VENUE.** This Lease shall be construed, interpreted and governed by and in accordance with the laws of the State of Florida. Jurisdiction and venue for any judicial proceeding concerning this Lease shall lie in Sarasota County, Florida.

46. **WAIVER OF JURY TRIAL.** Lessor and Lessee waive the right to a trial by jury in any action or proceeding based upon, or related to, the subject matter of this Lease.

47. **INTERPRETATION.** This Lease shall not be interpreted more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties.

48. **RADON GAS.** Radon is a naturally occurring radioactive gas that when it has accumulated in a building in sufficient quantities, may present health risk to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the county public health unit. This notice is given pursuant to Section 404.056(8), Florida Statutes.

49. **HAZARDOUS SUBSTANCES.** The term "Hazardous Substances", as used in this Lease, shall include, without limitation: flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes,

toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority.

Lessee shall not cause nor permit to occur any violation of any federal, state, or local law, ordinance, or regulation now or hereafter enacted, related to environmental conditions on, under or about the Premises arising from Lessee's use or occupancy therein, including but not limited to, soil and ground water conditions, nor shall Lessee cause or permit the use, generation, release, manufacture, refinement, production, processing, storage or disposal of any Hazardous Substance without Lessor's prior written consent, which consent may be withdrawn, conditioned, or modified by Lessor in its sole and absolute discretion.

Lessee shall indemnify, defend and hold Lessor, its respective officers, directors, beneficiaries, shareholders, partners, agents, and employees harmless from all fines, suits, procedures, claims, and actions of every kind, and all costs associated therewith including attorneys' and consultants' fees, arising out of, or in any way connected with, any deposit, spill, discharge or other release of Hazardous Substances, at or from the Premises, or which arises at any time from Lessee's use or occupancy of the Premises, or from Lessee's failure to comply with or satisfy government required action on the matter.

Lessee's obligations and liabilities under this Section shall survive the expiration of this Lease.

50. **NO RECORDING.** Neither this Lease, nor a memorandum thereof shall be recorded in the Public Records without Lessor's prior written consent.

51. **CONDITION OF PREMISES.** Except as set forth herein, Lessor is delivering the Premises to Lessee in their existing condition as of the date of the Commencement Date of this Lease. EXCEPT AS EXPRESSLY PROVIDED HEREIN, LESSOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OF ANY KIND, NATURE OR DESCRIPTION WITH RESPECT TO THE PREMISES, INCLUDING ANY IMPLIED WARRANTY OF FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE. LESSEE ACKNOWLEDGES AND AGREES THAT LESSEE HAS INSPECTED THE PREMISES AND IS LEASING THE SAME FROM LESSOR ON THE BASIS OF SUCH INSPECTION "AS IS, WHERE IS AND WITH ALL FAULTS.

52. **LIMITATIONS.** Notwithstanding anything to the contrary contained in this Lease, it is agreed and understood that Lessee shall look solely to the Premises and the Property for the enforcement of any judgment (or other judicial decree) requiring the payment of money by Lessor to Lessee by reason of any default or breach by Lessor in the performance of Lessor's obligations hereunder, it being intended that no other assets of Lessor or its principals shall be subject to levy, execution, attachment.

53. **HURRICANE PREPARATIONS.** Lessee hereby agrees to take adequate precautions during the hurricane season to secure the Premises, the areas adjacent thereto, and equipment for which it is responsible pursuant to the terms hereof, in order to minimize and/or prevent, to the extent possible, damage thereto (or damage to surrounding areas) caused by wind and/or water associated with a tropical storm or hurricane event. Lessee shall remove, safeguard, and/or secure, as applicable, the Premises and all furniture, equipment, unattached fixtures/equipment, and other moveable objects when and as the Premises is under a tropical storm and/or hurricane watch or worse. To the extent available, Lessee shall take steps to insure that all hurricane protection devices, such as locks, shutters, doors, and the like are properly closed, shut, safeguarded and/or secure. Lessee shall implement a plan, to be reviewed and approved by Lessor, with regard to hurricane preparedness, and shall designate specific individuals with responsibility for safeguarding, securing, removing, storing, or otherwise protecting the Premises and items which might be at risk (or themselves pose a risk) in a tropical storm or hurricane event.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Lease as of the day and year first above written.

Witnesses as to Lessee:

Barbara M. Benard Mast

Michele Stein

LESSEE:

THE DRY SLIPS AT BELLAGIO HARBOR VILLAGE
CONDOMINIUM ASSOCIATION, INC.

By: [Signature]

Name:

Its: ~~President~~ Director of Bellagio Harbor Village Condo Association

Date: 6/23/06

Witnesses as to Lessor:

Judy A. Pottenger

[Signature]

LESSOR:

SKIDS INVESTMENTS, LLC

By: [Signature]

Name:

Its: Manager

Date: 6/23/06

STATE OF Florida
COUNTY OF Sarasota

Sworn to and subscribed before me this 30 day of Jun, 2006 by Tom LaFevre, as Manager of Skids Investments, LLC. He/she is personally known to me or he/she has produced his/her [Signature] as identification.

Notary Public:
My Commission Expires:

STATE OF FLORIDA
COUNTY OF SARASOTA

Sworn to and subscribed before me this 23rd day of June, 2006 by LEONARD NADOLSKI, as President of The Dry Slips at Bellagio Harbor Village Condominium Association. He/she is personally known to me or he/she has produced his/her _____ as identification.

Brenda L Bellamy
Notary Public:
My Commission Expires: 2/8/2008

BRENDA L. BELLAMY
Notary Public, Sarasota County, FL
My Commission Expires 02/08/2008

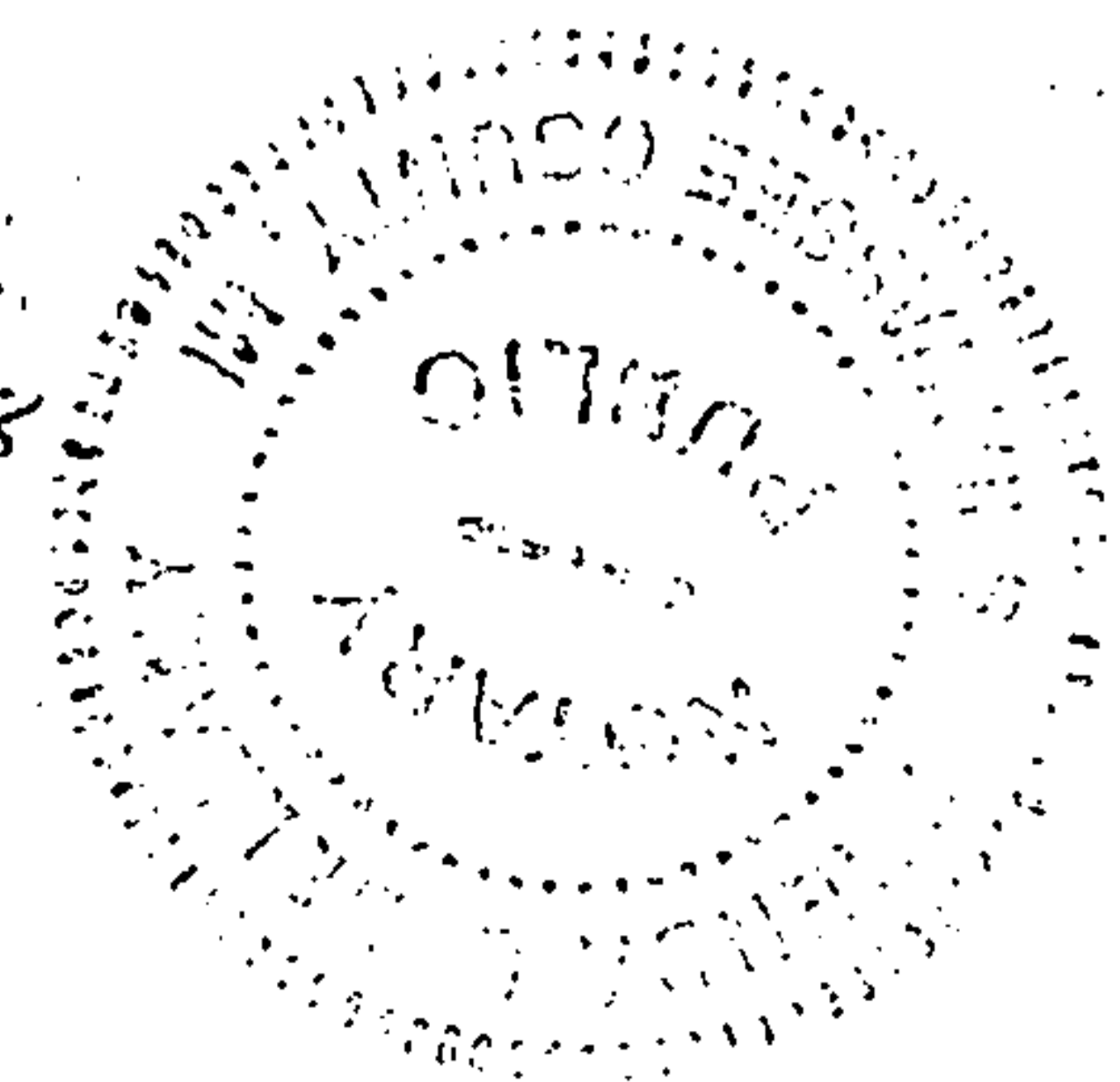


EXHIBIT "A"

PROPERTY

LEGAL DESCRIPTION: BELLAGIO HARBOR VILLAGE
(PREPARED BY SAMPEY, BURCHETT AND KNIGHT, INC.)

COMMENCE AT THE N.E. CORNER OF SECTION 15, TOWNSHIP 38 SOUTH, RANGE 18 EAST, SARASOTA COUNTY, FLORIDA; THENCE N.89°50'40"W, ALONG THE NORTH LINE OF SAID SECTION, A DISTANCE OF 2706.58 FEET TO THE NORTHWEST CORNER OF BLACKBURN POINT WOODS SUBDIVISION AS RECORDED IN PLAT BOOK 34, PAGE 46 OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA, FOR A POINT OF BEGINNING;

THENCE S.00°09'20"W. ALONG THE WEST LINE OF SAID BLACKBURN POINT WOODS SUBDIVISION, A DISTANCE OF 827.17 FEET TO THE NORTHERLY LINE OF A RIGHT-OF-WAY AGREEMENT OF BLACKBURN POINT ROAD (73 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS INSTRUMENT _____ OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA;

THENCE N.88°19'49"W. ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 364.04 FEET TO THE EASTERLY LINES OF LANDS DESCRIBED IN OFFICIAL RECORDS INSTRUMENT 2002136648 OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA (THE FOLLOWING FOUR (4) CALLS ARE ALONG SAID LINE);

THENCE N.02°02'10"E., A DISTANCE OF 58.94 FEET;

THENCE N.88°16'40"W., A DISTANCE OF 9.16 FEET;

THENCE N.00°09'20"E., A DISTANCE OF 419.33 FEET;

THENCE S.89°07'04"W., A DISTANCE OF 156.43 FEET;

THENCE N.17°14'31"E., A DISTANCE OF 59.93 FEET TO THE INTERSECTION WITH THE APPROXIMATE MEAN HIGH WATER LINE OF LITTLE SARASOTA BAY;

THENCE MEANDERING SAID WATERS THE FOLLOWING EIGHTEEN (18) COURSES, THENCE N.83°53'31"W., A DISTANCE OF 14.02 FEET;

THENCE N.65°50'28"W., A DISTANCE OF 24.52 FEET;

THENCE N.70°55'29"E., A DISTANCE OF 13.23 FEET;

THENCE N.62°18'48"E., A DISTANCE OF 8.07 FEET;

THENCE N.15°52'50"E., A DISTANCE OF 17.99 FEET;

THENCE N.34°18'20"E., A DISTANCE OF 15.62 FEET;

THENCE N.38°38'53"E., A DISTANCE OF 24.72 FEET;

THENCE N.29°54'21"E., A DISTANCE OF 17.22 FEET;

THENCE N.22°40'56"E., A DISTANCE OF 10.65 FEET;

THENCE N.32°00'16"E., A DISTANCE OF 33.16 FEET;

THENCE N.26°41'02"E., A DISTANCE OF 15.33 FEET;

THENCE N.14°45'31"E., A DISTANCE OF 36.51 FEET;

THENCE N.28°33'55"E., A DISTANCE OF 2.85 FEET;

THENCE N.38°58'57"E., A DISTANCE OF 9.84 FEET;

THENCE N.35°54'31"E., A DISTANCE OF 6.87 FEET;

THENCE N.32°14'50"E., A DISTANCE OF 1.12 FEET;

THENCE N.09°49'37"E., A DISTANCE OF 57.36 FEET;

THENCE N.29°18'25"E., A DISTANCE OF 46.06 FEET TO A POINT ON THE NORTH LINE OF SECTION 15, TOWNSHIP 38 SOUTH, RANGE 18 EAST;

THENCE S.89°50'40"E. ALONG SAID NORTH LINE, A DISTANCE OF 407.24 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"

PREMISES

The Harbormaster Unit, Commercial Association at Bellagio Harbor Village

EXHIBIT "C"

LIENED PROPERTY

DRY SLIPS AT BELLAGIO HARBOR VILLAGE, A CONDOMINIUM
LEGAL DESCRIPTION:

(PREPARED BY SAMPEY, BURCHETT AND KNIGHT, INC.)

COMMENCE AT THE N.E. CORNER OF SECTION 15, TOWNSHIP 38 SOUTH, RANGE 18 EAST, SARASOTA COUNTY, FLORIDA; THENCE N.89°50'40"W, ALONG THE NORTH LINE OF SAID SECTION, A DISTANCE OF 2706.58 FEET TO THE NORTHWEST CORNER OF BLACKBURN POINT WOODS SUBDIVISION AS RECORDED IN PLAT BOOK 34, PAGE 46 OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA;

THENCE S.00°09'20"W. ALONG THE WEST LINE OF SAID BLACKBURN POINT WOODS SUBDIVISION, A DISTANCE OF 479.17 FEET;

THENCE N.89°50'40"W., A DISTANCE OF 40.00 FEET FOR THE POINT OF BEGINNING;

THENCE S.00°09'20"W., A DISTANCE OF 257.99 FEET;
THENCE N.89°50'56"W., A DISTANCE OF 152.17 FEET;
THENCE N.00°09'20"E., A DISTANCE OF 36.67 FEET;
THENCE N.89°50'40"W., A DISTANCE OF 44.83 FEET;
THENCE N.00°09'20"E., A DISTANCE OF 0.67 FEET;
THENCE N.89°50'40"W., A DISTANCE OF 17.33 FEET TO POINT A;
THENCE S.00°09'20"W., A DISTANCE OF 51.13 FEET;
THENCE S.89°50'47"W., A DISTANCE OF 30.20 FEET;
THENCE N.01°28'04"E., A DISTANCE OF 117.81 FEET;
THENCE S.88°35'14"W., A DISTANCE OF 49.83 FEET;
THENCE N.01°24'46"W., A DISTANCE OF 8.00 FEET;
THENCE N.88°35'14"E., A DISTANCE OF 49.83 FEET;
THENCE N.01°28'04"E., A DISTANCE OF 44.12 FEET;
THENCE S.88°35'14"E., A DISTANCE OF 4.00 FEET;
THENCE N.01°28'04"W., A DISTANCE OF 82.99 FEET;
THENCE N.88°31'56"E., A DISTANCE OF 33.71 FEET;
THENCE N.00°09'20"E., A DISTANCE OF 17.02 FEET;
THENCE S.89°50'40"E., A DISTANCE OF 20.50 FEET;
THENCE N.00°09'20"E., A DISTANCE OF 1.17 FEET;
THENCE S.89°50'40"E., A DISTANCE OF 193.50 FEET TO THE POINT OF BEGINNING.

LESS THE FOLLOWING PARCEL:

COMMENCE AT AFOREMENTIONED POINT A; THENCE N.17°51'15"E., A DISTANCE OF 102.52 FEET FOR THE POINT OF BEGINNING OF THE LESS OUT PARCEL;

THENCE N.00°09'20"E., A DISTANCE OF 4.00 FEET;
THENCE S.89°50'40"E., A DISTANCE OF 4.00 FEET;
THENCE S.00°09'20"W., A DISTANCE OF 4.00 FEET;
THENCE N.89°50'40"W., A DISTANCE OF 4.00 FEET TO THE POINT OF BEGINNING OF THE LESS OUT PARCEL;

CONTAINING 61,580 SQUARE FEET, MORE OR LESS

**EXHIBIT "G" to the Declaration
(Forklift Lease)**

EQUIPMENT LEASE

This agreement is made and entered into on June 23, 2006, by and between SmartWay Auto Inc., herein referred to as Lessor in this agreement, and The Dry Slips at Bellagio Harbor Village Condominium Association Inc., herein referred to as Lessee in this agreement.

Recitals

- A. Lessor is the owner of certain personal property more fully described in paragraph 1 below.
- B. Lessee wishes to lease from Lessee such personal property on the terms and conditions described herein for use in Lessee's business conducted at the address set forth above.

Therefore, in consideration of the covenants contained here, the legal sufficiency of which is acknowledged by the parties to this agreement, the parties agree that:

1. Lease and Description of Leased Property

Lessee hereby hires from Lessor certain personal property described as Wiggins Lift Co. Inc. Marina Bull Lift Truck Serial # HWIGGINSWLC066014 on the terms and conditions set forth herein. The certain personal property, described above, shall hereafter be referred to as the Equipment.

2. Term

The term of this lease shall be for a period of 96 months beginning August 1, 2006 and ending August 1, 2014.

3. Acceptance

Upon execution of this lease, the parties agree that that Lessee has fully inspected and acknowledged that the Equipment is in good condition and repair, and that Lessee is satisfied with and has accepted the Equipment in such good condition and repair.

4. Rent

In consideration for the leasing of the above-described property, Lessee agrees to pay to Lessor, as rent and use tax for such property, monthly installments as follows: the sum of \$5767.30 upon the execution of this lease, receipt of which is acknowledged, and the sum of \$5767.30 on the 1st day of each succeeding month during the term of this lease.

Any past due installment payment of rent that is 10 days or more overdue, shall be charged a one time delinquency charge in the amount of 5 percent of such installment pursuant to Florida Statute 687.03. All payments subsequent to this lease shall be made at the principal place of business of Lessor at P.O. Box 2070 Brighton, MI. 48116, or such other place as shall be designated by written notice

from Lessor to Lessee, unless Lessor shall assign this lease or the right to receive the rentals under the lease, in which case rentals shall be paid to Lessor's assignee, if any, after written notice of such assignment has been given to Lessee by Lessor. The Full Term Value of the lease is 5767.30 times the remaining months of the 96 month term.

Instead of requiring Lessee to pay Rent in the manner set forth in the Paragraph above, Lessor may require Lessee, within thirty (30) days after notice to Lessee, to execute and deliver to Lessor any documents or authorization required by Lessor to give effect to an automated debiting system, whereby any and all payments of the Rent by Lessee shall be debited monthly from such account as Lessee shall designate from time to time, and such amounts shall be credited to Lessor's bank account as Lessor shall designate from time to time. Lessee shall maintain sufficient funds in Lessee's account to cover all such payments. Lessee shall promptly pay all service fees and other charges connected therewith, including without limitation, any charges resulting from insufficient funds in Lessee's bank account or any charges imposed on Lessor. Lessee shall remain responsible to Lessor for all payments of Rent, even if Lessee's bank account is insufficiently debited in any given month. Such insufficient amounts shall be immediately due and payable to Lessor without notice or demand.

5. Increased Taxes or Charges

Should any tax or charge imposed by any governmental authority on this transaction, as above shown, increase during the term of this lease, Lessee agrees to pay Lessor on demand the full amount of any such increased taxes or charges. The parties further agree that an increase under this provision will increase the amounts due under paragraph 4.

6. Use

Lessee shall use the property leased in a careful and proper manner and shall comply with all laws, ordinances, and regulations relating to the possession, use, or maintenance of the property. Such property shall be used only for the purpose of moving vessels with the property known as 510 Blackburn Pointe Rd., Osprey, Florida. If at any time during the term of this lease Lessor supplies Lessee with labels, plates, or other markings stating that the property is owned by Lessor, Lessee shall affix and keep them in a prominent place on the property.

7. Location and Use

Lessee agrees that the Equipment will be used solely in the conduct of Lessee's business and that each item thereof will, at all times, be and remain in Lessee's possession and control at 510 Blackburn Pointe Rd., Osprey, Florida. The Equipment may not be moved to another location without Lessor's prior written consent; such consent shall not be unreasonably withheld but, as a condition of such consent, Lessor may request Lessee to execute, and Lessee shall execute, such Uniform Commercial Code Financing Statements as Lessor may reasonably be required to perfect, or maintain the perfection, Lessor's security interest in such

moved item of Equipment.

8. Inspection by Lessor

Lessor shall at all times during business hours have the right to enter on the premises where the property may be located for the purpose of inspecting it or observing its use. Lessee shall give Lessor immediate notice of any attachment or other judicial process affecting any item leased and shall, whenever requested by Lessor, advise Lessor of the exact location of the item.

9. Alterations

Lessee agrees that it will make no alterations in the leased property without obtaining prior written permission from Lessor. All additions to and improvements of the property of any kind shall immediately become the property of the Lessor and subject to the terms of this lease.

10. Maintenance and Repair

Lessee, at its own cost and expense, shall keep the property leased in good repair, condition, and working order, and shall furnish all parts required to keep it in good working order. Lessee shall not remove, alter, disfigure, or cover up any numbering, lettering, or insignia displayed upon the leased property, and shall see that the property is not subjected to careless or needlessly rough usage.

11. Loss and Damage

Lessee assumes all risk of loss of and damage to the property leased from any cause. No loss or damage to the property leased shall impair any obligation of lessee under this lease, which shall continue in full force and effect. In the event of loss of or damage to the property leased, Lessee at the option of Lessor shall:

- (a) Place the property in good repair;
- (b) Replace the property with like property in good repair, which property shall then become subject to this lease; or
- (c) Pay Lessor in cash the Full Term Value of the Equipment. Upon such payment this lease shall terminate with respect to the property so paid for and Lessee then shall become entitled to the property, as the owner of such property.
- (d) Lessee shall promptly advise Lessor in writing of any item of Equipment lost or damaged, of the circumstances under which such loss or damage occurred, and of the extent of such loss or damage.
- (e) Unless any item affected is lost or damaged beyond repair [referred to herein as casualty loss], Lessee shall promptly replace any lost portion of such item and fully repair and restore the Equipment to good repair, condition and working order.
- (f) If the Equipment or any item is a casualty loss, then:

1. Lessee shall pay Lessor in cash the Full Term Value thereof. Said Full Term Value shall be paid on the date of the first rent installment due under the applicable payment schedule above which occurs at least fifteen (15) days after the date of the casualty loss.
2. Lessor shall be entitled to any net value salvage realized by Lessee from the sale of the item in excess of the Full Term Value, after deducting all reasonable salvage expenses.
3. Upon payment of the Full Term Value, and provided that no event of default [as hereinafter defined] has occurred;
 - a. Lessee's obligation to pay rent shall terminate with respect to such item of Equipment.
 - b. Subject to Lessor's right to net salvage value, Lessee thereupon shall become entitled to such item, as is, where is, without warranty, express or implied, with respect to any matter whatever.

12. Return of Leased Property

Pursuant to the terms of this lease and solely at the Lessor's discretion, upon expiration or earlier termination of this lease, with respect to the leased property, Lessee shall (unless Lessee has paid Lessor in cash the "Full Term Value" of the property pursuant to Paragraph 11 above) return the property to Lessor in good repair, ordinary wear and tear resulting from proper use of such property alone excepted, in the following manner as may be specified by Lessor:

(a) By delivering property at Lessee's expense to such place as Lessor shall specify within the county in which the property was delivered to Lessee or to which the property was removed with the written consent of Lessor; or

(b) By loading property at Lessee's cost on board such carrier as Lessor shall specify and shipping the property, freight collect, to the destination designated by Lessor.

Such conditions for return of the leased property are subject to Lessee's option to purchase it as set out here.

13. Insurance

Lessee, at its own expense, shall maintain the leased property insured for such risks and in such amounts as Lessor shall require with carriers acceptable to Lessor, shall maintain a loss payable endorsement in favor of Lessor affording to Lessor such additional protection as Lessor shall require, and shall maintain liability insurance satisfactory to Lessor. The insurance provided by Lessee shall have no more than a \$1,000.00 deductible and provide Liability coverage of \$2,000,000.00 per occurrence and \$4,000,000. aggregate. At all times Lessor shall be listed as loss payee and additional insured on any and all insurance policies during the term of lease. All such insurance shall name Lessor and Lessee as insured. The policies shall provide that they may not be canceled or altered without at least thirty (30)

days' prior written notice to Lessor, and the loss payable endorsement shall provide that all amounts payable by reason of loss of or damage to the property shall be payable only to Lessor. Lessee shall deliver to Lessor evidence satisfactory to Lessor of all such insurance. Lessee shall also ensure that the Equipment has insurance coverage for both hurricane and flood damage. If hurricane and flood insurance coverage is not available under the standard policies, then Lessee at Lessee's sole expense shall obtain the additional insurance coverage and such insurance shall name Lessor and Lessee as insureds.

14. Taxes and Fees

Lessee shall pay all license fees, assessments, and sales, use, property, and other taxes now or in the future imposed on the leased property by reason of ownership, leasing, renting, sale, possession, or use, whether they be assessed to Lessor or Lessee, together with any penalties or interest in connection with such taxes and fees, except for federal, state, or local governmental taxes, or payments in lieu of such taxes, imposed on or measured by income of the Lessor. If any tax is, by law, to be assessed or billed to Lessor, Lessee at its expense will do anything required to be done by Lessor in connection with the levy, assessment, billing, or payment of such tax, and is authorized by Lessor to act on Lessor's behalf in such respects; Lessee will cause all billings of such taxes to Lessor to be made to Lessor in care of Lessee and will from time to time, on request of Lessor, submit written evidence of the payment of all of the governmental obligations mentioned in this paragraph. Lessee will, on any property tax returns required to be filed by it, include the property covered by this lease or any substitutions or additions to this lease as property owned by the Lessee for purposes of tax assessments. It is expressly agreed that Lessee will not, without obtaining prior written permission of Lessor, assert on its behalf, or on behalf of Lessor, any immunity from taxation based on the tax-exempt status, if any, of the Lessor.

15. Lessee's Failure to Maintain Insurance or Pay Taxes

Should Lessee fail to make any payment or do any act as provided, in Paragraphs 13 or 14 of this lease, then Lessor shall have the right, but not the obligation, without notice to or demand on Lessee, and without releasing Lessee from any obligation under this lease, to make or do the same, and to pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of Lessor appears to affect the leased property, and in exercising any such rights, incur any liability and expend whatever amounts in its discretion it may deem necessary therefor. All expenses so incurred by Lessor shall be without demand immediately due and payable by Lessee and shall bear interest at the rate of eighteen (18) percent per annum thereafter until paid.

16. Warranties

(a) The following acknowledgments by Lessee are integral to this lease and are made to induce Lessor to enter into and perform under this lease:

1. The Equipment is of a size, design, type, and manufacturer selected by Lessee.

2. Lessor is not a manufacturer of Equipment.
3. Lessor leases the Equipment to Lessee and Lessee has leased and accepted the Equipment from Lessor as is.
4. Lessor has not made and does not hereby make any agreement, representation, or warranty with respect to patents or the merchantability, condition, quality of Equipment or the suitability of Equipment for the purposes and uses of Lessee, or any other agreement, representations or warranty of any kind or character, express or implied, with respect to Equipment, it being agreed that all risk, with respect to patents and with respect to the merchantability, condition, quality, and suitability of Equipment are borne by Lessee.

(b) Lessor warrants that Lessor has the right to lease or cause to be leased, the Equipment to Lessee under the terms of the lease. So long as no event of default has occurred and is continuing hereunder, Lessee shall have the right to obtain the benefit of and enforce in Lessee's own name and at Lessee's sole expense, any suppliers' or manufacturers' warranty or agreement in respect to such Equipment to the extent such warranty or agreement is assignable. The Lessor shall execute and deliver such instruments as it may be reasonably necessary to enable Lessee to obtain such benefits.

17. Indemnity

Lessee does hereby assume liability for and does hereby agree to indemnify, protect, save and keep harmless Lessor, and its successors and assigns, from and against any and all liabilities, losses, damages, penalties, claims, actions, suits, cost and expenses and disbursements, including court costs, attorneys' fees, and other legal expenses, of whatever kind and nature, imposed on, incurred by, or asserted against Lessor or its successors and assigns [whether or not also indemnified against by any other person] in any way relating to or arising out of this lease or the manufacture, purchase, ownership, delivery, lease, possession, use, operation, condition, return, or other disposition of Equipment by Lessor or Lessee, including, without limitation, latent or other defects, whether or not discoverable by Lessor or Lessee; any claim for patent, trademark, or copyright infringement; and any claims arising out of strict liability in tort. Lessee agrees to give Lessor, and Lessor agrees to give Lessee, prompt written notice of any claim or liability hereby indemnified against. The indemnities and assumptions of liabilities set forth in this paragraph do not guaranty a residual value.

18. Default

The occurrence of any of the following events shall, at the option of the Lessor, terminate this lease and Lessee's right to possession of the property leased:

- (a) The nonpayment by Lessee for a period of five (5) days of any sum required under this lease to be paid by Lessee.

(b) The noncompliance by Lessee with any other term, covenant, or condition of this lease which is not cured within ten (10) days after notice from Lessor.

(c) The subjection of any of Lessee's property to any levy, seizure, assignment, application, or sale for or by any creditor or governmental agency.

(d) Lessor's giving Lessee three (3) notices pursuant to one (1) or more of paragraphs 19(a), 19(b) or 19(c), hereof within any consecutive twelve (12) month period.

(e) The filing by or against Lessee of a petition under the Federal Bankruptcy Act or any amendment thereto or under any other insolvency law or law providing for the relief of debtors; the making by Lessee of any general assignment for the benefit of creditors; the appointment of a receiver or trustee for Lessee or for any of Lessee's assets; the institution by or against Lessee of any other type of insolvency proceeding [under the Federal Bankruptcy Act or otherwise] or for any formal or informal proceeding for the dissolution, liquidation, settlement of claims against, or winding up of the affairs of the Lessee; the making by Lessee of a transfer of all or a material portion of Lessee's assets or inventory not in the ordinary course of business; the admission or declaration by Lessee of inability to pay debts as they come due; the filing by or against Lessee of a petition for bankruptcy, re-organization, or any other kind of arrangement under the bankruptcy act or any similar statute which remains for sixty (60) days undismissed.

(f) If any certificate, statement, representation, warranty or audit heretofore or hereafter furnished by or on behalf of Lessee or any guarantor or other party liable for payment or performance of this lease proves to have been false in any material respect at the time as of which the facts herein set forth were stated or certified or has omitted any substantial contingent or unliquidated liability or claim against Lessee or any such guarantor or other party.

On the happening of any of the above events, Lessor may without notice to or demand on Lessee:

(a) Take possession of the leased property and lease the property or any portion of the property to such persons, for such period, and at such rental as Lessor shall elect, and apply the proceeds of any such leasing, after deducting all costs and expenses incurred in connection with the recovery, repair, storage, and leasing of the property, in payment of the rent and other obligations due from Lessee to Lessor under this agreement, Lessee remaining responsible for any deficiency.

(b) Take possession of the leased property and sell it or any portion of the property at public or private sale and without demand or notice of intention to sell, and apply the proceeds of any such sale, after deducting all costs and

expenses incurred in connection with the recovery, repair, storage, and sale of the property and any rentals and other obligations of Lessee then due under this lease, against the "Full Term Value" of the property sold. If the proceeds, after the permitted deduction, are less than the "Full Term Value," Lessee shall immediately pay Lessor the difference.

19. Offset

Lessee waives any existing and future claims and offsets against rent or other payments due under this lease, and agrees to pay such rent and other amounts regardless of any offset or claim that may be asserted by Lessee or on Lessee's behalf.

20. Effect of Waiver

No delay or omission to exercise any right, power, or remedy accruing to Lessor on any breach or default of Lessee under this lease shall impair any such right, power, or remedy of Lessor, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence in such breach or default or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default. Any waiver, permit, consent, or approval of any kind or character on the part of Lessor of any breach or default under this lease, or any waiver on the part of Lessor of any provision or condition of this lease, must be in writing and be effective only to the extent in such writing specifically set forth. All remedies, either under this lease or by law, or otherwise afforded to Lessor, shall be cumulative and not alternative.

21. Unsuccessful Party Pays Attorneys' Fees

In the event of any action filed in relation to this lease, the unsuccessful party in such litigation will pay to the successful party, in addition to all other sums that either party may be called on to pay, a reasonable sum for the successful party's attorneys' fees.

22. Assignment or Sublease

Without the prior written consent of the Lessor, Lessee shall not:

- (a) Assign, transfer, pledge, or hypothecate this lease, the leased property or any part of such property, or any interest in such property;
- (b) Sublet or lend the property leased or any part of such property; or
- (c) Permit the property leased or any part of such property to be used by anyone other than Lessee, Lessee's employees, Lessee's independent contractors and or Lessee's service personnel. Lessor may assign its interest, or a part of such interest, in this lease.

All rights of Lessor hereunder or to the Equipment may be sold, assigned, pledged, mortgaged or otherwise transferred, either in whole or in part, without notice to Lessee but always, however, subject to the rights of Lessee under this lease. If

Lessor sells the Equipment or assigns this lease or the rent due or to become due hereunder or any other interest herein, whether as security for any of its indebtedness or otherwise, no breach or default by Lessor hereunder or pursuant to any other agreement between Lessor and Lessee, should there be one, shall excuse performance by Lessee of any provision hereof. No such vendee or assignee shall be obligated to perform any duty, covenant or condition required to be performed by Lessor under the terms of this lease. Lessee acknowledges that any assignment or transfer by Lessor permitted under this lease shall not materially change Lessee's duties or obligations under this lease or materially increase the burdens or risks imposed upon Lessee.

23. Ownership

The property leased is and shall at all times remain the sole property of Lessor, and Lessee shall have no right, title, or interest in such property except as expressly set forth in this lease.

24. Personal Property

If requested by Lessor prior to or at the time during the term hereof with respect to any item of Equipment, Lessee will obtain and deliver to Lessor waivers of interest or liens or rights to access for the purpose of enforcing Lessor's rights hereunder, and in recordable form, and satisfactory to the Lessor, from all persons claiming any interest in the real property on which such item is installed or located.

25. Applicable Law

This lease shall be governed by and construed under the laws of the state of Florida.

26. Suspension of Obligations of Lessor

The obligations of Lessor under this lease shall be suspended to the extent that it is hindered or prevented from complying with those obligations because of labor disturbances, including strikes and lockouts, acts of God, fires, storms, accidents, governmental regulations, or interferences or any cause whatsoever beyond the control of Lessor.

27. Additional Documents

(a) Perfection of Security Interest. Lessee appoints Lessor its true and lawful attorney to prepare, execute and sign any financing statements including but not limited to financing statements [and any appropriate amendments thereto] under the provisions of the amended Uniform Commercial Code, Revised Article 9, in order to protect Lessor's interest in the property set forth in this agreement, and to sign the name of the Lessee with the same force and effect as if signed by the Lessee, and to file such statement in the proper state and counties as required, and Lessee declares that such financing statements signed by the Lessor as its attorney shall be binding upon its heirs and assigns. A copy of the UCC-1 is attached hereto and incorporated herein as Exhibit "A".

(b) Estoppel Certificates. Lessee will furnish Lessor from time to time upon Lessor's request therefore with letters of certificates ["estoppel certificates"] in such form and addressed to such persons, as Lessor designates, certifying such information with respect to the Equipment or this lease as Lessor shall designate [or, to the extent that certification cannot be made, stating the reasons therefor] including, but not necessarily limited to, the following:

1. That this lease is in full force and effect.
2. That the Lessor is not in default of any obligation owed to Lessee under the terms of this lease.
3. The address or addresses at which the Equipment or designated items thereof are located.
4. That the Equipment is in good working order and condition.
5. That the Lessee is current in its obligations to pay the rent and has not prepaid any rent.

(c) Other Documents. Lessee shall execute and deliver to the Lessor, duly acknowledged and in recordable form if so requested, any other documents reasonably requested by Lessor.

(d) Power of Attorney. Lessee hereby authorizes Lessor and gives Lessor its power of attorney to execute in Lessee's name, where permitted by law, documents as provided in this paragraph.

28. Notices

Any communications between Lessor and Lessee, payments, and notices provided here to be given or made, may be given or made by mailing them to Lessor at P.O. Box 2070 Brighton, MI. 48116, and to Lessee at 510 Blackburn Pointe Rd., Osprey, Florida, 34223, or to such other addresses as either party may indicate in writing.

29. Option to Purchase

Lessor grants to Lessee the option to purchase the personal property leased in this agreement, provided that Lessee gives notice to lessor, in writing, of its intention to exercise such option during the period of ninety (90) days immediately preceding the expiration of this lease, and provided further that Lessee's right to so purchase the property is conditioned upon Lessee's complete performance of all the terms and provisions of this lease on its part to be performed, including full payment of the rental as specified in this lease. This option may only be exercised at the expiration of the lease term.

The option purchase price is the residual market value determined by industry standards and at the discretion of the Lessor. Upon payment of the above amount, lessor will transfer title of the Equipment to Lessee, and will deliver, on Lessee's written request, written evidence of the transfer of such title.

30. Arbitration

Except as otherwise specifically set forth herein or agreed to in writing by the parties, any action, dispute, claim or controversy between or among the parties, whether sounding in contract, tort or otherwise ("Dispute" or "Disputes"), shall be resolved by arbitration as set forth below and shall include all Disputes arising out of or in connection with (1) this agreement or any related agreements or instruments, (2) all past, present, and future agreements involving the parties, (3) any transaction contemplated hereby, and all past and future transactions involving the parties, (4) any aspect of the past, present or future relationships of the parties. Such disputes shall be resolved by binding arbitration in accordance with Title 9 of the U.S. Code, The Florida Arbitration Code, and the Commercial Arbitration Rules of the American Arbitration Association (AAA). In the event of any inconsistency between such Rules and these arbitration provisions, these provisions shall supersede such Rules. All hearings for any arbitration proceeding commenced by either party shall be held in Sarasota County, Florida. Judgment upon the award rendered by arbitration may be entered in any court having jurisdiction. The prevailing party in any dispute arising out of this Agreement or the relationship between Lessor and Lessee shall be entitled to recover from the opposing party its costs, expenses, damages (including reasonable attorney fees, including appeals) incurred relating to the dispute. The arbitrator(s) shall have authority to determine the entitlement and amount of attorney fees and costs to be awarded the prevailing party in all arbitration proceedings. In order to be a prevailing party, a party shall not be required to prevail on all issues arbitrated, but shall be entitled to recover on those issues on which it prevails. The arbitrator(s) shall have authority to determine who is the prevailing party. The provisions of this paragraph shall survive the expiration or termination of this Agreement.

Notwithstanding the intention of the parties that any and all disputes between them are to be arbitrated as set forth above, if any court proceeding is commenced, the courts of the State of Florida are acknowledged to have jurisdiction over all parties to this Agreement, and proper venue for any proceeding shall be Sarasota County, Florida.

31. Miscellaneous Provisions

(a) This lease shall not be amended, altered or changed except by written agreement signed by the parties hereto. Whenever the context of this lease requires, the masculine gender includes the feminine or neuter and the singular number includes the plural.

(b) Whenever the word Lessor is used herein, it shall include all assignees of Lessor.

(c) If there is more than one (1) Lessee named in this lease, the liability of each shall be joint and several.

(d) Time is of the essence of this lease in each and all of its provisions.

(e) If this lease or any provision hereof shall be deemed invalid, illegal or unenforceable in any respect or in any jurisdiction, the validity, legality and enforceability of this lease in other respects and in other jurisdictions shall not in any way be impaired or affected thereby.

(f) Any provision herein, in any other document securing the payment of this lease, or in any other agreement or commitment between the Lessee and the Lessor, whether written or oral, expressed or implied, to the contrary notwithstanding, the Lessor shall never be entitled to charge, receive, or collect, nor shall amounts received hereunder be credited as interest so that the Lessor shall be paid, a sum greater than interest at the maximum nonusurious interest rate, if any, that at any time may be contracted for, charged, received, or collected on the indebtedness evidenced by this lease under applicable law (the "Maximum Rate"). It is the intention of the parties that this lease, and all other instruments securing the payment of this lease or executed or delivered in connection herewith, shall comply with applicable Florida law. If the Lessor ever contracts for, charges, receives, or collects, anything of value which is deemed to be interest under applicable Florida law, and if the occurrence of any circumstance or contingency, whether acceleration of maturity of this lease, delay in advancing proceeds of this lease; or other event, should cause such interest to exceed interest at the Maximum Rate, any such excess amount shall be applied to the reduction of the unpaid principal balance of this lease or any other indebtedness owed to the Lessor by the Lessee, and if this lease and such other indebtedness is paid in full, any remaining excess shall be paid to the Lessee.

33. Lease as Entire Agreement; Severability

This lease embodies the entire agreement between the parties.

It may not be modified or terminated except as provided in this agreement or by other written agreement between the parties. If any provision in this agreement is invalid, it shall be considered deleted from this lease, and shall not invalidate the remaining provisions of this lease.

LESSOR

SMARTWAY AUTO INC.

BY: *Geo M. Jovan*

ITS: *Vice President*

DATE: *6-23-06*

LESSEE

THE DRY SLIPS AT BELLAGIO

HARBOR VILLAGE

CONDOMINIUM ASSOCIATION

INC.

BY: *[Signature]*

ITS: *DIRECTOR OF BELLAGIO HARBOR*
VILLAGE CONDO ASSOCIATION

DATE: *6/23/06*