

Document Number

Declaration of [**@North
Beach**], A Condominium

Recording Area

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DECLARATION OF

[@North Beach],

A Condominium

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DECLARATION
OF
[@NORTH BEACH], A CONDOMINIUM

This Declaration is made as of this ____ day of _____, 2019, by Racine Harborside LLC, a Wisconsin limited liability company (hereinafter referred to as the “Declarant”).

Declarant hereby declares that it is the sole owner of the real property located at 1129 Michigan Boulevard, Racine, Wisconsin, and more particularly described in Exhibit A, together with all rights appurtenant thereto and with any and all improvements now or subsequently placed thereon and any and all rights appurtenant to such improvements. Declarant hereby submits the Property to the condominium form of ownership as provided in the Wisconsin Condominium Ownership Act. All provisions hereof shall be deemed to run with the land and shall constitute benefits and burdens to Declarant, its successors and assigns, and to all parties hereafter having any interest in the Property. The use of [**North Beach**], a Condominium, shall at all times be subject to the City of Racine building code and zoning regulations.

Declarant reserves the right to assign its ownership interest in the Property to another entity of its choosing at any time. In the event of such an assignment, Declarant shall record a special amendment to this Declaration providing the name of the assignee as the new Declarant.

ARTICLE I: DEFINITIONS

1.1. Defined Terms. Capitalized terms not otherwise defined within the text of this Declaration shall be defined as follows:

- (a) “Act” means Chapter 703 of the Wisconsin Statutes and known as the Condominium Ownership Act, as amended from time to time.
- (b) “Allocated Interest” means the undivided percentage interest from time to time of each Unit, determined as provided in Section 4.1, below, in the Common Elements and the corresponding liability for Common Expenses.
- (c) “Architectural Control Committee” means the committee which the Board of Directors shall establish for the purpose of reviewing and approving certain alterations, improvements or modifications to the Condominium as set forth in Section 2.4.
- (d) “Articles” means the Articles of Incorporation of the Association.
- (e) “Assessments” refers to General Assessments and Special Assessments and means the amount determined by the Association to be due with respect to a Unit and its appurtenant interests for Common Expenses.

- (f) “Association” means the [**@North Beach Condominium Association**], a Wisconsin non-stock corporation.
- (g) “Board of Directors” means the governing body of the Association.
- (h) “Building” means the residential tower which is situated on the Property, including underground parking as shown on the Plat.
- (i) “Bylaws” means the Bylaws of the Association.
- (j) “Common Expenses” means all of the expenses of the Association.
- (k) “Common Elements” refers to both the “General Common Elements” and the “Limited Common Elements,” and means all of the Condominium other than the Units.
- (l) “Condominium” means [**@North Beach**], a Condominium.
- (m) “Condominium Documents” consist of the Articles, Bylaws, Rules and Regulations, Floor Plans, Plat Maps and this Declaration.
- (n) “Declarant” means Racine Harborside LLC, a Wisconsin limited liability company.
- (o) “Declaration” means this Declaration of [**@North Beach**], a Condominium.
- (p) “Director” means a Member of the Board of Directors of the Association.
- (q) “Fitness Suite” means the space located on the _____ floor of [**the Residential Unit(s)**], reserved for health, fitness and recreational uses by Residential Unit Owners, tenants of Residential Unit Owners and invited guests thereof, and related facilities and equipment, or such other uses as may be established by the Association, and designated on the Plat as a Limited Common Element.
- (r) “FNMA” means the Federal National Mortgage Association.
- (s) “Gathering Room/Lounge” means the area located on the ____ floor of [**the Residential Unit(s)**], reserved for use by Residential Unit Owners, tenants of Residential Unit Owners and invited guests thereof, and designated on the Plat as a Limited Common Element.
- (t) “General Assessment” means any assessment made against a Unit Owner for Common Expenses pursuant to Section 6.1, but excluding any Special Assessment.
- (u) “General Common Elements” means all Common Elements except for any Limited Common Elements.

(v) “Limited Common Elements” means those portions of the Common Elements reserved for the exclusive use of one or more but less than all of the Unit Owners, and including any portion of the Condominium designated as such on the Plat.

(w) “Managing Agent” means any individual or entity employed by the Association to perform duties and services for the Condominium in accordance with the Act or the Condominium Documents.

(x) “Majority” means any number of Unit Owners with more than 50% of the votes assigned to the Units by the Declaration.

(y) “Mortgage” means any recorded mortgage or land contract encumbering a Unit.

(z) “Mortgagee” means the holder of any recorded mortgage encumbering one or more of the Units, or a land contract vendor.

(aa) “Member” means every Unit Owner, who by status as a Unit Owner is also a Member of the Association.

(bb) “Membership Roster” means the list of all Unit Owners entitled to vote at all general and special meetings of the Association.

(cc) “Parking Units” means those portions of the Condominium containing parking spaces, driveways and ramps, as designated on the Plat.

(dd) “Parking Space” means a part of the Condominium intended for parking of motor vehicles within the Parking Units.

(ee) “Plat” means the Plat of the Condominium attached hereto as Exhibit B, including floor plans of the Units, being recorded pursuant to the Act simultaneously herewith and constituting a part of this Declaration.

(ff) “Property” means the real property as described on Exhibit A.

(gg) “Residential Units” means those portions of the Condominium containing residential units, as designated on the Plat.

(hh) “Retail Units” means those portions of the Condominium containing commercial retail units, as designated on the Plat.

(ii) “Rules and Regulations” means the Rules and Regulations for the Condominium adopted by the Declarant, and as amended from time to time by the Declarant or the Board of Directors.

(jj) “Special Amendment” means an amendment to this Declaration which does not require the consent of anyone other than the Declarant.

(kk) “Special Assessment” means any assessment made against a Unit which is not a General Assessment and is assessed for expenses incurred by the Association.

(ll) “Storage Space” means a part of the Condominium identified on the Plat as a Limited Common Element and intended for private use by Retail Unit Owner or a Residential Unit Owner or tenants thereof for the storage of personal property.

(mm) “Unit” means a part of the Condominium intended for private use by the Unit Owner as described in Article III, hereof.

(nn) “Unit Owner” means any natural person, corporation, partnership, association, trust or other entity capable of holding title to real property, or any combination thereof which holds legal title to a Unit or has equitable ownership to a Unit as a land contract vendee, but does not include any Mortgagee before such Mortgagee takes title to a Unit by foreclosure or process in lieu thereof. For purposes of Article II, hereof, each Unit shall be deemed to have only One (1) Unit Owner.

ARTICLE II: ASSOCIATION OF UNIT OWNERS

2.1. Membership, Duties and Obligations. Each Unit Owner shall be a Member of the Association, which shall be responsible for carrying out the purposes of this Declaration, including the exclusive management and control of the Common Elements. The Association shall be incorporated as a nonstock, nonprofit corporation under the laws of the State of Wisconsin. Each Unit Owner and the occupants of all Units shall abide by and be subject to all of the duties and obligations of the Act, this Declaration and the Condominium Documents. The Association shall maintain current copies of this Declaration, the Bylaws, the Articles of Incorporation, and Rules and Regulations, as well as the Condominium records and financial statements, which shall be made available for inspection upon request by Unit Owners, valid lessees of a Unit, and holders, insurers, and/or guarantors of any Mortgages.

2.2. Voting Rights. There shall be one class of voting membership. All Unit Owners shall have one vote for each Unit owned, regardless of such Unit’s Allocated Interest, and shall be entitled to cast the vote appurtenant to each Unit owned at all meetings of the Association. If title to a Unit is held by more than one person, then the co-owners of the Unit shall notify, in writing, the Secretary of the Association which individual is entitled to cast the vote on behalf of all co-owners. No Unit Owner shall have more or less than one vote for each Unit owned, regardless of any subdivision or combination of Units pursuant to Section 13.2 of this Declaration.

2.3. Declarant’s Right to Vote. The Declarant shall be entitled to cast the votes pertaining to any Unit owned by Declarant. For purposes of this Article II, and notwithstanding any other provision in this Declaration, the Bylaws or any other Condominium Document, the Declarant is entitled to vote all the votes of any Units it owns.

2.4. Architectural Control Committee. The purpose of the Architectural Control Committee is to maintain harmony in the appearance of the Condominium. Subject to the Rules

and Regulations, the Architectural Control Committee shall review all plans for, and shall have the right to approve or disapprove (subject to City of Racine zoning regulations) any plans for: (i) any improvement, alteration or modification of the exterior of the Building and portions of the Units whose appearance impacts the harmony of the external appearance of the Building (including window treatments, lighting and any other Building components or fixtures); (ii) any improvement, alteration or modification to the interior of a Unit which affects or may affect the Common Elements or the structural integrity of the Building; or (iii) any plan for any improvement, alteration or modification to the Common Elements. The Architectural Control Committee shall not approve any plan of any Unit Owner which negatively affects any other Unit or the Common Elements in a material manner and the Architectural Control Committee shall not approve any plan which would materially alter the size, function or use of the Common Elements. The Architectural Control Committee shall consist of three (3) individuals who are appointed by the Board of Directors. The length of the term of service of the members of the Architectural Control Committee shall be determined by the Board of Directors. The initial Architectural Control Committee shall be appointed by Declarant and Declarant shall have the right to appoint Architectural Control Committee members until all Units owned by Declarant are sold, or until Declarant surrenders such right and so notifies the Board of Directors. The Architectural Control Committee shall establish a fee for the costs of all plan reviews (“Review Fee”) and shall not conduct any such review until the requesting Unit Owner has paid the Review Fee. The Architectural Control Committee shall approve or disapprove any submitted plans within fifteen (15) business days of the later of the receipt by the Architectural Control Committee of the submitted plans or the Review Fee; and any such plans that are not approved or disapproved with fifteen (15) business days shall be deemed approved. Notice of approval or disapproval shall be mailed to the submitting Unit Owner by first-class mail, postage pre-paid, to the Unit Owner’s current address, and the date of the postmark shall be the effective date of such approval or disapproval.

ARTICLE III: DESCRIPTION

3.1. Description of Building. The approximate location and dimensions of the Building in which the Units are located are shown on the Plat.

3.2. Description of Units. The Condominium shall consist of one (1) building, containing the Units as shown on Exhibit B. Each Unit shall be identified by a number as indicated on the Plat and on the attached Exhibit B. The following shall be the boundaries of the Units:

(a) **Units.**

(1) **Vertical Boundaries.** The vertical boundaries of a Unit shall be the vertical planes of the inner surface of any stone or other masonry walls or exterior glass walls bounding such Unit. If the walls bounding any unit are not glass, stone or other masonry, such vertical boundaries are the centers of the wall or studs which support the drywall, wood, or plaster perimeter walls bounding any such Unit.

(2) **Horizontal Boundaries.** The horizontal boundaries of the Unit shall be:

(A) **Upper Boundary.** The upper boundary of a Unit is the horizontal plane of the bottom surface of the concrete slab above the highest floor of the Unit, except that in the event any Unit occupies two floors, the concrete slab separating such floors shall be a General Common Element.

(B) **Lower Boundary.** The lower boundary of a Unit is the horizontal plane of the top surface of the concrete slab supporting the lowest floor of such Unit.

(b) **Additional Items.** Each Unit shall include the following, if any:

(1) the air conditioning, heating and hot water systems and equipment; any flues, exhaust fans, ducts and conduits; wires, cables, electrical, security, telephone, television and other communication systems; water, sewer and gas pipes, and all other utility lines and distribution systems; wall safes, medicine cabinets, built-in shelving which lies partially within and partially outside of the designated boundaries of a Unit, and any portions thereof exclusively serving that Unit shall be deemed a part of that Unit (including to the extent such items penetrate the concrete slab above or below such Unit), while any portions thereof, serving more than one Unit or any portion of the Common Elements shall be deemed a part of the Common Elements; all interior ceilings, floors, walls and partitions, floor and wall coverings, and all fixtures and improvements, including, without limitation, sinks, bathtubs and other plumbing facilities within the Unit; and all exterior doors (including doors to any balcony serving the Unit and entrance doors to the Unit) and any and all hardware, including without limitation, door locks, hinges and mechanical systems, if any associated with such doors.

3.3. Limited Common Elements. The Limited Common Elements include:

(a) balconies appurtenant to a Residential Unit (including the surface of the walls and ceilings surrounding such balconies); Storage Spaces (including the surface of the walls and ceilings immediately surrounding such spaces) assigned and appurtenant to a Residential Unit or a Retail Unit; the Gathering Room/Lounge; and the Fitness Suite.

(b) any exterior light, railing, vent or similar appurtenance exclusively serving a Unit whether located within or without the designated boundary lines of a Unit.

3.4. General Common Elements. The General Common Elements consist of the entire Condominium, except the Units and the Limited Common Elements, and include, without limitation, the following:

(a) all footings, foundations, beams, exterior walls, roofs, floors (excluding those described in Section 3.2) and structural supports of Buildings;

(b) all entrances to the Property, roadways, ramps, sidewalks, common walkways, lobbies, mechanical and equipment rooms, elevators and elevator equipment, interior staircases (except staircases located entirely within and serving a Unit exclusively), access steps, landings, landscaped area, landscaping and open space;

(c) all exterior ducts, lines, poles, posts, pipes, wires, cables, conduits, water lines, drainage, electrical, telephone, cable television, fire and communication systems, gas, sewer, heating, and plumbing systems, building exterior and roof maintenance equipment and window-washing equipment, except such facilities which are included in a Unit, as set forth in Section 3.2(c);

(d) the trash chutes, trash room, mail room, bike storage area, car wash area and public restrooms.

3.5. Declarant's Right to Change Plans. Declarant reserves the right to change the layout, location, dimensions and construction details of the Building, Units and Common Elements shown on the Plat, provided that after the first Unit sale, such changes shall not substantially alter the nature, value and quality of the Building, Units or Common Elements.

ARTICLE IV: ALLOCATED INTERESTS

4.1. Allocated Interest. Every Unit Owner shall own an undivided interest in the Common Elements in accordance with the table attached hereto as Exhibit C, as a tenant-in common with all other Unit Owners and every Unit Owner shall have the right to use and occupy the Common Elements for all purposes which do not violate the Act, this Declaration and the Condominium Documents, which rights shall be appurtenant to and run with each Unit.

4.2. Storage Spaces. A Unit Owner's Allocated Interest shall not be affected by a change in the number of Storage Spaces owned by that Unit Owner. Declarant shall allocate ownership of Storage Spaces at the time of the initial sale of Units and shall prepare a roster of such allocations in accordance with Section 8.7(d).

ARTICLE V: MAINTENANCE, ALTERATION AND IMPROVEMENT OF CONDOMINIUM

5.1. Responsibility of Unit Owners.

(a) Each Unit Owner, at its sole expense, shall be responsible for keeping its Unit including without limitation the items identified in Section 3.2(c) and all of the equipment, fixtures and appurtenances located on or upon the Unit in good order, condition and repair and in a clean and sanitary condition. Without in any way limiting the foregoing, each Unit Owner shall be responsible for the maintenance, repair or replacement of any lighting fixtures, refrigerators, ranges, plumbing fixtures, dishwashers, disposals, laundry equipment such as washers and dryers, the air conditioning, heating and hot water systems and equipment, any piping, chutes, flues, exhaust fans, ducts, conduits, wires, cables, electrical, security, telephone, television, wall safes, medicine cabinets, built in shelving and all communication systems, water, sewer

and gas mains and laterals and all other utility lines and distribution systems and fixtures and any portions thereof exclusively serving that Unit, while any portions thereof serving more than one (1) Unit or any portion of the Common Elements shall be deemed a part of the Common Elements.

(b) Notwithstanding Section 5.1(a) for purposes of uniformity, the Association shall replace, repair, paint, maintain and adorn external features such as the items identified in Section 3.2(b)(2) and other similar items which are visible from the Common Elements, provided, however, the individual Unit Owner who owns a Unit to which such items are a part and/or service, shall pay the costs incurred by the Association in replacing, repairing, painting, maintaining and adorning such items, unless the Board of Directors, in its sole discretion deems it reasonably appropriate to allocate such costs as Common Expenses.

(c) The Unit Owner shall at all times maintain the indoor temperature of the Unit at or above 50° Fahrenheit.

(d) The Unit Owner shall be solely responsible for the cost of repair of any damage to the Condominium caused by the Unit Owner's failure to fulfill any obligation pursuant to this Section 5.1. If a Unit Owner fails to discharge such obligations pursuant to this Section 5.1, then the Association shall have the right, but not the obligation, to discharge such obligations on behalf of the Unit Owner, and, if any of the costs so incurred by the Association are not promptly repaid to the Association, then the Board of Directors shall levy a Special Assessment against the Unit for such expense.

5.2. Responsibility of Association. The Association shall be responsible for the management and control of the Common Elements, including the Limited Common Elements, and shall cause the same to be maintained, repaired and kept in good condition, order and repair (except as specifically set forth in Section 5.1 above). Without in any way limiting the foregoing, the Association shall be responsible, at the expense of the Association (unless necessitated by the negligence or misuse of a Unit Owner or a Unit Owner's guests, licensees or invitees, in which case such expense shall be charged to such Unit Owner), for the following:

(a) such actions as may be necessary to the General Common Elements, in accordance with the Rules and Regulations and in compliance with all applicable laws, codes and ordinances;

(b) all painting, repairing, restoration, general maintenance and decorating of the Common Elements;

(c) lawn care, landscaping, fertilizing, watering, weed control, tree pruning, grass cutting, edging and trimming, as required;

(d) snow and ice removal from sidewalks, driveways, ramps and parking areas of the Property;

(e) maintenance, repair or restoration of sidewalks, walkways, driveways, ramps and parking areas of the Property;

(f) maintenance, repair and replacement of electrical wiring, lighting, heating and pipes and ducts in Common Elements;

(g) purchase, maintenance, repair, replacement and storage of equipment and materials required to accomplish the foregoing; and

(h) maintenance and repair of the unimproved cement floor of the lower-most floor of each Unit; provided, however, the Unit Owner shall be responsible for the maintenance and repair of any floor covering material which covers the cement floor.

5.3. Repair and Replacement Standards. All repairs and replacements shall, to the extent reasonably possible, be done in a manner which is substantially similar to the quality and appearance of original construction and installation.

5.4. Alterations to Unit. Subject to compliance with Section 2.4, a Unit Owner may make any alterations it deems desirable to a Unit, including the movement or modification of any interior walls, provided the Unit Owner complies with all provisions of the Condominium Documents. A Unit Owner is prohibited from making any alteration, installation, removal, reconstruction or repair to his Unit which might impair the structural integrity or value of the Building or any mechanical or electrical system therein; or adversely affect the visual character and harmony of the external appearance of the building as viewed from public rights-of-way, or either the thermal or acoustical character of the Building; or impair any easement appurtenant to any Unit or the Condominium; or adversely affect the use or value of another Unit; or violate the Condominium Documents or any applicable law, ordinance or governmental rule, regulation or order. All work done in connection with any alteration to the Unit shall be completed in a good, workmanlike manner in accordance with all applicable statutes, codes and ordinances, and free from all liens. Any Unit Owner who makes any alterations to his Unit shall indemnify and hold harmless the other Unit Owners, the Board, the Declarant and the Association from and against all claims of third parties for personal injury or property damage from work performed in connection with any alterations. In the event any alteration to a Unit requires or results in the penetration of the concrete slabs above or below a Unit, the Unit Owner, at the Unit Owner's expense, shall provide the Architectural Control Committee with a diagram produced by x-ray, magnetometer or other acceptable means showing the location of cables or other structural materials in the slabs.

5.5. Exterior Alterations. Except as permitted by the Rules and Regulations or as consented to by the Architectural Control Committee, a Unit Owner is prohibited from making any alteration (including any alteration to the interior of the Unit that adversely affects the visual character and harmony of the external appearance of the building as viewed from the public rights-of-way), installation, removal, reconstruction or repair to the exterior of the Building.

5.6. Damage to Units and to Common Elements. In the event the Association, or any individual or entity acting on behalf of the Association, damages any portion of a Unit or

Common Element while making any repair or renovation to any portion of a Common Element, then the Association shall be responsible for promptly repairing and restoring any portion of any such Unit or Common Element to the condition in which it existed prior to the Association's actions. In the event that any Unit Owner, or any individual or entity acting on behalf of any Unit Owner, damages any portion of a Common Element while making a repair or renovation to his Unit, then the Association shall be responsible for promptly repairing and restoring the portion of the Common Element which was damaged to the condition in which it existed prior to such event and the Unit Owner shall be responsible for paying the cost incurred by the Association in repairing and restoring the Common Element.

ARTICLE VI: COMMON EXPENSES, ASSESSMENTS AND TAXES

6.1. Common Expenses. The costs of administration of the Association, utilities, insurance, repair, maintenance, rent, use, operation and maintenance of the Common Elements, except as otherwise specified in the Condominium Documents, shall be considered Common Expenses and paid for by the Association. The Association shall make Assessments against the Unit Owners, as well as the Units themselves, for such Common Expenses in accordance with the Allocated Interest in the manner provided in the Bylaws.

The Assessment obligation appurtenant to a Unit shall commence upon the first conveyance of a Unit by Declarant to a Unit Owner. The percentage of the Common Expenses payable by the individual Units shall be the Allocated Interest of the Unit. No Unit Owner may exempt the Unit Owner or a Unit from liability for contribution toward the Common Expenses by waiver of the use or enjoyment of any of the General or Limited Common Elements or by the abandonment of a Unit. No conveyance shall relieve a Unit Owner or a Unit of such liability, and the Unit Owner shall be jointly, severally and personally liable along with any grantee in any conveyance of the Unit for the Common Expenses incurred up to the date of sale until all such expenses charged to the Unit have been paid. A Unit, for purposes of this Article, shall exist and be made part of the Condominium only upon the recording of this Declaration, if the Unit is included in the Plat. Notwithstanding the foregoing, Declarant shall not be obligated to pay assessments for Units that it owns; however, Declarant shall pay such amounts necessary to pay the difference between: (i) the actual Common Expenses payable from the Operating Fund (as defined in Article VII, Section 3 of the Bylaws); and (ii) the amounts of General Assessments payable by Unit Owners other than Declarant; provided however, that in no event shall Declarant be obligated for any amounts in excess of the aggregate amount that would have been assessed against Declarant's Units as a General Assessment. Declarant shall pay such amounts from time to time when required to prevent a deficiency in the funds available to pay actual Common Expenses. Declarant's obligations under this Article VI shall be limited to the payment of recurrent operating expenses only, and Declarant shall have no obligation for any Special Assessment, or for payment or contribution to the Reserve for Replacement Fund or Reserve Operating Fund (as defined in the Bylaws, Article VII, Sections 4 and 5, respectively). Pursuant to Article VII, Section 5 of the Bylaws, at the time of purchase from Declarant, buyers of Units shall contribute an amount equal to two (2) monthly installments of the regular annual General Assessment for the initial funding of the Reserve Operating Fund.

6.2. Payment of Assessments. All Assessments whether General or Special, when due, together with any interest thereon and actual costs of collection, shall immediately become a personal liability of the Unit Owner and also a lien, until paid, against the Unit to which charged, if a statement of lien is filed within two (2) years after the date the Assessment becomes due. The lien is effective against a Unit at the time the Assessment becomes due regardless of when within the two-year period it is filed. The personal liability for the Assessment shall not pass to a successor in title to the Unit unless the successor agrees to assume the obligation. Any statement of lien shall be filed in the land records of the Clerk of Court of Racine County, stating the description of the Unit, the name of the record owners, the amount due and the period for which the Assessment was due. The statement of condominium lien shall be signed and verified by an officer of the Association as specified in the Bylaws and then shall be filed. On full payment of the Assessment for which the lien is claimed, together with all interest and penalties, the Unit Owner shall be entitled to a recordable satisfaction of the lien. Any lien for delinquent Assessments shall be subordinate to a first priority Mortgage on the Unit if the Mortgage was recorded before the delinquent Assessment became due.

6.3. Assessment for Common Expenses. Assessments shall be made against the Unit Owners and the Units at the beginning of each fiscal year of the Association to meet estimated Common Expenses of the Association for the ensuing year and shall be payable in twelve (12) monthly installments, on the first day of each month. Special Assessments for expenses incurred by the Association which relate to a Unit or Units, Limited Common Elements, or for any reason stated herein shall be made against the Unit Owners and the Units at any time the Board of Directors deems advisable. The Association shall have the authority to modify Assessments during any fiscal year. In the event of delinquency in payment, the Association may, as provided for in the Bylaws, assess penalties and interest, and may accelerate Assessments remaining unpaid with respect to such delinquent Unit for purposes of collection or foreclosure action by the Association.

6.4. Purchaser of Unit. Any purchaser of a Unit is entitled to a statement from the Board of Directors of the Association setting forth the amount of unpaid Assessments against the seller. The statement shall be supplied to the purchaser within fifteen (15) days after such a written request is received by the Association. The purchaser shall not be personally liable for, however the Unit conveyed shall be subject to, any unpaid Assessment of the seller in the amount set forth in the statement. In the event of a foreclosure of a Mortgage on a Unit with a delinquent Assessment lien, the foreclosure will extinguish the lien for any Assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Unit Owner from paying further Assessments. The Association shall be entitled to charge a fee for the preparation of financial statements, affidavits, certificates or other materials requested pursuant to the sale of a Unit (the "Disclosure Fee"). The amount and terms of payment of the Disclosure fee shall be set forth in the Bylaws.

6.5. Enforcement of Lien. The Association shall have the right to enforce any lien for unpaid Assessments, shall have all of the rights and remedies provided for in Section 703.16(8) of the Act and may exercise those rights and remedies as the Board of Directors deems appropriate. The amount of any lien claim shall include interest on the unpaid portion of an Assessment and reasonable attorneys' and collection fees.

6.6. Real Estate Taxes. Real estate taxes shall be taxed separately to each Unit Owner for a Unit. The Declarant shall be responsible for paying all real estate taxes assessed against any Unit which it owns. In the event the Association is assessed for real estate taxes on any Unit, then the Unit Owner who owns the Unit for which the Association is assessed shall pay the real estate taxes.

6.7. Utility Charges. Utility charges and/or fees shall be metered and issued to each separate Unit within the Condominium wherever feasible or customary. These charges shall remain the personal obligation of the Unit Owner. Utility charges for any Common Area shall be a Common Expense.

ARTICLE VII: USE OF CONDOMINIUM

7.1. Use of Common Elements Other Than Limited Common Elements. Each Unit Owner shall have the right in common with all Unit Owners, to use the Common Elements, except the Limited Common Elements, as may be required for any reasonable purpose, including, but not limited to, ingress and egress to and from and the use, occupancy and enjoyment of the Unit owned by such Unit Owner. Such right shall extend to the Unit Owner, and family members, employees, agents, guests and invitees, and to the Declarant in the event of and with regard to any unsold Units. The use of the Common Elements and the rights of Unit Owners with respect thereto shall be subject to and governed by the provisions of the Act and the Condominium Documents. The Declarant and the Association may establish usage fees and restrictions on the use of any portion of the General Common Elements, including reasonable restrictions on the age of users and duration of use.

7.2. Use of Limited Common Elements. The portions of the Common Elements designated as Limited Common Elements are reserved for the exclusive use of the Unit or Units which they serve and to which they are appurtenant. The rights of use herein reserved shall extend to the Unit Owner whose Unit is benefited, and family members, employees, agents, guests and invitees of the Unit Owner.

ARTICLE VIII: RESTRICTIONS ON USE, OCCUPANCY AND TRANSFER

8.1. Limitations. Each Unit Owner, its agents, representatives, guests and invitees, shall be subject to the restrictions set forth in this Declaration and the Condominium Documents, as amended from time to time, including without limitation, the fact that the Buildings and Units are intended for and restricted exclusively to residential uses; provided, however, that the Declarant reserves the right to use various Units or portions thereof as a sample, model or sales office or as a management office for the Condominium.

8.2. Declarant's Right to Transfer. The Declarant shall have the right to transfer the Units by deed, land contract or by such other means of conveyance as it may choose, and in the event Declarant shall be required to foreclose or otherwise recover possession of any Unit, Declarant shall be free to dispose of any such Unit by any means the Declarant chooses; provided, however, the Declarant shall convey the Parking Units to the City of Racine pursuant to the terms of that certain WB-15 Commercial Offer to Purchase and Addendum by and

between the City of Racine, as buyer, and the Declarant, as seller. This Article may not be amended or repealed by the Association.

8.3. Unit Owner's Restrictions on Leasing. The Declarant may lease a Unit on such terms and conditions as it desires in its sole discretion. Subject to approval by the Board of Directors, a Unit Owner other than the Declarant may lease an entire Unit only in compliance with the restrictions on leasing stated below. No Storage Space may be leased except to the valid lessee of a Unit to which such Storage Space is appurtenant, or to another Unit Owner:

(a) No Unit may be leased without a written lease in a form acceptable to the Board of Directors.

(b) Any Unit Owner who enters into a lease for a Unit shall provide the Secretary of the Association with a true and correct copy of such lease within seven (7) days after the execution thereof.

(c) No Unit may be leased for a term of less than one year.

(d) A Unit owner who leases a Unit shall remain personally liable for the payment of any Assessments or any other amounts due under any Condominium Document, and the Association shall have the option to pursue either the Unit Owner lessor and/or the lessee under any lease (who shall also be personally liable) for the payment of any Assessments or any other payments due the Association.

(e) The rights of any lessee of any Unit shall be subject to all of the covenants, conditions, restrictions and Rules and Regulations set forth in the Condominium Documents.

(f) Except for Units owned by Declarant or any Mortgagee who comes into possession of a Unit pursuant to the remedies provided in the Mortgage, no further Units may be leased if the total number of Units under existing leases exceeds the maximum number of leased Units allowed under the Rules and Regulations.

8.4. Unit Owner's Use of Unit as an Office. A Unit Owner may operate a home office out of a Unit if the Unit Owner does not: (a) erect or maintain any type of a sign, billboard or any form of advertising material which will be visible from outside the Unit; (b) conduct a retail business out of the Unit by which a sale is actually consummated in the Unit; (c) conduct any type of business which will unreasonably burden any utility facilities which service the Condominium; (d) conduct any type of business which would cause any insurance policy carried by or paid for by the Association or any other Unit Owner to be canceled or any premiums under such policies to be increased; (e) conduct any type of business which is prohibited by any federal, state, county or local law, ordinance or regulation; or (f) conduct any type of activity which would be reasonably considered offensive or obnoxious to any other Unit Owner or would cause an unreasonable amount of customer or client visits to a Unit or the Common Elements.

8.5. Unlawful Use of Condominium or Unit. No unlawful use may be made of the Condominium or any part thereof and each Unit Owner shall strictly comply with all valid laws,

orders, rules and regulations of all governmental agencies having jurisdiction. Compliance with any legal requirements shall be accomplished by and shall be at the sole expense of the Unit Owner or the Board of Directors, as the case may be, whichever shall have the obligation under this Declaration to maintain and repair the portion of the Condominium affected by any such legal requirements. Each Unit Owner shall give prompt notice to the Board of Directors of any written notice of a violation of any legal requirements affecting a Unit or the Condominium. Notwithstanding the foregoing provisions, any Unit Owner may, at the Unit Owner's expense, defer compliance with and contest, by appropriate proceedings prosecuted diligently and in good faith, the validity or applicability of any legal requirements affecting any portion of the Condominium which such Unit Owner is obligated to maintain and repair, and the Board of Directors shall cooperate with such Unit Owner in such proceedings, provided that:

(a) such Unit Owner shall pay and shall defend, save harmless, and indemnify the Board of Directors, the Association, Declarant's Mortgagee and each other Unit Owner against all liability, loss or damage which any of them may suffer by reason of such contest and any noncompliance with such legal requirements, including reasonable attorneys, fees and other expenses reasonably incurred;

(b) such Unit Owner shall keep the Board of Directors advised as to the status of such proceedings;

(c) noncompliance shall not create a dangerous condition or constitute a crime, public or private nuisance, or an offense punishable by fine or imprisonment;

(d) no part of the Building shall be subject to being condemned or vacated by reason of noncompliance or otherwise, by reason of such contest; and

(e) such Unit Owner shall, if required by the Association, post a bond to ensure compliance with his obligations hereunder.

The Association may also contest any legal requirements and the costs and expenses thereof shall be a Common Expense.

8.6. Unit Owners Restrictions on Use of Unit, Limited Common Elements and General Common Elements. Except as may otherwise be expressly provided in this Article VIII:

(a) No Residential Unit Owner shall occupy or use a Unit, or permit the same or any part thereof, to be occupied or used for any purpose other than as a private, single-family residence.

(b) No Unit Owner, or any family members, agents, invitees or guests of a Unit Owner may in any way obstruct the use of another Unit, the Limited Common Elements or the General Common Elements;

(c) No Unit Owner, or any family members, agents, invitees or guests of a Unit Owner, shall carry on any noxious or offensive activity in any Unit, the Limited

Common Elements or the General Common Elements, nor shall anything be done therein which may be or become an annoyance or nuisance to others; and

(d) Subject to municipal ordinances or regulations, and subject to regulation by the Architectural Control Committee, furniture, grills and plants only shall be allowed to be located on balconies. Items shall be deemed to be located on balconies if they remain for a period of longer than twenty-four (24) hours.

8.7. Unit Owners Restrictions on Parking and on General Common Area Parking.

(a) To enhance the aesthetics of the Condominium and in order to facilitate required maintenance and snow plowing of any driveway and parking areas, all vehicles of any type shall be parked inside the Parking Units. No vehicle of any type shall be placed in any driveway or undesignated parking space for storage.

(b) All vehicles must be reasonably clean, and the Unit Owner shall take all necessary precautions to prevent the leaking of automotive fluids or staining of the Parking Units floors. No boats, campers, trailers, recreation vehicles or other vehicles of similar nature and design shall be placed, stored or parked in any parking space for a period of longer than twenty-four (24) hours in any one (1) week period unless such items fit entirely within the boundaries of one (1) parking space (leaving at least six (6) inches of space between the item stored and the lines delineating the parking space) and are completely covered or placed in locked, fully-enclosed trailers. No individual shall be allowed to use or occupy any recreational vehicle or any similar vehicle designed or used for overnight camping while such vehicle is parked on the Property. Parking spaces may not be used for storage of any personal property other than motor vehicles or trailers, as set forth above.

(c) No Unit Owner or members, agents, employees, invitees or guests of a Unit Owner may use any of the parking spaces, parking areas or car wash area for the purpose of repairing or restoring any motor vehicle. Racks, shelving, cabinets or other storage devices are prohibited in parking spaces.

ARTICLE IX: REPAIR OR RECONSTRUCTION

9.1. Repair or Reconstruction of Condominium. If the Condominium is destroyed by fire or other casualty to an extent more than can be repaired or reconstructed with the available insurance proceeds, and, if within ninety (90) days after the date of such destruction, Unit Owners owning Units to which at least seventy-five percent (75%) of the votes in the Association appertain and eligible Mortgage holders who represent at least fifty-one percent (51%) of the votes of the Units that are subject to Mortgages held by eligible holders agree to waive and terminate the Condominium regime, the Condominium shall be subject to an action for partition, in which event the net proceeds of sale and the insurance policies, if any, shall be distributed in the manner set forth in the Bylaws. In the event of a partition pursuant to this Section 9.1, any Unit Owner whose Unit is subject to a Mortgage shall first obtain such

Mortgagees' written consent to the Unit Owner's intended vote. Until the execution of judgment partitioning the Condominium, each Unit Owner, and the heirs, successors or assigns of a Unit Owner, shall have an exclusive right of occupancy of that part of the Condominium which formerly constituted the Unit. In the event no partition action is taken, or in the event of damage or destruction for which insurance proceeds are equal to or greater than one hundred percent (100%) of the cost of completing repair or reconstruction, shall be repaired or reconstructed in accordance with the Bylaws. In the event of any repair or reconstruction, such repair or reconstruction shall be pursuant to arrangement of the Board of Directors of the Association as provided in Section 12.2 of this Declaration.

9.2. Eminent Domain. In the event of the taking of all or part of the Property under the power of eminent domain, any damages shall be awarded as provided in Section 703.19(3) of the Wisconsin Statutes, as the same is amended from time to time.

(a) **Taking of Common Elements.** Following the taking of all or a part of the Common Elements, the Association shall promptly undertake to restore the affected Common Elements to a condition compatible with the balance of the Property. Any costs of reconstruction in excess of the condemnation award shall be a Common Expense payable by the Unit Owners in proportion to their Allocated Interests. However, if the value of the taking exceeds the value of the remaining Common Elements to the extent that, in the judgment of the Association, reconstruction or restoration is not practical, the Condominium shall be subject to an action for partition upon obtaining the written consent of the Unit Owners having seventy-five percent (75%) or more of the vote in the Association. All Unit Owners whose Unit is subject to a mortgage shall first obtain his Mortgagee's written consent to the Unit Owner's intended vote. In the case of partition, the net proceeds of sale, together with any net proceeds of the award of taking, shall be considered as one (1) fund and shall be divided among all Unit Owners in proportion to their Allocated Interests. Any Mortgagee may require that the net proceeds of the award from any taking, payable to the Unit Owner who granted the Mortgagee its Mortgage, be paid directly to a trustee designated by the Mortgagee.

(b) **Taking of Unit.** Following a taking of all or substantially all of one (1) or more Units, such that the restoration or reconstruction of the Unit or Units is not practical, the affected Unit Owners and their Mortgagees, if any, as their respective interests may appear, shall be entitled to receive the full amount of the award for the taking of their Units. The affected Unit Owners shall thereupon release and relinquish any and all interests in the Units or portion thereof so taken. The remaining Unit Owners shall thereafter file an amendment to this Declaration which would change the description of Property and improvements subject to the Declaration and the portion of the property designated as Units and Common Elements and, if appropriate, change the Allocated Interest appurtenant to each Unit.

(c) **Taking of a Portion of a Unit.** In the event that a portion of any Unit is taken and the Unit is repaired or reconstructed, the Allocated Interests and vote appurtenant to such Unit shall remain unchanged.

9.3. Association as Designated Agent. The Association shall act as the designated agent and/or attorney-in-fact for each Unit Owner and their Mortgagees for the purpose of representing, negotiating and settling any proceeds or awards to be made to the Association or any Unit Owner on account of any casualty or damage to the Condominium or eminent domain proceedings which involve the Condominium, other than condemnations of portions of Units. Any proceeds or awards shall be made payable to the Association for the benefit of the Unit Owners and their Mortgagees. The distribution of such funds in connection with the termination of the Condominium shall be made based upon each Unit's Allocated Interest.

ARTICLE X: EASEMENTS AND ENCROACHMENTS

10.1. Utility and Maintenance Easements. Easements are hereby declared and granted over, across, under, along and through all Units and any portion of the Common Elements for the benefit of the Declarant, Unit Owners and the Association, and reserved for the Declarant, its successors and assigns, and the Association for:

(a) utility purposes, including without limitation, the right to install, lay, maintain, repair and replace water, sewer and gas facilities, telephone wires and equipment, television cable, security and communication system and equipment, and electrical conduits and wires and equipment; and

(b) maintenance purposes, including without limitation, the right to locate, install, maintain and operate maintenance devices and equipment, including window-washing equipment and exterior/roof maintenance equipment.

Notwithstanding the foregoing provisions of this Article X, unless otherwise approved in writing by the Unit Owner or Unit Owners affected thereby, any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the Unit by the Declarant to a grantee other than the Declarant, or so as not to materially interfere with the use, occupancy or value of the Unit.

10.2. Construction Easement. Notwithstanding anything to the contrary in this Declaration or any of the Condominium Documents, until Declarant shall have completed all improvements to the Common Elements and satisfied all of its obligations under any of the Condominium Documents, Declarant reserves an easement for itself and its duly authorized agents, representatives, and employees, over the Common Elements and any Units owned by Declarant for construction or renovation on the Property or related purposes including, but not necessarily limited to: storing tools, machinery, equipment, building materials, appliances, supplies and fixtures; maintaining and correcting drainage of surface, roof or storm water; cutting any trees, bushes, or shrubbery; grading the soil; or taking any other action reasonably necessary for the completion of construction of the Condominium. In the event the Declarant exercises its rights under this Article X, the Declarant shall upon, completion of the construction, promptly restore the affected Property as closely as possible to the condition it was in prior to the construction. Each Unit Owner hereby acknowledges that the activities of the Declarant may temporarily impair the view and cause inconveniences to the Unit Owners, and the Unit Owners shall not have any right to compensation for such impairment or inconvenience.

10.3. Easement to Facilitate Sales. The Declarant reserves the right to use any Units owned or leased by the Declarant as models, management offices, sales offices (for this and other projects) or customer service offices. The Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. Further, the Declarant shall have the right to erect, maintain, relocate and remove temporary offices on the Property. This easement shall continue until the Declarant has sold all the Units it owns.

10.4. Support Easement. Each Unit shall have an easement for structural support over every other Unit in the Building and in the Common Elements, and each Unit and the Common Elements shall be subject to an easement for structural support in favor of every other Unit in the Building and the Common Elements.

10.5. Common Elements Easement. The Common Elements are hereby made subject to the following easements in favor of the Units benefited:

(a) for the installation, repair, maintenance, use, removal and/or replacement of heating and hot water systems and equipment, any chutes, flues, exhaust fans, ducts, conduits, wires, cables, electrical, security, telephone, television and other communication systems, water, sewer and gas facilities, and all other utility lines and distribution systems, to the extent any such system or, that portion of a system, serves a particular Unit or is necessary for service to a Unit;

(b) for the installation, repair, maintenance, use, removal and/or replacement of lighting fixtures, electrical receptacles, panel boards and other electrical installations which are a part of or serve any Unit but which encroach into a part of a Common Element adjacent to such Unit; provided that the installation, repair, maintenance, use, removal or replacement of any such item does not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the Building or impair or structurally weaken the Building; or

(c) for the maintenance of the encroachment of any lighting devices, outlets, medicine cabinets, shelving, wall safes, exhaust fans, ventilation ducts, registers, grilles and similar fixtures which serve only one (1) Unit but which encroach into any part of any Common Elements.

10.6. Unit Owner's Grant of Easement. By acceptance of a deed of conveyance, each Unit Owner thereby grants a right of access to, over and through the Unit Owner's Unit, including without limitation the right of access provided by Section 703.32 of the Act, to the Board of Directors and the Managing Agent, their respective agents and employees, for the purpose of exercising their respective powers and responsibilities, including without limitation making inspections, correcting any condition originating in a Unit and threatening another Unit or the Common Elements, performing installations, alterations or repairs to the mechanical or

electrical services or the Common Elements in a Unit or elsewhere in the Condominium, or to correct any condition which violates the provisions of this Declaration and any of the Condominium Documents; provided, that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. Notwithstanding the foregoing, in case of an emergency, such right of entry shall be immediate and without notice, whether the Unit Owner is present at the time. Any exercise of the rights herein conferred to the extent practicable shall be in a manner so as not to interfere unreasonably with the use of any Unit.

10.7. Declarant's Easement. The Declarant, its successors, assigns, employees and agents, hereby reserves a perpetual and non-exclusive easement on, over and through any and all common hallways, stairs, elevators, walkways, ramps or drives at any time a part of the Condominium for pedestrian and vehicular ingress and egress into and from any and all portions of the Condominium, and for purposes of constructing stairs, walkways, ramps, drives, or any other similar form of ingress or egress, on, over and through any portion of the Condominium, except portions occupied by structural improvements. In the exercise of any rights hereunder, there shall be no unreasonable interference with the use of any Unit or the Common Elements for the purposes for which each is reasonably intended. Declarant's easement shall continue until Declarant no longer owns a Unit.

10.8. Binding Effect. All easements and rights described herein are granted and reserved to, and shall inure to the benefit of and be binding on the undersigned, their successors and assigns, and on all Unit Owners, purchasers and Mortgagees and their heirs, executors, administrators, successors and assigns. The Association and the Declarant shall have the authority to execute all documents necessary to carry out the intent of this Article X.

10.9. Encroachments. In the event, by reason of construction, reconstruction, settlement or shifting of the Building, or the design or construction of any Unit, any part of the Common Elements shall at any time encroach upon any part of any Unit, or any part of any Unit shall at any time encroach upon any part of the Common Elements or any Unit shall at any time encroach upon part of any other Unit, an easement for the continuation and maintenance of such encroachment is hereby established and shall exist for the benefit of such encroaching Unit or Common Element so long as all or any part of the Building, Unit, or Common Element shall remain standing; provided, however, that in no event shall an easement for any encroachment be created in favor of the Unit Owner of any Unit if such encroachment occurred due to willful and knowing conduct of said Unit Owner.

ARTICLE XI: MORTGAGES

11.1. Separate Mortgages of Units. No Unit Owner shall have the right or authority to Mortgage or otherwise encumber the Property or any part thereof; provided, however, that each Unit Owner shall have the right to Mortgage or encumber any Unit owned by such Unit Owner.

11.2. Mortgagees. When a Mortgage is delivered by a Unit Owner to the Mortgagee, the Unit Owner shall simultaneously notify, in writing, the Secretary of the Association of the

name and address of such Mortgagee. Upon receipt of such notice, the Secretary of the Association shall notify the insurer of the Mortgagee's name and address.

11.3. Roster of Mortgagees. The Board of Directors shall maintain a roster of Mortgagees from information received by the Unit Owners. The roster shall state the name and address of each Mortgagee. Upon written request of the Board of Directors, each Mortgagee shall advise the Association as to the priority of its lien on the Unit, excluding any Mortgagee of Declarant.

11.4. Liens. The liens for Assessments created under the Act or pursuant to the Declaration or the Bylaws upon the Unit shall be subject and subordinate to and shall not affect liens for general and special taxes, all unpaid sums on a Mortgage recorded prior to the making of the Assessment, mechanic's liens filed prior to the making of the Assessment and all unpaid sums on any loan made by the Veterans Administration under Section 45.80 of the Wisconsin Statutes, as the same is amended from time to time.

11.5. Mortgagee in Possession. A Mortgagee of any Unit who comes into possession of the Unit pursuant to the remedies provided in the Mortgage shall take the Unit free of any claims for unpaid Assessments or charges against the Unit which accrued prior to the time such Mortgagee comes into possession of the Unit.

11.6. Rights of Mortgagees. Each Mortgagee, its agent or representative, upon written request to the Board of Directors, shall be entitled thereafter to the following:

- (a) notice of any default by the mortgagor of such Unit in the performance of such mortgagor's obligations under this Declaration or any of the Condominium Documents which is not cured within thirty (30) days;
- (b) copies of budgets, notice of any Assessments, or any other notices or statements provided under this Declaration by the Board of Directors to the Unit Owner;
- (c) copies of any financial statements of the Association which are distributed to the Unit Owners;
- (d) copies of notices of meetings of the Unit Owners and the right to be represented at any such meetings by a designated representative;
- (e) notice of damage in excess of \$10,000.00 to or destruction of any Unit subject to the Mortgage or any damage to the Common Elements in excess of \$50,000.00;
- (f) notice of any pending or threatened condemnation or eminent domain proceedings with respect to any part of the Property;
- (g) notice that payment of an insurance premium is more than ten (10) days late and notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association or any entity responsible for managing the

Condominium within sixty (60) days prior to any such lapse, cancellation or material modification;

(h) notice of any decision by the Board of Directors to terminate any management of the Property;

(i) notice of any proposed action which would require the consent of Mortgagees pursuant to the Act or the Condominium Documents;

(j) the right to examine the books and records of the Association at any reasonable time and to audit the same at its sole cost;

(k) notice of any Assessment or any other charges levied by the Association against the mortgaged Unit which is more than sixty (60) days past due;

(l) notice of any judgment which is rendered against the Association; and

(m) the right to cure a default in the payment of any Assessment.

Unless otherwise stated, the above notices shall be in writing and shall be provided to the Mortgagee within a reasonable time after the occurrence of the event which requires a notice to be given by the Association.

11.7. Restrictions on Actions of Association. The Association may not take any of the following actions:

(a) encumber the Common Elements; or

(b) assign the future income of the Association, including its right to receive any Assessments.

No provision contained herein shall be deemed to limit the Association's power to grant any easements over the Common Elements.

11.8. Application and Effect. The provisions of this Article XI shall supersede any inconsistent provision or provisions of this Declaration, the Bylaws or the Rules and Regulations; provided however, that said provisions shall not be deemed to limit or expand the following:

(a) the right granted to the Declarant to subdivide or relocate the boundaries of Units; and/or

(b) the rights of any Unit Owner or Mortgagee with respect to matters solely affecting such Unit and/or Mortgage.

11.9. Amendment to Declaration. No amendment to this Declaration shall affect the rights of a Mortgagee whose interest was recorded prior to the recordation of any such amendment, unless the Mortgagee consents in writing to the amendment.

11.10. Priority of First Mortgagees. Except as otherwise provided by the Act, no provision of this Declaration or the Condominium Documents shall be construed to grant to any Unit Owner, or to any other party, any priority over any rights of holders of first Mortgages pursuant to their first Mortgages in case of the distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units and/or the Common Elements or any portions thereof.

ARTICLE XII: INSURANCE

12.1. Insurance. The Association shall maintain “all risks” special perils coverage insurance on the Building including the walls and structure of the Building located within Units and the Common Elements, including, but not limited to any fixtures owned by the Association and the Unit Owners (but excluding the personal property of the Unit Owner), in an amount not less than the replacement value of the Building and the walls and structure of the Building located within Units and the Common Elements and fixtures owned by the Association and Unit Owners from time to time; including endorsements for automatic changes in insurance coverage as fluctuating values may warrant, contingency endorsements covering nonconforming use and a Special Condominium Endorsement. To the extent reasonably possible, the insurance shall provide (i) that the insurer waives its rights of subrogation as to any claim against the Unit Owners, the Association, the Board of Directors and their respective servants and agents, and (ii) that the insurance cannot be canceled, invalidated or suspended on account of the conduct of any one or more of the Unit Owners, or the Association, or their servants, agents and guests, without sixty (60) days prior written notice to the Association and which notice gives the Association an opportunity to cure the defect within that time. All required insurance shall be issued by an insurance company with a minimum of a B general policyholder’s rating and of a class III financial size category in the Best’s Key Rating Guide. The amount of protection and the types of hazards to be covered shall be reviewed by the Association at least annually and the amount of coverage may be increased or decreased at any time it is deemed necessary by the Association to conform to the requirements of replacement value insurance. Any Mortgagee may receive an insurance certificate upon ten (10) days prior written notice. The insurance shall be obtained in the name of the Association as trustee for each of the Unit Owners and their respective Mortgagees.

12.2. Proceeds of Insurance. In the event of partial or total destruction of the Buildings and/or Common Elements and the Association determines to repair or reconstruct the Buildings and/or Common Elements according to Article IX hereof and Section 1 of Article X of the Bylaws, the proceeds of such insurance shall be paid to the Association as trustee to be applied to the cost of repairing and reconstructing the Building and/or Common Element(s) which were damaged. If it is determined (according to Section 9.1 of this Declaration and Section 1 of Article X of the Bylaws) not to reconstruct or repair the Building and/or Common Element, then the proceeds shall be distributed according to Section 9.1 of Article IX hereof and Section 1 of Article X of the Bylaws.

12.3. Commercial General Liability Insurance. The Association shall provide commercial general liability insurance covering the Common Elements in such amounts as may be determined at the discretion of the Board of Directors from time to time; provided, however, the amount of coverage shall not be less than One Million Dollars (\$1,000,000.00) per single occurrence. The insurance coverage shall preclude the insurer's denial of a Unit Owner's claim because of the negligent acts of the Association or any Unit Owner. The Association may also provide workmen's compensation insurance, directors, and officers, liability insurance in such amounts as are determined by the Board of Directors to be necessary from time to time.

12.4. Fidelity Bonds. The Association may provide a blanket fidelity bond for anyone who either handles or is responsible for funds held or administered by the Association. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association. In no event shall the face value of the bond be for an amount less than the sum of three (3) months' Assessment plus any reserve funds held by the Association. The bond shall include a provision that calls for ten (10) days' written notice to the Association, the Unit Owner and any Mortgagee before the bond can be canceled or substantially modified. Any management agent that handles funds for the Association shall carry a fidelity bond with the same coverage as stated above.

12.5. Separate Insurance. Each Unit Owner shall be responsible for obtaining liability insurance for the Unit Owner's Unit and casualty insurance for the personal property of the Unit Owner.

ARTICLE XIII: BOUNDARY RELOCATION; SUBDIVISION; PARTITION

13.1. Relocation of Boundaries Between Adjoining Unit. Any Owners of adjoining Units may relocate the boundaries between their Units in accordance with the provisions of Section 703.13(6) of the Act and Section 5.4 of this Declaration. As provided in such Section of the Act, such subdivision shall become effective only upon the recording of (i) an amendment to this Declaration identifying the Units involved; stating that the boundaries between said Units are being relocated by agreement of the Unit Owners thereof; containing words of conveyance between those Unit Owners; reflecting any redetermination of the Allocated Interest appertaining to said Units, as agreed to by the adjoining Unit Owners; and reflecting any liabilities for future common expenses not specially assessed appertaining to said Units; and (ii) an amendment to the Condominium Plat showing the altered boundaries and the dimensions thereof between said Units and their identifying number or letters, which shall be certified as to its accuracy by a civil engineer, architect or licensed land surveyor authorized to practice his or her profession in the State of Wisconsin.

13.2. Subdivision and Combination of Units. Declarant may divide any Unit, from time to time, in Declarant's sole discretion, into not more than two (2) Units in accordance with the provisions of Section 703.13(7) of the Act. As provided in such Section of the Act, such subdivision shall become effective only upon the recording of: (i) an amendment to this Declaration setting forth a new identifying number for each new Unit created and redetermination acceptable to the Board of Directors of the Allocated Interest appertaining to said Units and allocation of one (1) vote in the Association appurtenant to each Unit affected;

and (ii) an amendment to the Condominium Plat showing the boundaries and dimensions of the new Units and any new identifying numbers, which shall be certified as to its accuracy by a civil engineer, architect or licensed land surveyor authorized to practice his or her profession in the State of Wisconsin. The aggregate Allocated Interests of newly created Units shall equal the Allocated Interest of the original Unit prior to subdivision.

Any Unit Owner or Owners may combine two or more Units, from time to time, at their sole cost and expenses, into one or more Units in accordance with the provisions of Section 703.13(6) of the Act and Sections 2.4 and 5.4 of this Declaration, provided the resulting number of Units created is less than the number of Units combined, and provided that each resulting Unit shall have one (1) vote in the Association. The aggregate Allocated Interests of newly created Units shall equal the Allocated Interest of the original Units prior to combination.

13.3. No Revocation or Partition. Except as otherwise set forth herein or in the Bylaws, the Common Elements shall remain undivided and no Unit Owner or any other person shall bring or have the right to bring any action for partition or division thereof, nor shall the Common Elements be abandoned by act or omission, unless the Condominium form of ownership is waived and terminated by agreement of all of the Unit Owners.

13.4. Declarant's Rights and Control. Declarant reserves the right to change the design of the Building, Units and Common Elements to be constructed on the Property. The Declaration may be amended by Declarant to change the types of Units prior to the actual conveyance of any such Unit.

13.5. Minimum Floor Area. No relocation of Unit boundaries, combination or subdivision of Units shall be permitted if such relocation, combination or subdivision results in the creation of any Unit having less than two-thousand (2,000) square feet of floor area. This Section 13.5 shall not apply to any relocation, combination or subdivision of Units by Declarant.

ARTICLE XIV: DISCLAIMER OF LIABILITY OF ASSOCIATION

14.1. Disclaimer. Notwithstanding anything contained herein or in the Condominium Documents, the Association shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Unit Owner, occupant or user of any portion of the Property including, invitees, agents, servants, contractors or subcontractors or for any property of any such persons. Without limiting the generality of the foregoing, each Unit Owner and each other person having an interest in or lien upon, or making a use of, any portion of the Property shall be bound by this Article XIV and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed in this Article XIV.

14.2. Personal Property. Each Unit Owner shall be responsible for personal property located in any Storage Spaces or Limited Common Elements. Notwithstanding anything to the contrary contained in this Declaration, neither the Board of Directors, the Association, any Unit Owner nor the Declarant shall be: (i) considered a bailee of any personal property of a Unit

Owner stored in the Common Elements (including without limitation, property located in any vehicles parked on the Property); or, (ii) responsible for the security of such personal property or for any loss or damage thereto.

ARTICLE XV: AMENDMENT TO DECLARATION

15.1. Amendment. Except as otherwise provided by the Act, or in this Declaration, this Declaration may be amended by the agreement of Unit Owners having at least seventy-five percent (75%) of the votes in the Association and in the manner provided by Section 703.09(2) of the Act. Any Unit Owner whose Unit is subject to a Mortgage shall first obtain such Mortgagee's written consent to the Unit Owner's vote in favor of any amendment on a form satisfactory to the Board of Directors. Copies of amendments shall be certified by the President and Secretary of the Association in a form suitable for recording. A copy of the amendment shall be recorded in the office of the Register of Deeds of Racine County and such amendment shall be effective at the time it is recorded. A copy of the amendment shall be mailed or personally delivered to each Unit Owner's address as stated on the Membership Roster. So long as the Declarant owns one (1) or more Units, this Declaration shall not be amended in any manner which would prevent or unreasonably interfere with the sale, lease or other disposition of Units owned by Declarant.

15.2. Special Amendments. Declarant, for as long as the Declarant shall have any ownership interest in the Property or Condominium, or, when the Declarant no longer has an interest in the Property or Condominium, the Board of Directors, shall have the right and power to record Special Amendments to this Declaration at any time and from time to time which amend this Declaration: (i) to comply with requirements of the FNMA, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities or any institutional lender issuing a commitment to make Mortgage loans covering twenty percent (20%) or more of the Units; (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee Mortgages secured by any Unit; (iii) to conform this Declaration with the requirements of the Act; (iv) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto; or, (v) to assign the Declarant's ownership interest in the Property to another entity of its choosing, or to assign Declarant's interest as Declarant to any Mortgagee of the Property. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant and the Board of Directors, as the case may be, to make or consent to a Special Amendment on behalf of each Unit Owner. Each deed, Mortgage or other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and consent to the reservation of, the power reserved to Declarant and the Board of Directors to make, execute and record Special Amendments. The rights reserved to the Declarant under this Section 15.2 shall terminate at such time as the Declarant no longer holds or controls title to any part of the Property or ten (10) years from the date this Declaration is recorded, whichever first occurs.

ARTICLE XVI: TERMINATION OF CONDOMINIUM

16.1. Termination of the Condominium. The Condominium may be terminated upon the approval of a Termination Agreement by all the Unit Owners. Any Unit Owner whose Unit is subject to a Mortgage shall first obtain such Mortgagee's written consent to the vote. The Termination Agreement shall include provisions relating to the use and maintenance of Common Elements after termination. The Termination Agreement shall also provide for the allocation and transfer of title to the Common Elements such that title to the Common Elements, other than the Limited Common Elements, shall be vested in the successors to the Unit Owners as tenants-in-common in proportion to their predecessor Unit Owner's Allocated Interest and title to Limited Common Elements shall be vested in the former Unit or Units to which they appertain, individually or as tenants-in-common, as the case may be. The Termination Agreement shall be recorded in the office of the Register of Deeds for Racine County.

ARTICLE XVII: ADDITIONAL PROVISIONS

17.1. Claims; Dispute Resolution.

(a) **Definition of a Claim.** A "Claim" is a demand or assertion by a party seeking, as a matter of right, adjustment or interpretation of terms, payment of money or other relief with respect to the terms of the Condominium Documents. The term "Claim" also includes other disputes and matters in question between any Unit Owner and Declarant, between Declarant and the Association, between the Association and any Unit Owner or between any Unit Owner and another Unit Owner arising out of or relating to the Condominium or the Condominium Documents. For purposes of this Section 17.1, the term "Declarant" shall include Declarant and Declarant's officers, directors, agents or employees. Notwithstanding the foregoing or anything to the contrary herein, this Section 17.1 shall not be construed to affect, alter, or in any way limit or apply to the formulation, levying, payment, collection, or enforcement of Assessments or liens therefor, as set forth in Article VI or the Bylaws, or any other payment or fee required, and all provisions of the Condominium Documents other than this Section 17.1 shall control in such matters.

(b) **Procedure for Making Claims and Burden of Proof.** Claims must be made by written notice to the other interested party or parties hereto. The responsibility to substantiate Claims shall rest with the party making the Claim.

(c) **Time Limits on Claims.** Claims by any party must be made within forty-five (45) days after occurrence of the event giving rise to such Claim or within forty-five (45) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later; provided, however, that the claimant shall use its best efforts to furnish the other party, as expeditiously as possible, with notice of any Claim once such Claim is recognized, and shall cooperate with the party against whom the Claim is made in any effort to mitigate the alleged or potential damages or other adverse consequences arising out of the condition which is the cause of such a Claim. Any additional Claim related to the initial Claim which is made after the initial Claim has been implemented will not be

considered. Claims may also be reserved in writing within the time limits set forth in this Section 17.1(c). If a Claim is reserved, the procedures described in Sections 17.1(e) and (f) shall not commence until a written notice from the claimant is received by the other party. Any notice of Claim or reservation of Claim must clearly identify the alleged cause and the nature of the Claim and include data and information then available to the claimant that will facilitate prompt verification and evaluation of the Claim.

(d) **Continuing Performance.** Pending final resolution of a Claim, no party shall be excused from the performance of any obligation under the Condominium Documents.

(e) **Negotiation; Mediation.**

(1) **Negotiation.** Prior to submitting any Claim to mediation or arbitration, the parties hereto shall diligently attempt, in good faith, to settle any Claim by negotiation between all of the parties to such Claim. If the parties are unable to reach a negotiated settlement with respect to such Claim within sixty (60) days after the commencement of negotiations, the parties may continue to diligently negotiate in good faith with respect to such Claim, or, at the option of any party to the Claim, the Claim may be submitted to mediation by written demand for mediation delivered to the other parties to such Claim. Such mediation shall be held pursuant Section 17.1(e)(2).

(2) **Mediation.** If the parties to a Claim are unable to reach a negotiated settlement with respect to any Claim pursuant to Section 17.1(e)(1), the Claim shall be submitted to mediation upon the delivery of a written demand therefore from one (1) party to the Claim to all the other parties to the Claim. Any mediation shall be conducted by a proprietary mediation service reasonably acceptable to the parties to the Claim. In the event the parties to the Claim are unable, within sixty (60) days after a written demand for mediation, to agree on a mutually acceptable mediation service, any party to the Claim may demand arbitration pursuant to Section 17.1(f) hereof. Upon selection of the mediation service by the parties to the Claim, the parties shall diligently attempt, in good faith, to settle any disputes by mediation. If the parties are unable to reach a mediated settlement with respect to such Claim within sixty (60) days after the commencement of mediation, the parties may continue to diligently mediate in good faith with respect to such Claim, or, at the option of any party to the Claim, the Claim may be submitted to arbitration by written demand therefore delivered to the other parties to such Claim. Arbitration shall be held pursuant Section 17.1(f) hereof.

(f) **Arbitration.**

(1) **All Controversies and Claims Subject to Arbitration.** The sole method of resolving disputes under the Condominium Documents will be by negotiation, mediation and arbitration as provided in this Section 17.1. Any

controversy or Claim arising out of or related to any agreement between any Unit Owner, Declarant and the Association, shall be settled by negotiation, mediation and arbitration in accordance with this Section 17.1.

(2) **Commencement of Arbitration.** Any party to a Claim that remains unresolved after negotiation and mediation pursuant to Section 17.1(e) may commence arbitration by written demand therefore delivered to the other parties to such Claim. No Claim may be heard in arbitration if a Notice of Claim was not timely filed pursuant to Section 17.1(c), or if the Claim would otherwise be barred by an applicable statute of limitations.

(3) **Arbitration Procedures.** Except as otherwise expressly provided herein, arbitration shall be held in accordance with the applicable Arbitration Rules of the American Arbitration Association in effect from time to time.

(4) **Number and Selection of Arbitrators.** Arbitration panels shall consist of the following numbers of arbitrators, as the case may be:

(i) in the event the Claim or Claims subject to arbitration are less than or equal to an aggregate of \$200,000.00, the arbitrator shall consist of one (1) person reasonably acceptable to all parties to the Claim or Claims; or

(ii) in the event the Claim or Claims subject to arbitration are more than \$200,000.00 in the aggregate, the arbitration panel shall consist of three (3) persons reasonably acceptable to all of the parties to the Claim or Claims.

In the event the parties to a Claim or Claims cannot, after thirty (30) days, agree upon on the arbitrator or arbitrators, the selection of the arbitrator or arbitrators shall be submitted to the American Arbitration Association, who shall be instructed to appoint the arbitrator or arbitrators from the American Arbitration Association's Large Complex Panel.

(5) **No Authority to Award Punitive Damages.** The arbitrator or arbitrators shall have no authority to award punitive damages nor make any ruling, finding or award that does not conform to the terms and conditions of the Condominium Documents, the Act, and applicable law.

(6) **Award of Attorneys' Fees and Costs.** The arbitrator or arbitrators are authorized to, but shall not be obligated to, award all or a part of the costs and fees, incurred by a party, including arbitration fees, administrative expenses, witness fees and reasonable attorneys' fees as the arbitrator or arbitrators shall deem to be just and equitable.

(7) **Non-Disclosure.** Neither a party to a Claim nor the arbitrator or arbitrators may publicly disclose the results of any arbitration hereunder, without the prior written consent of all of the parties, except as required by law or as may be required to conform to the Condominium Documents.

(8) **Site and Timing of Hearings.** Unless otherwise agreed to in writing by all of the parties to a Claim, all hearings will be held at the Declarant's office, located at 710 N. Plankinton Ave., Suite 300, Milwaukee, Wisconsin, if the Declarant is a party to the Claim, and if the Declarant is not a party to a Claim then at a mutually agreeable place.

(9) **Pre-Hearing Procedures.** The arbitrator or arbitrators shall order a pre-hearing exchange of information by the parties, which may include production of requested documents reasonably required by the parties, exchange of summaries of testimony of proposed witnesses, the deposition of any experts and limited depositions of the parties. All issues regarding conformation with discovery requests shall be decided by the arbitrator or arbitrators. The arbitrator or arbitrators shall require a pre-hearing meeting between the parties at which each party shall present a memorandum disclosing the factual basis of its Claim and defenses and disclosing all legal issues to be raised. It shall also disclose the names of any expert a party may present as a witness in the proceedings. Failure to disclose such experts shall bar their testimony at the arbitration. Any reports, calculations and other data used by an expert in reaching his opinion and who is called as a witness shall be provided at least ten (10) days prior to such expert's scheduled deposition. If such reports, calculations and other data are not so presented, such reports, calculations and other data shall be precluded from being used at any arbitration.

(10) **Compensation of the Arbitrators.** Payment for services of the arbitrator or arbitrators will be at the rates agreed to between the arbitrator or arbitrators and the parties to the Claim, and may include study time, panel conferences and actual hearing time. Direct expenses incurred by the arbitrator or arbitrators will be reimbursed at the actual cost incurred. Billing for such expenses shall be submitted within thirty (30) days of the conclusion of arbitration and shall include an itemized listing supported by copies of the original bills, invoices and other relevant supporting data. Unless otherwise awarded by the arbitrator or arbitrators pursuant to Section 17.1(0)(6) hereof, each party to or included in any Claim submitted to arbitration shall bear an equal share of the costs incurred by the arbitrator or arbitrators with respect to the subject Claim.

(11) **Legal Relations.** The parties hereto agree that the arbitrator or arbitrators, in the performance of their duties, are acting in the capacity of an independent contractor and are not employees or agents of any party hereto.

(12) **Joinder or Consolidation.** Any arbitration hearing shall include by way of joinder or consolidation, any Unit Owner, contractor, developer, architect, subcontractors or separate contractors, and any other persons substantially or materially involved in a common question of fact or law if the presence of any such person is required in order that complete relief may be accorded in arbitration. The agreement to arbitrate and this agreement of joinder shall be specifically enforceable under Wisconsin State law and venue therefore

shall be in any court having jurisdiction thereover and sitting in Milwaukee County, Wisconsin.

(13) **Finality of Award.** The Award rendered by the arbitrator or arbitrators shall be final and binding upon the parties.

(14) **Written Opinion.** The award of the arbitrator or arbitrators shall be accompanied by a written, reasoned opinion and shall be rendered no later than thirty (30) days from the date the subject arbitration is formally closed.

17.2. Waiver. The failure of the Association to enforce any provision of this Declaration or any provision in the Condominium Documents or to exercise any right or option or to serve any notice or to institute any action, shall not be construed as a waiver by the Association.

17.3. Severability. The provisions contained herein shall be construed as independent and severable and the invalidity or unenforceability of any provision or portion thereof shall not be deemed to impair or affect the validity or enforceability of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect. Any conflict between any provision of any Condominium Document and the Act, or any questions regarding the interpretation of any Condominium Documents, shall be governed by the Act.

17.4. Captions. The captions and headings of various paragraphs of this Declaration are for convenience only and are not to be construed as defining or limiting the scope or intent of the provisions thereof.

17.5. No Obligations. Nothing contained in the Condominium Documents shall be deemed to impose upon the Declarant or its successors or assigns any obligations of any nature to build, renovate or provide any improvements except to the extent required by the Act and as set forth in this Declaration.

17.6. Number and Gender. Whenever used herein, the singular number shall include the plural, the plural the singular and use of any gender shall include all genders.

17.7. Registered Agent. The registered agent for service of process shall be [G&K Wisconsin Services, LLC, 833 East Michigan Street, Suite 1800, Milwaukee, WI 53202], or such other person or entity as may be designated by the Board of Directors of the Association and upon proper filing of said name with the Register of Deeds for Milwaukee County, Wisconsin, and with the Department of Financial Institutions of the State of Wisconsin.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the date first set forth above.

RACINE HARBORSIDE, LLC, a Wisconsin limited liability company

By: Royal Capital Group, LLC, its Member

By: _____
Kevin L. Newell, Manager

By: CDS 2018 Racine, LLC, its Member

By: _____
Michael Krolczyk, Manager

STATE OF WISCONSIN)
) ss
COUNTY OF MILWAUKEE)

Personally came before me this ____ day of _____, 2019, the above-named Kevin L. Newell, manager of Royal Capital Group, LLC, which is the member of Racine Harborside LLC, to me known to be the person who executed the above and foregoing instrument and acknowledged the same.

Notary Public, Milwaukee County
My Commission expires: _____

STATE OF WISCONSIN)
) ss
COUNTY OF FOND DU LAC)

Personally came before me this ____ day of _____, 2019, the above-named Michael Krolczyk, the manager of CDS 2018 Racine, LLC, which is the member of Racine Harborside LLC, to me known to be the person who executed the above and foregoing instrument and acknowledged the same.

Notary Public, Fond du Lac County
My Commission expires: _____

CONSENT OF MORTGAGEE

We, the undersigned, as Mortgagees of the Declarant, hereby consent to the foregoing condominium declaration for [**@North Beach**], a Condominium, to be created in Racine, Wisconsin.

Dated this ____ day of _____, 2019.

By: _____

Title: _____

EXHIBIT A

PROPERTY

Parcel A:

All of Lots 6, 7, 8, 9, 10 & 11, Knight and Cram's Subdivision of Block 58, Original Plat of Racine according to the recorded plat of said Subdivision.

Also that part of Block 56, Original Plat of Racine, as surveyed by Moses Vilas, according to the recorded plat thereof, lying Easterly of the recorded Plat of Knight and Cram's Subdivision. Also that part abutting said property known as Hamilton Street, as vacated from the East line of Michigan Boulevard Easterly to Lake Michigan. Also the North 290.00 feet of Block 57, of said Original Plat of Racine, excepting therefrom the real estate described in Quit Claim Deed from Walker Manufacturing Company of Wisconsin to the City of Racine dated March 21, 1958 and recorded April 21, 1958 in Volume 622 of Deeds, Page 507, Document No. 673654, as follows:

"All that certain piece of parcel of land located in Northeast 1/4 Section 9-3-23 East; lying South of South line of Hubbard Street and East of line described as follows: Begin at a point in North line of Block 56, Original Plat of City of Racine; run thence from said point South 0 degree 22 minutes East to a point in Northerly boundary line of lands conveyed by Walker Manufacturing Company of Wisconsin a Wisconsin Corporation to W.H. Pugh Coal Company, a Wisconsin Corporation, by Warranty deed dated October 18, 1955 and recorded in the Office of the Register of Deeds from Racine County, Wisconsin on October 20, 1955 in Volume 582 of Deeds, Page 83, as Document No. 638690, in the Office of the Register of Deeds for Racine County, Wisconsin". Also excepting therefrom that portion conveyed to W.H. Pugh Coal Company by Deed dated October 18, 1955 recorded October 20, 1955 in Volume 582 of Deeds, Page 83, Document No. 638690, as follows:

"Beginning on the Easterly extended North line of Reichert Court as now laid out, at a point that is located 642.65 feet East of the East line of Michigan Boulevard, run thence North 180.00 feet; thence East to the waters of Lake Michigan, run thence Southerly along the waters edge of Lake Michigan to the extended centerline of said Reichert Court; thence West along the extended centerline of Reichert Court to a point 642.65 feet East of the East line of Michigan Boulevard; thence North to the place of beginning. Said land being in the City of Racine, County of Racine and State of Wisconsin; West line and North line of Document No. 638690 is delineated on a Plat of Survey that is on file at the Real Estate Description Department with file Number 642067, Job No. 98.146 Nielson Madsen and Barber. Also excepting therefrom the tract of land that is North of a line that begins at the Northeast corner of Lot 6 of Knight and Cram's Subdivision and extends East to Lake Michigan. Said Extended line is parallel to the North line of Block 56, of said Original Plat of Racine.

TOGETHER WITH that part of vacated Hubbard Street lying east of the right of way line of Michigan Boulevard to Lake Michigan, as contained in Resolution No. 4414, recorded on April 2, 2002, as Document No. 1824415; ALSO that part of vacated Reichert Court as contained in Resolution No. 3698, recorded on January 11, 2001, as Document No. 1754728.

Tax Key: 2485

Address: 1129 Michigan Boulevard

Parcel B:

All of Lots 1, 2, 3, 4, 5, 12, 13, 14, 15 & 16, Knight and Cram's Subdivision of Block 58, Original Plat of Racine, according to the recorded Plat of said Subdivision.

Also that part of Block 58, Original Plat of Racine, as surveyed by Moses Vilas, according to the recorded Plat thereof, lying Easterly of the recorded Plat of Knight and Cram's Subdivision that tract of land that is North of a line that begins at the Northeast corner of Lot 6 of Knight and Cram's Subdivision and extends East to Lake Michigan, said extended line is parallel to the North line of Block 58, of said Original Plat Racine. Excepting therefrom the real estate described in Quit Claim Deed from Walker Manufacturing Company of Wisconsin to the City of Racine dated March 21, 1958 and recorded April 21, 1958 in Volume 622 of Deeds, Page 507, Document No. 673854, as follows: "All that certain piece of parcel of land located in Northeast 1/4 of Section 9-3-23 East, lying South of the South line of Hubbard Street and East of line described as follows: Begin at a point in North line of Block 58 produced East, being Southerly line of Hubbard Street, which point is 980.40 feet North 89 degrees 35 minutes East from Northwest corner of Block 58, Original Plat of City of Racine; run thence from said point South 0 degree 22 minutes East to a point in Northerly boundary line of lands conveyed by Walker Manufacturing Company of Wisconsin, a Wisconsin Corporation, to W.H. Pugh Coal Company, a Wisconsin Corporation, by Warranty Deed dated October 18, 1955 and recorded in the Office of the Register of Deeds of Racine County, Wisconsin on October 20, 1955 in Volume 582 of Deeds, Page 83, as Document No. 638690. Said land being in the City of Racine, County of Racine and State of Wisconsin.

Tax Key: 2468

Address: 1231 Michigan Boulevard

EXHIBIT B

PLAT

EXHIBIT C

UNIT ALLOCATED INTEREST

20388144.2