

Retn:
KRUCHTEN LAW FIRM LLC
975 6TH AVE S #101
NAPLES, FL 34102

DECLARATION OF CONDOMINIUM**FOR****OLDE MARCO, A CONDOMINIUM**

MARCO CAT, LLP, a Minnesota limited liability partnership, (hereinafter called the "Developer") does hereby declare as follows:

1. **Introduction and Submission.**

1. **The Land.** The Developer, a Minnesota limited liability partnership owns the fee title to certain land located in Collier County, Florida, as more particularly described in Exhibit "2" annexed hereto (the "Land"), less and except the interests owned separately by Marco Cat Penthouse Association, Inc. and its members.

1.2 **Submission Statement.** The Developer hereby submits the Land and all improvements erected or to be erected thereon, including water and sewer utility facilities, all rights and appurtenances belonging thereto, and all other property, real, personal or mixed, now or hereafter situated on or within the Land - but excluding all public and private (cable television and all other information, transmission, and preservation equipment), and all other utility installations therein or thereon owned by the utility or entity furnishing services to the condominium (and excluding Developer owned cable television and all other information transmission and preservation equipment) - to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act as it exists on the date hereof applicable to "Commercial Condominiums". Without limiting any of the foregoing, no property, real, personal or mixed, not located within or upon the Land as aforesaid shall for any purposes be deemed part of the Condominium or be subject to the jurisdiction of the Association, the operation and effect of the Florida Condominium Act or any rules or regulations promulgated pursuant thereto, except as described herein.

1.3 **Name.** The name by which this condominium is to be identified is OLDE MARCO, A CONDOMINIUM (hereinafter called the "Condominium"), with an address of 100 Palm Street, Marco Island, Florida 34145.

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

2.1 "Act" means the Condominium Act (Chapter 718 of the Florida Statutes) as it exists on the date hereof.

2.2 "Articles" or "Articles of Incorporation" mean the Articles of Incorporation of the

Association, as amended from time to time.

- 2.3 "Assessment" means a share of the funds which are required for the payment of Common Expenses which from time to time is assessed against the Unit Owner.
- 2.4 "Association" or "Condominium Association" means Olde Marco Condominium Association, Inc., a Florida corporation not for profit, the sole entity responsible for the operation of the Condominium.
- 2.5 "Association Property" means the property, real and personal, in which title or ownership is vested in the Association for the use and benefit of its members.
- 2.6 "Board" or "Board of Directors" means the representative body which is responsible for administration of the Association.
- 2.7 "Building" means the structures situated on the Condominium Property including the buildings in which are located the "Units."
- 2.8 "By-Laws" mean the By-Laws of the Association, as they exist from time to time.
- 2.9 "Common Elements" means and includes: The portions of the Condominium Property which are not included in the "Units," including, without limitation, the following items:
 - (a) Easements through Units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of utility services and/or heating, cooling, ventilation or other services to more than one (1) "Unit" or to the "Common Elements", together with related property and installations.
 - (b) An easement of support in every portion of a "Unit" which contributes to the support of the Building, other "Units" and/or any part of the "Common Elements".
 - (c) The property and installations required for the furnishing of utilities and other services to more than one (1) "Unit" or to the "Common Elements".
 - (d) Any other parts of the "Condominium Property" designated as "Common Elements" in this "Declaration" or the "Act".
- 2.10 "Common Expenses" mean all expenses incurred by the "Association" for the "Condominium" and charges assessed or imposed against "Units" in the "Condominium" by the "Association" as set forth in this "Declaration" and the "Act".
- 2.11 "Common Surplus" means the excess of all receipts of the "Association" collected on behalf of the "Association", including, but not limited to, Assessments, rents, profits and revenues on account of the "Common Elements", over the amount of "Common Expenses".

- 2.12 "Condominium Parcel" means a "Unit" together with the undivided share in the Common Elements which is appurtenant to said "Unit"; and when the context permits, the term includes all other appurtenances to the "Unit".
- 2.13 "Unit" means a "Unit" intended for occupancy, or other use, by an owner or his family, guests, invitees, lessees or employees, but may not be occupied for residential purposes.
- 2.14 "Unit Owner" or "Owner of a Unit" or "Owner" means the owner of a Condominium Parcel intended for "Unit" uses; such uses may not include residential uses.
- 2.15 "Unit(s)" means each "Unit," or collectively all "Units," as the case may be.
- 2.16 "Commercial Unit" means each Unit, which is limited to being used as a commercial condominium unit.
- 2.17 "Commercial Unit Owner" means the owner of any unit.
- 2.18 "Unit Owner(s)" means either a "Unit Owner" or Commercial Unit Owner."
- 2.19 "Condominium Property" means the land, improvements and other personal property described in Section 1.2 hereof, subject to the limitations thereof and exclusions therefrom.
- 2.20 "County" means the County of Collier, State of Florida.
- 2.21 "Declaration" or "Declaration of Condominium" means this instrument, as it may be amended from time to time.
- 2.22 "Developer" means Marco Cat, LLP, a Minnesota limited liability partnership, its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned. "Developer" may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with specific portions of the "Condominium". In the event of any partial assignment, the assignee shall not be deemed the "Developer", but may exercise such rights of "Developer" as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis.
- 2.23 "Improvements" mean all structures and artificial changes to the natural environment (exclusive of landscaping) located on the "Condominium Property", including, but not limited to, the Buildings.
- 2.24 "Institutional First Mortgagee" means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") any other lender generally recognized as an institutional lender, or the "Developer", any of which hold a first mortgage on a "Unit" or "Units", and any and all investors, or the successors and assigns of such investors, who have loaned money to "Developer" to acquire, or construct

improvements upon the Property and who have a mortgage lien on the Property securing such a loan. A "Majority of Institutional First Mortgagees" shall mean and refer to Institutional First Mortgagees of "Units" by which greater than one-half (½) of the voting interests of "Units" subject to mortgages held by "Institutional First Mortgagees" are encumbered.

- 2.25 "Limited Common Elements" means those Common Elements the use of which is reserved to a certain "Unit" or "Units" to the exclusion of other Units, as specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.
- 2.26 "Primary Institutional First Mortgagee" means the Institutional First Mortgagee which owns, at the relevant time, Unit mortgages securing a greater aggregate indebtedness than is owed to any other Institutional First Mortgagee.
- 2.27 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.
- 2.28 "Utility Service" means and is intended to include, but is not limited to, electric power, gas, telephone, hot and cold water, heating, air conditioning ventilation systems, garbage and sewage disposal, TV cable and other information, transmission and preservation equipment.
- 2.29 "Resort Support Facility Unit" means the storage closets on each floor which shall not be sold as a "Condominium Unit," but shall be retained by Marco Cat, LLP, its successors or assigns, and which shall be used in support of hotel operations located on site.

3. Olde Marco Condominium Association, Inc.

- 3.1 Role of Association. The Developer has formed the Association to operate the Condominium; each Unit Owner shall be a member of the Association.

4. Description of Condominium.

- 4.1 Identification of Units. The Land has constructed thereon two (2) buildings (named "Tarpon" and "Dolphin") and a "Water House/Pump House" (serving both the condominium and other non-condominium property) each building contains three (3) stories, floors 2, 3, and 4, of "Units" with each Unit being a resort suite, with 24 resort suites on each floor of the Tarpon Building and with 27 resort suites on each floor of the Dolphin Building, and each building with roof and a ground parking floor. (The fifth floor of each building is excluded from the condominium association, and forms a separate, unrelated condominium association.) Each Unit is identified by a separate numerical or alpha-numerical designation. The designation of each Unit is set forth on Exhibit "2" attached hereto. Exhibit "2" consists of a survey of the Land, a graphic description of the Improvements located thereon, including, but not limited to, the

Building in which the Units are located, and a plot plan thereof. Said Exhibit "2", together with this Declaration, is sufficient in detail to identify the Common Elements and each Unit and their relative locations and dimensions. There shall pass with a Unit as appurtenances thereto (a) an undivided share in the Common Elements and Common Surplus; (b) the non-exclusive right to use such portion of the Common Elements as may be provided in this Declaration; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration.

4.2 Unit Boundaries. Each Unit shall include that part of the Building containing the Unit that lies within the following boundaries:

- (a) Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries:
 - (i) The horizontal plane of the undecorated finished ceiling. In a Unit containing a room in which the ceiling is raised above the level of the ceiling in the rest of the Unit, the ceiling shall include the vertical or diagonal surface connecting the raised ceiling with the ceiling of the remaining portion of the Unit, and the upper boundary shall include the plane of the undecorated finished vertical or diagonal surface that joins the planes of the undecorated finished horizontal portions of the ceiling.
 - (ii) Lower Boundary: The horizontal plane of the undecorated finished floor. In a Unit containing a room in which the floor is raised above the level of the floor in the rest of the Unit, the floor shall include the vertical or diagonal surface connecting the raised floor with the floor of the remaining portion of the Unit, and the lower boundary shall include the plane of the undecorated finished vertical or diagonal surface that joins the planes of the undecorated finished horizontal portions of the floor.
 - (iii) Interior Divisions. Except as provided in subsections (i) and (ii) above, no part of the floor of the middle or upper floor(s), ceiling of the middle or lower floor(s), stairwell adjoining floors or nonstructural interior walls shall be considered a boundary of the Unit.
- (b) Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries.
- (c) Apertures. Where there are apertures in any boundary, including, but not limited

to, windows, doors, bay windows and skylights, such boundaries shall be extended to include the interior unfinished surfaces of such apertures, including all frameworks thereof. Exterior surfaces made of glass, or other transparent material, and all framing and casings therefor, shall be included in the boundaries of the Unit.

- (d) Boundaries - Further Defined. The boundaries of the Unit shall not include all of those spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of the perimeter walls and floors, and those surfaces above the undecorated and/or inner surfaces of the ceilings of each Unit and, further, shall not include those spaces and improvements lying beneath the undecorated and unfinished inner surfaces of all interior bearing walls and/or bearing partitions and, further, shall exclude all pipes, ducts, wires, conduit and other facilities running through any interior wall or partition for utility services to other Units and/or for Common Elements. No part of the interior non-boundary walls within a Unit shall be considered a boundary of the Unit.
- (e) Exceptions and Conflicts. In the case of any conflict between the boundaries of the Unit as above described and the dimensions of the Unit shown on Exhibit "2", the above provisions describing the boundary of a Unit shall control, it being the intention of this Declaration that the actual as-built boundaries of the Unit as above described shall control over erroneous dimensions contained in Exhibit "2" attached hereto, and in the event it shall appear that any dimension shown on Exhibit "2" attached hereto is erroneous the Developer or the President of the Association shall have the right to unilaterally amend the Declaration to correct such survey, and any such amendment shall not require the joinder of any Unit Owner or Institutional First Mortgagee so long as the purpose of the amendment is merely to correct an error and correctly describe the boundaries of a Unit. In the case of Unit boundaries not adequately described as provided above, the survey of the Units contained in Exhibit "2" shall control in determining the boundaries of a Unit. In the case of any conflict between the language of this Declaration describing the boundaries of any Unit, and in the language contained on Exhibit "2" describing the boundaries of a Unit, the language of this Declaration shall control.

4.3 Limited Common Elements. Each Unit may have, to the extent applicable and subject to the provisions of this Declaration, as Limited Common Elements appurtenant thereto:

- (a) Patios, Balconies and Terraces. Any patio, balcony or terrace (and all improvements thereto and walls facing same) as to which direct and exclusive access shall be afforded to any particular Unit or Units to the exclusion of others shall be a Limited Common Element of such Unit(s).
- (b) Miscellaneous Areas, Equipment. Any area upon which is located equipment or fixtures (including air conditioning compressors) which are for the exclusive use of any particular Unit or Units and the equipment or fixtures themselves shall be

Limited Common Elements of such Unit(s).

- (c) Parking. There is shown on Exhibit "2" parking on the common areas which have been set aside for the use of the Condominium. All Parking Spaces shall be common elements and not limited common elements. There shall be no assigned parking spaces and all parking, other than those spaces granted easements to other parties as set forth in section 4.4 below, is on a first come, first serve basis. The use of a Parking Space shall not be appurtenant to any Unit. Some parking spaces shall be designated for Handicapped Parking, as required by law, and some Parking Spaces shall be designated to accommodate public transportation. No Handicap Parking Spaces shall be assigned as limited common elements.

- (d) Restrictions on Parking Spaces.

The use of all Parking Spaces, may be regulated by rules and regulations promulgated by the Board of Directors of the Association, but any assignment of such Parking Spaces must be agreed to and approved by Developer, and Developer has a veto over any such assignment.

- (e) Mortgage Provision. Anything to the contrary in this Declaration notwithstanding, in the event a Unit Owner mortgages his Unit, together with his Limited Common Elements (whether or not ordinarily fully assignable apart from the Unit), such Limited Common Elements shall not be assignable apart from the Units unless they are released from the lien of such mortgage.

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

- (a) Support. Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.

In addition, the Marco Cat Penthouse Condominium Association, Inc, the Marco Cat Penthouses, a Condominium and each Unit therein shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Olde Marco, a Condominium Units and the Olde Marco, a Condominium Common Elements, as well as the that of all other Marco Cat Penthouses, a Condominium Units and Common Areas.

- (b) Utility and Other Services; Drainage. Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility, cable television, communications and security systems, other services and drainage and water management in order to serve the Condominium, and in favor of Marco Cat, LLP, the Olde Marco Island Inn & Suites, The Shops At Olde Marco, the Marco Café, and Marco Cat Penthouses, a Condominium, and all Units therein, and their successors and assigns for all necessary uses, as well as

all necessary uses of the "Water House", otherwise know as a "Pump House," located on the South East end of the Condominium Property, and which serves the needs of such entities and their properties. A Unit Owner shall do nothing within or outside their Unit that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable television, communications and security systems, other service, or water management facilities or drainage facilities or the use of these easements. The Association shall have a right of access to each Unit during reasonable hours to maintain, repair or replace the pipes, wires, ducts, vents, cables, conduits and other utility, cable television, communications and security systems, service and drainage facilities, and Common Elements contained in the Unit or elsewhere in the Condominium Property, and to remove any Improvements interfering with or impairing such facilities or easements herein reserved; provided such right of access, except as necessary to prevent damage to the Common Elements or to another Unit or Units, shall not unreasonably interfere with the Unit Owner's permitted use of the Unit.

- (c) Encroachments. If (a) any portion of the Common Elements encroaches upon any Unit; (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements; or (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements made by or with the consent of the Association or Developer, as appropriate, or (iv) any repair or restoration of the Improvement (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of same so long as the improvements shall stand.
- (d) Ingress and Egress. A non-exclusive easement in favor of each Unit Owner and resident, their guests and invitees, shall exist for pedestrian traffic over, through and across sidewalks, streets, paths, walks, elevators, stairwells and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements and across driveways and entrances leading from the public streets to association property owned by Marco Cat, LLP, its successor or assigns, as from time to time may be paved and intended for such purposes; such non-exclusive easement to run with the land so encumbered. (No vehicle over three tons is permitted on such property granted as non-exclusive easement by Marco Cat, LLP for association or individual unit owners purposes, without prior written approval from an officer of Marco Cat, LLP) None of the easements specified in this subparagraph (d) shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements (other than those on Condominium Parcels) automatically shall be subordinate to the rights of Unit Owners and the Association with respect to such easements. Marco Cat,

LLP, its successors or assigns may mortgage the property it has herein granted an easement upon.

- (e) Construction; Maintenance. The Developer (including its designees, contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter the Condominium Property and take all other action necessary or convenient for the purpose of completing the construction thereof, or any part thereof, or any Improvements or Units located or to be located thereon, and for repair, replacement and maintenance purposes where the Association fails to do so or where the Developer, in its sole discretion, determines that it is required to do so. Notwithstanding the foregoing, this right shall at all times be subject to the provisions of Section 718.111(5) Florida Statutes.
- (f) Sales Activity. For as long as there are any unsold Units or Units leased to the Developer, and thereafter so long as the property is operated as a Resort, the Developer, its designees, nominees, successors and assigns, shall have the right to use any such Units and parts of the Common Elements for model apartments and sales and construction offices, to show model Units and use Units as guest suites and to show and use the Common Elements to prospective purchasers and tenants of Units, and to erect on the Condominium Property signs and other promotional material to advertise Units for sale or for rent.
- (g) Cable TV and Other Equipment For Transmission and Preservation of Information. The Developer reserves unto itself, its successors, assigns, contractors, designees and nominees, (i) ownership of any closed circuit, master antenna, community antenna or cable television system or the like (including any and all related conduits, wires, amplifiers, antennas, towers and other apparatus and equipment) which it (or one of its successors, assigns, designees or nominees) installs in part or whole on the Condominium Property (any such system and its related apparatus and equipment being hereinafter referred to as the "CATV System"), (ii) a perpetual easement over, through and across the Condominium Property for the installation, servicing, maintenance, repair, replacement and removal of the CATV System or any part thereof, (iii) the right to connect the CATV System to whatever receiving source the owner of the CATV System deems appropriate, and (iv) the right to provide (or cause to be provided) mandatory or non-mandatory services to Units through the CATV System (and related, ancillary services to Units, including, but not limited to, security-related services) at charges not to exceed those normally paid for like services by occupants of a Resort or condominium units within the general vicinity of the Condominium, and to retain or assign all such charges.
- (h) Special Telephone Services and Other Equipment For The Transmission and Preservation of Information. The Developer reserves unto itself, its successors, assigns, contractors, designees and nominees, (i) ownership of any telephone system (including any and all related conduits, wires and other apparatus and

equipment) which it (or one of its successors, assigns, designees or nominee) installs in part or whole on the Condominium Property (any such system and its related apparatus and equipment being hereinafter referred to as "the Telephone System"), (ii) a perpetual easement over, through and across the Condominium Property for the installation, servicing, maintenance, repair, replacement and removal of the Telephone System or any part thereof, and (iii) the right to provide (or cause to be provided) mandatory or non-mandatory services to Units through the Telephone System (and related, ancillary services), and to retain or assign the charges collected from Owners therefor.

- (i) Use of Pool and Laundry Facilities. The Developer, as owner of the Pool and Laundry Facilities, grants a non-exclusive easement, running with the land, to the Association and its members for the reasonable use by Unit Owners, their immediate family and two guests of the Pool, and for use of the Laundry facilities, as long as such use is in conformity with rules governing such facilities, such rules not to unreasonably limit such use. Such use is at the user's sole risk and will be limited to post-dawn, pre-dusk unless otherwise allowed under the rules governing such use. The laundry facilities referenced herein are currently located on the second floor of the Olde Marco Shops, directly adjacent to the Condominium Property. Both such Pool and Laundry non-exclusive easements are subject to change depending on any adjustments, movement, improvements or repairs which Developer now or hereafter decides to make to both such facilities, and such actions may be taken at Developer's sole and absolute discretion.
- (j) Ingress and Egress and Parking. A non-exclusive easement in favor of each Marco Cat Penthouses, a Condominium unit owner or officer, Marco Cat, LLP and the Olde Marco Island Inn and Suites, and any of such above mentioned's successor and or assigns, their guests and invitees, shall exist for pedestrian traffic over, through and across sidewalks, streets, paths, walks, elevators, stairwells and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements and across driveways and entrances and for use in parking as from time to time may be paved and intended for such purposes; such non-exclusive easement to run with the land so encumbered. None of the non-exclusive easements specified in this subparagraph (j) shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements (other than those on Condominium Parcels) automatically shall be subordinate to the rights of Marco Cat Penthouses, a Condominium unit owners, Marco Cat, LLP and the Olde Marco Island Inn and Suites, and any of such above mentioned's successor and or assigns with respect to such easements. Olde Marco Condominium Association, Inc., its successors or assigns, may mortgage the property it has herein granted an easement upon.
- (k) Specifically Assigned Easement Parking. In addition to the non-exclusive

easement granted in subparagraph (j) above, an exclusive easement in favor of each Marco Cat Penthouses, a Condominium unit owner, their successors and/or assigns, and their guests and invitees, shall exist for two specifically assigned, permanent parking spaces per each Penthouse, as shown in Exhibit 2; such exclusive easement to run with the land so encumbered. These spaces may be marked as "Reserved" or other similar language, in a manner in keeping with the quality and style of the property, in order to ward off potential "squatters". Such exclusive easement parking spaces so herein granted may be encumbered by the Association, subject to such easement. More specifically, Penthouse 1 shall have an exclusive easement of spaces 17 and 19, Penthouse 2 shall have an exclusive easement of spaces 26 and 28, Penthouse 3 shall have an exclusive easement of spaces 23 and 25, Penthouse 4 shall have an exclusive easement of spaces 14 and 16, Penthouse 5 shall have an exclusive easement of spaces 146 and 148, Penthouse 6 shall have an exclusive easement of spaces 151 and 153, Penthouse 7 shall have an exclusive easement of spaces 154 and 156.

- (l) Additional Easements. The Developer (as long as it owns any Units) and the Association, on their behalf and on behalf of all Unit Owners (each of whom hereby appoints the Developer and the Association as its attorney-in-fact for this purpose), each shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, cable television, security systems, communications or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocate any such existing easements or drainage facilities or water management facilities, in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Developer or the Association shall deem necessary or desirable for the proper operation and maintenance of the Improvements, or any portion thereof, or for the general health or welfare of the Unit Owners, their family, guests, invitees, lessees or employees, or for the purpose of carrying out any provisions of this Declaration, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes.

5. Restraint Upon Separation and Partition of Common Elements. The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the exclusive right to use all appropriate appurtenant Limited Common Elements, shall not be separated therefrom, except as parking assignments which may change without notice, and shall pass with the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, except as elsewhere herein provided to the contrary, cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to Units shall remain undivided, including the limited common element rights of the parking spaces, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.

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

- 6.1 Fractional Ownership and Shares. The ownership of each Unit shall include an undivided fractional interest in the Land and other Common Elements as defined in §718.108 of the Florida Statutes and an undivided fractional interest in the Common Surplus, and the fractional share of the Common Expenses, appurtenant to each Unit, which, for each unit shall be 1/51st.
- 6.2 Voting. Each Unit shall be entitled to one (1) vote to be cast by its Owner in accordance with the provisions of the respective By-Laws and Articles of Incorporation of the Association. Each Unit Owner shall be a member of the Association.

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

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

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

However, under no circumstances may amendments be made to any condominium documents regarding change in the occupancy and use restrictions, unless and until the property's zoning is changed to allow for residential use of the property.

- 7.2 By the Developer. The Developer, during the time it has the right to elect a majority of the Board of Directors of the Association, may amend the Declaration, the Articles of Incorporation or the By-Laws of the Association to correct an omission or error, or effect any other amendment, except that this procedure for amendment cannot be used if such an amendment would materially and adversely affect substantial property rights of Unit Owners, unless the affected Unit Owners consent in writing by majority vote.
- 7.3 Execution and Recording. An amendment, other than amendments made by the Developer alone pursuant to the Act or this Declaration, shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed with the same formalities required for the execution of

a deed. Amendments by the Developer must be evidenced by a similar certificate executed by the Developer alone. An amendment of the Declaration is effective when the applicable certificate is properly recorded in the public records of Collier County.

- 7.4 Proviso. Unless otherwise provided specifically to the contrary in this Declaration, no amendment shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, or change the proportion or percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Elements and Common Surplus, unless the record Owner(s) thereof, and all record owners of liens on the Unit join in the execution of the amendment and unless all the record owners of all other Units approve the amendment. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or mortgagees of units without the consent of said Developer and mortgagees in each instance; any mortgagee consent shall not be unreasonably withheld. No amendment shall make any change in the sections hereof entitled "Reconstruction or Repair after Casualty", or "Condemnation", which amendment materially affects the rights or interests of the primary Institutional First Mortgagee, unless the Primary Institutional First Mortgagee shall join in the amendment. Such joinder shall not be unreasonably withheld. The provisions of this Section 7.4 may not be amended in any manner.

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

8. Units and Limited Common Elements. All maintenance, repairs and replacements of, in or to any Unit and Limited Common Elements appurtenant thereto, whether structural or nonstructural, ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of screens, windows, the interior side of the entrance door and all other doors within or affording access to a Unit, and the electrical (including wiring), plumbing (including fixtures and connections), heating and air-conditioning equipment, fixtures and outlets, appliances, carpets and other floor coverings, all interior surfaces and the entire interior of the Unit lying within the boundaries of the Unit or the Limited Common Elements or other property belonging to the Unit Owner, shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein.

- 8.1 Common Elements. Except to the extent (i) expressly provided to the contrary herein, (i.e., as to Limited Common Elements) or (ii) proceeds of insurance are made available therefor, all maintenance, repairs and replacements in or to the Common Elements (other

than Limited Common Elements as provided above) shall be performed by the Association and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense, except to the extent arising from or necessitated by the negligence, misuse or neglect of specific Unit Owners, in which case such cost and expense shall be paid solely by such Unit Owner(s).

- 8.2 Specific Unit Owner Responsibility. The obligation to maintain and repair any equipment, fixtures or other items of property which service a particular Unit or Units and are Limited Common Elements thereof shall be the responsibility of the applicable Unit Owners, individually, and not the Association, without regard to whether such items are included within the boundaries of the Units, are Limited Common Elements or are Common Elements other than Limited Common Elements. Where a Limited Common Element consists of a terrace (more particularly without limitation, balcony, lanai, court or patio) the Unit Owner who has the right to the exclusive use of said terrace, balcony, lanai, court or patio shall be responsible for the maintenance, care and preservation of the paint and surface of the interior parapet walls, including floor and ceiling within said area, if any, and the fixed and/or sliding glass door(s), and the sliding glass door or window screens, or other portions of the entrance way(s) of said area, if any, and the sliding glass door or window screens, and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs, if any. Notwithstanding the foregoing, the Association may provide maintenance for the Limited Common Elements and shall charge and collect such costs and charges incurred for said maintenance to the specific Unit entitled to use the Limited Common Elements for which the maintenance and repairs were performed.

9. Additions, Alterations or Improvements by the Association. Whenever in the judgment of the Board of Directors, the Common Elements, or any part thereof, shall require capital additions, alterations or improvements (as distinguished from maintenance, repairs and replacements) costing in excess of \$50,000.00 in the aggregate in any calendar year, the Association may proceed with such additions, alterations or improvements only if the making of such additions, alterations or improvements shall have been approved by a majority of the Units represented at a meeting at which a quorum is attained. Any such additions, alterations or improvements to such Common Elements, or any part thereof, costing in the aggregate \$50,000 or less in a calendar year may be made by the Association without approval of the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses. For purposes of this section, "aggregate in any calendar year" shall include the total debt incurred in that year, if such debt is incurred to perform the above stated purposes, regardless of whether the repayment of any part of that debt is made beyond that year.

10. Additions, Alterations or Improvements by Unit Owner.

- 10.1 Consent of the Board of Directors. No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements, the Unit or any Limited Common Element, including, but not limited to, the installation of awnings, hurricane shutters, hot tubs or trellises in balconies, terraces and patio areas, without the prior written consent of the Board of Directors. The Board shall have the obligation to answer any written request by

a Unit Owner for approval of such an addition, alteration or improvement in such Unit Owner's Unit or Limited Common Elements within thirty (30) days after such request and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the Board's consent. Notwithstanding the foregoing, the Board shall not refuse to approve the installation or replacement of hurricane shutters conforming to specifications as to color, style and other factors deemed relevant by the Board. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. Once approved by the Board of Directors, such approval may not be revoked. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, and all other Unit Owners harmless from and to indemnify them for any expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association.

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

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

11. Changes in Developer-Owned Units. Without limiting the generality of the provisions of paragraph 10.2 above, the Developer shall have the right, without the vote or consent of the Association or Unit Owners, to (i) make alterations, additions or improvements in, to and upon Units owned by the Developer, whether structural or non-structural, interior or exterior, ordinary or extraordinary; and (ii) change the layout or number of rooms in any Developer-owned Units. Developer shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction in so doing. In making the above alterations, additions and improvements, the Developer may relocate and alter Common Elements adjacent to such Units, and incorporate portions of the Common Elements, provided that such relocation and alteration does not materially adversely affect the market value (in the Developer's opinion) or ordinary use of Units owned by Unit Owners other than the Developer. Any amendments to this Declaration required by actions taken pursuant to this paragraph 11 may be effected by the Developer alone. Without limiting the generality of Section 11 hereof, the provisions of this Section may not be added to, amended or deleted without the prior written consent of the Developer.

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

- 12.1 Powers and Duties. The Association shall be the entity responsible for the operation of the Condominium. The powers and duties of the Association shall include those set forth in the Articles of Incorporation and the By-Laws of the Association (respectively, Exhibits "3" and "4" annexed hereto), as amended from time to time. In addition, the Association shall have the powers and duties set forth in the Act, as well as all powers and duties granted to or imposed upon it by this Declaration, including without limitation:
- (a) The irrevocable right to have access to each Unit from time to time during reasonable hours when necessary for the maintenance, repair or replacement of any Common Elements therein, or of any portion of a unit maintained by the Association pursuant to this Declaration, or at any time as necessary, for making emergency repair therein to prevent damage to the Common Elements or a Unit or Units.
 - (b) The power to make and collect Assessments and other charges against Unit Owners and to regulate, administer, lease, maintain, repair and replace the Common Elements.
 - (c) The duty to maintain accounting records according to good accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at all reasonable times upon prior request.
 - (d) The power to contract for the management and maintenance of the Condominium Property and to authorize a management agent (who may be an affiliate of the Developer or the developer itself) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, and repair and replacement of Common Elements with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted in the Condominium documents and the Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
 - (e) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefor mortgages and security interests in property owned by the Association, if any, provided that such actions are approved by a majority of the entire membership of the Board of Directors and of the Units represented at a meeting at which a quorum has been attained, or by such greater percentage of the Board or Unit Owners as may be specified in the By-Laws with respect to certain borrowing, provided further that no such action shall be permitted while the Developer owns any Unit without the prior written consent of the Developer.
 - (f) The power to adopt and amend rules and regulations concerning the details of the

operation and use of the Condominium Property.

- (g) The power to charge a fee for the exclusive use of Common Elements (other than Limited Common Elements) or Association Property to any Unit Owner being granted, by the Association, a right to such exclusive use.
- (h) All of the powers which a corporation not-for-profit in the State of Florida may exercise.

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

- 12.2 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Unit Owners regardless of whether or not same shall have been approved by the Association pursuant to Section 10.1 hereof. Further, the Association shall not be liable to any Unit Owner or lessee or to any other person or entity for any property damage, personal injury, death or other liability on the grounds that the Association did not obtain or maintain insurance (or carried insurance with any particular deductible amount) for any particular matter where such insurance is not required to be obtained or maintained by the Association when the Association is in compliance with Section 718.111(11) Florida Statutes, This Declaration and the Articles and By-Laws of the Association.
- 12.3 Restraint Upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit.
- 12.4 Approval or Disapproval of Matters. Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of all record Owners of the Unit is specifically required by this Declaration or by law.
- 12.5 Acts of the Association. Unless the approval or action of Owners of Units and/or a certain specific percentage of the Board of Directors of the Association is specifically

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

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

14. Collection of Assessments.

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

14.2 Default in Payment of Assessments for Common Expenses. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such Parcel, with interest and for reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien. The lien is effective as of

the date of the recording of this Declaration and shall be evidenced by the recording of a claim of lien in the Public Records of Collier County, stating the description of the Condominium Parcel, the name of the record Owner, the name and address of the Association, the amount due and the due dates. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until it is barred by law. The claim of lien shall secure (whether or not stated therein) all unpaid assessments, interest thereon, and costs and attorneys fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure thereof. A claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid Assessments in the manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien. As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days prior written notice to the applicable Unit Owner, the Association may declare the next twelve (12) months of Assessment installments to be accelerated (or if acceleration to such extent is prohibited by the Act, then the Association may declare Assessments to the maximum extent permitted under the Act to be accelerated) and such shall thereupon be immediately due and payable. In the event that the amount of such installments changes during the period of which Assessments were accelerated, the Unit Owner or the Association, as appropriate, shall be obligated to pay or reimburse to the other the amount of increase or decrease within ten (10) days of same taking effect.

- 14.3 Notice of Intention to Foreclose Lien. No foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address, and upon such mailing, the notice shall be deemed to have been given. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.
- 14.4 Appointment of Receiver to Collect Rental. If the Unit Owner remains in possession of the Unit and the claim of lien is foreclosed, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit and the Association is entitled to the appointment of a receiver to collect the rent.
- 14.5 First Mortgagee. In the event a First Mortgagee or its successors or assignees shall obtain

title to the Unit as a result of foreclosure of its mortgage pursuant to proceedings in which the Association has been properly named as a junior lienholder, or as a result of a deed given in lieu of foreclosure or in satisfaction of debt, such Institutional First Mortgagee, its successors and assigns, shall be liable only for the share of Common Expenses or Assessments or other charges imposed by the Association pertaining to such Condominium Parcel or chargeable to the former Unit Owner of such Condominium Parcel which became due subsequent to that period of time commencing six (6) months preceding acquisition of title as a result of the foreclosure (provided the Association has been properly named as a defendant junior lienholder) or the acceptance of such deed.

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

- 14.6 Developer's Liability for Assessments. During the period from the date of recording of this Declaration until the earlier of (i) the date twelve (12) months after the first closing of the sale of a Unit, which period may be extended by the Developer an additional twelve (12) months without the consent or approval of the Board of Directors or of the Unit Owners, or (ii) the date on which control of the Association is transferred to Unit Owners other than the Developer (the "Guarantee Expiration Date"), the Developer shall not be obligated to pay the share of the Common Expenses and Assessments attributable to Units it is offering for sale, provided that the regular monthly Assessments for Common Expenses imposed on each Unit Owner other than the Developer shall not increase during such period over the amount set forth in the Estimated Operating budget contained in the applicable Prospectus delivered to such Unit Owner when such Owner contracted to purchase the Unit, if applicable, and provided further that the Developer shall be obligated to pay any amount of Common Expenses actually incurred during such period and not produced by the Assessments at the guaranteed level. For purposes of this Section, income to the Association other than Assessments (as defined herein and in the Act) shall not be taken into account when determining the deficits to be funded by the Developer. After the Guarantee Expiration Date, the Developer shall have the option of extending the guarantee by written agreement with a majority of non-Developer Unit Owners on the same terms or paying the share of Common Expenses and Assessments attributable to Units it is then offering for sale. No funds received or currently receivable from Unit purchasers or Owners payable to the Association or collected by the Developer on behalf of the Association, other than regular periodic Assessments for Common Expenses as provided in this Declaration and disclosed in the Estimated Operating Budget referred to above, shall be used for the payment of Common Expenses prior to the Guarantee Expiration Date. This restriction shall apply to funds including, but not limited to, capital contributions or start-up funds collected from Unit purchasers at closing. Notwithstanding anything to the contrary contained herein, capital contributions or start-up funds collected from Unit purchasers at closing may be used to reimburse Developer for start-up expenses of the Association, or otherwise as the Association shall determine from time to time and need not be restricted or accumulated.

- 14.7 Certificate of Unpaid Assessments. Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all assessments and other moneys owed to the Association by the Unit Owner with respect to their Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.
- 14.8 Installments. Regular Assessments may be collected monthly or quarterly, in advance, at the option of the Association from time to time.
- 14.9 Use of Common Elements. The Association shall not charge any fee against a Unit Owner for the use of the Common Elements or Association Property unless such use is the subject of a lease between the Association and the Unit Owner.
15. Insurance. Insurance covering the Condominium Property and the Association Property shall be governed by the following provisions:
- 15.1 Purchase, Custody and Payment.
- (a) Purchase. All insurance policies described herein covering portions of the Condominium Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida. Marco Cat Penthouse Condominium Association, Inc., has a right to be included in such policy as long as it pays for its *pro rata* share of such policy premiums, deductibles and other costs.
 - (b) Approval. Each insurance policy, the agency and company issuing the policy and the Insurance Trustee (if appointed) hereinafter described shall be subject to the approval of the Primary Institutional First Mortgagee in the first instance.
 - (c) Named Insured. The named insured shall be the Association, individually, and as agent for Owners of Units covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be deemed additional insureds, as shall the Penthouse Unit owners if the Marco Cat Penthouse Condominium Association, Inc. joins in on such policy.
 - (d) Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Insurance Trustee (if appointed).
 - (e) Copies to Mortgagees. One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the Association upon request to each Institutional First Mortgagee who holds a mortgage upon a Unit covered by the policy. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the

policy, or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate.

- (f) Personal Property and Liability. Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners to obtain insurance coverage upon the property lying within the boundaries of their Units, including, but not limited to, their personal property, or for their personal liability and living expense or for any other risks not otherwise insured in accordance herewith.

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

- (a) Casualty. The Building (including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units and required by the Act to be insured under the Association's policy(ies), but excluding all furniture, furnishings, floor coverings, wall coverings and ceiling coverings or other personal property owned, supplied or installed by Unit Owners or tenants of Unit Owners) and all Improvements located on the Common Elements from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Elements or owned by the Association, and any such, just named, property owned by Marco Cat Penthouse Association, Inc. if such Association joins in such policy (collectively the "Insured Property"), shall be insured in an amount not less than 100% of the full insurable replacement value thereof, excluding foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against:
 - (i) Loss or Damage by Fire and Other Hazards covered by a standard extended coverage endorsement; and
 - (ii) Such Other Risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.
- (b) Liability. Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Directors of the Association, but with combined single limit liability of not less than \$1,000,000 for each accident or occurrence, \$500,000 per person and \$200,000 property damage, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa.

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

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

- 15.3 Additional Provisions. All policies of physical damage insurance shall provide that such policies may not be canceled or substantially modified without at least forty-five (45) days prior written notice of all of the named insureds, including all mortgagees of Units. Prior to obtaining any policy of casualty insurance or any renewal thereof, the Board of Directors shall obtain an appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be effected pursuant to this Section.
- 15.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense. Premiums shall be financed in such manner as the Board of Directors deems appropriate.
- 15.5 Unit Owner Coverage. Each Unit Owner shall obtain and maintain at all times, individual casualty and general liability policies insuring the property lying within the boundaries of their Unit and for their personal liability arising in the use of their own Unit and other areas of the Common Elements for which they have exclusive use, or for which

they have an obligation to repair or replace.

- 15.6 Insurance Trustee; Share of Proceeds. All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee which may, but need not, be designated by the Board of Directors. References herein to the Insurance Trustee shall be deemed to apply to the Board of Directors if it elects to serve such functions pursuant to Section 15.11 hereof. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following shares, but shares need not be set forth on the records of the Insurance Trustee:

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

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

- (a) Expenses of the Trust. All expenses of the Insurance Trustee shall be first paid or provision shall be made therefor.
- (b) Reconstruction or Repair. If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners thereof, remittances to Unit Owners and their mortgagees being payable jointly to them.
- (c) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial owners as provided in Section 15.6 above, and distributed first to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages, and the balance, if any, to the beneficial owners.

- (d) Certificate. In making distributions to Unit Owners and their mortgagees, the Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution.
- 15.8 Association as Agent. The Association is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner and for each owner of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.
- 15.9 Unit Owners' Personal Coverage. Unless the Association elects otherwise, the insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his Unit, nor casualty or theft loss to the contents of an Owner's Unit. It shall be the obligation of the individual Unit Owner, if such Owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance carried by the Association.
- 15.10 Benefit of Mortgagees. Certain provisions in this Section 15 entitled "Insurance" are for the benefit of mortgagees of Units and may be enforced by such mortgagees.
- 15.11 Insurance Trustee Optional. The Board of Directors of the Association shall have the option in its discretion of appointing an Insurance Trustee hereunder. If the Association fails to or elects not to appoint such Trustee, the Association will perform directly all obligations imposed upon such Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses.
- 15.12 Presumption as to Damaged Property. In the event of a dispute or lack of certainty as to whether damaged property constitutes a Unit(s) or Common Elements, such property shall be presumed to be Common Elements.
16. Reconstruction or Repair After Fire or Other Casualty.
- 16.1 Determination to Reconstruct or Repair. In the event of damage to or destruction of the Insured Property as a result of fire or other casualty (unless 75% or more of the Insured Property is destroyed or substantially damaged and Unit Owners owning 80% or more of the applicable interests in the Common Elements elect not to proceed with repairs or restoration and a Majority of Institutional First Mortgagees approve such election), the Board of Directors shall arrange for the prompt repair and restoration of the Insured Property and the Insurance Trustee (if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

If 75% or more of the Insured Property is substantially damaged or destroyed and if Unit Owners owning 80% of the applicable interests in the Common Elements duly and promptly resolve not to proceed with the repair or restoration thereof and a Majority of

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

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

- 16.2 Plans and Specifications. Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements and then-applicable building and other codes; or if this is not possible, then said reconstruction or repair must be made substantially in accordance with the plans and specifications approved by the Board of Directors of the Association, and in accordance with currently applicable building and other codes. If the damaged property which is to be altered is the Building, then approval shall be obtained from not less than 80% of the applicable interests in the Common Elements, as well as from the Owners of all Units (and their respective mortgagees) who own a Unit for which the plans are to be altered.

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

repair shall be that of the Association.

- (a) Disbursement. The proceeds of insurance collected on account of a casualty, and the sums collected from Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:
- (i) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than \$100,000, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors of the Association; provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional First Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction funds, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.
 - (ii) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$100,000, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subparagraph (i) above, but then only upon the further approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.
 - (iii) Unit Owners. If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be used by the Association to effect repairs to Property (if not insured or if under-insured), or may be distributed to Owners of Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Property. All proceeds must be used to affect repairs to the Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Property and promptly affect the repairs. Any balance remaining after such repairs have been affected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated.
 - (iv) Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund which has been established for

reconstruction and repair not paid for by insurance, after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that part of a distribution to an owner which is not in excess of the contribution to the fund paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.

- (v) Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone or upon the additional approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. The Insurance Trustee may rely upon a certificate of the Association, made by its resident and Secretary, as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the names of the payees and the amounts to be paid.

- 16.4 Assessments. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective shares in the Common Elements.

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

17. Condemnation.

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

- 17.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty.
- 17.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the awards and special Assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee (if appointed) after a casualty, or as elsewhere in this Section 17 specifically provided.
- 17.4 Unit Reduced but Habitable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable (in the sole opinion and discretion of the Association), the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:
- (a) Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be charged to and payable by the Owner of the Unit.
 - (b) Distribution of Surplus. The balance of the award in respect of the Unit, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and such mortgagees.
 - (c) Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the percentage representing the share in the Common Elements and of the Common Expenses and Common Surplus appurtenant to the Unit shall be reduced by multiplying the percentage of the applicable Unit prior to reduction by a fraction, the numerator of which shall be the area in square feet of the Unit after the taking and the denominator of which shall be the area in square feet of the Unit before the taking. The shares of all Unit Owners in the Common Elements, Common Expenses and Common Surplus shall be restated as follows:
 - (i) add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentage Balance"); and
 - (ii) divide each percentage for each Unit after reduction as aforesaid by the Remaining Percentage Balance.

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

- 17.5 Unit Made Uninhabitable. If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made habitable (in the sole opinion and discretion of the Association), the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:
- (a) Payment of Award. The awards shall be paid first to the applicable Institutional First Mortgagees in amounts sufficient to pay off their mortgages in connection with each Unit which is not so habitable; second, to the Association for any due and unpaid Assessments; third, jointly to the affected Unit Owners and other mortgagees of their Units. In no event shall the total of such distributions in respect of a specific Unit exceed the market value of such Unit immediately prior to the taking. The balance, if any, shall be applied to repairing and replacing the Common Elements.
 - (b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association; provided that if the cost of the work therefor shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for capital improvements to the Common Elements.
 - (c) Adjustment of Shares. The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Unit Owners (and among reduced Units). This shall be affected by restating the shares of continuing Unit Owners as follows:
 - (i) add the total of all percentages of all Units of continuing Owners prior to this adjustment, but after any adjustments made necessary by subsection 17.4(c) hereof (the "Percentage Balance"); and
 - (ii) divide the percentage of each Unit of a continuing Owner prior to this adjustment, but after any adjustments made necessary by subsection 17.4(c) hereof, by the Percentage Balance. The result of such division for each Unit shall be the adjusted percentage for such Unit.
 - (d) Assessments. If the balance of the award (after payments to the Unit Owners and such Owner's mortgagees as above provided) for the taking is not sufficient to alter the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by Assessments against all of the Unit Owners who will continue as Owners of Units after the

changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the applicable percentage shares of those Owners after all adjustments to such shares effected pursuant hereto by reason of the taking.

- (e) Arbitration. If the market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Unit and the Association within thirty (30) days after notice of a dispute by any affected party, such value shall be determined by arbitration in accordance with the then existing rules of The Division of Florida Land Sales, Condominium and Mobile Homes of the Department of Business Regulation and Florida Statute Section 718.1255. Except as set forth in Florida Statutes Section 718.1255(4)(c), (d) and (e), the cost of arbitration proceedings shall be assessed against all Unit Owners, including Owners who will not continue after the taking, in proportion to the applicable percentage shares of such Owners as they exist prior to the adjustments to such shares effected pursuant hereto by reason of the taking.

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

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

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

- 18.1 Occupancy. Each "Unit" shall be used as a commercial resort suite for rental as a daily rental unit, except as otherwise herein expressly provided. A "Unit" owned by an individual, corporation, partnership, trust or other fiduciary may be occupied by such Owner's family, guests, invitees, lessees, or employees. Under no circumstances may the "Unit" be occupied by a greater number of persons than it was designed to accommodate (except for temporary occupancy by visitors), unless authorized in writing by the Board of Directors prior to the date when the extra occupants shall arrive. The provisions of this Section 18.1 shall not be applicable to the "Resort Support Facilities Unit" or units to

be used by the Developer for model apartments, sales offices or management services.

- 18.2 Children. Children shall be permitted to reside in "Units", subject to the provisions of subdivision 18.1, above.
- 18.3 Pets. Absolutely no pets of any kind are allowed at any time on Association property, nor in any individual Unit.
- 18.4 Alterations. Without limiting the generality of Section 10.2 hereof, no Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto or Common Elements, including, but not limited to, painting or other decorating of any nature, installing any electrical wiring, television antenna, machinery, pools, whirlpools or saunas or air-conditioning units or in any manner changing the appearance of any portion of the Building, without obtaining the prior written consent of the Association (in the manner specified in Section 10.1 hereof).
- 18.5 Use of Common Elements. The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.
- 18.6 Nuisances. No nuisances (as defined by the Association) shall be allowed on the Condominium Property, nor shall any use or practice be allowed which is a source of annoyance to residents or occupants of Units or which interferes with the peaceful possession or proper use of the Condominium Property by its occupants or with the normal operations of the Olde Marco Island Inn & Suites, its successors or assigns.
- 18.7 No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section 18.7.
- 18.8 Leases. Olde Marco will be operated as a resort, therefore, each of the fifty-one "Units" will be rented on a day-to-day basis except when the Owner, or its designees, are in occupancy, which occupancy is limited to uses provided for in, and as defined in, subsection 18.1, *supra*). The "Resort Support Facilities Unit", which may in part be leased to tenants for the operation and uses compatible in support of a family resort. Notwithstanding that Olde Marco will be operated as a resort, each Unit owner may, in their sole and absolute discretion, as limited by Association documents, decide with whom and on what terms, they would enter, or not enter, into any rental agreement with any licensed reputable rental agent of its choice, as long as such terms are for commercial

use, reasonable and compatible with the zoning limitations on the property, and that such leases or rents be at reasonable market rates prevailing on Marco Island at the time. However, such leasing agent shall not have right to "set up shop" on the property, and must have an offsite leasing facility. Repeated abuse or corruption by such leasing agents, as determined in the sole discretion of the Board, may lead to temporary or permanent disqualification to act as a leasing agent of Association Unit(s).

In making its determination as to whether to approve a lessee of a Unit, the Association shall not discriminate on the grounds of race, age, gender, religion, national origin or physical or mental handicap.

- 18.9 Exterior Improvements; Landscaping. Without limiting the generality of Sections 10.1 and 18.4 hereof, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, balconies or windows of the Building (including, but not limited to, awnings, signs, storm shutters (except hurricane shutters), screens, window tinting, furniture, fixtures and equipment), nor to plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit, without the prior written consent of the Association and the Architectural Review Committee, such findings to be review-able and subject to being overturned by the Board.

None of the balconies that are contiguous to Units and designated as Limited Common Elements under the Declaration may be enclosed, glassed in or screened in, nor may any Unit Owner alter the configurations of such balconies, or hang plants, draperies, screens or other items therefrom.

- 18.10 Weight and Sound Restriction. Hard and/or heavy surface floor coverings, such as tile, wood, etc., will be permitted throughout the Unit, provided, however, use of a hard and/or heavy surface floor covering in any location within the Unit must be submitted to and approved by the Board of Directors of the Association and also meet applicable structural requirements. Also, the installation of any Improvement or heavy object must be submitted to and approved by the Board of Directors of the Association, and be compatible with the structural design of the building and be adequately insulated from sound transmission. The Board of Directors of the Association may require the review of a structural engineer at Unit Owner's expense. All other areas of the Unit which do not receive the approved hard and/or heavy surface floor coverings, are to receive sound absorbent, less dense floor coverings, such as carpet. Floor coverings on balconies shall be limited to a maximum composite thickness of ½" and a maximum composite weight of four pounds per square foot, including setting bed and/or adhesive materials, unless approved otherwise by the Board of Directors of the Association and compatible with the structural and architectural designs. The Board of Directors of the Association will have the right to specify the exact material used on balconies. These use guidelines are consistent with good design practices for waterproofing and structural design. Owners will be held strictly liable for violation of these restrictions and for all damages resulting therefrom and the Association has the right to require immediate removal of violations.

- 18.11 Effect on Developer; Association. The restrictions and limitations set forth in this

Section 18, except Sections 18.3 and 18.8, shall not apply to the Developer or to Units owned by or leased to the Developer. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Section 18 for good cause shown.

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

19. Selling and Mortgaging of Units. No Unit Owner other than the Developer may sell his Unit and no Unit Owner including the Developer may lease his Unit except by complying with the following provisions:

- 19.1 No Severance of Ownership. No part of the Common Elements may be sold, conveyed or otherwise disposed of, except as an appurtenance to the Unit in connection with a sale, conveyance or other disposition of the Unit to which such interest is appurtenant, and any sale, conveyance or other disposition of a Unit shall be deemed to include that Unit's appurtenant interest in the Common Elements.
- 19.2 Financing of Purchase of Units by the Association. If the Unit is being sold to the Association, then the purchase of any Unit by the Association shall be made on behalf of all Unit Owners if approved by a majority of Unit owners present at a meeting with applicable quorum requirements having been met. If the available funds of the Association are insufficient to effectuate any such purchase, the Board of Directors may levy an Assessment against each Unit Owner (other than the Offeree Unit Owner), in proportion to his share of the Common Expenses, and/or the Board of Directors may, in its discretion, finance the acquisition of such Unit; provided, however, that no such financing may be secured by an encumbrance or hypothecation of any portion of the Condominium Property other than the Unit to be purchased.
- 19.3 Gifts and Devises, etc. Any Unit Owner shall be free to convey or transfer his Unit by gift, to devise said Unit by will, or to have said Unit pass by intestacy, without restriction; provided, however, that each succeeding Unit Owner shall be bound by, and said Unit subject to, the provisions of this Section 19.
- 19.4 Mortgage of Units. No Unit Owner shall have the right to mortgage his Unit without the approval of the Association, except to an Institutional First Mortgagee; or the seller of a Unit who takes back a purchase money mortgage to secure a portion of the purchase price ("Approved Mortgagees"). The approval of any other mortgagee may be upon conditions determined by the Board and approval may be withheld in the sole discretion of the Board.

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

- 20.1 Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent such expense is not met by the proceeds of insurance actually collected in respect of such negligence by the Association.
- 20.2 Compliance. In the event a Unit Owner or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines, to sue in a court of law for damages, to make a special charge against the Unit Owner and the Unit for the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance, to hire an attorney to make a charge against the Unit Owner and Unit for the costs of such reasonable attorneys' fees incurred in requiring performance and/or compliance of the Unit Owner and to collect such charge in the same manner as the collection of Assessments and to have a lien therefor as elsewhere provided. In addition, the Association shall have the right, for itself and its employees and agents, to enter the Unit and perform the work necessary to prevent damage to the common elements or to a unit or units.
- 20.3 Fines. In the event a Unit Owner or occupant fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to impose a fine against the Unit Owner and the Unit. The amount of any fine shall be determined by the Board of Directors of the Association, but in any event shall not exceed any maximum amount permitted by the Condominium Act, as such Act may be amended from time to time. Any fine shall be imposed by written notice to the Unit Owner or tenant, signed by an officer of the Association, which shall state the amount of the fine, the violation for which the fine is imposed, and shall specifically state that the Unit Owner or tenant has the right to contest the fine by delivering written notice to the Association within ten (10) days after receipt of the notice imposing the fine. If the Unit Owner or tenant timely and properly objects to the fine, the Board of Directors of the Association shall appoint a Committee of Unit Owners who shall conduct a hearing within thirty (30) days after receipt of the Unit Owner's or tenant's objection, and shall give the Unit Owner or tenant not less than ten (10) days written notice of the hearing date. At the hearing, the Committee shall conduct a reasonable inquiry to determine whether the alleged violation in fact occurred, and that the fine imposed is appropriate. The Unit Owner or tenant shall have the right to attend the hearing and to produce evidence on his behalf, and if the Unit Owner or tenant fails to attend then the hearing will be deemed waived and the Board of Directors may ratify the fine without further proceedings. At the hearing the Committee shall ratify, reduce or eliminate the fine and shall give the Unit Owner or tenant written notice of its decision.

Any fine shall be due and payable within ten (10) days after written notice of the imposition of the fine, or if a hearing is timely requested within ten (10) days after written notice of the Committee decision at the hearing. If any fine is levied against a tenant and is not paid within ten (10) days after same is due, the Association shall have the right to evict the tenant as hereinafter provided.

- 20.4 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).
- 20.5 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.
21. Termination of Condominium. The Condominium shall continue until (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration, or (ii) such time as withdrawal of the Condominium Property from the provisions of the Act is authorized by a vote of Owners owning at least 90% of the applicable interests in the Common Elements and by a majority of Institutional First Mortgagees. In the event such withdrawal is authorized as aforesaid, the Condominium Property shall be subject to an action for partition by any Unit Owner, mortgagee or lienor as if owned in common in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective interests in the Common Elements, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such net proceeds all mortgages and liens on his Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the basis of the termination and said certificate shall be recorded among the public records of the County.

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

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

substantial damage or loss to any portion of the Condominium Property.

- 22.2 Any holder, insurer or guarantor of a mortgage on a Unit shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Condominium Property or the affected mortgaged Unit, (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Unit, (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, (iv) any proposed termination of the Condominium, and (v) any proposed action which requires the consent of a specified number of mortgage holders.
23. Covenant Running With the Land. All provisions of this Declaration, the Articles, By-Laws and applicable rules and regulations of the Association to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, shall be perpetual and shall be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Developer and subsequent owner(s) of the Land or any part thereof, or interest therein, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-Laws and applicable rules and regulations, as they may be amended from time to time. The acceptance of a deed or conveyance, or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an adoption and ratification of the provisions of this Declaration, and the Articles, By-Laws and applicable rules and regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein.
24. Additional Provisions.
- 24.1 Notices. All notices to the Association required or desired hereunder or under the By-Laws of the Association shall be sent by certified mail (return receipt requested) or registered mail to the Association in care of its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association. All notices shall be deemed to have been given when mailed in a postage prepaid sealed wrapper, except notices of a change of address, which shall be deemed to have been given when received, or 5 business days after proper mailing, whichever shall first occur.
- 24.2 Interpretation. The Board of Directors of the Association shall be responsible for interpreting the provisions hereof and of any of the Exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion

of legal counsel that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.

- 24.3 Mortgagees. Anything herein to the contrary notwithstanding, the Association shall not be responsible to any mortgagee or lienor of any Unit hereunder, and may assume the Unit is free of any such mortgages or liens, unless written notice of the existence of such mortgage or lien is received by the Association.
- 24.4 Exhibits. There is hereby incorporated in this Declaration all materials contained in the Exhibits annexed hereto, except that as to such Exhibits, any conflicting provisions set forth therein as to their amendment, modification, enforcement and other matters shall control over those hereof.
- 24.5 Signature of President and Secretary. Wherever the signature of the President of the Association is required hereunder, the signature of a vice-president may be substituted therefor, and wherever the signature of the Secretary of the Association is required hereunder, the signature of an assistant secretary may be substituted therefor, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.
- 24.6 Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida.
- 24.7 Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.
- 24.8 Waiver. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, without regard to the number of violations or breaches which may occur.
- 24.9 Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of his occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and By-Laws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects.
- 24.10 Execution of Documents; Attorney-in-Fact. Without limiting the generality of other Sections of this Declaration and without such other Sections limiting the generality hereof, each Owner, by reason of the acceptance of a deed to such Owner's Unit, hereby

agrees to execute, at the request of the Developer, all documents or consents which may be required by all governmental agencies to allow the Developer and its affiliates to complete the plan of development of Olde Marco as such plan may be hereafter amended, and each such Owner further appoints hereby and thereby the Developer as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of such Owners, any and all of such documents or consents. This Power of Attorney is irrevocable and coupled with an interest. The provisions of this Section may not be amended without the consent of the Developer.

24.11 Gender; Plurality. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.

24.12 Captions. The captions herein and in the Exhibits annexed hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of the particular document or any provision thereof.

24.13 Access of Developer to Building and Units. For as long as Developer remains liable to any Unit Owner, or the Condominium Association, under any warranty, whether statutory, express or implied, for act of omission of Developer in the development, construction, sale and marketing of the Condominium, or any Units therein, then Developer and its agents shall have the right, in Developer's sole discretion, and from time to time, to enter the Condominium or any Units for the purpose of inspecting, testing and surveying same, to determine the need for repairs, improvements or replacements, so as to permit Developer to fulfill its obligations under such warranties. Failure of the Condominium Association or of a Unit Owner to grant such access shall result in the appropriate warranty being nullified and of no further force or effect.

IN WITNESS WHEREOF, the Developer, MARCO CAT, LLP, a Minnesota limited liability partnership, has caused this Declaration to be duly executed and corporate seals to be hereunto affixed this 10th day of October, 2003.

MARCO CAT, LLP,
a Minnesota limited liability partnership

By: TCP, LLP.
a Minnesota limited liability partnership
its Managing Member

By: 
K. Patrick Kruchten, President

Signed, sealed and delivered
in the presence of:

Witness # 1: Lisa Collins

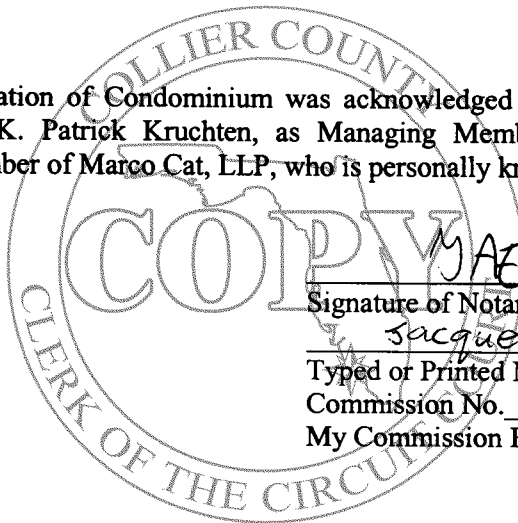
Printed Name: Lisa Collins

Witness # 2: MAEichen

Printed Name: Jacqueline A. Eichen

STATE OF
COUNTY OF

The foregoing Declaration of Condominium was acknowledged before me this 10th day of October, 2003, by K. Patrick Kruchten, as Managing Member of TCP, limited liability partnership, as Managing Member of Marco Cat, LLP, who is personally known to me.



MAEichen
Signature of Notary

Jacqueline A. Eichen
Typed or Printed Name of Notary

Commission No. _____

My Commission Expires: _____



Jacqueline A. Eichen
MY COMMISSION # CC987752 EXPIRES
January 7, 2005

THIS INSTRUMENT PREPARED BY:

Demian M. Kruchten, Esq.
The Kruchten Law Firm, LLC
975 6th Ave. South, Ste. 101
Naples, FL 34102

EXHIBIT "A"

Building #140 and Building #160 and the land directly below such buildings (ground floor of parking) located at:

Being a parcel of land that is lying in Section 5, Township 52 South, Range 26 East, Collier County, Florida, and which is a portion of Blocks 3 and 15 of the plat Amended Plat of Collier City, as recorded in Plat Book 1, Page 58, of the Public Records of said Collier County and which is more particularly described as follows:

Commencing at the intersection of the East Right-of-Way line of Edington Place (a 60 foot roadway) and the North Right-of-Way line of Palm Street (a 60 foot roadway), said point being the Point of Beginning; Thence contiguous with the said East Right-of-Way line the following two courses; (1) N 19°25'55" W, a distance of 119.95 feet; (2) Thence N 4°37'45" W, a distance of 256.13 feet to the intersection of the South line of Ville De Marco, a Condominium, as recorded in O.R. Book 276, Page 243 of said Public Records; Thence N 84°57'58" E, along said South line a distance of 552.66 feet to the intersection of the West line of Marco Inn Villas, a Condominium, as recorded in O.R. Book 440, Page 25, of said Public Records; Thence S 3°23'19" E along said West line, a distance of 243.28 feet to the intersection with the Right-of-Way line of Palm Street; Thence along the said North Right-of-Way line the following two courses: (1) S 84°59'22" W, a distance of 14.22 feet; (2) Thence S 70°34'45" W, a distance of 519.76 feet to the Point of Beginning.

All as more particularly describing buildings #140 and #160 in Exhibit "B" of the Declaration of Condominium of the Olde Marco, a Condominium, according to The Declaration of Condominium recorded in O.R. Book _____, Page _____, and all exhibits and amendments thereof, Public Records of Collier County, Florida.

LESS AND EXCEPT:

The fifth floor of Building #140 and the fifth floor of Building #160, located at:

Being a parcel of land that is lying in Section 5, Township 52 South, Range 26 East, Collier County, Florida, and which is a portion of Blocks 3 and 15 of the plat Amended Plat of Collier City, as recorded in Plat Book 1, Page 58, of the Public Records of said Collier County and which is more particularly described as follows:

Commencing at the intersection of the East Right-of-Way line of Edington Place (a 60 foot roadway) and the North Right-of-Way line of Palm Street (a 60 foot roadway), said point being the Point of Beginning; Thence contiguous with the said East Right-of-Way line the following two courses; (1) N 19°25'55" W, a distance of 119.95 feet; (2) Thence N 4°37'45" W, a distance of 256.13 feet to the intersection of the South line of Ville De

Marco, a Condominium, as recorded in O.R. Book 276, Page 243 of said Public Records; Thence N 84°57'58" E, along said South line a distance of 552.66 feet to the intersection of the West line of Marco Inn Villas, a Condominium, as recorded in O.R. Book 440, Page 25, of said Public Records; Thence S 3°23'19" E along said West line, a distance of 243.28 feet to the intersection with the Right-of-Way line of Palm Street; Thence along the said North Right-of-Way line the following two courses: (1) S 84°59'22" W, a distance of 14.22 feet; (2) Thence S 70°34'45" W, a distance of 519.76 feet to the Point of Beginning.

All as more particularly described in Exhibit "B" of the Declaration of Condominium of the Marco Cat Penthouses, a Condominium, according to The Declaration of Condominium recorded in O.R. Book 321, Page 6352-482, and all exhibits and amendments thereof, Public Records of Collier County, Florida.



RHODES & RHODES LAND SURVEYING, INC.

JOHN SCOTT RHODES, P.S.M.

THOMAS E. RHODES, P.S.M.

1440 RAIL HEAD BLVD. #1 NAPLES, FLORIDA 34110

PHONE (239) 593-0570

FAX (239) 593-0581

Olde Marco, A Condominium

CERTIFICATE OF SURVEYOR

EXHIBIT

"A"

The undersigned, being a surveyor authorized to practice in the State of Florida, pursuant to Section 718.104(4) (e), Florida Statutes, hereby certifies that the construction of the improvements comprising all units on the Second Floor, Third Floor and Forth Floor within Building #140 of Olde Marco, a Condominium, is substantially complete, so that Exhibit "B" to the Declaration of Condominium, together with Provisions of the Declaration of Condominium describing the condominium property, is an accurate representation of the location and dimensions of the improvements and so that the identification, location and dimensions of the common elements and of each unit within said building can be determined from these materials. The undersigned further certifies that all planned improvements, including but not limited to, landscaping, utility services and access to the units within said condominium, and common element facilities serving said building have been substantially completed.

RHODES & RHODES LAND SURVEYING, INC.
FLORIDA BUSINESS AUTHORIZATION NO. LB 6897



Thomas E. Rhodes, Sr.

Professional Surveyor and Mapper

State of Florida, License Number 5854

NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL RAISED SEAL OF A FLORIDA
LICENSED SURVERYOR AND MAPPER

R&R FILE NO. 2003-94CON

DATE:

May 29, 2003

OR: 3423 PG: 0964 ✓

RHODES & RHODES LAND SURVEYING, INC.

JOHN SCOTT RHODES, P.S.M.

THOMAS E. RHODES, P.S.M.

1440 RAIL HEAD BLVD. #1 NAPLES, FLORIDA 34110

PHONE (239) 593-0570

FAX (239) 593-0581

Olde Marco, A Condominium

CERTIFICATE OF SURVEYOR

The undersigned, being a surveyor authorized to practice in the State of Florida, pursuant to Section 718.104(4) (e), Florida Statutes, hereby certifies that the construction of the improvements comprising all units on the Second Floor, Third Floor and Forth Floor within Building #160 of Olde Marco, a Condominium, is substantially complete, so that Exhibit "B" to the Declaration of Condominium, together with Provisions of the Declaration of Condominium describing the condominium property, is an accurate representation of the location and dimensions of the improvements and so that the identification, location and dimensions of the common elements and of each unit within said building can be determined from these materials. The undersigned further certifies that all planned improvements, including but not limited to, landscaping, utility services and access to the units within said condominium, and common element facilities serving said building have been substantially completed.

RHODES & RHODES LAND SURVEYING, INC.
FLORIDA BUSINESS AUTHORIZATION NO. LB 6897



Thomas E. Rhodes, Sr.

Professional Surveyor and Mapper

State of Florida, License Number 5854

NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL RAISED SEAL OF A FLORIDA
LICENSED SURVERYOR AND MAPPER

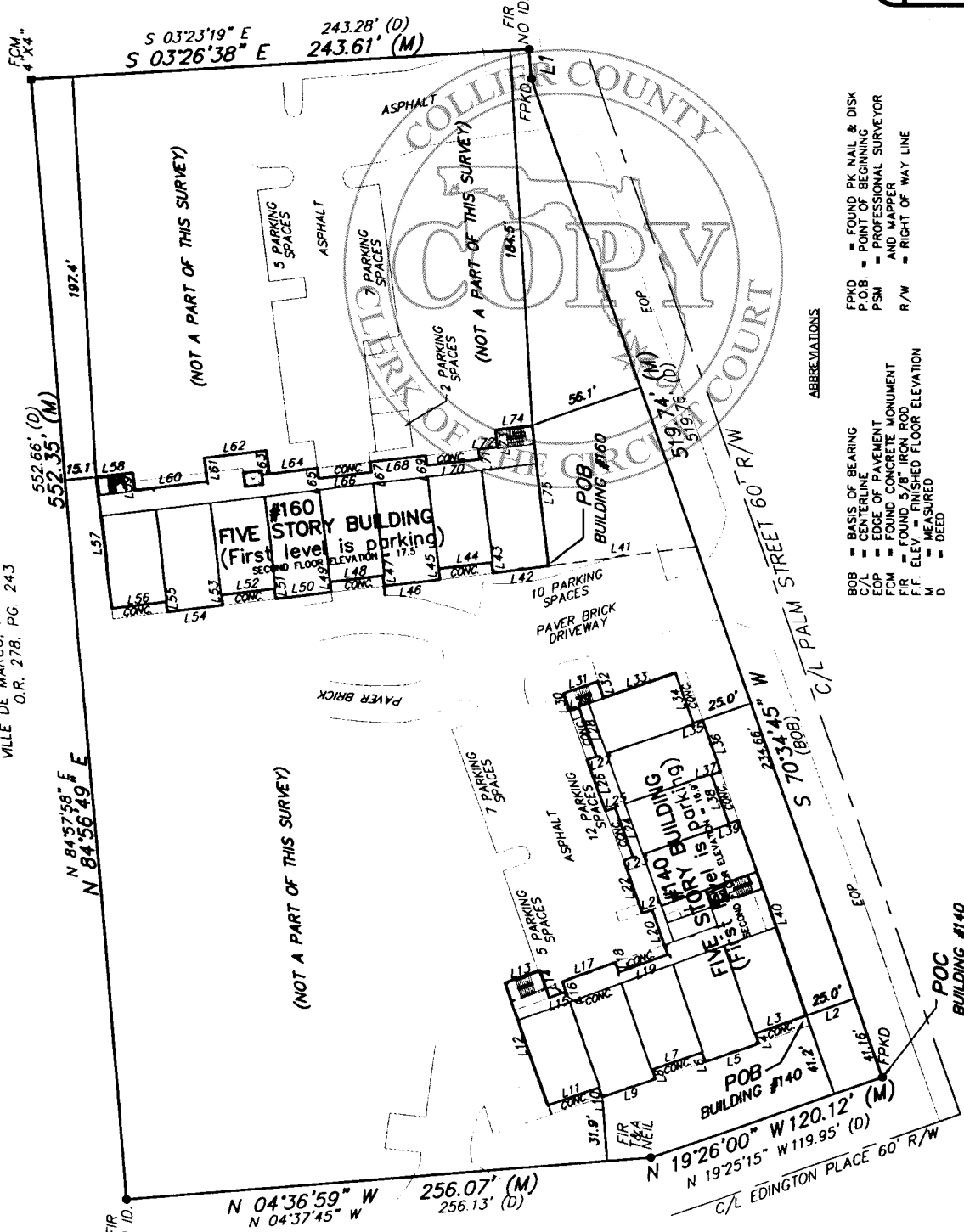
R&R FILE NO. 2003-94CON

DATE: May 29, 2003

OR: 3423 PG: 0966

VILLE DE MARCO, A CONDOMINIUM
O.R. 278, PG. 243

MARCO ISLAND VILLAS
A CONDOMINIUM
O.R. 440, PG. 25



LINE TABLE			LINE TABLE		
LINE	LENGTH	BEARING	LINE	LENGTH	BEARING
L10	14.22'	S 84°59'22" W	L38	25.90'	S 70°34'19" W
L11	14.14'	S 85°11'38" W	L39	5.00'	S 19°25'41" E
L12	24.98'	S 19°23'22" E	L40	100.50'	S 70°34'19" W
L13	26.60'	S 19°23'22" E	L41	72.88'	S 07°02'43" E
L14	5.00'	S 70°36'38" W	L42	27.45'	N 07°02'43" W
L15	27.60'	S 19°23'22" E	L43	5.00'	N 82°39'46" E
L16	5.00'	N 70°36'38" E	L44	25.89'	N 08°41'46" W
L17	25.90'	N 19°23'22" E	L45	5.00'	S 83°18'14" W
L18	5.00'	S 70°36'38" W	L46	27.40'	N 08°41'46" W
L19	27.40'	N 19°23'22" E	L47	5.00'	N 83°18'14" E
L20	5.00'	N 70°36'38" E	L48	25.90'	N 08°41'46" W
L21	26.60'	N 19°23'22" E	L49	5.00'	S 83°18'14" W
L22	63.80'	N 70°36'38" E	L50	27.24'	N 08°33'17" W
L23	18.20'	S 19°23'22" E	L51	5.00'	N 83°08'43" E
L24	13.70'	S 70°36'38" W	L52	25.90'	N 08°33'17" W
L25	5.00'	S 19°23'22" E	L53	5.00'	S 83°08'43" W
L26	5.00'	N 70°36'38" E	L54	27.21'	N 07°10'49" W
L27	27.40'	S 19°23'22" E	L55	5.10'	N 82°49'11" E
L28	5.00'	S 70°36'38" W	L56	26.60'	N 07°10'49" W
L29	25.30'	S 19°23'22" E	L57	63.80'	N 82°49'11" E
L30	22.90'	N 70°36'38" E	L58	18.10'	S 07°10'49" E
L31	5.00'	N 19°23'22" E	L59	8.80'	S 82°49'11" W
L32	27.40'	N 70°36'38" E	L60	35.40'	S 07°10'49" E
L33	4.90'	S 19°23'22" E	L61	11.70'	N 82°49'11" E
L34	25.90'	N 70°36'38" W	L62	30.50'	S 07°10'49" E
L35	5.00'	N 19°23'22" E	L63	11.72'	S 82°49'11" W
L36	27.40'	N 70°36'38" E	L64	23.50'	S 07°10'49" E
L37	5.00'	S 19°23'22" E	L65	5.09'	S 82°48'57" W
L38	25.90'	N 70°36'38" W	L66	25.90'	S 06°46'15" E
L39	5.00'	N 19°23'22" E	L67	5.00'	N 83°13'45" E
L40	9.40'	N 70°36'38" E	L68	27.37'	S 06°46'15" E
L41	18.10'	S 19°23'22" E	L69	4.95'	S 83°16'51" W
L42	8.60'	S 71°15'45" W	L70	25.90'	S 06°43'09" E
L43	37.10'	S 19°23'22" E	L71	5.00'	N 83°16'51" E
L44	26.74'	S 70°40'00" W	L72	9.30'	S 06°43'09" E
L45	5.00'	S 19°25'41" E	L73	8.60'	N 83°16'51" E
L46	27.40'	S 70°34'19" W	L74	18.11'	S 06°43'09" E
L47	5.00'	N 19°25'41" W	L75	68.83'	S 83°16'54" W

SEE SHEET 2 OF 2 FOR LEGAL DESCRIPTIONS AND NOTES

DESIGNED BY: THOMAS E. RHODES, SR., P.S.M. #5854

BOUNDARY SURVEY

CERTIFIED TO: CONDOMINIUM ASSOCIATION, INC.
OLD MARCO L.P.
THE LAW OFFICE OF DEWMAN M. KRUCHEN, LLC
BOARDMAN & SPILLER, P.A.
CHICAGO TITLE INSURANCE COMPANY
FLORIDA COMMUNITY BANK

drawn:	RWC
checked:	JRT
acad #:	2003-94
view:	PL0T
project #:	2003-94
sheet #:	1 of 2
file #:	2003-94
CON	

date:	FEB. 05, 2003
scale:	1" = 80'
cogo #:	02-1090

RHODES & RHODES
LAND SURVEYING, INC.
LICENSE #LB 6897

4440 RAIL HEAD BOULEVARD, #1
NAPLES, FLORIDA 34110
(239) 593-0570 (239) 593-0581 FAX

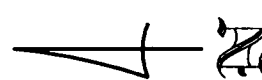
ABBREVIATIONS

- BOB - BASIS OF BEARING
- C/L - CENTERLINE
 EOP - EDGE OF PAVEMENT | FCM - FOUND CONCRETE MONUMENT | F/E - FOUND ELEVATION | M - MEASURED | D - DEED |- FPKD - FOUND PK NAIL & DISK
- P.O.B. - POINT OF BEGINNING
- PSM - PROFESSIONAL SURVEYOR AND MAPPER
- R/W - RIGHT OF WAY LINE

CERTIFICATION:

I CERTIFY THAT THIS SURVEY WAS MADE UNDER MY DIRECTION AND THAT IT MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

ELOOD ZONE: 120067 801E & 803F
PANEL NO.: 120067 801E & 803F
MAP REVISION DATE: AUGUST 3, 1992
JULY 20, 1998

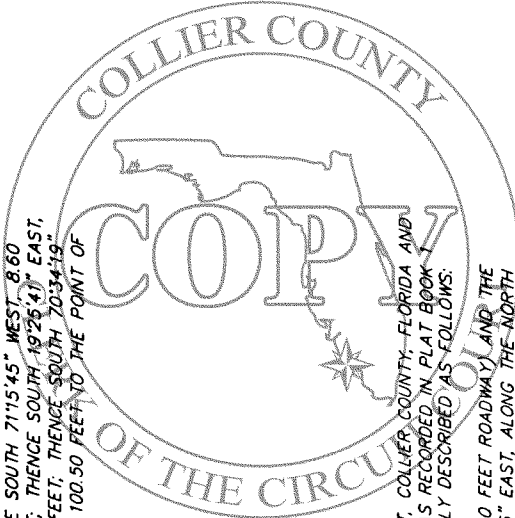


BUILDING #140

BEING A PARCEL OF LAND THAT IS LYING IN SECTION 5, TOWNSHIP 52 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA AND WHICH IS A PORTION OF BLOCKS 3 AND 15 OF THE PLAT "AMENDED PLAT OF COLLIER CITY", AS RECORDED IN PLAT BOOK 1 PAGE 58 OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY AND WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF EDINGTON PLACE (A 60 FEET ROADWAY) AND THE NORTH RIGHT-OF-WAY LINE OF PALM STREET (A 60 FEET ROADWAY); THENCE NORTH 70°34'45" EAST, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID PALM STREET, 41.16 FEET; THENCE NORTH 19°23'22" WEST, 24.98 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE NORTH 19°23'22" WEST, 26.60 FEET; THENCE SOUTH 70°36'38" WEST, 5.00 FEET; THENCE NORTH 19°23'22" WEST, 27.40 FEET; THENCE SOUTH 70°36'38" EAST, 5.00 FEET; THENCE NORTH 19°23'22" WEST, 27.60 FEET; THENCE NORTH 70°36'38" EAST, 5.00 FEET; THENCE NORTH 19°23'22" WEST, 26.60 FEET; THENCE SOUTH 70°36'38" EAST, 63.80 FEET; THENCE SOUTH 19°23'22" EAST, 18.20 FEET; THENCE SOUTH 70°36'38" WEST, 13.70 FEET; THENCE SOUTH 19°23'22" EAST, 8.50 FEET; THENCE NORTH 70°36'38" EAST, 5.00 FEET; THENCE SOUTH 19°23'22" EAST, 27.40 FEET; THENCE SOUTH 70°36'38" WEST, 5.00 FEET; THENCE SOUTH 19°23'22" EAST, 25.30 FEET; THENCE NORTH 70°27'15" EAST, 22.90 FEET; THENCE NORTH 19°32'45" WEST, 5.00 FEET; THENCE NORTH 70°27'15" EAST, 27.40 FEET; THENCE NORTH 19°32'45" EAST, 4.90 FEET; THENCE NORTH 70°27'15" EAST, 5.00 FEET; THENCE NORTH 19°32'45" WEST, 5.00 FEET; THENCE NORTH 70°27'15" EAST, 9.40 FEET; THENCE NORTH 19°32'45" EAST, 18.10 FEET; THENCE NORTH 19°32'45" WEST, 8.60 FEET; THENCE SOUTH 19°32'25" EAST, 37.10 FEET; THENCE SOUTH 70°40'00" WEST, 26.74 FEET; THENCE SOUTH 19°26'41" EAST, 5.00 FEET; THENCE SOUTH 70°34'19" WEST, 27.40 FEET; THENCE NORTH 19°25'41" WEST, 5.00 FEET; THENCE SOUTH 70°34'19" WEST, 25.90 FEET; THENCE SOUTH 19°25'41" EAST, 5.00 FEET; THENCE SOUTH 70°34'19" WEST, 100.50 FEET TO THE POINT OF BEGINNING.

CONTAINING 14,702 SQUARE FEET OR 0.34 ACRES, MORE OR LESS.



BUILDING #160

BEING A PARCEL OF LAND THAT IS LYING IN SECTION 5, TOWNSHIP 52 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA AND WHICH IS A PORTION OF BLOCKS 3 AND 15 OF THE PLAT "AMENDED PLAT OF COLLIER CITY", AS RECORDED IN PLAT BOOK 1 PAGE 58 OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY AND WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF EDINGTON PLACE (A 60 FEET ROADWAY) AND THE NORTH RIGHT-OF-WAY LINE OF PALM STREET (A 60 FEET ROADWAY); THENCE NORTH 70°34'45" EAST, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID PALM STREET, 275.82 FEET; THENCE NORTH 07°02'43" WEST, 72.88 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE NORTH 07°02'43" WEST, 27.45 FEET; THENCE NORTH 82°39'46" EAST, 5.00 FEET; THENCE NORTH 06°41'46" WEST, 25.89 FEET; THENCE SOUTH 83°18'14" WEST, 5.00 FEET; THENCE NORTH 06°41'46" WEST, 27.40 FEET; THENCE NORTH 83°18'14" EAST, 5.00 FEET; THENCE NORTH 06°53'17" WEST, 27.24 FEET; THENCE NORTH 83°06'43" EAST, 5.00 FEET; THENCE NORTH 06°53'17" WEST, 25.90 FEET; THENCE SOUTH 83°06'43" WEST, 5.00 FEET; THENCE NORTH 07°10'49" WEST, 27.21 FEET; THENCE NORTH 82°49'11" EAST, 5.10 FEET; THENCE NORTH 07°10'49" WEST, 26.60 FEET; THENCE NORTH 82°49'11" EAST, 63.80 FEET; THENCE SOUTH 07°10'49" EAST, 11.70 FEET; THENCE SOUTH 07°10'49" EAST, 30.50 FEET; THENCE SOUTH 82°49'11" WEST, 11.72 FEET; THENCE SOUTH 07°10'49" EAST, 23.50 FEET; THENCE SOUTH 82°48'57" WEST, 5.09 FEET; THENCE SOUTH 06°46'15" EAST, 25.90 FEET; THENCE NORTH 83°13'45" EAST, 5.00 FEET; THENCE SOUTH 06°46'15" EAST, 27.37 FEET; THENCE SOUTH 83°16'51" WEST, 4.95 FEET; THENCE SOUTH 06°43'09" EAST, 25.90 FEET; THENCE NORTH 83°16'51" EAST, 8.60 FEET; THENCE SOUTH 06°43'09" EAST, 18.11 FEET; THENCE SOUTH 83°16'54" WEST, 68.83 FEET TO THE POINT OF BEGINNING.

CONTAINING 12,772 SQUARE FEET OR 0.29 ACRES, MORE OR LESS.

NOTES

1. BEARINGS ARE BASED ON NORTHERLY RIGHT-OF-WAY LINE OF PALM STREET, AS BEING S. 70°34'45" W.
2. ELEVATIONS ARE BASED ON N.G.V.D., 1929 UNLESS NOTED.
3. FIELD MEASUREMENTS ARE IN SUBSTANTIAL AGREEMENT WITH PLAT AND/OR DEED CALLS UNLESS NOTED.
4. SUBJECT TO EASEMENTS OF RECORD.
5. ABSTRACT NOT REVIEWED.
6. SURVEYORS CERTIFICATION DOES NOT APPLY TO MATTERS OF TITLE, ZONING, OR FREEDOM OF ENCUMBRANCES AND IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
7. NO UNDERGROUND UTILITIES, FOUNDATIONS OR OTHER UNDERGROUND INSTALLATIONS WERE LOCATED UNLESS SHOWN.
8. NO OTHER PERSONS OR ENTITIES, OTHER THAN SHOWN, MAY RELY ON THIS SURVEY.
9. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF, UNLESS OTHERWISE NOTED.

design: *Z. Rhodes* AS E. RHODES, SR., P.S.M. #5854

BOUNDARY SURVEY

CERTIFIED TO:
GULF MARCO CONDOMINIUM ASSOCIATION, INC.
THE LAW OFFICE OF DEMIAN M. KRUCHTEN, LLC
BOARDMAN & SPILLER, P.A.
CHICAGO TITLE INSURANCE COMPANY
FLORIDA COMMUNITY BANK

RHODES & RHODES
LAND SURVEYING, INC.
LICENSE #LB 6897

DK:	PQ:	DATE:
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191	20-22	SCALE: 1" = 80'
191	24-26	COGO #:
191	28-30	02-1090

1440 RAIL HEAD BOULEVARD, #1
NAPLES, FLORIDA 34110
(239) 593-0570 (239) 593-0581 FAX

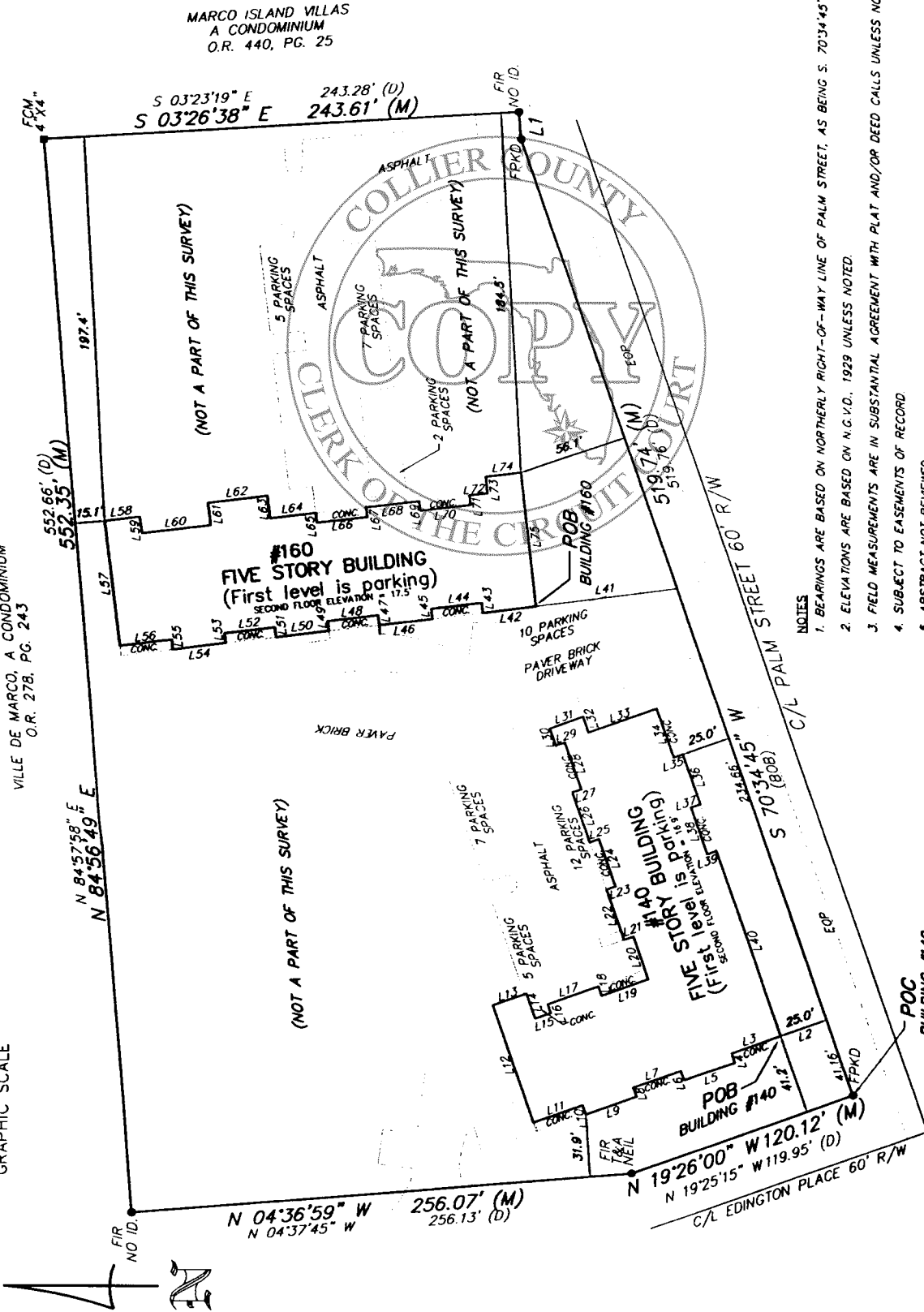
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PROJECT #:	2003-94
SHEET #:	2 of 2
FILE #:	2003-94 CON

OLDE MARCO, A CONDOMINIUM

VILLE DE MARCO, A CONDOMINIUM
O.R. 278, PG. 243



GRAPHIC SCALE



MARCO ISLAND VILLAS
A CONDOMINIUM
O.R. 440, PG. 25

LINE TABLE			LINE TABLE		
LINE	LENGTH	BEARING	LINE	LENGTH	BEARING
L1(D)	14.22'	S 84°59'22" W	L38	25.90'	S 70°34'19" W
L1(M)	14.14'	S 85°11'38" E	L39	5.00'	S 19°25'41" E
L2	24.98'	S 19°23'22" E	L40	100.50'	S 70°34'19" W
L3	26.50'	N 19°23'22" W	L41	72.88'	S 07°02'43" E
L4	5.00'	S 70°36'38" W	L42	27.45'	N 07°02'43" W
L5	27.60'	N 19°23'22" W	L43	5.00'	N 82°38'46" E
L6	5.00'	N 70°36'38" E	L44	25.89'	N 06°41'46" W
L7	25.90'	N 19°23'22" W	L45	5.00'	S 83°18'14" W
L8	5.00'	S 70°36'38" W	L46	27.40'	N 06°41'46" W
L9	27.40'	N 19°23'22" W	L47	5.00'	N 83°18'14" E
L10	5.00'	N 70°36'38" E	L48	25.90'	N 06°41'46" W
L11	26.60'	N 19°23'22" W	L49	5.00'	S 83°18'14" W
L12	63.80'	N 70°36'38" E	L50	27.24'	N 06°53'17" W
L13	18.20'	S 19°23'22" E	L51	5.00'	N 83°06'43" E
L14	13.70'	S 70°36'38" W	L52	25.90'	N 06°53'17" W
L15	8.50'	S 19°23'22" E	L53	5.00'	S 83°06'43" W
L16	5.00'	N 70°36'38" E	L54	27.21'	N 07°10'49" W
L17	27.40'	S 19°23'22" E	L55	5.10'	N 82°49'11" E
L18	5.00'	S 70°36'38" W	L56	26.60'	N 07°10'49" W
L19	25.30'	S 19°23'22" E	L57	63.80'	N 82°49'11" E
L20	22.90'	N 70°27'15" E	L58	18.10'	S 07°10'49" E
L21	5.00'	N 19°32'45" W	L59	8.80'	S 82°49'11" W
L22	27.40'	N 70°27'15" E	L60	35.40'	S 07°10'49" E
L23	4.90'	S 19°32'45" E	L61	11.70'	N 82°49'11" E
L24	25.90'	N 70°27'15" E	L62	30.50'	S 07°10'49" E
L25	5.00'	N 19°32'45" W	L63	11.72'	S 82°49'11" E
L26	27.40'	N 70°27'15" E	L64	23.50'	S 07°11'03" E
L27	5.00'	S 19°32'45" E	L65	5.09'	S 82°48'57" W
L28	25.90'	N 70°27'15" E	L66	25.90'	S 06°46'15" E
L29	5.00'	N 19°32'45" W	L67	5.00'	N 83°13'45" E
L30	9.40'	N 70°27'15" E	L68	27.37'	S 06°46'15" E
L31	18.10'	S 19°32'45" E	L69	4.95'	S 83°16'51" W
L32	8.60'	S 71°15'45" W	L70	25.90'	S 06°43'09" E
L33	37.10'	S 19°32'45" E	L71	5.00'	N 83°16'51" E
L34	26.74'	S 70°40'00" W	L72	9.30'	S 06°43'09" E
L35	5.00'	S 19°25'41" E	L73	8.60'	N 83°16'51" E
L36	27.40'	S 70°34'19" W	L74	18.11'	S 06°43'09" E
L37	5.00'	N 19°25'41" W	L75	68.83'	S 83°16'54" W

ABBREVIATIONS

- BOB = BASIS OF BEARING
 - C/L = CENTERLINE
 EOP = EDGE OF PAVEMENT | FCM = FOUND CONCRETE MONUMENT FIR = FOUND 5/8" IRON ROD F.F. ELEV. = FINISHED FLOOR ELEVATION M = MEASURED D = DEED | | | | |
- FPKD = FOUND PK NAIL & DISK
 - P.C.B. = POINT OF BEGINNING
 - PSM = PROFESSIONAL SURVEYOR AND MAPPER
 - R/W = RIGHT OF WAY LINE

- NOTES
1. BEARINGS ARE BASED ON NORTHERLY RIGHT-OF-WAY LINE OF PALM STREET, AS BEING S. 70°34'45" W.
 2. ELEVATIONS ARE BASED ON N.G.V.D., 1929 UNLESS NOTED.
 3. FIELD MEASUREMENTS ARE IN SUBSTANTIAL AGREEMENT WITH PLAT AND/OR DEED CALLS UNLESS NOTED
 4. SUBJECT TO EASEMENTS OF RECORD.
 5. ABSTRACT NOT REVIEWED.
 6. SURVEYORS CERTIFICATION DOES NOT APPLY TO MATTERS OF TITLE, ZONING, OR FREEDOM OF ENCUMBRANCES, AND IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
 7. NO UNDERGROUND UTILITIES, FOUNDATIONS OR OTHER UNDERGROUND INSTALLATIONS WERE LOCATED UNLESS SHOWN.
 8. NO OTHER PERSONS OR ENTITIES, OTHER THAN SHOWN, MAY RELY ON THIS SURVEY.
 9. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF, UNLESS OTHERWISE NOTED.

EXHIBIT "B"
OLDE MARCO, A CONDOMINIUM
CONDOMINIUM SURVEY
ENTIRE BUILDING LESS FIFTH FLOOR
BUILDING #140 & BUILDING #160
SHEET 1 OF 2

THIS INSTRUMENT PREPARED BY:
THOMAS E. RHODES, SR., P.S.M. #5854
RHODES & RHODES
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1440 RAIL HEAD BOULEVARD, #1
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(239) 593-0570 FAX NO. (239) 593-0581
FLORIDA BUSINESS LICENSE NO. LB 6897

THOMAS E. RHODES, SR., P.S.M. #5854

BUILDING #140

BEING A PARCEL OF LAND THAT IS LYING IN SECTION 5, TOWNSHIP 52 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA AND WHICH IS A PORTION OF BLOCKS 3 AND 15 OF THE PLAT "AMENDED PLAT OF COLLIER COUNTY," AS RECORDED IN PLAT BOOK 1 PAGE 58 OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY AND WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF EDINGTON PLACE (A 60 FEET ROADWAY) AND THE NORTH RIGHT-OF-WAY LINE OF PALM STREET (A 60 FEET ROADWAY); THENCE NORTH 70°34'45" EAST, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID PALM STREET, 41.16 FEET; THENCE NORTH 19°23'22" WEST, 24.98 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE NORTH 19°23'22" WEST, 26.60 FEET; THENCE SOUTH 70°36'38" WEST, 5.00 FEET; THENCE NORTH 19°23'22" WEST, 27.60 FEET; THENCE NORTH 70°36'38" EAST, 5.00 FEET; THENCE NORTH 19°23'22" WEST, 27.40 FEET; THENCE NORTH 70°36'38" EAST, 5.00 FEET; THENCE SOUTH 70°36'38" WEST, 5.00 FEET; THENCE NORTH 19°23'22" WEST, 26.60 FEET; THENCE NORTH 70°36'38" EAST, 63.80 FEET; THENCE SOUTH 19°23'22" EAST, 18.20 FEET; THENCE SOUTH 70°36'38" WEST, 13.70 FEET; THENCE SOUTH 19°23'22" EAST, 8.50 FEET; THENCE NORTH 70°36'38" EAST, 5.00 FEET; THENCE SOUTH 19°23'22" EAST, 27.40 FEET; THENCE SOUTH 70°36'38" WEST, 5.00 FEET; THENCE SOUTH 19°23'22" EAST, 25.30 FEET; THENCE NORTH 70°27'15" EAST, 22.90 FEET; THENCE NORTH 70°36'38" WEST, 5.00 FEET; THENCE NORTH 70°27'15" EAST, 4.90 FEET; THENCE NORTH 70°27'15" EAST, 5.00 FEET; THENCE NORTH 19°32'45" WEST, 27.40 FEET; THENCE SOUTH 19°32'45" WEST, 5.00 FEET; THENCE NORTH 70°27'15" EAST, 25.90 FEET; THENCE NORTH 19°32'45" WEST, 18.10 FEET; THENCE SOUTH 71°15'45" WEST, 8.60 FEET; THENCE NORTH 70°27'15" EAST, 9.40 FEET; THENCE SOUTH 19°32'45" EAST, 37.10 FEET; THENCE SOUTH 19°28'41" EAST, 5.00 FEET; THENCE SOUTH 70°34'19" WEST, 27.40 FEET; THENCE NORTH 19°25'41" WEST, 5.00 FEET; THENCE SOUTH 70°34'19" WEST, 25.90 FEET; THENCE SOUTH 19°25'41" EAST, 5.00 FEET; THENCE SOUTH 70°34'19" WEST, 100.50 FEET TO THE POINT OF BEGINNING.

LESS & EXCEPT

BUILDING #140-PENTHOUSE PARCEL

BEING A PARCEL OF LAND THAT IS LYING IN SECTION 5, TOWNSHIP 52 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA AND WHICH IS A PORTION OF BLOCKS 3 AND 15 OF THE PLAT "AMENDED PLAT OF COLLIER CITY", AS RECORDED IN PLAT BOOK 1 PAGE 58 OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, LYING ABOVE ELEVATION 48.1 N.G.V.D. 1929, BEING THE FINISH OF FIFTH FLOOR OF EXISTING BUILDING #140, AND BELOW ELEVATION OF 57.9 N.G.V.D. 1929, BEING THE CEILING ELEVATION OF THE FIFTH FLOOR AND WHICH IS LOCATED ON THE LAND DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF EDINGTON PLACE (A 60 FEET ROADWAY) AND THE NORTH RIGHT-OF-WAY LINE OF PALM STREET (A 60 FEET ROADWAY); THENCE NORTH 70°34'45" EAST, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID PALM STREET, 41.16 FEET; THENCE NORTH 19°23'22" WEST, 24.98 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE NORTH 19°23'22" WEST, 26.60 FEET; THENCE SOUTH 70°36'38" WEST, 5.00 FEET; THENCE NORTH 19°23'22" WEST, 27.60 FEET; THENCE NORTH 70°36'38" EAST, 5.00 FEET; THENCE NORTH 19°23'22" WEST, 25.90 FEET; THENCE SOUTH 70°36'38" WEST, 5.00 FEET; THENCE NORTH 19°23'22" WEST, 26.60 FEET; THENCE NORTH 70°36'38" EAST, 5.00 FEET; THENCE SOUTH 19°23'22" EAST, 18.20 FEET; THENCE SOUTH 70°36'38" WEST, 13.70 FEET; THENCE SOUTH 19°23'22" EAST, 8.50 FEET; THENCE NORTH 70°36'38" EAST, 5.00 FEET; THENCE SOUTH 19°23'22" EAST, 27.40 FEET; THENCE SOUTH 70°36'38" WEST, 5.00 FEET; THENCE SOUTH 19°23'22" EAST, 25.30 FEET; THENCE NORTH 70°27'15" EAST, 22.90 FEET; THENCE NORTH 19°32'45" WEST, 5.00 FEET; THENCE NORTH 70°27'15" EAST, 27.40 FEET; THENCE SOUTH 19°32'45" EAST, 4.90 FEET; THENCE NORTH 70°27'15" EAST, 25.90 FEET; THENCE NORTH 19°32'45" WEST, 5.00 FEET; THENCE NORTH 70°27'15" EAST, 9.40 FEET; THENCE SOUTH 19°32'45" EAST, 18.10 FEET; THENCE SOUTH 71°15'45" WEST, 5.00 FEET; THENCE NORTH 70°27'15" EAST, 37.10 FEET; THENCE SOUTH 70°40'00" WEST, 26.74 FEET; THENCE SOUTH 19°25'41" EAST, 5.00 FEET; THENCE SOUTH 70°34'19" WEST, 27.40 FEET; THENCE NORTH 19°25'41" WEST, 5.00 FEET; THENCE SOUTH 70°34'19" WEST, 25.90 FEET; THENCE SOUTH 19°25'41" EAST, 5.00 FEET; THENCE SOUTH 70°34'19" WEST, 100.50 FEET TO THE POINT OF BEGINNING.

LESS & EXCEPT

BUILDING #160-PENTHOUSE PARCEL

BEING A PARCEL OF LAND THAT IS LYING IN SECTION 5, TOWNSHIP 52 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA AND WHICH IS A PORTION OF BLOCKS 3 AND 15 OF THE PLAT "AMENDED PLAT OF COLLIER CITY", AS RECORDED IN PLAT BOOK 11, PAGE 58 OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, LYING ABOVE ELEVATION 49.3 N.G.V.D. 1929, BEING THE FINISH OF FIFTH FLOOR OF EXISTING BUILDING #180, AND BELOW ELEVATION OF 59.1 N.G.V.D. 1929, BEING THE CEILING ELEVATION OF THE FIFTH FLOOR AND WHICH IS LOCATED ON THE LAND DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF EDINGTON PLACE (A 60 FEET ROADWAY) AND THE NORTH-RIGHT-OF-WAY LINE OF PALM STREET (A 60 FEET ROADWAY); THENCE NORTH 70°34'45" EAST, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID PALM STREET, 275.82 FEET; THENCE NORTH 07°02'43" WEST, 72.88 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE NORTH 07°02'43" WEST, 27.45 FEET; THENCE NORTH 82°39'46" EAST, 5.00 FEET; THENCE NORTH 06°41'46" WEST, 25.89 FEET; THENCE SOUTH 83°18'14" WEST, 5.00 FEET; THENCE NORTH 06°41'46" WEST, 27.40 FEET; THENCE NORTH 83°18'14" EAST, 5.00 FEET; THENCE NORTH 06°41'46" WEST, 25.90 FEET; THENCE SOUTH 83°18'14" WEST, 5.00 FEET; THENCE NORTH 06°53'17" WEST, 27.24 FEET; THENCE NORTH 83°06'43" EAST, 5.00 FEET; THENCE NORTH 06°53'17" WEST, 25.90 FEET; THENCE SOUTH 83°06'43" WEST, 5.00 FEET; THENCE NORTH 07°10'49" WEST, 27.21 FEET; THENCE NORTH 82°49'11" EAST, 5.10 FEET; THENCE NORTH 07°10'49" WEST, 26.60 FEET; THENCE NORTH 82°49'11" EAST, 63.80 FEET; THENCE SOUTH 07°10'49" EAST, 18.10 FEET; THENCE SOUTH 82°49'11" WEST, 8.80 FEET; THENCE SOUTH 07°10'49" EAST, 35.40 FEET; THENCE NORTH 82°49'11" WEST, 11.70 FEET; THENCE SOUTH 07°10'49" EAST, 30.50 FEET; THENCE SOUTH 82°49'11" WEST, 11.72 FEET; THENCE SOUTH 07°11'03" EAST, 23.50 FEET; THENCE SOUTH 82°48'57" WEST, 5.09 FEET; THENCE SOUTH 06°46'15" EAST, 25.90 FEET; THENCE NORTH 83°13'45" EAST, 5.00 FEET; THENCE SOUTH 06°46'15" EAST, 27.37 FEET; THENCE SOUTH 83°16'51" WEST, 4.95 FEET; THENCE SOUTH 06°43'09" EAST, 25.90 FEET; THENCE SOUTH 06°43'09" EAST, 9.30 FEET; THENCE NORTH 83°16'51" WEST, 4.90 FEET; THENCE SOUTH 06°43'09" EAST, 9.30 FEET; THENCE NORTH 83°16'51" WEST, 68.83 FEET TO THE POINT OF BEGINNING.



THIS INSTRUMENT PREPARED BY:
THOMAS E. RHODES, SR., P.S.M. #5854

RHODES & RHODES
LAND SURVEYING, INC.

1440 RAIL HEAD BOULEVARD, #11

NAPLES, FLORIDA 34110
(239) 593-0570 FAX NO. (239) 593-0581
FLORIDA BUSINESS LICENSE NO. LB 6897

EXHIBIT "B"

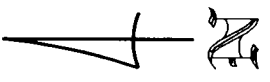
OLDE MARCO, A CONDOMINIUM

BUILDING DESCRIPTIONS

BUILDING #140 & BUILDING #160

SHEET 2 OF 2

OLDE MARCO, A CONDOMINIUM,



VILLE DE MARCO, A CONDOMINIUM
O.R. 278, PG. 243

MARCO ISLAND VILLAS
A CONDOMINIUM
O.R. 440, PG. 25

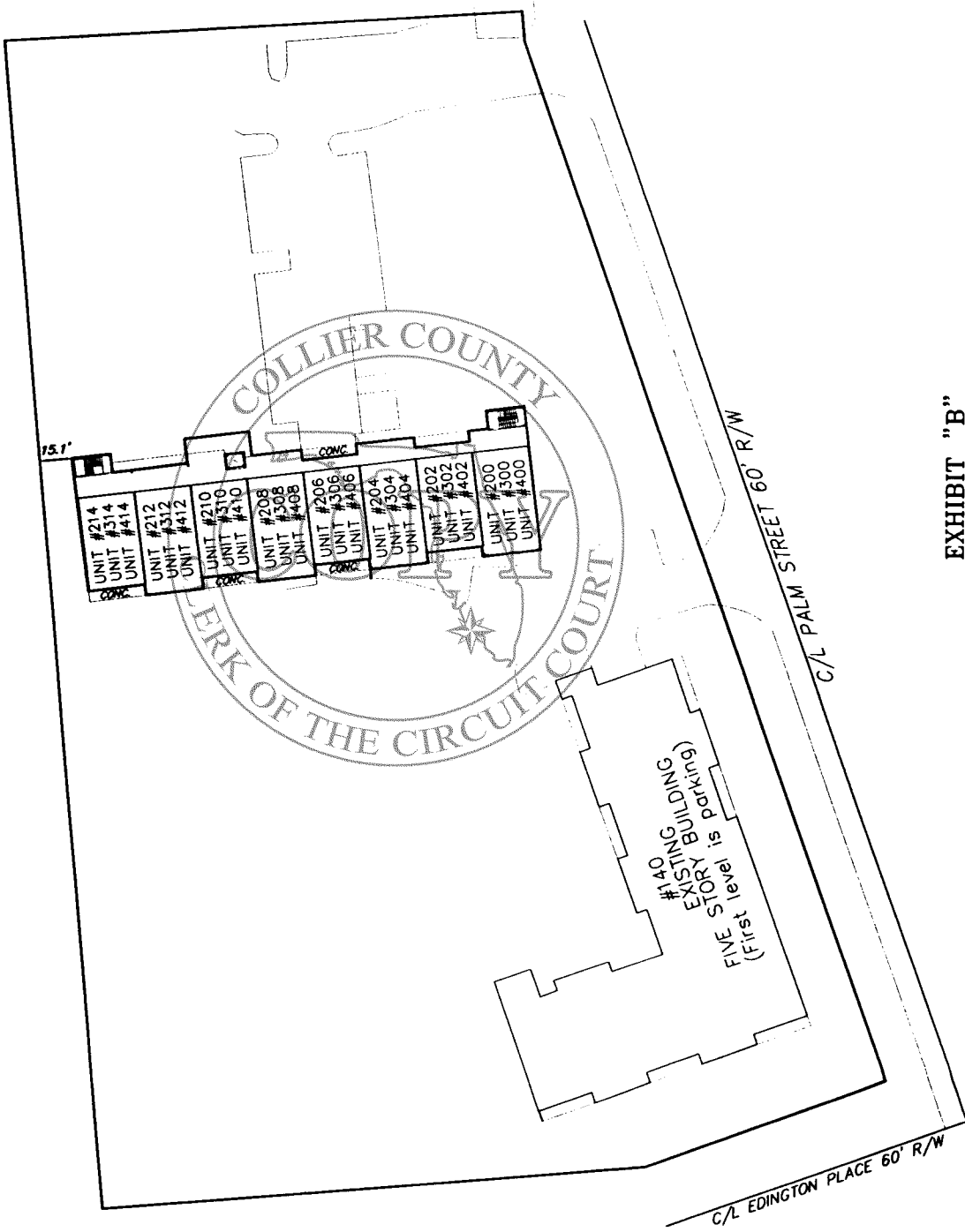


EXHIBIT "B"
OLDE MARCO, A CONDOMINIUM,
PLOT PLAN
BUILDING #160
ASBUILT

THIS INSTRUMENT PREPARED BY:
THOMAS E. RHODES, SR., P.S.M. #5854
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1440 RAIL HEAD BOULEVARD, #1
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FLORIDA BUSINESS LICENSE NO. LB 6897

OLDE MARCO, A CONDOMINIUM

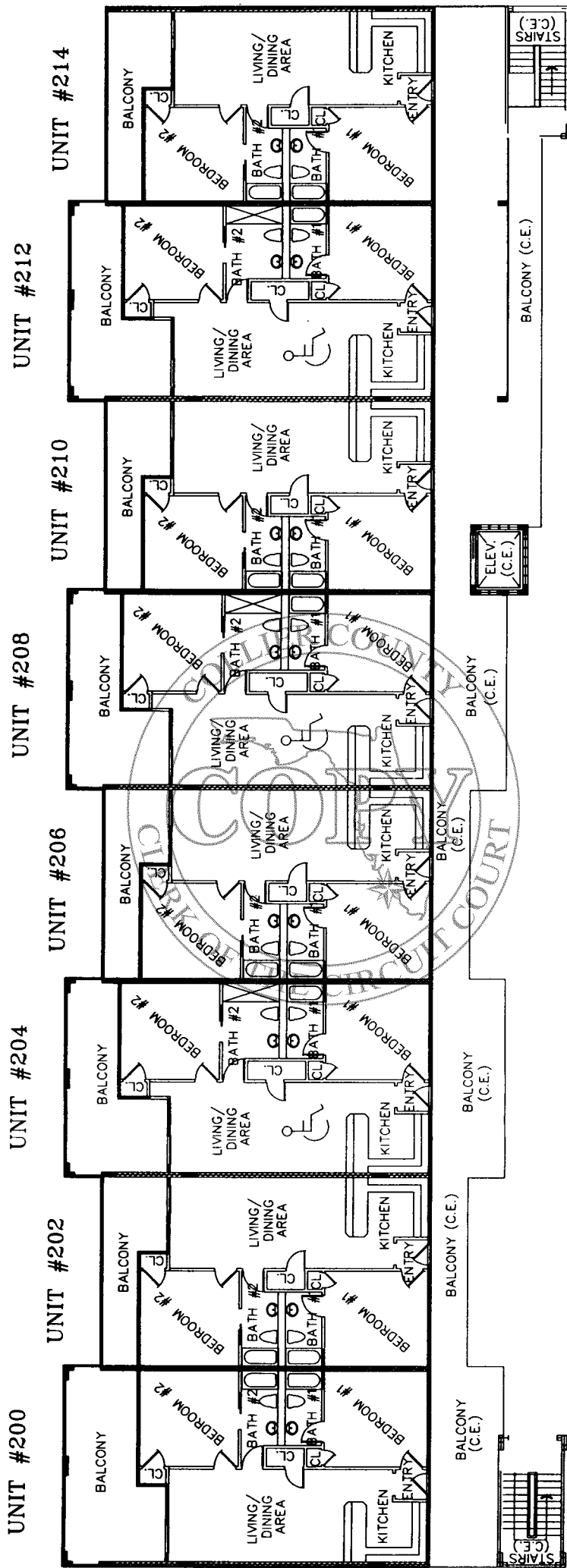


EXHIBIT "B"
OLDE MARCO, A CONDOMINIUM
SECOND FLOOR PLANS
BUILDING #160
ASBUILT

THIS INSTRUMENT PREPARED BY:
THOMAS E. RHODES, SR., P.S.M. #5854
RHODES & RHODES
LAND SURVEYING, INC.
1440 RAIL HEAD BOULEVARD, #1
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FLORIDA BUSINESS LICENSE NO. LB 6897

OLDE MARCO, A CONDOMINIUM

CONDOMINIUM BOOK -----, PAGE-----

SHEET 5 OF 11

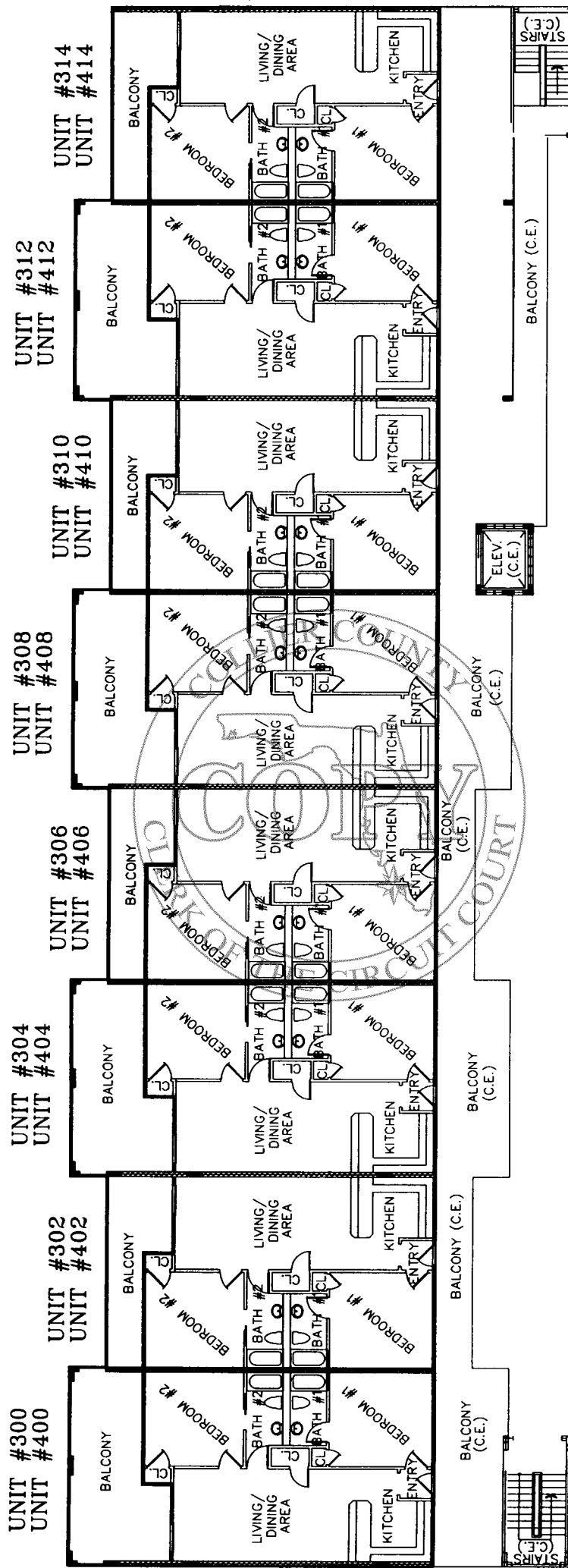
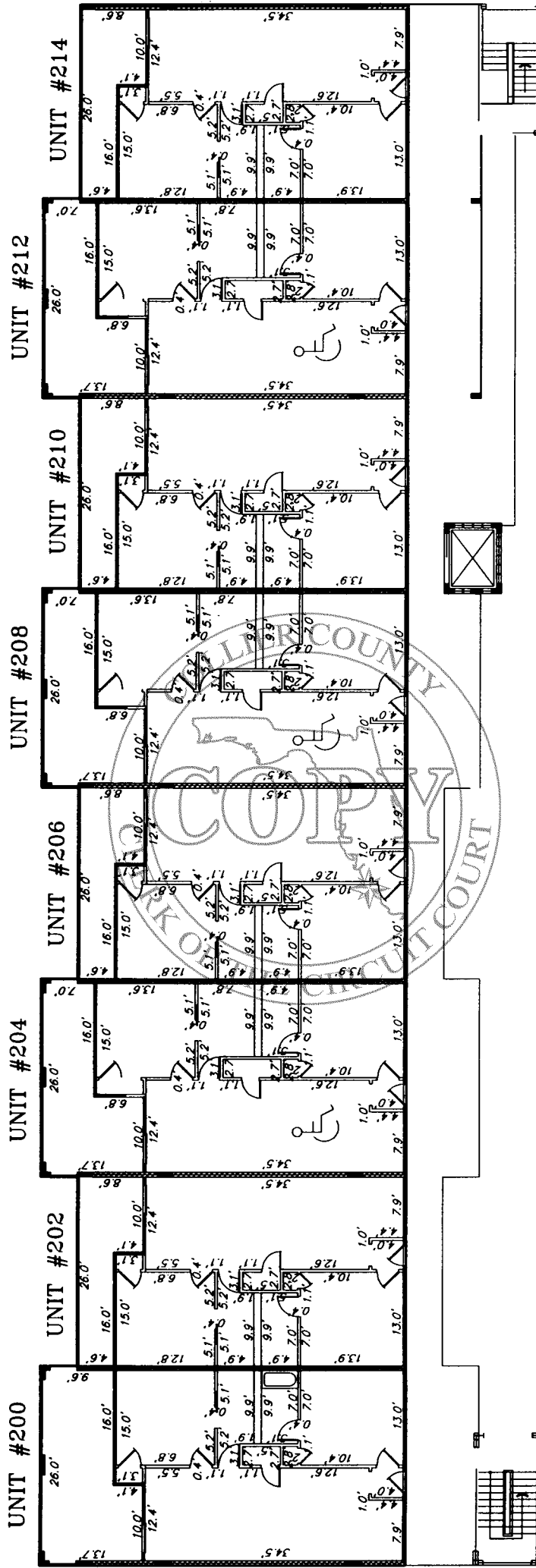


EXHIBIT "B"
OLDE MARCO, A CONDOMINIUM
THIRD & FORTH FLOOR PLANS
BUILDING #160
ASBUILT

THIS INSTRUMENT PREPARED BY:
THOMAS E. RHODES, SR., P.S.M. #5854
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FLORIDA BUSINESS LICENSE NO. LB 6897

OLDE MARCO, A CONDOMINIUM



NOTES
1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF, UNLESS OTHERWISE NOTED.



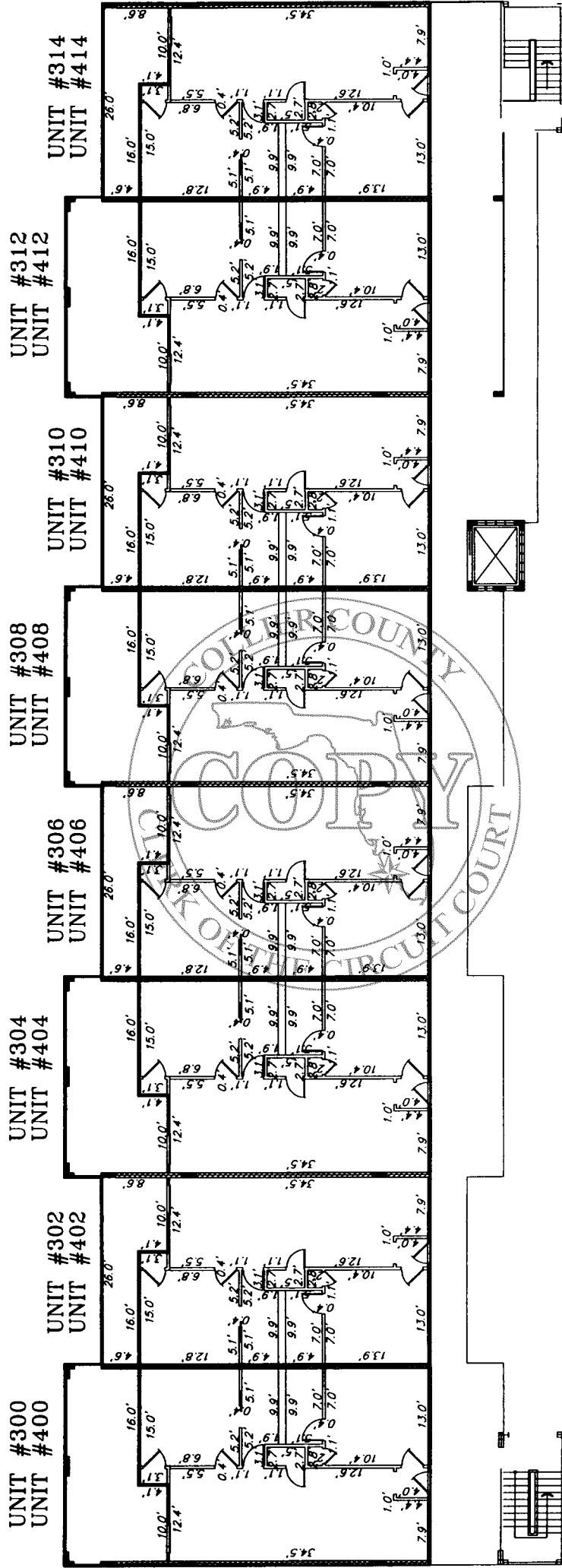
EXHIBIT "B"
OLDE MARCO, A CONDOMINIUM
SECOND FLOOR UNIT DIMENSION PLAN
BUILDING #160
ASBUILT

THIS INSTRUMENT PREPARED BY:
THOMAS E. RHODES, SR., P.S.M. #5854
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OLDE MARCO, A CONDOMINIUM

CONDOMINIUM BOOK _____, PAGE _____

SHEET 7 OF 11



NOTES
1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF, UNLESS OTHERWISE NOTED.

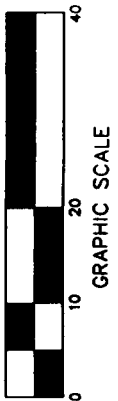
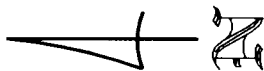
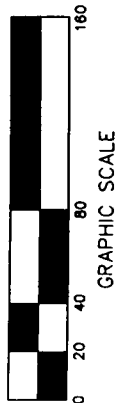


EXHIBIT "B"
OLDE MARCO, A CONDOMINIUM
THIRD & FORTH FLOOR UNIT DIMENSION PLAN
BUILDING #160
ASBUILT

THIS INSTRUMENT PREPARED BY:
THOMAS E. RHODES, SR., P.S.M. #5854
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OLDE MARCO, A CONDOMINIUM



VILLE DE MARCO, A CONDOMINIUM
O.R. 278, PG. 243

MARCO ISLAND VILLAS
A CONDOMINIUM
O.R. 440, PG. 25

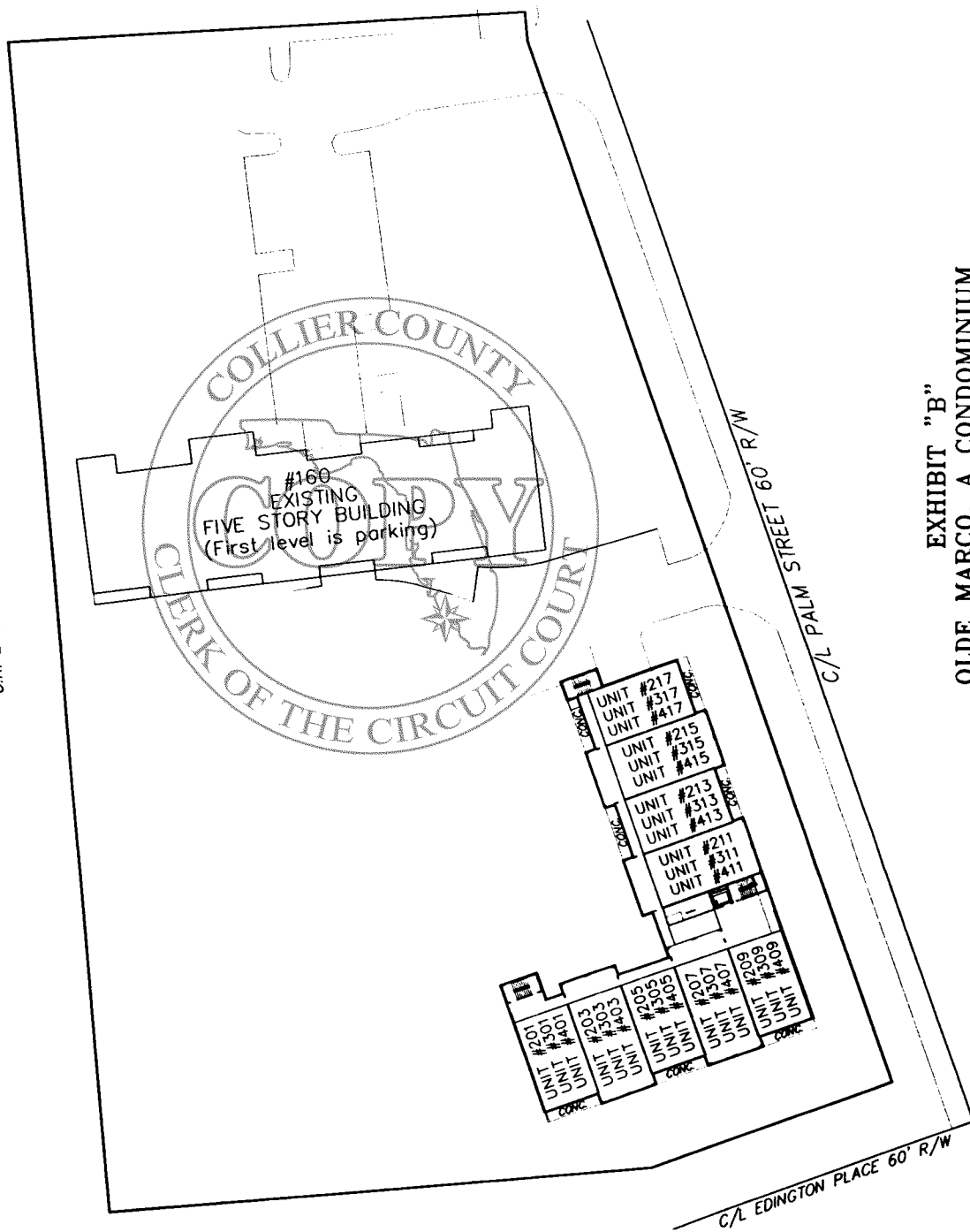
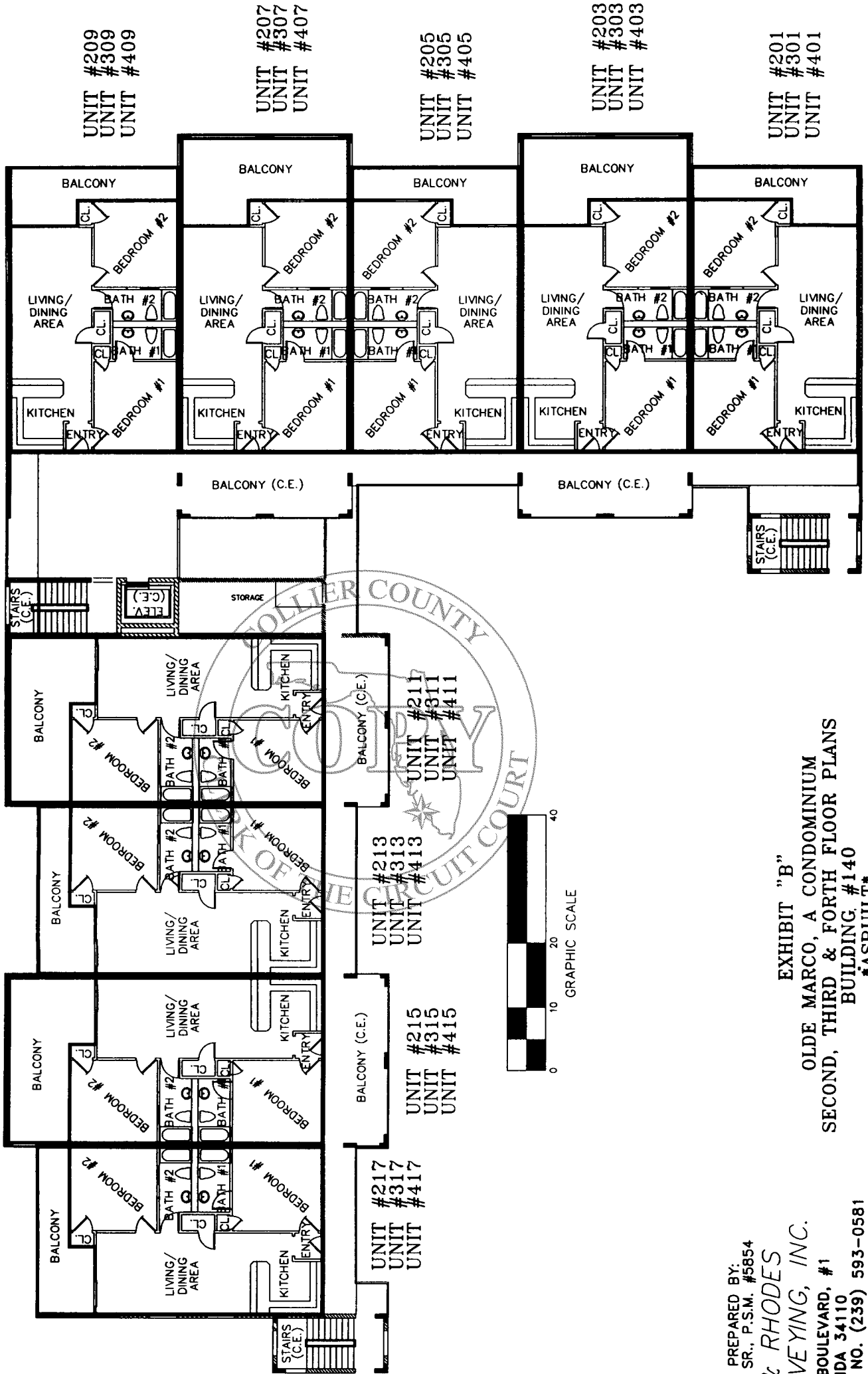


EXHIBIT "B"
OLDE MARCO, A CONDOMINIUM
PLOT PLAN
BUILDING #140
ASBUILT

THIS INSTRUMENT PREPARED BY:
THOMAS E. RHODES, SR., P.S.M. #5854
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OLDE MARCO, A CONDOMINIUM



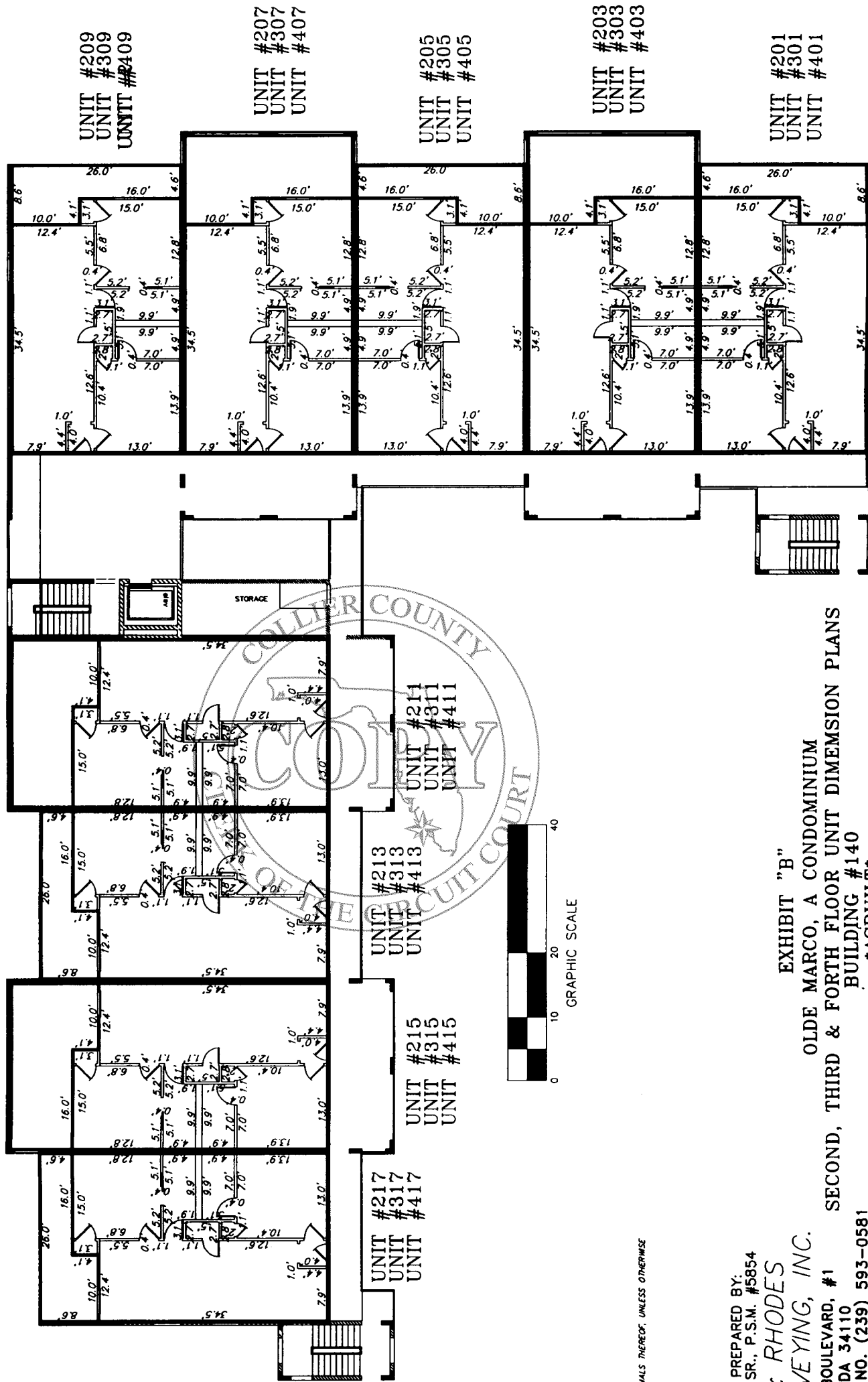
OLDE MARCO, A CONDOMINIUM

CONDOMINIUM BOOK _____, PAGE _____

SHEET 10 OF 11

OR: 3423 PG: 0977

OR: 3319 PG: 0195



NOTES
1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF, UNLESS OTHERWISE NOTED

THIS INSTRUMENT PREPARED BY:
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EXHIBIT "B"
OLDE MARCO, A CONDOMINIUM
SECOND, THIRD & FORTH FLOOR UNIT DIMENSION PLANS
BUILDING #140
ASBUILT

OLDE MARCO, A CONDOMINIUM

CONDOMINIUM BOOK -----, PAGE-----

SHEET 11 OF 11

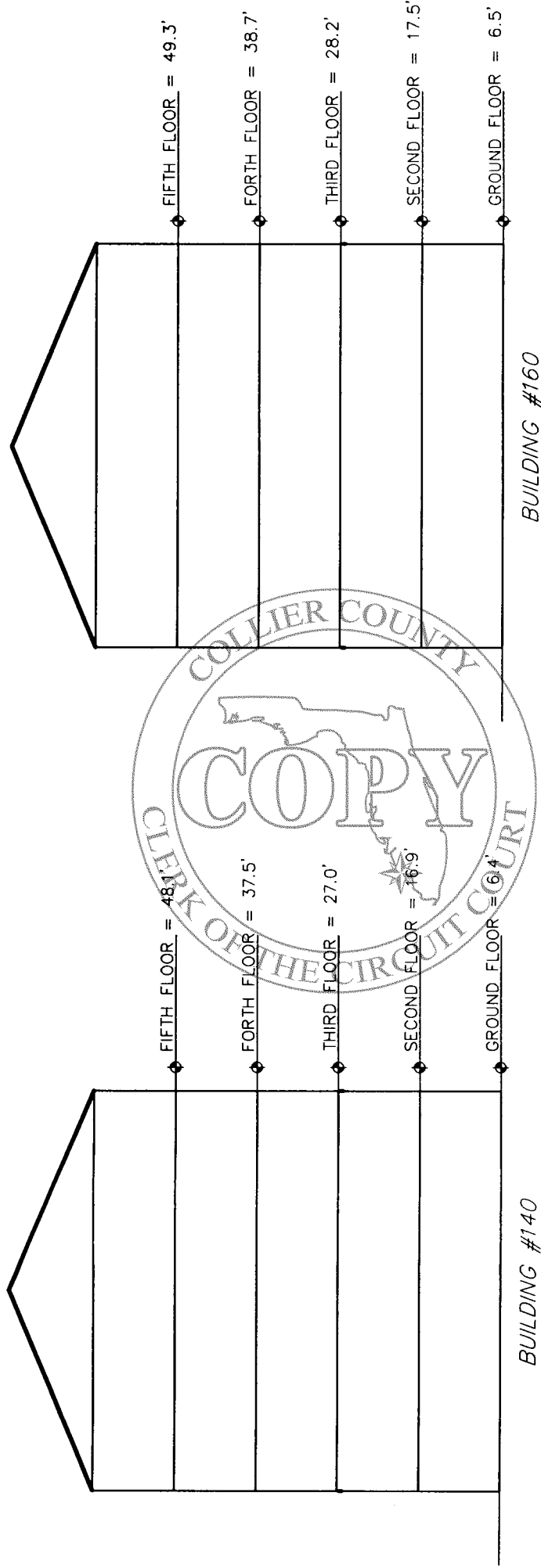


EXHIBIT "B"
OLDE MARCO, A CONDOMINIUM
ELEVATIONS FOR BUILDINGS #140 & #160
ASBUILT

THIS INSTRUMENT PREPARED BY:
THOMAS E. RHODES, SR., P.S.M. #5854
RHODES & RHODES
LAND SURVEYING, INC.
1440 RAIL HEAD BOULEVARD, #1
NAPLES, FLORIDA 34110
(239) 593-0570 FAX NO. (239) 593-0581
FLORIDA BUSINESS LICENSE NO. LB 6897

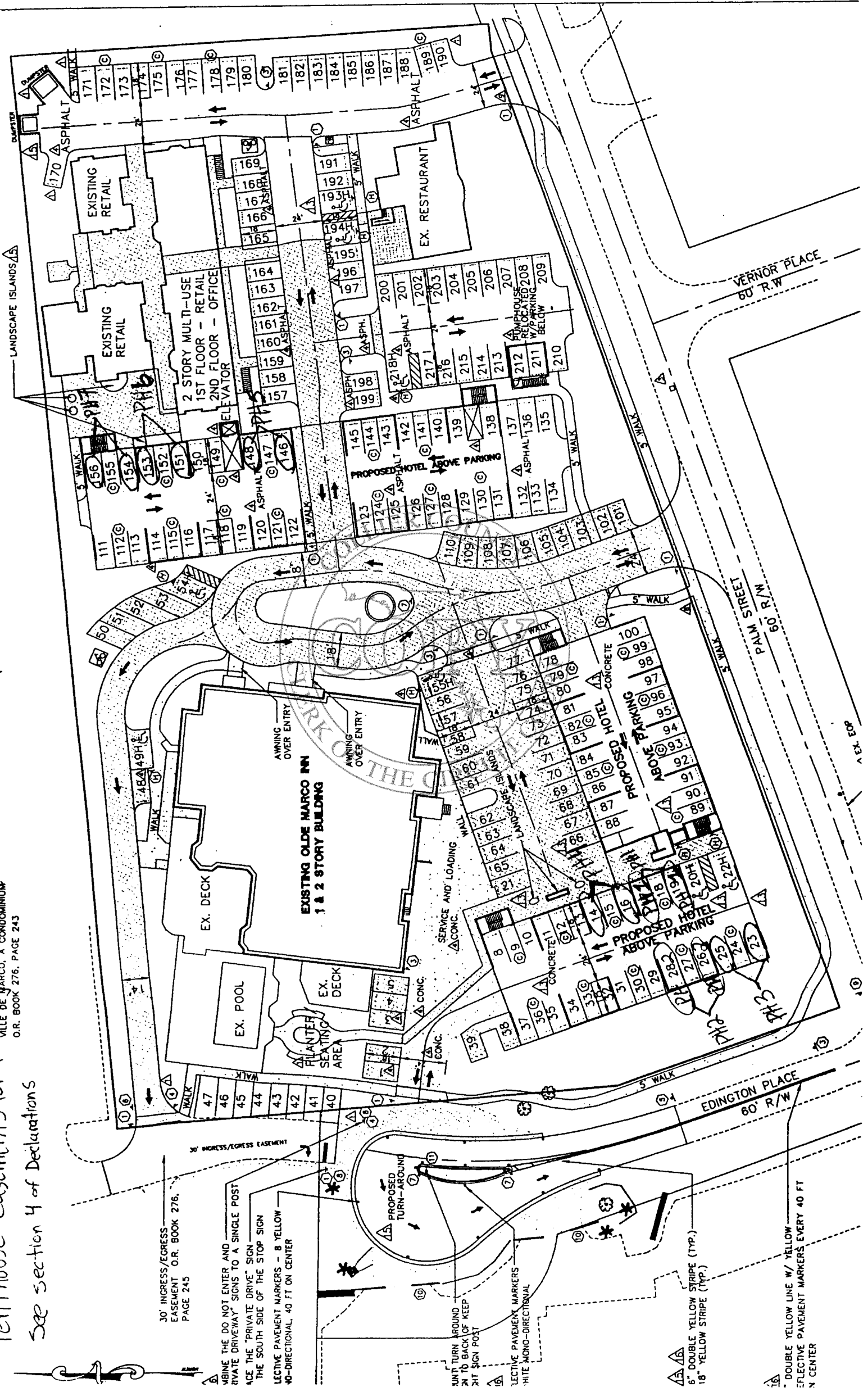
OR: 3319 PG: 0196

OR: 3423 PG: 0978

Penthouse easements for parking identified as PH + - PH + - PH + in schedule of encumbrances.

VILLE DE MARCO, A CONDOMINIUM
O.R. BOOK 276, PAGE 243

See section 4 of Declarations



Articles of Amendment

This Articles of Amendment is executed this 20th day of June, 2003, by Olde Marco Condominium Association, Inc., ("Association") and shall amend the Articles of Incorporation executed on May 12, 2003, and filed with the Florida Department of State.

On May 25, 2003 the sole member of the Association, Marco Cat, LLP, by and through its General Managing Partner, all four Officers of the Association and all four Directors of the Association, met at the Olde Marco Inn, Marco Island, Florida and voted to amend the Articles of Incorporation as follows:

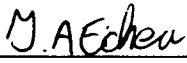
Henceforth and starting immediately, the Officers of the Association are hereby elected to replace the former Officers and to act in the following capacities for the Association:


President	K. Patrick Kruchten 100 Palm Street Marco Island, FL 34145
Vice President	Bruce Carr 100 Palm Street Marco Island, FL 34145
Secretary	Demian M. Kruchten 100 Palm Street Marco Island, FL 34145
Treasurer	Peter Kruchten 100 Palm Street Marco Island, FL 34145

Furthermore, Article 7 and Article 13 are both hereby amended to change the address for Demian M. Kruchten, Esq., who acted as the Incorporator (Article 7) and is the Registered Agent (Article 13); Henceforth the correct address for the Incorporator and Registered Agent, Demian M. Kruchten, Esq. is: 975 6th Avenue South, Naples, FL 34102.

Signed this day by the Vice President of the Corporation (who shall become the President through this action):


K. Patrick Kruchten, Vice President


Witness #1 Name: Jacqueline Eichen


Witness #2 Name: Lisa Collins

STATE OF FLORIDA
COUNTY OF COLLIER

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgements, personally appeared K. Patrick Kruchten, as Vice President of Olde Marco Condominium Association, who is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 20th
Day of June, 2003.


NOTARY PUBLIC
My Commission Expires:



Jacqueline A. Eichen
MY COMMISSION # CC987752 EXPIRES
January 7, 2005