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THE STATE OF SOUTH CAROLINA
The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Marvin H. Dukes III, Circuit Court Judge

Appellant Case No. 2025-001031
Case No. 2021-CP-07-01085

R.V. Resort and Yacht Club Owners' Association, Inc., Securitas Services, Inc., Mike Morales, and Sunset, Inc., Respondents,

v.

Turner's Marina, LLC, Appellant.

Record on Appeal

Volume II

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STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT
TURNER'S MARINA LLC, Plaintiff, vs. R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., MIKE MORALES, and SUNSET, INC., Defendants.	)	Case Number: 2021-CP-07-1085 SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the **Third Amended Complaint** herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Third Amended Complaint upon Thomas C. Taylor, Esquire, at Post Office Box 1808, Bluffton, South Carolina 29910, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Third Amended Complaint within the time aforesaid, judgment by default may be rendered against you for the relief demanded in the Second Amended Complaint.

Law Office of Thomas C. Taylor, LLC
s/ Thomas C. Taylor, Esq.
Thomas C. Taylor (S.C. Bar 5499)
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ATTORNEY FOR PLAINTIFF
TURNER'S MARINA LLC

Bluffton, South Carolina
July 20, 2023

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STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT
TURNER'S MARINA LLC, Plaintiff, vs. R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., MIKE MORALES, and SUNSET, INC., Defendants.	)	Case Number: 2021-CP-07-1085 THIRD AMENDED COMPLAINT FOR DAMAGES, FOR THE APPOINTMENT OF A RECEIVER, FOR A DECLARATION OF LEGAL RIGHTS AND FOR TEMPORARY AND PERMANENT INJUNCTIVE RELIEF (Jury Trial Requested)

PURSUANT TO THAT CONSENT ORDER ALLOWING FILING OF THIRD AMENDED COMPLAINT filed on June 21, 2023, the Plaintiff Turner's Marina LLC hereby files this Third Amended Complaint, and alleges as follows:

PARTIES AND JURISDICTION

1. That the Plaintiff Turner's Marina LLC (hereinafter sometimes referred to as "Turner's Marina") is a South Carolina limited liability company organized and existing under the laws of the State of South Carolina. Its principal place of business is in Beaufort County, in the State of South Carolina, and it is authorized to do business in the State of South Carolina.

2. That the Defendant R.V. Resort and Yacht Club Owners' Association, Inc. (hereinafter sometimes referred to as the "YCOA,") is a not-for-profit corporation, organized and existing pursuant to the laws of the State of South Carolina with its principal place of business in Beaufort County, in the State of South Carolina. The YCOA is a condominium owners association and is authorized to do business in the State of South Carolina.

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3. That the Defendant Securitas Services, Inc. (hereinafter sometimes referred to as "Securitas") is a for-profit corporation, organized and existing pursuant to the laws of the State of Delaware, conducting business in Beaufort County, S.C. As is set forth below, Securitas' agent and employee, Mike Morales, on June 11, 2021 acting within the scope of his employment and assigned duties, committed a tortious act within the County of Beaufort, State of South Carolina, and Securitas is therefore subject to the jurisdiction of this court under South Carolina's Long Arm Statute, S.C. Code Annot. Section 36-2-803.

4. That the Defendant Mike Morales is, on information and belief, a resident of Beaufort County, SC, and an employee and agent of Defendant Securitas.

5. That the Defendant Sunset, Inc. (hereinafter sometimes referred to as "Sunset") is a for-profit corporation, organized and existing pursuant to the laws of the State of South Carolina, with its principal place of business in Beaufort County, South Carolina.

6. That this Court has jurisdiction over all the parties under the South Carolina Rules of Civil Procedure, the South Carolina Code Annotated, and the common law.

7. That venue for all causes of action stated herein lies in Beaufort County.

FACTS

8. That on June 12, 1981, a Declaration of Condominium entitled "Declaration of Covenants and Restrictions for Outdoor Resorts RV Resort and Yacht Club and Provisions for the RV Resort and Yacht Club Owner's Association, Inc." (hereinafter sometimes referred to as the "Covenants") was executed and subsequently recorded in the Office of the Beaufort County Register of Mesne Conveyances at Book 325, Page 920.

9. That the Covenants are applicable to certain property on Hilton Head Island, South

Carolina commonly known as the "Outdoor Resorts Marina," consisting of approximately 200 individually owned lots and certain common areas and amenities as are more fully described in Deed Book 325 at Page 939 in the Office of the Clerk of Court for Beaufort County (hereinafter sometimes referred to as the "Property"), and the Covenants contain restrictions, easements, affirmative obligations, charges, liens and leases affecting the Property. The individually owned lots are arranged in an oval pattern along roads surrounding recreational facilities including a swimming pool and a tennis court. Adjacent to the oval area are additional recreational facilities and common areas belonging to the YCOA, including roads, a recreational building and swimming pool adjacent to the marina basin, and a parking lot where two tennis courts were originally built. All property owned by the Defendant YCOA is subject to the Covenants.

10. That the marina described in Article XII, Section 12.5 of the Covenants as an "adjacent but totally separate development" is now owned by the Plaintiff Turner's Marina, and consists primarily of a marina basin and docks, rental office, boat launching ramp, marina bath house, fuel dock, marina office, parking spaces with a parking lot, and certain roads.

11. That the Covenants also contain and incorporate By-Laws, Rules and Regulations for Owners, a 99-year lease dated June 12, 1981 of certain portions of the Property, and they set forth the rights and obligations of owners and members to enforce the Covenants and recover attorney's fees and expenses incurred in doing so if they prevail.

12. That the June 12, 1981 99-year Lease (hereinafter referred to as the "Lease") identified in paragraph 11 above, is attached to the original recorded Declaration of Covenants as Exhibit C, and a true and correct copy of same is attached hereto as Exhibit 1. That further, the June 12, 1981 Lease was recorded in the Office of the Beaufort County Register of Mesne Conveyances at Book 325, Page 953 as an attachment to the original Declaration of Covenants.

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13. That the original Developer of the Property was O.R.A. of Carolina, Inc. and that the original Lessee under the Lease was Outdoor Resort, R.V. Resort and Yacht Club, a South Carolina General Partnership, that was a subsidiary of O.R.A. of Carolina, Inc.

14. That the entity known as Billybob's Marinas, Inc., a South Carolina corporation, validly acquired that certain real property and all improvements thereon referred to above as the "Outdoor Resorts Marina," consisting of 1.41 acres, more or less. That in addition Billybob's Marinas, Inc. validly acquired that certain dock extending from the 1.41 acres into and on the marshes and waters of Skull Creek subject to certain permits including OCRM permits numbered 91-3D-324-P, 97-IT-0280P-C, and 2009-1417-1IQ. That in addition, Billybob's Marinas, Inc. validly acquired that certain marina and dock extending from the 1.41 acres into the waters of Blue Heron Creek and that certain harbor located to the east of the 1.41 acres, as is subject to OCRM permits numbered 83-3C-062 and 91-3D-324-P.

15. That in addition, Billybob's Marina, Inc. validly acquired certain tangible personal property located in, on and about the 1.41 acres and certain intangible property, including, without limitation, contract rights and rights under the Covenants, and the internet domain www.hiltonheadharbor.com.

16. That in addition, Billybob's Marina, Inc. validly acquired all rights of the Lessee under the 99-year Lease.

17. That on or about December 21, 2017, Billybob's Marinas, Inc., for the consideration of $4,600,000, conveyed to the Plaintiff Turner's Marina LLC all of its right, title, and interest in and to the afore-described tangible and intangible property, and the 99-year Lease.

18. That the Plaintiff Turner's Marina is the valid owner of all currently existing

"Declarant Rights" as are set forth in the Covenants and that Turner's Marina is the valid owner of all rights of the Lessee set forth in the June 12, 1981 Lease attached as Exhibit 1. The Lease runs until June 11, 2080.

19. That pursuant to the specific terms of the Lease, Turner's Marina is the exclusive lessee of that real property identified and specifically described in the Lease as follows:

> The premises described in the above legal description are hereinafter referred to as the recreational Facilities which include, among other things, a swimming pool, two tennis courts, decking, bathhouse, and certain portions of the Clubhouse complex. The lease of the above described Recreational Facilities shall be together with its appurtenances, tenements and hereditaments, and together with all improvements, buildings and structures now or hereafter placed thereon, and all furniture, furnishings, fixtures, machinery and equipment now thereon and hereafter brought or placed thereon or intended for the use thereon and all additions thereto.

See Paragraph 1 of the Lease.

20. That Turner's Marina is entitled to the exclusive possession of the leased premises and to have "quiet and undisturbed and continued possession of the premises" for the 99-year lease term, subject "only to the rights of Lot Owners to use, occupy and enjoy the same along with such other persons as provided in the Declaration of Covenants and Restrictions." See Paragraph 9 of the Lease.

21. That the above description of the leased premises includes that portion of the second floor of the "Clubhouse Complex" commonly referred to as the restaurant area and that first-floor office space commonly referred to as the marina building or "Ship's Store."

22. That the restaurant area and the marina building area of the Clubhouse complex is a part of the 99-year leasehold interest assigned to BillyBob's Marina, Inc., and then assigned to

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Turner's Marina LLC as set forth above.

23. That the Lease specifically provides that the Lessee's, or any of its assigns', agents, officers, employees, or guests, may use and enjoy the demised premises of the Recreation Facilities. See Paragraph 4 of Exhibit 1.

24. That the Defendant YCOA has no legal right to occupy, use or sublet the demised premises set forth in the Lease, except to perform the required maintenance or repairs called for under the Lease.

25. That in or around February 2006, the Defendant YCOA entered into a "Lease Agreement" with the Defendant Sunset, in which the YCOA purported to lease to Sunset the restaurant area of the Clubhouse complex to Sunset for an initial period of two (2) years, with certain rights of renewal. A true and correct copy of that Lease Agreement is attached hereto as Exhibit 2.

26. That notwithstanding the YCOA's actual knowledge of the existence of the recorded 99-year Lease giving exclusive possession to Outdoor Resort, R.V. Resort and Yacht Club and its then successor-in-interest, BillyBob's Marina, Inc., the Defendant YCOA in February 2006 represented and warranted to Sunset that the YCOA was "vested with fee simple title to the Premises, free from all encumbrances other than zoning restrictions, Town of Hilton Head Island or Beaufort County ordinances and real estate taxes not yet due and payable" and further advised that the YCOA was reserving "the right to convey the Premises during the term hereof, but subject to this Lease Agreement." See paragraph 2(a) of Exhibit 2.

27. That pursuant to that February 2006 Lease, the Defendant YCOA began to charge and accept rent from Sunset, emanating from Sunset's occupation of property that was and is

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subject to the 99-year Lease attached as Exhibit 1, such rent having been the equitable and legal property of first BillyBob's Marina, Inc., and since December 21, 2017, the equitable and legal property of Turner's Marina LLC,

28. That the Lease attached as Exhibit 2 expired by its terms, at the latest, on April 30, 2012.

29. That the Defendant Sunset has no written lease agreement with the YCOA, nor Turner's Marina LLC, nor any other entity holding the right to lease the property, at the present time.

30. That the Defendant Sunset is a trespasser after notice by its continuing use and occupation of the restaurant premises.

31. That the Defendant YCOA has wrongfully converted Sunset's rental payments for property that the YCOA had no legal right to lease, to the detriment of the rightful entity that should have received the rental payment, Turner's Marina LLC On information and belief, Turner's Marina LLC asserts that the YCOA has wrongfully converted rental payments in excess of $360,000 since the initiation of the Lease to Sunset in February 2006.

32. That the Defendant YCOA has, since at least August 30, 2018, also leased out that portion of the Plaintiff's leasehold known as the marina building or Ship's Store.

33. That on or about June 4, 2021, the YCOA threatened, through its legal counsel, to impede and interfere with Turner's Marina's exclusive leasehold possession of that portion of the demised premises commonly referred to as the parking lot and bathhouse, and in reply, the YCOA was advised that it had no such rights, and that any interference would cause damage to Turner's Marina and / or its assigns.

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34. That at a presently unknown time between June 4, 2021 and June 11, 2021, the YCOA hired and directed Securitas to enter upon the demised premises of Turner's Marina and interfere with the rights of Turner's Marina and its assigns, guests, agents, officers, and employees to use and access the parking lot and bathhouse on the demised premises.

35. That at the specific direction of the YCOA, on June 11, 2021, Securitas, acting through its agent and employee Mike Morales, wrongfully entered upon the demised premises of Turner's Marina as identified in the Lease, and then and there at the direction of the YCOA, interfered with and violated the right of Turner's Marina to the quiet and undisturbed use and enjoyment of the demised premises.

36. That the interference by the YCOA and its agents (Defendants Securitas and Mike Morales) with Turner's Marina's use and quiet enjoyment of the demised premises of the parking lot and bathhouse, was intentional, and was committed in bad faith with the knowledge that the YCOA had no right to so interfere.

37. That the actions of the YCOA, Securitas and Mike Morales on June 11, 2021, caused damages to Turner's Marina LLC by interfering with its business operations.

38. That on August 3, 2021, the Defendant Sunset through its counsel in open court, represented it had somehow acquired and claimed the right to permanent use of certain parking spaces in the demised premises of Turner's Marina.

39. That Defendant Sunset and its owners, agents, and customers, routinely and continuously trespass over and about the property of Turner's Marina LLC. without right or permission.

40. That pursuant to Article 8.10 of the Covenants, the Plaintiff Turner's Marina LLC

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is entitled to recover its reasonable attorney's fees and costs of this suit.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)

41. That the allegations contained in Paragraphs 1 through 40 are re-alleged as fully as if repeated verbatim herein.

42. That the Plaintiff Turner's Marina LLC brings this action pursuant to South Carolina Code Annot. Sections 15-53-10 through 15-53-140 and the South Carolina Rule of Civil Procedure 57, for judicial declarations:

a. That the Plaintiff is the valid and lawful owner of the original Developer's "Declarant Rights" under the Covenants;

b. That the Plaintiff is the valid and lawful owner of all existing rights under the Lease dated June 12, 1981 that were formerly enjoyed by the Outdoor Resort, R.V. Resort and Yacht Club (a South Carolina General Partnership);

c. That the Plaintiff is legally entitled to the use and quiet enjoyment of the Recreational Facilities described in the Lease, which include, among other things, the restaurant, the marina building, a swimming pool, the parking lot where two tennis courts were formally located, decking, bathhouse, and certain other portions of the Clubhouse complex;

d. That the Plaintiff is the exclusive lessee of the demised premises set forth in the 99-year Lease;

e. That the YCOA has and had no legal right to rent and/or sublet the restaurant, or the marina building / Ship's Store to any other entity during the term of the 99-year recorded Lease;

f. That the Defendant YCOA, unless providing maintenance or repairs as required under the Lease, has no legal right to enter upon the demised premises during the terms of the Lease;

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g. That the Defendant Sunset has no legal right to use or occupy the premises known as the restaurant portion of the Clubhouse complex; and,

h. That neither the Defendant Sunset, nor any of its agents, owners, employees, or guests, have the legal right to be upon or cross over Turner's Marina LLC's private property located adjacent to the Clubhouse Complex.

FOR A SECOND CAUSE OF ACTION
(Injunctive Relief)

43. That the allegations contained in Paragraphs 1 through 42 are re-alleged as fully as if repeated verbatim herein.

44. That the Defendants YCOA, Securitas and Morales' intentional acts as set forth above, violate the Lease and the Covenants, and are causing the Plaintiff immediate, irreparable harm for which there is no monetary remedy.

45. That the Plaintiff is informed and believes, and on the basis of that information and belief alleges, that unless restrained by Order of this Court, Defendants YCOA, Securitas and Mike Morales will continue to violate the Lease as described above, causing the Plaintiff continuing damages.

46. That such conduct will result in irreparable harm to Plaintiff in that Plaintiff will continue to be damaged due to the interference with its business.

47. That the threat of such irreparable and permanent damage justifies the issuance by this Court of a temporary injunction and a permanent injunction, as well as an award of attorney's fees.

48. That the Plaintiff has no adequate remedy at law for the injuries that the Plaintiff is

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suffering and will continue to suffer in the future.

FOR A THIRD CAUSE OF ACTION
(Interference With A Contractual Relationship)

49. That the allegations contained in Paragraphs 1 through 49 are re-alleged as fully as if repeated verbatim herein.

50. That the Plaintiff Turner's Marina LLC entered into a Commercial Lease Agreement with Sea Monkeys, LLC on December 20, 2017, under which Turner's Marina LLC agreed to lease Sea Monkeys, LLC, 150 feet of dock space, the fuel dock, and all other common facilities at Hilton Head Harbor Marina, including restrooms and parking facilities.

51. That a portion of the leased premises to Sea Monkeys includes access to portions of the demised premises to Turner's Marina LLC under the 99-year Lease agreement.

52. That the Defendant YCOA, Securitas and Morales' actions on June 11, 2021 as alleged above, were intentional, were done with the intended purpose of interfering with the lease agreement between Turner's Marina LLC and Sea Monkeys, LLC, were without justification, and caused damages to Turner's Marina LLC.

FOR A FOURTH CAUSE OF ACTION
(Appointment of a Receiver)

53. That the allegations contained in Paragraphs 1 through 52 are re-alleged as fully as if repeated verbatim herein.

54. That the 99-year Lease provides at Paragraph 14, that in the event of a breach of the Lease agreement by the Defendant YCOA, the Lessee (or its assign as here), may request this court appoint a receiver "to stand in the place and stead of the Lessor (the YCOA) and to operate the

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Recreational Facilities."

55. That the actions of the YCOA are so egregious that the appointment of a receiver in these circumstances is warranted.

FOR A FIFTH CAUSE OF ACTION
(Trespass as to Sunset)

56. That the allegations contained in Paragraphs 1 through 55 are re-alleged as fully as if repeated verbatim herein.

57. That the actions of Sunset and its agents, owners, and employees, in occupying and using that portion of the demised premises under the 99-year Lease commonly referred to as the restaurant, is an interference with Turner's Marina LLC's right to exclusive, peaceable possession of its leasehold interests under the 99-year lease, and amounts to a legal trespass.

58. That Sunset's entry upon Turner's Marina LLC's leasehold interest was and is without permission.

59. That Sunset's occupation of the leasehold premises has caused Turner's Marina LLC actual damages in the form of lost profits and/or lost rental revenue from the restaurant property.

FOR A SIXTH CAUSE OF ACTION
(Conversion as to the YCOA)

60. That the allegations contained in Paragraphs 1 through 59 are re-alleged as fully as if repeated verbatim herein.

61. That the YCOA's actions in purportedly renting and/or subletting the restaurant

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premises to Sunset and accepting more than $2,000 a month in rental for more than 15 years, in the face of the recorded 99-year Lease providing the restaurant is a portion of the exclusive leasehold owned by Turner's Marina LLC, amounts to conversion of the rental income due Turner's Marina, Inc.

62. That the rental payments made by Sunset were legally and equitably the property of Turner's Marina LLC as the successor to the Lessee's interests in the 99-year Lease.

63. That the Defendant YCOA converted the rental payments to its own use.

64. That the YCOA's actions in accepting and keeping the rental payments from Sunset was without Turner's Marina LLC's permission.

FOR A SEVENTH CAUSE OF ACTION
(Trespass as to YCOA and Securitas and Morales)

65. That the allegations contained in Paragraphs 1 through 64 are re-alleged as fully as if repeated verbatim herein.

66. That the wrongful entry upon the Plaintiff's leasehold on June 11, 2021 by Securitas and the YCOA, acting through their agent and employee Mike Morales, was without the permission of the Plaintiff, was after notice, and amounted to a trespass upon the private property rights of the Plaintiff.

67. That the trespass by the YCOA, Securitas and Morales, was willful and intentional and entitled the Plaintiff to the recovery of damages and punitive damages.

WHEREFORE, the Plaintiff Turner's Marina LLC prays that this Honorable Court inquire into the matters set forth herein, and that the Plaintiff have the declarations as sought:

a. That the Plaintiff is the valid and lawful owner of the original Developer's "Declarant Rights" under the Covenants;

b. That the Plaintiff is the valid and lawful owner of all existing rights under the Lease dated June 12, 1981 that were formerly enjoyed by the Outdoor Resort, R.V. Resort and Yacht Club (a South Carolina General Partnership);

c. That the Plaintiff is legally entitled to the use and quiet enjoyment of the Recreational Facilities described in the Lease, which include, among other things, a swimming pool, the marina building / ship's store, the land where two tennis courts were formally located, decking, bathhouse, and certain portions of the Clubhouse complex;

d. That the Defendant YCOA, unless providing maintenance or repairs as required under the Lease, has no legal right to enter upon the demised premises during the terms of the Lease.

e. That the YCOA has and had no legal right to rent and/or sublet the restaurant to any other entity during the term of the 99-year recorded Lease;

f. That the Defendant YCOA, unless providing maintenance or repairs as required under the Lease, has no legal right to enter upon the demised premises during the terms of the Lease;

g. That the Defendant Sunset has no legal right to use or occupy the premises known as the restaurant portion of the Clubhouse complex; and,

h. That neither the Defendant Sunset, nor any of its agents, owners, employees, or guests, have the legal right to be upon or cross over Turner's Marina LLC's private property located adjacent to the Clubhouse complex.

FURTHER, the Plaintiff requests this Court enter a temporary and permanent injunction

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prohibiting the Defendants from interfering with the Plaintiff's use and quiet enjoyment of its leasehold premises during the term of the 99-year lease. Further, the Plaintiff requests an entry of a monetary judgment of compensatory and punitive damages against the Defendants YCOA, Securitas and Morales jointly and severally for the interference with contractual relations and trespass, and further, the Plaintiff requests the appointment of a receiver to stand in the place and stead of the Defendant YCOA for the remainder of the 99-year Lease agreement. In addition, the Plaintiff requests the Court enter its Order finding that the continuing use and occupation of the restaurant property is a trespass as to the Plaintiff's rights, and that the Defendant YCOA has wrongfully converted the rental payments made by Sunset to the detriment of Turner's Marina LLC, and awarding monetary damages against the YCOA and to the Plaintiff for that conversion. In addition, the Plaintiff requests this court award it recovery of its attorney fees and costs as per the Covenants, and for any and all further declarations as this Court deems just and proper.

Law Office of Thomas C. Taylor, LLC
s/ Thomas C. Taylor, Esq.
Thomas C. Taylor (S.C. Bar 5499)
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Telephone:(843)785-5050-Fax:(843)738-4502
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Attorney For Plaintiff Turner's Marina LLC

Plaintiff requests trial by a jury.
s/ Thomas C. Taylor, Esq./
Thomas C. Taylor

Bluffton, South Carolina
July 20, 2023

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Exhibit 1

EXHIBIT C

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STATE OF SOUTH CAROLINA)
) LEASE
COUNTY OF BEAUFORT)

THIS LEASE is made this 12 of JUNE, 1981, by and between R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., a South Carolina non-profit corporation (hereinafter referred to as "Lessor"), and OUTDOOR RESORT, R.V. RESORT AND YACHT CLUB, a South Carolina general partnership (hereinafter referred to as "Lessee").

WHEREAS, Lessor is a non-profit corporation organized and existing under the laws of the State of South Carolina for the purpose of administering and maintaining certain real property known as OUTDOOR RESORT, R.V. RESORT AND YACHT CLUB; and

WHEREAS, Lessee is the developer of said property and also the owner and developer of a marina adjacent and contiguous to the property; and

WHEREAS, Lessor and Lessee desire that certain common properties of OUTDOOR RESORT, R.V. RESORT AND CAMPGROUND, owned by the Lessor, shall be entitled to be used by OUTDOOR RESORTS, R.V. RESORT AND YACHT CLUB, a South Carolina partnership, its successors, assigns, guests and invitees.

NOW, THEREFORE, in consideration of the agreements to be performed by each other, Lessor and Lessee agree as follows:

1. Upon the terms and conditions herein set forth and in consideration of the prompt and continuous performance by the Lessee of each and every of its covenants and promises herein made, Lessor does hereby let, lease and demise unto the Lessee and Lessee does hereby lease of and from the Lessor property situate in Beaufort County, South Carolina, and described on EXHIBIT "A" which is attached hereto and thereby made a part hereof.

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The premises described in the above legal description are hereinafter referred to as the Recreational Facilities which include, among other things, a swimming pool, two tennis courts, decking, bathhouse, and certain portions of the Clubhouse complex. The lease of the above described Recreational Facilities shall be together with its appurtenances, tenements and hereditaments, and together with all improvements, buildings and structures now or hereafter placed thereon, and all furniture, furnishings, fixtures, machinery and equipment now thereon and hereafter brought or placed thereon or intended for the use thereon and all additions thereto.

2. The term of this Lease shall commence on the date first above mentioned and shall end on JUNE 12, 2080. This is an exclusive Lease to the Lessee, under circumstances where the Lessor shall not be entitled to enter into any other leases with any other lessees while this Lease is in effect without the prior written consent of the Lessee. Lessee, however, may at any time assign any and all of its interest in this Lease and upon such assignment taking place, the Lessee shall be relieved of any and all liability under this Lease subject to the Lessee's complying with all terms and conditions of the Lease at the time of said assignment.

3. In consideration of this Lease of the Recreational Facilities to the Lessee, Lessee agrees to pay Lessor the sum of FIVE ($5.00) DOLLARS per month per boat slip at the marina which is shown and designated on EXHIBIT "B" which is attached hereto and thereby made a part hereof. The payment of said rent, however, shall not begin until the improvements described as the Recreational Facilities in Paragraph 1 have been completed. Such rent shall be payable at such places as Lessor shall direct in writing. The amount of rent shall not in any way be increased through the term of this Lease without the prior written consent of Lessee.

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4. Use of the Recreational Facilities shall be subject to all laws, statutes, ordinances, rules and regulations of all appropriate governmental authorities and agencies, covenants and restrictions of record, as well as all rules and regulations adopted by the Association from time to time pursuant to the Declaration of Covenants and Restrictions; however, which rules and regulations shall not discriminate in any manner whatsoever against the Lessee or the invitees of the Lessee.

The persons who may use and enjoy the Recreation Facilities through and under the Lessee shall be limited to agents, officers, employees and guests of the Lessee or its assigns.

5. If any part of the Recreational Facilities is taken pursuant to the law of eminent domain of the State of South Carolina during the term of this Lease, the rent herein provided for shall continue unaffected as to amount unless such taking materially destroys the usefulness of the Recreational Facilities for all purposes leased. In such event, the Lessee shall have the right to terminate this Lease by written notice to the Lessor within thirty (30) days after such taking or to continue in possession of an undivided interest in the remainder of the leased premises under all the terms and conditions hereof. All damages awarded such taking shall belong to and be the property of Lessor whether such damages shall be awarded as compensation for the diminution of the value to the Lease or to the fee of the Recreational Facilities.

6. Lessor shall, throughout the term of this Lease, keep enforced insurance policies as follows: (a) insurance against loss or damage to the buildings and improvements now of hereafter located upon the Recreational Facilities and all of the personal property, including pictures, furniture, machinery, equipment and furnishings located upon the Recreational Facilities. All insurance shall provide against any

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and all loss or damage to the Recreational Facilities by fire, windstorm or causes insured by extended coverage; (b) comprehensive general public liability insurance in which the Lessor and Lessee shall be named insureds against claims of bodily injury, sickness or disease, including death, at any time resulting therefrom and for injury to or destruction of property, including the loss or use thereof arising out of ownership, maintenance, use or operation of the Recreational Facilities or any building or improvement or personalty located thereon with a minimum limitation of $200,000/$500,000/$10,000; and (c) in the event that Lessor shall undertake any construction upon the premises, Lessor shall maintain and pay for a builders risk insurance policy in such amounts and with such companies as Lessor determines proper.

The Lessor shall also pay for and maintain such further and additional insurance policies, including but not limited to workmen's compensation insurance. The amount of the required insurance shall be equal to the maximum insurable replacement value as determined annually by Lessor. The Lessee may require the Lessor to provide proof of existence of insurance coverage required herein as Lessee may reasonably request from time to time. All insurance required to be carried shall be under policies written in such form and issued by such companies as shall be approved by the Lessee, said Lessee, said approval, shall not be unreasonably withheld.

7. In the event of damage or destruction of the Recreational Facilities or the buildings and improvements located thereon by any casualty for which insurance is payable, the Lessor shall promptly make application for the benefits under the insurance policy, which benefits shall be deposited in a bank account and be available to the Lessor for the reconstruction or repair of the Recreational Facilities or that portion thereof which was damaged. Such insurance money shall

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be paid from the account in amounts based upon the estimate of a licensed architect in the State of South Carolina having supervision of such construction work or repair. Said architect shall certify that the amount of such estimate is being applied to the payment for reconstruction or repair and at a reasonable cost. It is the intent hereunder that reconstruction or repair shall take place if covered by insurance, but it is the further intent that Lessor shall not assume the burden of reconstruction or repair if not covered by insurance, unless Lessor chooses to do so. In the event the cost of repair or reconstruction exceeds the insurance benefits, Lessor shall reconstruct or repair those items for which insurance is available; but only at its option must Lessor do any further reconstruction or repair for which there is not adequate insurance proceeds. If Lessor chooses not to reconstruct or repair due to inadequate insurance proceeds, then Lessee, at its option, may either continue this Lease in full force and effect or cancel this Lease upon fifteen (15) days' notice in writing to Lessor, at which time Lessee shall be obligated to perform its covenants and promises hereunder up to the date of notification. For reconstruction or repair for which there are adequate insurance proceeds, or with which Lessor desires to proceed despite the lack of insurance proceeds, it shall be the obligation and duty of Lessor to cause such showing to be made and such to be accomplished as often as said Recreational Facilities, including buildings, improvements or personal property may be destroyed, damaged or lost; and all of such work shall be completed and paid for as promptly as the exercise by the Lessor of due diligence makes possible. The work when completed shall restore the Recreational Facilities substantially to the condition in which it existed before such destruction, damage or loss took place, and in

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any event, the premises as restored shall have a value which is not less than the value which the Recreational Facilities had or possessed prior to the loss or damage which made such reconstruction or repair necessary. Lessee shall have the right to require Lessor to obtain a completion, performance and payment bond in amount and in form and with a company licensed to do business in the State of South Carolina, approved by Lessee. When after the payment of repair or replacement of damage there shall remain any surplus of insurance proceeds, said surplus shall belong to the Lessor.

8. Any demolition or new construction on the Recreational Facilities or major alteration in the buildings located in the Recreational Facilities shall be at the sole expense of the Lessor; nothing in this Paragraph 8 shall ever be construed to relieve Lessor of its obligation to maintain and repair the improvements located upon the Recreational Facilities. The Lessor shall, during the term of this Lease, keep the Recreational Facilities in a good state of repair and shall maintain all of the buildings and other improvements located thereon for the normal and customary use thereof. Lessor shall not suffer or permit any waste, neglect or deterioration of any of the premises, buildings or improvements of the Recreational Facilities and shall replace, renovate and repair the Recreational Facilities and improvements thereon as often as may be necessary in order to keep the Recreational Facilities and such buildings and improvements in a good state of repair and for the use and enjoyment of the Lessor and Lessee.

9. Lessor covenants and agrees with Lessee that so long as the Lessee keeps and performs all of its covenants herein made the Lessee shall have quiet and undisturbed and continued possession of the premises subject only to the rights of Lot Owners to use, occupy and enjoy the same along with

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such other persons as provided in the Declaration of Covenants and Restrictions.

10. Subject to Paragraph 7 hereinabove, no damage or destruction to buildings, structures, improvements or furniture, furnishings, fixtures, machinery or equipment now or hereafter located upon the Recreational Facilities by fire, windstorm, or any other casualty, shall entitle the Lessee to surrender possession or to terminate this Lease or to violate any of its provisions or cause any rebate, abatement or adjustment in the rent then due or that thereafter becoming due under the terms hereof.

11. The Lessor and its agents shall have the right of entry upon the Recreational Facilities at all reasonable times to examine the condition and use thereof; provided that only such rights shall be exercised in such a manner as to not interfere with the conduct of the operation of said Recreational Facilities; and if said premises are damaged by any casualty which causes the premises to be exposed to the elements, then the Lessor may enter upon the premises to make emergency repairs.

12. Where not otherwise provided in this Lease, all sums of money coming due from the Lessee to the Lessor shall bear interest at the rate of one and one-half (1 1/2%) percent per month, commencing fifteen (15) days from the date the same shall become due until the date the same shall be paid.

13. Lessee shall not do or suffer any waste or damage, disfigurement or injury to the Recreational Facilities or any property now or hereafter placed or brought thereon.

14. Except for non-payment of rent which is discussed below, if default shall be made by the Lessee in the performance of any covenants herein set forth, which default is not cured by Lessee within thirty (30) days after receiving written

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notice of such default by Lessor, then in addition to any other rights or remedies which Lessor may have, the Lessor shall have the right to declare this Lease cancelled and terminated and re-enter upon the Recreational Facilities, in which case the Lessee shall peacefully surrender and deliver the Recreational Facilities to Lessor. However, nothing in this Lease shall be construed as authorizing the Lessor to declare this Lease in default where the default consists solely of non-payment of rent, until such non-payment is in violation of Paragraphs 4 or 5 hereinabove.

In the event that Lessor defaults in the terms of this Lease, Lessee shall have all rights or remedies provided by law which shall include but not be limited to specific performance of this Lease by Lessor, and/or recovery of damages due to the default of Lessor.

Any and each remedy available to the Lessor or Lessee for the enforcement of any term or provision hereof shall be construed as cumulative and no single such remedy shall be construed as being exclusive or as preventing the parties from electing such other or additional remedies. In addition to all the remedies set forth above, the Lessee, at its option, may request of a court of competent jurisdiction and receive therefrom the appointment of a receiver to stand in the place and stead of the Lessor and to operate the Recreational Facilities. Said receiver shall fully perform and keep all of the covenants, terms and conditions of this Lease. In connection with any litigation arising from this Lease, the prevailing party shall be entitled to recover all costs incurred including a reasonable attorney's fee.

15. The Recreational Facilities are subject to such easements for public utilities as now appear in public records and Lessor shall have, at all times, the right to create upon

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or over such of the Recreational Facilities for any and all public utilities, easements from time to time as the Lessor, in its discretion, shall deem appropriate, free and clear of this Lease.

16. At the termination of this Lease by lapse of time or otherwise, the Lessee will peacefully and quietly deliver possession of the Recreational Facilities and all improvements situated thereon, including all personal property therein and thereon, to the Lessor and all buildings, improvements and personal property then situated upon the premises shall become and remain the property of the Lessor.

17. Time is of the essence in every particular and especially where the obligation to pay money is involved.

18. No waiver, extension or indulgence granted by either party to the other on any one occasion as to any breach shall be construed as a waiver, extension or indulgence of any succeeding breach of the same covenant.

19. This is the entire Lease and there shall be no modification, release or discharge or waiver of any provision hereof unless in writing signed by both parties.

20. Whenever a provision is made for notice of any kind under this Lease, it shall be deemed sufficient notice and service thereof if such notice to either party is in writing, addressed to such party at its last known address and sent by certified mail with postage prepaid.

21. This Lease is to be construed in accordance with the laws of the State of South Carolina. The invalidity in whole or in part of any covenant, promise or undertaking or any section, subsection, sentence, clause, phrase or word or any of the provisions of this Lease shall not affect the validity of the remaining portions thereof. Whenever the context so permits, the use of the plural shall include the

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singular, and the singular the plural, and the use of any gender shall be deemed to include all genders.

22. It is specifically recognized and understood that some or all of the persons comprising the original Board of Directors and the officers of the Lessor, and the partners of the Lessee, are also officers, directors, employees and/or partners of the Lessor and Lessee under this Lease, and that such circumstances of interlocking Boards of Directors, officers, employees, stockholders and/or partners shall not and cannot be considered as a breach of their duties nor as a conflict of interest between the Lessor and Lessee, nor as possible grounds to invalidate this Lease in whole or in part. Each and every person, whether real or corporate, who shall take any interest whatsoever in or to the Lot or any of the Property, or in or to any Lot in the Property, after the recording of this Lease, by acceptance, delivery or the recording of the deed, contract, grant, assignment or such other instrument granting, conveying or providing for such interests, or by the exercise of the rights or uses granted herein, shall be deemed to specifically consent to and ratify without further act being required, the provisions of this Lease to the same effect and extent as if such person or persons had executed this Lease with the formalities required in deeds, for the purpose of subordinating and/or subjecting such person's or persons' interest, in full, to the terms of this Lease and granting the rights to the parties provided for herein, absolutely without exception.

WITNESSES:

LESSOR:
R.V. RESORT AND YACHT CLUB
OWNERS' ASSOCIATION

By: _____

By: _____

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WITNESSES:

LESSEE:

OUTDOOR RESORT, R.V. RESORT AND YACHT CLUB

By:

By:

Hughes

FILED AT	BEAUFORT COUNTY S. C.	RECORDED IN BOOK
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CLERK OF COURT OF COMMON PLEAS

RECORDED THIS 22nd DAY OF June 1981
IN BOOK M PAGE 717
FEES $
Mary Ann Graybeal
AUDITOR, BEAUFORT COUNTY, S. C.

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STATE OF SOUTH CAROLINA)
) MODIFICATION OF LEASE AGREEMENT
COUNTY OF BEAUFORT)

WHEREAS, on June 12, 1981 a Lease Agreement was entered into by and between R.V. Resort and Yacht Club Owners' Association, Inc., a South Carolina non-profit corporation (therein and hereinafter referred to as "Lessor"), and Outdoor Resorts, R.V. Resort and Yacht Club, a South Carolina general partnership (therein and hereinafter referred to as "Lessee"), a copy of which is attached hereto as Exhibit "A" for reference; and

WHEREAS, the aforesaid Lease was recorded with the Declaration of Covenants and Restrictions for Outdoor Resorts, R.V. Resort and Yacht Club in Deed Book 125 at Page 920 in the Office of the Clerk of Court, Beaufort County, South Carolina; and

WHEREAS, the provisions of Paragraph 19 of the aforesaid Lease require that any modifications to the Lease Agreement be in writing and signed by both parties; and

WHEREAS, the Lessor and Lessee have agreed that the following modification to Paragraph 3 be made.

IN CONSIDERATION of the sum of Five and 00/100 ($5.00) Dollars and other valuable consideration, Paragraph 3 of the aforesaid Lease is modified to read as follows:

> In consideration of this Lease of the Recreational Facilities to the Lessee, Lessee agrees to pay Lessor the sum of Five ($5.00) Dollars per month per boat slip at the marina which is shown and designated on Exhibit "B" which is attached hereto and thereby made a part hereof. The payment of said rent, however, shall not begin until the improvements described as the Recreational Facilities in Paragraph 1 have been completed. Such rent shall be payable at such places as Lessor shall direct in writing. The amount of rent shall be automatically increased proportionately with any increase of assessments as determined by the Board of Directors of the Association pursuant to Article VI, Section 3 of the By-Laws of the R.V. Resort and Yacht Club Owners' Association, Inc.

WITNESS our hands and seals this the 2nd day of October, 1981.

WITNESSES:

LESSOR:
R.V. Resort and Yacht Club Owners' Association, Inc., a South Carolina non-profit corporation

By: [signature]

By: .....

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EXHIBIT 2

Signed 2-06

2/06

STATE OF SOUTH CAROLINA)
) LEASE AGREEMENT
COUNTY OF BEAUFORT)

This Lease Agreement, made and entered into on this ____ day of_____, 2005, by and between RV Resort and Yacht Club Owner's Association, Inc.., a South Carolina corporation, (hereinafter referred to as the "Landlord"), and Sunset, Inc. ,a South Carolina corporation, (hereinafter referred to as the "Tenant").

WITNESSETH:

1. Premises: The Landlord hereby leases to the Tenant, and the Tenant hereby leases from the Landlord, the premises identified as the Recreation Building Restaurant, (hereinafter referred to as the "Premises"), located at 43 Jenkins Rd., Hilton Head Island, SC , and being a portion of the second floor of the building known as the "Recreation Building.".

To have and to hold the Premises upon the terms and conditions hereinafter set forth.

2. Landlord's Representations: The Landlord makes the following representations as the basis for the undertakings on its part herein contained:

(a) Landlord is a not for profit corporation organized, existing and in good standing under the laws of the State of South Carolina and is authorized to do business in the State of South Carolina, and has the power to enter into this Agreement and by proper action has been fully authorized to execute and deliver this Agreement, to enter into the transactions contemplated hereby, and to carry out its obligations hereunder.

(b) Landlord represents and warrants that it is vested with fee simple title to the Premises, free from all encumbrances other than zoning restrictions, Town of Hilton Head Island or Beaufort County ordinances and real estate taxes not yet due and payable. Landlord intends to, and reserves the right to, convey the Premises during the term hereof, but subject to this Lease Agreement.

3. Tenant's Representations: The Tenant makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Tenant is a for profit corporation, organized, existing and in good standing under the laws of the State of South Carolina, and by proper action has been duly authorized to execute and deliver this Agreement, to enter into the transactions contemplated hereby, and to carry out its obligations hereunder.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the

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EXHIBIT 1

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terms and conditions of this Agreement, conflict with or result in a breach of any of the terms, conditions or provisions of any restrictions or any agreement or instrument to which the Tenant is now a party or by which it is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Tenant under the terms of any instrument or agreement.

(c) In the making of this Lease, Tenant represents that Landlord has made no warranty, express or implied, as to the condition of the Premises or that it will be suitable for Tenant's purposes or needs. Landlord has agreed to make repairs to the outside deck off the restaurant; and, once these repairs are made, Tenant accepts the premises "as is".

4. Term: The term of this lease shall be for a period of two (2) years, beginning on May 1, 2005, and ending at midnight on April 30, 2007, unless sooner terminated as hereinafter provided. Termination shall be without the necessity of any notice from either Landlord or Tenant and Tenant hereby waives notice to vacate the Premises and agrees that Landlord shall be entitled to the benefit of all provisions of law respecting the summary recovery of possession of premises from a Tenant holding over to the same extent as if statutory notice had been given. Tenant is granted the option(s) to renew this lease subject to the rental amounts and such other terms stated in Paragraph 36 of this Lease Agreement.

5. Possession: If the Tenant accepts possession of the premises before the commencement date specified hereinabove, the term and rental shall commence on such earlier date.

6. Rent: The Tenant shall pay to the Landlord rental as follows:

(i) For the period from May 1, 2005 to and including April 30, 2006, the Tenant shall pay to the Landlord a rental of One Thousand Eight Hundred and Nineteen Dollars and 13/100 ($1,819.13) per month, in advance, by the first day of each and every calendar month; and

(ii) For the period beginning May 1, 2006 and for the remainder of the term of this Lease Agreement, Tenant shall pay to Landlord a rental of One Thousand Nine Hundred and Ten Dollars and 08/100 ($1,910.08) per month, in advance, by the first day of each and every calendar month.

(iii) All rent payments shall be made to Landlord's office in Hilton Head Island, South Carolina, or at such other place as the Landlord may designate in writing to Tenant. All rents due hereunder which are not received by the Landlord by the tenth (10th) day of each month shall be subject to a delinquency charge of one and one-half percent (1-1/2%) per month on the unpaid balance, occurring from the first day of every month for which rental is due, whichever is the greater. Said delinquency charge shall be subject to the default provisions herein.

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7. Payment of Rentals: The obligations of the Tenant to make the payments required in this Lease, and to perform the observe other agreements on its part contained herein shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim it might otherwise have against the Landlord. Any monies paid or expenses incurred by Landlord to correct violations of any of the Tenant's obligations hereunder shall be additional rent.

8. Net Lease: This Lease is a net lease, and the Rent shall be absolutely net to Landlord at all times during the term of this Lease, so that this Lease shall yield to Landlord the full amount of the Rent throughout the term of this Lease. The rent shall be paid to Landlord when due and the other charges to be borne by Tenant under this Agreement shall be paid when due, without notice or demand, and without any abatement, deduction, diminution, suspensions, interruption, deferment, or reduction by reason of any claim, set-off, counterclaim, defense, or any other reason whatsoever. Except to the extent, if any, as expressly provided in this Lease to the contrary, this Lease shall continue in full force and effect during its full term, and the obligations of Tenant under this Lease shall not be released, discharged, or otherwise affected by reason of (I) any damage to or destruction of the Premises or any part thereof or any condemnation of the Premises or any part thereof; (ii) any restriction or prevention of or interference with any use of the Premises or any part thereof; (iii) any inconvenience or interruption or loss of business caused by any present or future legal requirements or insurance requirements; (iv) any claim which Tenant has or might have against Landlord; (v) any failure on the part of Landlord to perform or comply with any of the terms of this Lease or of any other agreement with Tenant (without effect upon Tenant's right, if any, to recover against Landlord for such failure); or (vi) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, and in each case, whether or not Tenant shall have notice or knowledge of any of the foregoing.

9. Use: The Tenant shall use and occupy the Premises solely for the purposes of operating a quality restaurant and lounge, which restaurant and lounge shall comply with all laws, ordinances, orders, or regulations of any lawful authority having jurisdiction over the Premises and the use thereof. Tenant shall not conduct or allow any activities by anyone to be conducted that are restricted by or in violation of the Rules and Regulations published by the Lessor from time to time.

10. Assignment and Subletting: The Tenant shall not, without the prior written consent of the Landlord, assign this Lease or any interest therein. Likewise Tenant may not sublet the Premises or any part thereof without Landlord's written consent. Landlord agrees not to unreasonably reject an Assignee of the Tenant who: a. in Landlord's judgment demonstrates a financial ability to meet all present and future obligations of Tenant b. in Landlord's judgment has a verifiable history of successfully operating a fine dining establishment c. possesses a credit rating that in Landlord's judgment warrants the approval of the Assignee d. agrees to personally guarantee the Lease if requested by Landlord e. agrees to give Landlord a rent deposit in the amount equal to three (3) months rental payment, if requested by Landlord. If Landlord agrees to accept Tenant's Assignee based on the before mentioned terms and conditions, Landlord will release Tenant from his contractual obligations as defined in this Lease Agreement.

11. Improvements: All improvements, alterations and additions to the Premises desired by Tenant shall be made only at Tenant's expense, in good and workmanlike manner and in

accordance with plans and specifications which have been previously approved in writing by the Landlord, which shall not be unreasonably withheld. Landlord reserved the right to approve any contractor, which approval shall not be unreasonably withheld, and to require adequate lien waivers, bonds, permits, licenses and insurance. All improvements and additions made by the Tenant and permanently attached to the Premises, including without limitation all partitions, carpets, ceiling lighting and ceiling fan fixtures, Ansel systems, sinks, door hardware, built-in shelving and cabinets and ceilings, shall remain in the Premises and shall be surrendered to Landlord at the expiration or earlier termination of this Lease. Landlord and Tenant agree that the items identified in Paragraph 15 shall be removed by Tenant at the end of the Lease and shall remain the property of the Tenant.

12. Utilities and Service: Tenant shall, during the term hereof, at its own expense, pay all charges for all utilities of the restaurant including electric power, sewage, propane/gas, and telephone charges. Water is to be supplied by Landlord.

13. Maintenance: Landlord shall be responsible for service and maintenance of all roofs, exterior parking, stairs, and restrooms of the Premises and shall keep the same in good repair. Tenant will be responsible for keeping the stairs and walkways clear of all spills and blockages created by its customers, employees, or agents. Landlord shall, except as hereinafter set forth, make all necessary repairs, replacements, and renewals in order to maintain such good repair and condition. Tenant is to give Landlord written notice of any deficiency and Landlord is to take appropriate action to correct the deficiency in a timely manner. Tenant is to take all prudent and available steps to protect all property and continue his business until the repairs are completed. Tenant hereby holds Landlord harmless for any consequential damages or defects arising from operations by Tenant or any such repair made by Tenant or Tenant's contractor, and agrees to make repairs to correct deficiencies at Tenant's own expense. The Tenant shall, at its own and sole expense, be responsible for all repairs, maintenance and service of heating and air conditioning systems as well as the acquisition, maintenance, cleaning, and repair of all of its personal property and restaurant equipment including, but not limited to stoves, ovens, coolers, freezers, dishwashing equipment, grease trap, kitchen equipment, refrigerators, fire suppression equipment, Ansel [slo] system, ice machines, sinks, dish machines, and all plumbing, piping and wiring associated with Tenants personal property and restaurant equipment. In the event that fire suppression equipment and/or the Ansel system must be replaced, such replacement shall be at the sole expense of the Tenant. Landlord shall not be liable for loss or damage to Tenant's property resulting from any defective condition in or about the Premises. Tenant shall surrender same to Landlord at the expiration or earlier termination of this Lease in as good condition as they were when received (or subsequently improved or altered), normal wear and tear excepted. The Tenant shall be responsible for simple repairs and ordinary maintenance including, but not limited to, painting and flooring. Lessee further agrees to change the air filters for the heating and air conditioning system for the Property on a regular basis (at the sole cost of the Lessee).

14. Operation by Tenant: In regard to use and occupancy of the Premises, Tenant shall, in the opinion of the Landlord, (a) keep all exterior surfaces of the Premises clean; (b) replace promptly, at its expense, any cracked or broken plate or window glass of the premises with glass of like kind and quality; (c) replace the entry door(s), interior doors, and all door locks with doors and locks of like kind and quality should entry or interior doors or locks be damaged; (d) maintain the Premises at its expense in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests;

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(e) keep any garbage, trash, rubbish or refuse in propor containers which containers shall be located below the outside stairway closest to the ICW and behind the building; (f) have such garbage, trash, rubbish and refuse removed at its expense on a regular basis; (g) comply with all laws, ordinances, rules and regulations of governmental authorities and all recommendations of the Fire Underwriters Rating Bureau now or hereafter in effect; and Tenant shall not (h) do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will contravene policies insuring against loss or damage by fire or other hazards (including, without limitation, public liability) or which will prevent Tenant from procuring such policies in companies acceptable to Landlord.

15. Property of Tenant: Tenant may, and at the expiration or earlier termination hereof shall remove all furniture, equipment, and other personal property including the antique bar, beveled glass mirror and shelving behind bar, stoves, ovens, dishwashers, ice maker, refrigeration equipment, tables, and chairs, window treatments, and other furnishings and equipment which Tenant shall have placed in the Premises, other than personal property or fixtures which revert to the Landlord as set forth in Section 11 of this Agreement. All such property, including the property to revert to Landlord, shall, during the term thereof, be at the risk of Tenant only, and Landlord shall not be liable for any loss thereof or damage thereto resulting from any cause whatsoever; and each policy of insurance covering such property shall contain a standard waiver of subrogation endorsement. Any such property not removed at the expiration or earlier termination of this Lease, or which cannot be removed without permanent or substantial damage to the Premises, shall be deemed abandoned and may be disposed of by the Landlord in any manner whatsoever. Tenant is to repair any damage caused by the removal of any personal property or equipment from the premises.

16. Taxes: Landlord shall pay all real estate taxes assessed on the Premises. All other taxes and assessments of every kind or nature imposed or assessed upon the restaurant operation or with respect to its furnishings, fixtures, and equipment shall be the responsibility of the Tenant.

17. Insurance Required: At its sole expense, Tenant shall keep the Tenant's trade fixtures, merchandise, operating equipment, personal property, leasehold furnishings, now or hereafter located on or about the Property insured against loss by fire and all of the risk and perils, including without limitation sprinkler damage, vandalism, malicious mischief and other such coverage usually covered by an extended coverage endorsement to a policy of fire and casualty insurance upon property comparable to the property, including plate glass insurance, especially for the interest of the Tenant, in an amount equal to not less than the full replacement cost thereof. Tenant shall further keep in force at its expense as long as this Lease Agreement remains in effect and during such other time as Tenant occupies the Premises or any part thereof the following contracts of insurance:

(1) Comprehensive General Liability Policy with limits as follows:
   (i) $1,000,000 per occurrence $2,000,000 aggregate;
   (ii) $100,000 Fire, Legal liability; and,
   (iii) $5,000 Medical payments.

   RV Resort & Yacht Club Owners Association, Inc. shall be endorsed on such policy as Additional Named Insured.

(2) Liquor Legal Liability Insurance.

(3) Workers Compensation Insurance covering all employees of the Tenant.

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Tenant shall supply to Landlord on April 1st of each year a valid certificate of insurance for these policies containing provision for a thirty (30) day written notice of cancellation. Tenant agrees to waive subrogation against the Landlord for any and all losses arising out of the loss or damage to Tenant's contents, whether or not such contents are insured at the time of loss. Landlord shall deem non-compliance with any of the foregoing provisions cause for termination of this Lease upon ten days written notice to Tenant.

18. Signs and Advertising: Tenant shall not place or suffer to be placed or maintained on the Premises, any sign, advertising matter or any other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the Premises without first obtaining Landlord's written approval which will not be unreasonably withheld. Tenant shall maintain such sign, decoration, lettering, advertising matter or other things as may be approved by Landlord, in good condition and repair at all times and shall remove all such sign, decoration, lettering and advertising matter at the termination of this Lease Agreement.

19. Damage or Destruction by Casualty: If the Premises are partially destroyed by fire or other casualty, rental shall not abate and Tenant shall receive all insurance proceeds and, at its own expense, promptly restore the Premises to substantially the same condition as existed before; provided, however, Landlord may by notice to Tenant within thirty (30) days after the date of damage or destruction to all or substantially all of the Building on the Premises elect, at its option, not to require the restoration or repair of the Premises and Tenant may thereafter, at its option, cancel this Lease.

20. Eminent Domain: If the whole of the Premises be taken under the power of eminent domain (including any conveyance in lieu thereof), then the term hereof shall cease as of the date possession thereof is taken by the condemnor, and rental shall be accounted for as between Landlord and Tenant as of that date. If any lesser portion of the Premises is thus taken which exceeds Twenty (20%) percent of the Premises, rental shall abate in the proportion the floor area taken bears to the total floor area of the building on the Premises used at the time of taking. Tenant shall not have any right or claim to any part of any award made to or received by Landlord for such taking or right or claim against Landlord for the value of the then unexpired term of the Lease; provided, however, Tenant shall not be prevented from making a claim against the condemnor (but not against Landlord) for the depreciated value of any improvements made to the Premises by Tenant, any moving expenses, loss of profits, or taking of its personal property (other than its leasehold interest) to which Tenant may be entitled.

21. Indemnity: Tenant shall defend, indemnify and hold harmless the Landlord from and against any claims, damages or expenses, whether due to damage to the premises, claims for injuries to persons or property, or administrative or criminal action by a governmental authority, where such claims arise out of or from use or occupancy of the Premises by Tenant, its agents, employees or invitees, except where such damage, claims or penalties are caused by the gross negligence of Landlord, its employees or agents.

22. Landlord's Entry: Landlord may enter the Premises at reasonable times and in a reasonable manner to inspect or exhibit same, and to exercise Landlord's rights under this Lease

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Agreement Tenant shall be given, except in an emergency, twenty-four (24) hours prior notice of such entry and an employee of Tenant shall be present at all times during such entry.

23. Events of Default: Any one or more of the following events shall amount to the Event of Default or Default under this Agreement:

(a) Failure by the Tenant to pay the Rent agreed to be paid, including all other sums of money which may be considered as additional rent in whole or in part at the time specified herein and continuing for a period of fifteen (15) or more days there from.

(b) Failure of Tenant to provide any certificate required hereunder within the time therein specified.

(c) Failure of the Tenant to observe and perform any covenant, condition or agreement in this Agreement on the part of the Tenant to be observed or performed within five (5) days after written notice specifying such failure and requesting that it be rendered given to the Tenant and any Guarantor by the Landlord, unless the Landlord shall agree in writing to an extension of such time prior to its expiration.

(d) To the extent allowed by law, the dissolution of liquidation of the Tenant or the filing by the Tenant of a voluntary petition in bankruptcy or failure by the Tenant promptly to lift any execution, garnishment or attachment of such consequence as will impair the ability of the Tenant to carry on its operations at the Premises, or the commission by the Tenant of any act of bankruptcy, or adjudication of the Tenant as a bankrupt, or assignment by the Tenant for the befit of its creditors, or the entry by the Tenant into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Tenant in any proceeding for its reorganization instituted under the provision of the general Bankruptcy Act, as amended, or under any similar act in any domestic or foreign jurisdiction which may now be in effect or hereafter entered.

24. Remedies on Default: Whenever any Event of Default shall have happened and be subsisting, the Landlord may take any of the following remedial steps:

(a) The Landlord, at its option, may declare all rental for the remainder of the lease Term to be immediately due and payable, whereupon the same shall become immediately due and payable.

(b) The Landlord, with or without terminating this Agreement (at its option), may (I) exclude and remove the Tenant and all persons and contents from the Premises by force, summary proceedings, or otherwise, without being liable to Tenant therefore; (ii) reenter and take possession of the Premises; and (iii) sublease the Premises for the account of the Tenant, holding the Tenant liable for the

difference in the rent and other amounts actually paid by such sub lessee in such subleasing and other amounts payable by the Tenant hereunder, and Tenant shall remain liable for any damages sustained by Landlord, all reasonable costs, professional fees to include attorney fees, and expenses incurred by Landlord in leasing the Premises to another tenant, and in effecting collection of rentals from Tenant.

©) The Landlord may take whatever action at law or in equity may appear necessary or desirable to collect the rent and other amounts then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Tenant under this Agreement, including utilization of all provisions of applicable laws respecting the speedy recovery of lands and tenements held over by Tenant and proceedings in forcible entry and detainer. In addition, Tenant shall reimburse Landlord for all costs and expenses, including reasonable attorneys' fee, in connection with the enforcement of the terms and obligations of this Agreement.

No action taken pursuant to this Section shall relieve the Tenant from the Tenant's obligation to pay Rent, all of which shall survive any such action, and the Landlord may take whatever action at law or in equity as may appear necessary and desirable to collect the Rent and other amounts then due and thereafter to become due and/or to enforce the performance and observance of any obligations, agreement or covenant of the Tenant hereunder.

25. Remedies Cumulative Non-Waiver: No remedy herein or otherwise conferred upon or reserved to Landlord or Tenant shall be considered exclusive of any other remedy, but the same shall be distinct, separate and cumulative and shall be in addition to every other remedy given hereunder, or not or hereafter existing at law or in equity; and every power and remedy given by this Lease Agreement may be exercised from time to time as often as occasion may arise or as may be deemed expedient. No delay or omission of Landlord to exercise any right or power arising from any default on the part of Tenant shall impair any such right or power, or shall be construed to be a waiver of any such default, or an acquiescence therein. No delay or omission of Tenant to exercise any power or right arising from any default on the part of Landlord shall impair any such right or power, or shall be construed to be a waiver of any such default, or an acquiescence therein. The acceptance of rent by Landlord without knowledge of a default by Tenant hereunder shall not constitute a waiver of such default.

26. Quiet Enjoyment. If Tenant shall pay the Rent and perform and observe all of the other covenants and conditions to be performed and observed by it hereunder, Tenant shall at all times during the term hereof have the peaceable and quiet enjoyment of the Premises without interference from Landlord or any person lawfully claiming through Landlord, subject, however, to the terms of any mortgages or deeds of trust provided for in paragraph 28 hereof. Landlord shall have no responsibility or liability whatsoever for the loss of any property of Tenant resulting from theft, trespass, breaking and entering and the like.

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27. Estoppel Certificate: Within ten (10) days after written request thereof by the Landlord or any mortgagee or trustee under a mortgage or deed of trust covering the Premises, Tenant shall deliver in recordable form a statement to any mortgagee, trustee or other transferee, or to Landlord, certifying any facts that are then true with respect to this Lease Agreement, including without limitation (if such be the case) that this Lease Agreement is in full force and effect, that Tenant is in possession, that Tenant has commenced the payment of Rent, and that Tenant claims no defense or set-off to the due and full performance of its obligations under this Lease Agreement.

28. Subordination and Attornment: Tenant agrees that this Lease shall be subject and subordinate to any mortgages, deeds of trust now or hereafter placed upon the Premises and to all modifications thereto, and to all present and future advances made with respect to any such mortgage or deed of trust. Tenant agrees to attorn to the mortgagee, trustee, or beneficiary under any such mortgage or deed of trust, and to the purchaser at a sale pursuant to the foreclosure thereof, and to the lessor in the event of a termination of any such prior lease. Provided, however, that so long as Tenant shall not be in default under this Lease, its rights of possession and enjoyment of the Premises shall be and remain undisturbed and unaffected by said mortgage or deed of trust or by any foreclosure proceedings thereunder, and any subordination agreement executed pursuant to this paragraph shall contain language specifically so providing.

29. Notices: All notices provided for in this Lease Agreement shall be in writing and shall be deemed to be given when sent by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to the Landlord: RV Resort & Yacht Club Owners Association
P.O. Box 23874
Hilton Head Island, SC 29925

If to the Tenant: Sunset, Inc.
40 Old House Creek Drive
Hilton Head Island, SC 29928

Notice shall also be sent to the holder or holders of any mortgage or deed of trust covering the Premises at such address as such holder or holders may have given by notice as herein provided. Either party hereto, or any such holder, may from time to time, by notice as herein provided, designate a different address to which notices to it shall be sent.

30. Subordination: In no event shall Landlord's interest in the Premises, or any part thereof, be subordinate or junior to the lien of any mortgage or deed of trust covering Tenant's interest in the Premises.

31. Governing Law: This Lease Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina.

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32. Successors: This Lease Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns, except as otherwise provided for in this Lease Agreement.

33. Short Form Memorandum: Each party agrees to execute upon request a short form of this Lease Agreement for purposes of recordation, the cost of which shall be borne by the Tenant. The Tenant shall pay all lease stamps due upon the execution of this Lease and any extension or extensions thereof.

34. Nature and Extent of Agreement: This Lease Agreement, including the exhibits attached hereto, contains the complete agreement between the parties regarding the terms and conditions of the lease of the Premises, and there are no oral or written conditions, terms or warranties, understands or other agreements pertaining thereto which have not been incorporated herein. This Lease Agreement may be modified only by written instrument duly executed by both parties or their respective successors in interest.

35. Holding Over: This Lease expires at the end of the term defined herein, but it is expressly understood that if Tenant holds over for another month at the end of said term for any purpose other than the removal of its property, and Landlord accepts rent for said month, such acceptance shall operate as a renewal of the tenancy for another month and for each additional month for which Landlord accepts rent. Should Landlord require possession of the Premises, it shall give Tenant thirty (30) days to vacate the said premises during such holdover period.

36. Renewal Term: Lessee, having first fully performed all of its obligations, terms, conditions, and covenants hereunder, and having paid all of the rent payable to Lessor under the original term is hereby granted the right and option to renew this lease for two (2) additional terms as hereinafter specified, with the annual increases in rent to be paid as set forth below. Except for the rents, all other terms and conditions set forth in this Lease shall remain unchanged and in effect for the renewal terms unless the parties shall agree in writing to a modification of the terms.

(a) The renewal term rental amounts for Renewal Term 1 are:
May 1, 2007 through April 30, 2008 $24,067.03 per annum ($2,005.59 per mo.)
May 1, 2008 through April 30, 2009 $25,270.38 per annum ($2,105.87 per mo.)

(b) Tenant is granted an additional three (3) year renewal option (May 1, 2009 through April 30, 2012) as Renewal Term 2. The annual rental amounts for each year of the additional three (3) year term shall not be increased by more than 5% over the preceding year's annual rent.

37. Material Change. Any transfer, sale, or change whatsoever in ownership of fifty percent or more of the outstanding shares of stock of Sunset, Inc., which at the time of signing this agreement is hereby represented by the Tennant to be owned by Hugh and Linda Lockman, will be considered a material change and will be cause for termination of this Lease Agreement if so chosen by Landlord.

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38. Deposit. The Lessee has previously furnished to Landlord a deposit of one thousand dollars ($1000). This deposit may be used by Landlord upon termination of this lease as an offset against any unpaid rent, costs incurred by Landlord for cleaning or making repairs that are the responsibility of the Tenant, replacement of any equipment or furnishings that are to remain as part of the premises upon termination of the Lease. Should Landlord use all or any portion of the security deposit as described herein, Landlord shall provide Lessee with a complete itemization of all monies deducted from the security deposit.

In Witness Whereof, the parties hereto have hereunto set their respective Hands and Seals on the day and year first hereinabove written.

WITNESSES:

LANDLORD
RV Resort & Yacht Club Owner's Association, Inc.

By: _____
Its: President

TENANT
Sunset, Inc.

By: _____
Its: _____

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	Case No.: 2021-CP-07-01085
	)	
TURNER'S MARINA, LLC,	)	
	)	
Plaintiff,	)	**Answer to 3rd Amended Complaint for Damages, for the Appointment of a Receiver,for a Declaration of Legal Rights and for Temporary and Permanent Injunctive Relief and Counterclaim**
	)	
	)	
	)	
	)	
	)	
	)	
R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC. and MIKE MORALES, and SUNSET, INC.	)	
	)	
	)	
	)	
Defendants.	)	
	)	

Defendant, R.V. Resort and Yacht Club Owners'Association, Inc. ("Defendant Association") hereby submits the following Answer, Defenses and Counterclaims to Plaintiff's3rdAmended Complaint dated July 20, 2023,and would respectfully show and allege unto this Honorable Court as follows:

FIRST DEFENSE

1. The 3rd Amended Complaint should be dismissed as to any claims to the ships store and restaurant spaces as to such spaces have been under strict control of the Defendants for over thirty-four years and any such claims have been extinguished under the doctrine of waiver.

SECOND DEFENSE

2. Each and every allegation of the First Defense isrealleged as fully as if repeated verbatim herein.

3. The 3rd Amended Complaint should be dismissed pursuant to S.C.R.C.P Rule 12(b)(6) forfailure of the pleading to state facts sufficient to constitute a cause of action.

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THIRD DEFENSE

4. Each and every allegation of the First and Second Defenses are realleged as fully as if repeated verbatim herein.

5. The 3rd Amended Complaint should be dismissed pursuant to S.C.R.C.P Rule 12(b)(8) as the matters before this Court are pending in a prior action and therefore should be dismissed or consolidated therein.

FOURTH DEFENSE

6. Each and every allegation of the First, Second, and Third Defensesare realleged as fully as if repeated verbatim herein.

7. Under the Covenants, By-Laws, and Rules and Regulations which control the actions and the Defendant Association and its Board of Directors, the Board of Directors has authority to construe the provisions of the Governing Documents.

8. The Board, through the use of sound business judgment, construed the Covenants and has acted in the best interests of the Association. Therefore, the 3rdAmended Complaint should be dismissed based upon the business judgment rule.

FIFTH DEFENSE

9. Each and every allegation of the First through Fourth Defensesare realleged as fully as if repeated verbatim herein.

10. The Plaintiff's 3rd Amended Complaint should be dismissed in that the Plaintiff's claims are barred by Res Judicata and collateral estoppel.

SIXTH DEFENSE

11. Each and every allegation of the First through Fifth Defensesare realleged as fully as if repeated verbatim herein.

12. All or a portion of Plaintiff's claims in their 3rd Amended Complaint are barred by the applicable statute of limitations.

SEVENTH DEFENSE

13. Each and every allegation of the First through Sixth Defenses are realleged as fully as if repeated verbatim herein.

14. All or a portion of Plaintiff's claims in their 3rd Amended Complaint are barred by the doctrines of unclean hands and laches.

EIGHTH DEFENSE

15. Each and every allegation of the First through Seventh Defenses are realleged as fully as if repeated verbatim herein, reserving all rights pursuant to the First through Seventh defenses.

16. Each and every allegation of Plaintiff's 3rd Amended Complaint not hereinafter specifically admitted, qualified or explained is denied and demands strict proof thereof.

17. Defendant Association admits the allegations contained in Paragraphs 1 and 2 of Plaintiff's 3rd Amended Complaint.

18. Defendant Association lacks sufficient information to either admit or deny the allegations contained in Paragraphs 3, 4 and 5 of Plaintiff's 3rdAmended Complaint and therefore denies and demands strict proof thereof.

19. Defendant Association admits the allegations contained in Paragraphs 6, 7, and 8 of Plaintiff's 3rd Amended Complaint.

20. The allegations contained in Paragraphs 9, 10, 11 and 12 of Plaintiff's 3rd Amended Complaint speak for themselves.

21. Defendant Association lacks sufficient information to either admit or deny the

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allegations contained in Paragraphs 13 and 14 of Plaintiff's 3rd Amended Complaint and therefore denies and demands strict proof thereof.

22. The Defendant Association lacks sufficient information to either admit or deny the allegations contained in Paragraph 15 of Plaintiff's 3rd Amended Complaint and therefore denies and demands strict proof thereof.

23. Defendant Association lacks sufficient information to either admit or deny the allegations contained in Paragraphs 16, 17, and 18 of Plaintiff's 3rd Amended Complaint and therefore denies and demands strict proof thereof.

24. The allegations contained in Paragraph 19 of Plaintiff's 3rd Amended Complaint regarding the lease speak for themselves.

25. Defendant Association denies the allegations contained in Paragraphs 20, 21, 22, 23,24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39 and 40 of Plaintiff's 3rd Amended Complaint and demands strict proof thereof.

26. That Defendants reassert all of its previous answers above regarding paragraph 41 of Plaintiff's 3rd Amended Complaint and demands strict proof thereof.

27. Defendant Association denies the allegations contained in Paragraph 42 (a-h) of Plaintiff's 3rd Amended Complaint and demands strict proof thereof.

28. That Defendants reassert all of its previous answers above regarding paragraph 43 of Plaintiff's 3rd Amended Complaint and demands strict proof thereof..

29. Defendant Association denies the allegations contained in Paragraph 44, 45, 46, 47 and 48 of Plaintiff's 3rd Amended Complaint and demands strict proof thereof.

30. That Defendants reassert all of its previous answers above regarding paragraph 49 of Plaintiff's 3rd Amended Complaint and demands strict proof thereof.

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31. Defendant Association denies the allegations contained in Paragraphs 50, 51, and 52 of Plaintiff's 3rd Amended Complaint and demands strict proof thereof.

32. That Defendants reassert all of its previous answers above regarding paragraphs 53, 56, 60 and 65 of Plaintiff's 3rd Amended Complaint and demands strict proof thereof.

33. Defendant Association denies the allegations contained in Paragraphs 54, 55, 57, 58, 59, 61, 62, 63, 64, 66, and 67 (in its entirety, including sections a-h) of Plaintiff's 3rd Amended Complaint and therefore denies and demands strict proof thereof.

NINTH DEFENSE AND BY WAY OF COUTERCLAIM
(Abuse of Process)

34. Each and every allegation of the First through Eighth Defense is realleged as fully as if repeated verbatim herein.

35. As this is the third lawsuit filed by the Plaintiff and is an abuse of process as well as a frivolous lawsuit, the Defendant Association is informed and believes they are entitled to an Order of the Court awarding them their attorney's fees and costs for defense of this matter.

TENTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Attorney's fees)

36. Each and every allegation of the First through Ninth Defenses are realleged as if fully repeated verbatim herein.

37. Under the Covenants and by-laws, the Defendants are entitled to recover attorney's fees and cost in this matter.

ELEVENTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Breach of Fiduciary Duty)

38. Each and every allegation of the First through Tenth Defenses are realleged as if fully repeated verbatim herein.

39. That the Plaintiff claims it is the successor Developer under the Covenants.

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40. As the Developer, the Plaintiff owes to the Defendants a strict fiduciary duty that extends to the Defendants and all members of the Association.

41. Plaintiff has continually breached its Fiduciary Duty, has taken unilateral actions contrary to the well-being of the resort in violation of the Covenants and previous ruling of Courts and caused actual and consequential damages to the Defendants. Plaintiff has entered into third party leases and allowed such leases to use the resort parking and facilities to the detriment of the Resort and the Association and its members.

42. Defendant has requested that the Plaintiff cease and desist, all requests have been either deliberately disregarded by the Plaintiff or the Plaintiff has taken actions contrary actions causing further actual and consequential damages to the Defendants.

43. Plaintiff's intentional breach of its fiduciary duties and conduct should subject him to punitive damages.

TWELFTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Tortious Interference with Contractual Relationship)

44. Each and every allegation of the First through Eleventh Defensesare realleged as if fully repeated verbatim herein.

45. That the Defendant R.V. Resort and Yacht Club Owner's Association, Inc.entered into a contract with Defendant Sunset under which the Defendant Association agreed to lease certain parts of the Recreational building in which the Defendant Association owns to the Defendant Sunset for the Operation of a Restaurant in 2006 and has continually renewed such lease without any lapses. That such lease is currently valid and allows the Defendant Sunset use of parking.

46. That the Plaintiff has intentionally interfered with the operation of said lease without justification and caused damage to the Defendants.

47. That the Defendant Association is informed and believes that it is entitled to an award of damages and injunctive relief against the Plaintiff for its intentional interference with such relationship.

THIRTEENTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Declaratory Judgement as toEasement)

48. Each and every allegation of the First through Twelfth Defenses are realleged as if fully repeated verbatim herein.

49. That the Defendant R.V. Resort and Yacht Club Owner's Association, Inc. entered into a contract with Defendant Sunset under which the Defendant Association agreed to lease certain parts of the Recreational building in which the Defendant Association owns to the Defendant Sunset for the Operation of a Restaurant in 2006 and has continually renewed such lease without any lapses. That such lease is currently valid and allows the Defendant Sunset access to the leased property.

50. That the only access to the property owned by the Defendant Association and leased to Defendant Sunset is over property owned by the Plaintiff.

51. That the Defendant Association is entitled to a declaratory judgement that its lessees and their guests have a prescriptive easement and/or easement of necessity over the Defendant's property for the purpose of accessing said leased property.

FOURTEENTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Declaratory Judgement as to Property Covered by Lease)

52. Each and every allegation of the First through Thirteenth Defenses are realleged as if fully repeated verbatim herein.

53. That the 99-year lease between the Defendant Association and the Declarant does not adequately and clearly describe the property subject to the lease.

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54. That the Plaintiff is attempting to use the ambiguity in the lease to his advantage to gain control over property that neither the Defendant Association nor previous Developers considered to be subject to said lease.

55. That the lease payment is based on the number of marina slips owned by the Developer and as such was clearly intended to only provide access to the recreational facilities by those slip holders.

56. That the Defendant Association is entitled to a declaratory judgement that the lease does not apply to the restaurant area, owner's lounge, ships store (resort manager's office), parking lot, or bathrooms and further that only the Plaintiff's non-commercial marina slip holders are entitled to use the recreational facilities that are covered by the lease.

FIFTEENTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Validity of Recreational Facilities Lease)

56. Each and every allegation of the First through Fourteenth Defenses are realleged as if fully repeated verbatim herein.

57. That the lease held by the Declarant pertains to certain common areas owned by the Defendant Association.

58. That the lease was executed on June 12, 1981.

59. That the common areas and property covered by the lease was not deeded to the Defendant Association until September 26, 1996.

60. That the Defendant Association is entitled to a declaratory judgment that the lease is invalid and unenforceable.

61. That, if the court does not determine that the lease is invalid and unenforceable, that the court should mandate that the lease be renegotiated with a clear description of the property that is subject to the lease, who may utilize the leased premises (outside of the Plaintiff)

and that the lease payment should be structured based on the actual load on the recreational facilities taking into account the original lease only contemplated use of the facilities by marina slip holders.

SIXTEENTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Interference with Easement)

62. Each and every allegation of the First through Fifteenth Defenses are realleged as if fully repeated verbatim herein.

63. That the only access to the property owned by the Defendant Association and its members is over property owned by the Plaintiff.

63. That the Defendant Association was granted an easement by the Developer to access those properties.

64. That the Plaintiff has interfered with said easement by placing armed security guards at the entrance, attempting to install gates to restrict access to the property, and by claiming that the easement held by the Defendant Association does not allow for access to the recreational facilities owned by the Defendant Association.

65. That the Defendant Association is entitled to a declaratory judgement that the existing easement allows for access to the recreational facilities.

66. That the Defendant Association is entitled to injunctive relief barring the Plaintiff from interfering with access to the recreational facilities to lot owners, their guests and invitees, and the Defendant Association's lessees and their guests and invitees.

WHEREFORE, having fully answered the Plaintiff's 3rd Amended Complaint, that the Court inquire fully the issues raised, dismiss the Complaint of Plaintiff with prejudice, award Defendant Association actual, consequential, injunctive relief, punitive damages, and attorney's fees and costs as to its Counterclaims and for defense of this matter and further relief as it is just

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and proper.

Respectfully Submitted

s/Christopher D. Lizzi

Christopher D. Lizzi
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ATTORNEY FOR DEFENDANT ASSOCIATION

August 3, 2023
North Charleston, South Carolina

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CERTIFICATE OF SERVICE

I, Tiffany Barba, an employee of the Lizzi Law Firm, PC, served a copy of Defendant Association's 3rd Amended Answer and Counterclaim for Case Number 2021-CP-07-01085on the 3rddday of August 2023 via electronic communication to the following:

Thomas C. Taylor, Esquire
PO Box 5550
Hilton Head, SC 29938
tom@thomastaylorlaw.com

s/*Tiffany Barba*
Paralegal

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2021-CP-07-01085
	)	
TURNER'S MARINA LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**AMENDED ANSWER AND COUNTERCLAIMS OF SUNSET, INC. TO PLAINTIFF'S THIRD AMENDED COMPLAINT**
	)	
R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, LLC, MIKE MORALES, and SUNSET, INC.,	)	
	)	
Defendants.	)	
	)	

The Defendant, Sunset, Inc. ("Sunset"), hereby responds to the Plaintiff's Summons and Third Amended Complaint, filed July 20, 2023 ("Complaint"), and asserts various Counterclaims against the Plaintiff, as follows:

FOR A FIRST DEFENSE TO ALL CAUSES OF ACTION
(General Denial)

1. That the Defendant, Sunset, denies each and every allegation of the Complaint not hereinafter admitted, qualified or denied.

2. That the Defendant, Sunset, lacks sufficient information to either admit or deny the allegations of Paragraphs 1 through 4, 10, 12, 13, 14, 15, 16, 25 through 30, 36 through 40, 42 through 44, 46 , 47 and 60 through 67, and therefore denies same.

3. That the Defendant, Sunset, admits the allegations of Paragraphs 5, 7 and 8 of the Complaint.

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4. That the Defendant, Sunset, denies the allegations of Paragraphs 17, 18, 19, 20, 22, 23, 24, 31, 32, 34, 49, 50, and 51 of the Complaint.

5. That as to the allegations of Paragraph 9 of the Complaint, the Defendant, Sunset, would direct the Court's attention to the specific provisions of the recorded Covenants. Any allegation inconsistent with said provisions is denied.

6. That as to the allegations of Paragraph 11 of the Complaint, the Defendant, Sunset, would direct the Court's attention to the specific provisions of the Covenants, By-Laws, Rules and Regulations for Owners, and 99-year lease. Any allegation inconsistent with said provisions is denied.

7. That as to the allegations of Paragraph 21 of the Complaint, the Defendant, Sunset, would direct the Court's attention to the specific provisions of the Lease Agreement. Any allegation inconsistent with said provisions is denied.

8. That the Defendant Sunset is informed and believes no responses are required as to the allegations in Paragraphs 33, 35, 41 and 48. If responses are required, said allegations are denied.

FOR A SECOND DEFENSE
AND COUNTERCLAIM
(Declaratory Judgment)

9. That the Defendant, Sunset, repeats the allegations of Paragraphs 1 through 8 above as if specifically set forth herein.

10. That on or about 1981, the Outdoor Resorts R.V. Resort and Yacht Club, a joint venture consisting of ORA of Carolina Inc. and Six Ess, Inc (ORRV) developed and constructed on a seven (7.0) acre parcel of land a 200 site mobile home park, including bathhouses, recreational

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facilities, swimming pool, tennis courts, parking areas, roads, drainage facilities, utility infrastructure, marina, boat landing, and fuel dock, all shown and depicted on Plat Book 29 at Page 184 as recorded in the Beaufort County Register of Deeds ("ROD") (collectively "RV Resort").

11. That on or about February 1, 1982 ORRV, as tenant, entered into a long-term Lease Agreement with the HOA as Landlord, for the second floor portion of that certain building to be used as a restaurant ("Restaurant"), more particularly described on Exhibit 1 attached hereto ("1982 Restaurant Lease").

12. Thereafter, pursuant to a written sublease agreement, ORRV, as tenant, with the consent of HOA, sublet its rights to the 1982 Restaurant Lease to Mariner Restaurant Inc.

13. That thereafter, on or about May 15, 1989, for the sum of $12,500 and other good and valuable consideration, ORRV assigned all of its interest to the 1982 Restaurant Lease back to the landlord, the HOA, pursuant to an Assignment of Restaurant Lease, a copy of which is attached hereto as Ex. 2 ("1989 Lease Assignment").

14. That thereafter, on or about February 2006, the HOA entered into a long-term Lease Agreement with the Defendant Sunset for the second floor Restaurant and related facilities, including but not limited to all stairs and entrances to the Restaurant, the first floor restrooms, any parking spaces owned or controlled by the HOA, and the right for it, and its employees, guests, invitees, and patrons to have at all times free and unfettered access to and from Jenkins Road (collectively "Leased Premises"). A copy of said lease is attached hereto as Ex. 3 ("Restaurant Lease").

15. That as a result of a series of Addendum to Lease Agreements, set forth below, the term of the Restaurant Lease has been extended through April 30, 2028:

a. 4/23/10 Addendum to Lease Agreement;

b. 5/22/12 Addendum to Lease Agreement;

c. 10/22/15 Addendum to Lease Agreement;

d. 2/12/18 Addendum to Lease Agreement; and

e. 9/26/20 Addendum to Lease Agreement.

That the Lease Agreement, and above-referenced addenda are collectively referred to as the "2006 Restaurant Lease".

16. That Sunset has fully complied with all terms and conditions of the 2006 Restaurant Lease from its inception to the present.

17. That the HOA and its predecessors in title have leased the Leased Premises to one or more parties for over forty (40) years without objection or claims of ownership or control by any party, including but not limited to ORRV, the Plaintiff, or anyone on their behalf.

18. That the Plaintiff's initial ownership of any real portion at the RV Resort was only about four and one-half (4½) years ago, when it acquired 1.41 acres as described in that certain deed, dated December 21, 2017, and recorded at Deed Book 3632 at Page 1436 ("2017 Turner Deed").

19. That the Restaurant, and any portion of the Leased Premises, is clearly not part of the real estate the Plaintiff acquired in the above purchase.

20. That Sunset is informed and believes the Plaintiff is claiming ownership or control of the Restaurant, and the Leased Premises, pursuant to that Assignment of Rights from ORA of Carolina Inc., dated August 23, 1999 recorded at Deed Book 1209 at Page 1240 and/or that certain Absolute Assignment, dated August 23, 1999, recorded in Deed Book 1209 at Page 1243. Said assignments are collectively referred to as the "1999 Turner Assignments".

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21. That Sunset is informed and believes that the Plaintiff takes the position that under the 1999 Turner Assignments, Plaintiff holds and is entitled to the rights, duties and obligation of ORRV, as Lessee or Tenant, under that certain June 12, 1981 Lease with the HOA, as Lessor or Landlord, recorded at Deed Book 325 at Page 953 ("99 Year Lease"- Exhibit 4).

22. That under the express terms of the 99 Year Lease, the Lessee or Tenant was granted certain limited right to use and occupy certain property described on Exhibit A to said 99 Year Lease.

23. That no Exhibit A was attached to the 99 Year Lease. However, the 99 Year Lease provides that premises subject to the 99 Year Lease are defined as certain "Recreational Facilities," defined as follows in § 1:

> "The premises described in the above legal description are hereinafter referred to as the Recreational Facilities which include, among other things, a swimming pool, two tennis courts, decking, bathhouses, and certain portions of the Clubhouse Complex."

24. That thereafter, the 99 Year Lease provides in § 2 that it is intended to be an exclusive lease to Lessee, or Tenant, under the following language:

> "This is an exclusive Lease to the Lessee, under circumstances where the Lessor shall not be entitled to enter into any other leases with any other lessees while this Lease is in effect without the prior consent of the Lessee."

25. That as set forth in the Plaintiff's Complaint, Plaintiff is relying on the above provisions in the 99 Year Lease to assert that the Restaurant and Leased Premises under the 2006 Restaurant Lease is somehow a Recreational Facility under the 1999 Lease, and that Sunset's 2006 Lease Agreement is invalid since it was entered into in violation of § 2 of the 99 Year Lease.

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26. Sunset is informed and believes that the Plaintiff also takes the position it is entitled to use certain parking spaces designated as spaces 3 through 23 on Exhibit 5 attached hereto, on property owned by the HOA ("Disputed Parking Spaces") pursuant to the 99 Year Lease, although there is absolutely no reference to parking spaces, parking facilities, the right to park, etc. in the definition of Recreational Facilities, or anywhere else in the 99 Year Lease.

27. That since the Plaintiff has acquired title to the 1.41 acres pursuant to the 2017 Turner Deed, and whatever rights it may hold under the 99 Year Lease, it has claimed the right to use the Disputed Parking Spaces, which previously had been used by the guests, invitees, and patrons of Sunset and the HOA.

28. That among other rights held by Sunset under the 2006 Sunset Lease, Sunset and its guests, invitees, patrons and contractors, were also granted a "permanent, non-exclusive right-of-way, on, over and across the paved roads located" on the 1.41 acres reflected in the 2017 Turner Deed, pursuant to that certain Easement, dated January 1, 1984, and recorded in the ROD at DB 397 at Page 1611 ("1984 Easement").

29. That the Plaintiff has retained private security guards, and has sought to further restrict access through one or more gates to the Disputed Parking Spaces, and to the Restaurant and Leased Premises itself, although Plaintiff has no legal right to do so.

30. That Sunset brings this action pursuant to § 15-53-10 et. seq. of the South Carolina Code of Laws (1976) and Rule 57 SCRCP seeking a declaration from the Court as to the following issues that are in dispute:

A. That the 2006 Restaurant Lease Agreement is valid and enforceable to all parties to this litigation.

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B. That the Plaintiff, and any tenants of the Plaintiff, and their guests, invitees, employees, and patrons, do not have the legal right to use or occupy the Leased Premises or Disputed Parking Spaces.

C. That the Plaintiff, and any tenants of the Plaintiff, and their guests, invitees, employees, do not have the right to use the restroom located on the first floor of the Clubhouse Complex.

D. That if the 99 Year Lease is valid and enforceable, that the Court issue an Order defining "certain portions of the Clubhouse Complex," as set forth in the 99 Year Lease.

E. That the 99 Year Lease is invalid and unenforceable since it does not sufficiently describe the leased premises.

F. That the Plaintiff does not have the authority or right to restrict access to Sunset, it guests, invitees, employees, and patrons to the RV Resort the Restaurant, or any portion of the Lease Premises, through the use of security guards, gates, or any other means .

G. That Sunset, its agents, invitees, employees, and patrons have the legal right to access the RV Resort from Jenkins Road and to park in the Disputed Parking Spaces.

H. Whether Sunset is entitled to any attorney fees and costs from the Plaintiff as a result of the action or inactions of the Plaintiff in this matter.

. That the above issues are collectively referred to as the "Disputed Issues."

FOR A THIRD DEFENSE AND SECOND COUNTERCLAIM

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(Tortious Interference with Contract)

31. That the Defendant, Sunset, repeats the allegations of Paragraphs 1 through 30 above as if specifically set forth herein.

32. That as set forth above, since on or about February 2006, pursuant to the 2006 Restaurant Lease, the Defendant, Sunset, has lawfully used, occupied and operated a first-class restaurant at the RV Resort.

33. That among other rights under the 2006 Restaurant Lease, Sunset has the right of quiet enjoyment, the right of its guests, invitees, employees and patrons to park in the Disputed Parking Spaces, and the right of free and unfettered access to and from Jenkins Road.

34. That the Plaintiff, Turner's Marina Inc., at all relevant times was aware that Sunset operated said Restaurant under the 2006 Restaurant Lease, and in fact knew that prior parties had leased the Restaurant space from the HOA since the RV Resort was established.

35. That the Plaintiff, Turner's Marina Inc., intentionally sought to interfere with the 2006 Restaurant Lease, and procure its breach, by one or more of the following actions:

A. Restricting or prohibiting access to Sunset's guests, invitees, employees and patrons on more than one occasion;

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B. Restricting or prohibiting the ability of Sunset's guests, invitees, employees and patrons on more than one occasion from parking in the Disputed Parking Spaces;

C. Directing the Plaintiff's and its tenants, guests, employees and patrons to park in the Disputed Parking Spaces, thus leaving no room to park for Sunset's guests, invitees, employees and patrons ;

D. Asserting that the 2006 Restaurant Lease is invalid and unenforceable;

E. Repeatedly towing cars of patrons of Sunset's restaurant in violation of applicable Beaufort County ordinances, and

E. Taking other such action to be proven at trial to interfere with the rights of Sunset under the 2006 Restaurant Lease.

36. That the actions taken by Plaintiff described above were taken without any legal or factual basis, in a wanton, willful, and careless manner.

37. That Sunset suffered loss of customers, loss of revenues, emotional anguish, distress, attorney fees and costs , and other actual damages to be proven at trial, plus, such punitive damages to be awarded by the trier-in-fact.

FOR A FOURTH DEFENSE
(Equitable Defenses)

38. That the Defendant, Sunset, repeats the allegations of Paragraphs 1 through 37 above as if specifically set forth herein.

39. That the claims of the Plaintiff are barred by the equitable doctrines of laches, equitable estoppel, waiver, and unclean hands.

FOR A FIFTH DEFENSE
(Res Judicata)

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40. That the Defendant, Sunset, repeats the allegations of Paragraphs 1 through 39 above as if specifically set forth herein.

41. That the claims of the Plaintiff are barred under the legal principles of the doctrine of Res Judicata.

FOR A SIXTH DEFENSE
(Collateral Estoppel)

42. That the Defendant, Sunset, repeats the allegations of Paragraphs 1 through 41 above as if specifically set forth herein.

43. That the claims of the Plaintiff are barred under the legal principles of the doctrine of Collateral Estoppel.

FOR A SEVENTH DEFENSE
(Statute of Limitations)

44. That the Defendant, Sunset, repeats the allegations of Paragraphs 1 through 43 above as if specifically set forth herein.

45. That the claims of the Plaintiff are barred based upon the applicable Statute of Limitations.

FOR AN EIGHTH DEFENSE
(Punitive Damages Unconstitutional)

46. That the Defendant, Sunset, repeats the allegations of Paragraphs 1 through 45 above as if specifically set forth herein.

47. That any award or assessment of punitive damages as prayed for by the Plaintiff would violate the Defendant, Sunset's constitutional rights under the Fifth, Sixth and Fourteenth Amendments of the United States Constitution and comparable provisions of the South Carolina Constitution.

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FOR A NINTH DEFENSE
(Statute of Frauds)

48. That the Defendant, Sunset, repeats the allegations of Paragraphs 1 through 47 above as if specifically set forth herein.

49. That the claims of the Plaintiff are barred by the Statute of Frauds.

FOR A TENTH DEFENSE
(Reservation and Non-Waiver)

50. That the Defendant, Sunset, repeats the allegations of Paragraphs 1 through 49 above as if specifically set forth herein.

51. The Defendant, Sunset, reserves any additional and further defenses as may be revealed by additional information during the course of discovery and investigation, and as is consistent with the South Carolina Rules of Civil Procedure.

Wherefore, having responded to the Plaintiff's Complaint, the Defendant, Sunset, prays as follows:

A. That the Plaintiff's Complaint be dismissed with prejudice as to all claims asserted against the Defendant, Sunset.

B. That this Court issue an Order on the Disputed Issues.

C. That the Defendant, Sunset, be awarded its actual damages and such punitive damages as determined by the trier-in-fact under its Second Counterclaim for tortious interference with contact cause of action.

D. The Defendant, Sunset, be awarded all of its costs in connection with the defense and prosecution of this action.

E. For such other and further relief as the Court deems just and proper.

RUSSELL P. PATTERSON, P.A.

/s/ Russell P. Patterson

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Attorneys for the Defendant,
Sunset, Inc.

Hilton Head Island, South Carolina
August 4, 2023

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#6 RESTURANT LEASE 2/1/82

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

LEASE AGREEMENT

THIS LEASE AGREEMENT entered into this 1st day of Feb 1982 by and between OUTDOOR RESORTS R.V. RESORT AND YACHT CLUB, a joint venture consisting of ORA of Carolina, Inc. and SIX ESS, Inc. (hereinafter referred to as the "Lessee"), and R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION (hereinafter referred to as the "Lessor").

WHEREAS, the Lessor is the owner of fee simple title to certain improved real property located on Jenkins Island, Beaufort County, South Carolina as is more particularly described on Exhibit "A", attached hereto and incorporated herein by this reference (hereinafter the "Property") and;

WHEREAS, the Lessee desires to lease the property upon the terms and conditions hereinafter set forth and;

WHEREAS, the Lessee was the developer of the project on Jenkins Island known as Outdoor Resorts R.V. Resort and Yacht Club and;

WHEREAS, Lessee designed, developed and constructed the project including the property leased herein as part of the common elements and amenities for the benefit of the owners of Outdoor Resorts R.V. Resort and Yacht Club lots;

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein or for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Lessor and Lessee agree as follows:

1. Terms: The Lessor hereby leases to Lessee the Property for a term of twenty-five (25) years from and including the date hereof to and including midnight the 1st day of February, 2007.

2. Rent and Additional Consideration: The total rent for the term of lease granted hereunder shall be Ten and 00/100 ($10.00) Dollars which rent has been paid by Lessee to Lessor contemporaneously with the execution of this Lease Agreement. Lessor acknowledges and agrees that (1) as additional consideration and rent, Lessee undertook at its expense the construction of expanded improvements on the Property

HOA Regest to admit 6-2-22 00201

EXHIBIT 1

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at a cost of approximately Thirty Thousand and 00/100 ($30,000.00) Dollars; and (ii) Lessee at its expense installed, equipped and furnished the Property with fixtures, furniture and equipment for a restaurant and lounge facility at the cost of approximately Forty Thousand and 00/100 ($40,000.00) Dollars.

3. Purpose: During the term of this Lease, Lessee shall have sole and exclusive use and possession of the property for the purpose of operating a restaurant and lounge within the interior walls of the Property.

4. Utilities and Insurance: The Lessee shall pay all utilities, for the Property, and shall pay all insurance (general liability and casualty as hereinafter required in the Agreement) for the Property.

The Lessee agrees to operate a restaurant and lounge for the exclusive and sole benefit of the owners of lots at the Outdoor Resorts R.V. Resort and Yacht Club, owners of lots at the Outdoor Resorts Motorcoach Resort, rental guests at either resort or guests of owners or renters of lots at the Outdoor Resorts R.V. Resort and Yacht Club or the Outdoor Resorts Motorcoach Resort on Hilton Head Island, South Carolina or guests of the marina or fuel docks.

5. Other Costs: The Lessee shall be responsible for the costs of maintaining all equipment within the Property and further, the Lessee shall be responsible for all workmen's compensation insurance, taxes (state and Federal), business liability insurance, business licenses and any other fees, costs or charges incurred in the operation of a restaurant and lounge.

6. Renewals: Lessee, having first performed all of its obligations, terms, conditions and covenants hereunder and paid all of the rent payable to the Lessor under the original (or any renewed) term is hereby granted the right and option to renew this lease for two consecutive additional terms of twenty-five (25) years (each) upon the same terms, covenants and conditions, except rent, that exist for the original term hereof. Rent for the first renewal period shall be

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Fifty-Two Thousand Five Hundred and 00/100 ($52,500.00) Dollars, payable in the amount of One Hundred Seventy-Five and 00/100 ($175.00) Dollars per month. Rent for the second renewal period shall be Seventy-Five Thousand and 00/100 ($75,000.00) Dollars, payable in the amount of Two Hundred Fifty and 00/100 ($250.00) Dollars per month. Lessee shall exercise this option by giving notice of Lessee's exercise of option to renew on or before one hundred eighty (180) days prior to the expiration of the original term and with regard to additional renewal terms, on or before one hundred eighty (180) days prior to the expiration of the then current renewal term.

7. Real Estate Taxes: Lessor shall pay all real estate taxes and assessments (except for personal property and utilities) for the property.

8. Use Restrictions: Lessee shall, at all times during the term hereof, operate a quality restaurant and lounge on the Property, and shall not conduct or allow any activities by anyone that would detract from the Outdoor Resorts R.V. Resort and Yacht Club development. Additionally:

8.1 Lessee shall not use the Property for any unlawful purpose or for any use, or purpose which constitutes a nuisance, or which is in violation of laws, ordinances, or regulations or requirements of any governmental authority.

8.2 Lessee and Lessee's employees, agents, customers and invitees shall park only in the area designated by the Lessor.

8.3 Lessee shall install no signs and shall make no structural changes, alterations, modifications or additions to the premises or the building without Lessor's written consent. All alterations, additions or improvements which may be made by Lessee upon the Property or put in at the expense of Lessee shall not thereafter be removed, but shall become and remain the property of the Lessor.

9. Repairs: Lessor, at its sole expense, shall service and maintain all heating, ventilation, air conditioning, plumbing,

HOA Reque 6-23-22 00203

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Exhibit P7-a

repair and in a clean, orderly, safe and sanitary condition; and shall make all necessary repairs, replacements and renewals, foreseen or unforeseen, ordinary or extraordinary, in order to maintain such repair and condition.

10. Required Liability Insurance: Lessee or its Sublessee shall keep in effect at its sole expense, comprehensive general liability insurance covering the premises, Lessor, and Lessor's mortgagees, if any, and providing coverage with maximum limits of liability of not less than Five Hundred Thousand and 00/100 ($500,000.00) Dollars for bodily injury to one person, Five Hundred Thousand and 00/100 ($500,000.00) Dollars for bodily injury to any group of persons as a result of one accident and Five Hundred Thousand and 00/100 ($500,000.00) Dollars for property damage. Lessee shall, at Lessor's request, provide written proof to Lessor or Lessor's mortgagees of said coverage required herein including proper endorsement claiming Lessor as an additional insured.

11. Casualty: At its sole expense, Lessee shall keep the Lessee's trade fixtures, merchandise, operating equipment, personal property, leasehold furnishings, now or hereafter located on or about the Property insured against loss by fire and all of the risk and perils, including without limitation sprinkler damage, vandalism, malicious mischief and other such coverage usually covered by an extended coverage endorsement to a policy of fire and casualty insurance upon property comparable to the Property, including plate glass insurance, business or rent interruption insurance, especially for the interest of the Lessee, in an amount equal to not less than the full replacement cost thereof. In the event that the premises are damaged or destroyed by fire or other casualty insurable under standard fire and extended coverage insurance policy, maintained by Lessee hereunder, the Lessor shall (subject to Lessor being able to obtain all the necessary permits and approvals therefore within one hundred eighty (180) days of such casualty, and provided Lessor has not terminated this lease),

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commence to repair, reconstruct and restore the Property to the condition in which the Property was immediately prior to such casualty, as soon as practicable. The Lessee agrees to repair and replace Lessee's leasehold improvements, its merchandise, its trade fixtures, furnishing, operating equipment and personal properties as soon as possible after the occurrence of such casualties to a condition at least equal to that prior to its damage or destruction. In no event shall Lessor be liable for interruption of the business of Lessee or for damage to or repair, reconstruction or restoration of any item belonging to Lessee or located within the Property.

12. Indemnity: The Lessee agrees to indemnify and save harmless Lessor against and from any and all claims, causes of action, damages and demands, by or on behalf of any person or persons, partnership, firm or firms, corporation or corporations, or any other entity arising from any act or omission of Lessee in its use and occupancy of the property and the conduct or management of, or from any business, work or thing whatsoever done by or on behalf of Lessee in or about the property and Lessee will further indemnify and save harmless Lessor against and from any and all claims, causes of action, damages and demands, arising from any breach or default on the part of the Lessee in the performance of any covenant or agreement on the part of the Lessee to be performed pursuant of the terms of this Lease or arising from any act or negligence of Lessee or any of its agents, contractors or servants, employees, licensees or customers and from and against all costs, attorneys' fees, expenses and liabilities incurred in or about any such claim, cause of action, damage and demand, or action or proceeding brought thereon, and in case any action or proceeding be brought against Lessor by reason of any such claim, Lessee upon notice from Lessor covenants to resist or defend at Lessee's expense such action or proceeding by counsel reasonably satisfactory to Lessor.

13. Miscellaneous Provisions:

13.1. Assignment: Lessee agrees that Lessee may, without consent of Lessor sublease the Property or any portion thereof and

HQA Regest to a 23-22 00205

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that any attempted transfer of its obligations in violation of this paragraph shall be void as to Lessor.

13.2 Inspection: Lessee will permit Lessor, its agents, employees and contractors to enter all parts of the Property and inspect the same and to enforce and carry out any of the provisions of this Lease.

13.3 Quiet Enjoyment: Lessor covenants so long as Lessee is not in breach of any of its obligations under this Lease, Lessee may peaceably and quietly occupy and possess the premises subject to the terms and conditions of this Lease.

13.4 Subordination: This Lease and Lessee's rights hereunder are subject and subordinate to all ground and underlying leases and to all mortgages, deeds of trusts, assignments of this Lease or other financing encumbrances (mortgages) which may now or hereafter affect this Lease and to all renewals, modifications, consolidations, replacements and extensions of any such mortgages. This clause shall be self-operative and no further instrument of subordination shall be required by any ground or underlying Lessee or by any mortgagee affecting any lease of the real property which the Property leased herein is a part of.

13.5 As Is: Except as provided herein, Lessee has inspected the Property and after full examination has accepted possession of the Property in its current condition, as is. Lessor has not made any representation to Lessee of the condition of the Property or its fitness for the use intended by Lessee.

13.6 Surrender of Premises: At the end or other termination of this Lease, Lessee shall deliver the Property to the Lessor in its present condition, broom clean, reasonable and ordinary wear and tear excepted.

13.7 Trade Fixtures: All trade fixtures, merchandise, supplies and moveable apparatus and personalty owned by the Lessee and installed or placed on the Property shall remain the property of the Lessee and shall be moveable from time to time, and also at

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the expiration of the term or any renewal extension of the term or other termination thereof, provided Lessee shall not at such time be in default on any covenant or agreement contained herein. All other fixtures and equipment installed in the Property shall not be removed at any time by Lessee, unless otherwise approved in writing by Lessor, and they shall not be removed from the Property at the expiration of the term or any other termination of this Lease.

13.8 Governing Law: This Lease shall be governed by the laws of the State of South Carolina.

13.9 Entire Agreement: This Lease contains the entire agreement between the parties and the executory agreement hereafter made shall be an effective change, modify, discharge or effect and abandonment of it in whole or in part unless such executory agreement is in writing and signed by the party against whom the enforcement of the change, modification, discharge or abandonment is sought.

13.10 Invalidity: If any term or provision of this Lease with application thereof to any person, and circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease and the application of such term or provision to persons and circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby and each term or provision of this Lease shall be valid and shall be enforceable to the fullest extent permitted by the law.

IN WITNESS WHEREOF, the parties hereunto set their hands as of the day and year first written above.

WITNESSES:

R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC.

By:

OUTDOOR RESORTS R.V. RESORT AND YACHT CLUB, a joint venture consisting of ORA of Carolina, Inc. and SIX ESS, Inc.

By:

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5/15/89

1189/ARL/RV

STATE OF SOUTH CAROLINA)
) ASSIGNMENT OF RESTAURANT LEASE
COUNTY OF BEAUFORT)

THIS ASSIGNMENT OF RESTAURANT LEASE made this 15 day of May, 1989, by and between R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC. (hereinafter referred to as "Landlord"), OUTDOOR RESORTS R.V. RESORT AND YACHT CLUB, a joint venture consisting of ORA of Carolina, Inc. and SIX ESS, Inc. (hereinafter referred to as "Tenant"), and MARINERS RESTAURANT, INC. (hereinafter collectively referred to as "Sub-tenant").

W I T N E S S E T H

WHEREAS, on February 1, 1982, Tenant entered into that certain Lease, a copy of which is attached at Exhibit A and by reference thereto incorporated herein (hereinafter referred to as "Lease") with Landlord for certain space located at Outdoor Resorts R.V. Resort and Yacht Club, Hilton Head Island, South Carolina (hereinafter referrred to as the "Premises"); and

WHEREAS, Tenant, thereafter subleased the Premises to Sub-tenant, a copy of said Sub-lease is attached at Exhibit B and by reference thereto is incorporated herein (hereinafter referred to as the "Sub-lease").

NOW, THEREFORE, for and in consideration of the sum of Ten and 00/100 ($10.00) Dollars paid in hand to each of the parties hereto and for other good and valuable consideration, the receipt and adequacy whereof are hereby acknowledged, the parties hereto agree as follows:

1. Tenant does hereby assign unto Landlord all of its right, title, interest, obligations, privileges and benefits that it possesses under the terms and provisions of the Lease and that certain sublease entered into by Tenant, and Landlord does hereby fully accept all of the right, title, interest, obligations, privileges and benefits possessed by Tenant under the provisions of the Lease and Sub-lease.

2. Tenant hereby warrants and covenants as of the date hereof that Tenant is not in default thereof, and that Tenant has not entered into any other agreements which would affect Landlord, Sub-tenant, the Lease or the Sub-lease other than those set forth in this Assignment.

EXHIBIT 2

HOA Reqest to admit 6-23-22 00208

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3. This Assignment shall not be construed to modify, amend or otherwise alter any of the terms, conditions or provisions of the Lease or Sub-lease.

4. Landlord hereby releases Tenant from any future liability or obligation under the terms and provisions of the Lease as amended.

5. Sub-tenant consents to this Assignment and the parties hereby acknowledge that the effect of this Assignment is to delete Tenant from the Lease relationship and place Landlord and Sub-Tenant in a Lease relationship under the terms of the Sub-lease.

6. This Assignment may be executed by the parties hereto in counterparts with all such counterparts being considered the final executed document

7. This Assignment shall be governed and construed under the laws of the State of South Carolina and shall inure to the benefit and/or detriment of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, this Assignment of Restaurant Lease has been executed the day and year first above written.

WITNESS:

Henry A. Barthelemy

Maureen E. Larsen

LANDLORD:

R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC.

By: [signature]

Attest: Margie B. Blakeslee

TENANT:

OUTDOOR RESORTS R.V. RESORT AND YACHT CLUB, a joint venture consisting of ORA of Carolina, Inc. and SIX ESS, Inc.

Mary A Brown

Susan K. Spivey

By: Ronald W. Petty
Its: DIRECTOR OF OPERATIONS

Attest: Carl E. Neumeier
Its: Secretary

HOA Reqest to admit 6-23-22 00209

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2/06

Signed 2-06

STATE OF SOUTH CAROLINA)
) LEASE AGREEMENT
COUNTY OF BEAUFORT)

This Lease Agreement, made and entered into on this ____ day of_____, 2005, by and between RV Resort and Yacht Club Owner's Association, Inc.., a South Carolina corporation, (hereinafter referred to as the "Landlord"), and Sunset, Inc. ,a South Carolina corporation, (hereinafter referred to as the "Tenant").

WITNESSETH:

1. Premises: The Landlord hereby leases to the Tenant, and the Tenant hereby leases from the Landlord, the premises identified as the Recreation Building Restaurant, (hereinafter referred to as the "Premises"), located at 43 Jenkins Rd., Hilton Head Island, SC , and being a portion of the second floor of the building known as the "Recreation Building.".

To have and to hold the Premises upon the terms and conditions hereinafter set forth.

2. Landlord's Representations: The Landlord makes the following representations as the basis for the undertakings on its part herein contained:

(a) Landlord is a not for profit corporation organized, existing and in good standing under the laws of the State of South Carolina and is authorized to do business in the State of South Carolina, and has the power to enter into this Agreement and by proper action has been fully authorized to execute and deliver this Agreement, to enter into the transactions contemplated hereby, and to carry out its obligations hereunder.

(b) Landlord represents and warrants that it is vested with fee simple title to the Premises, free from all encumbrances other than zoning restrictions, Town of Hilton Head Island or Beaufort County ordinances and real estate taxes not yet due and payable. Landlord intends to, and reserves the right to, convey the Premises during the term hereof, but subject to this Lease Agreement.

3. Tenant's Representations: The Tenant makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Tenant is a for profit corporation, organized, existing and in good standing under the laws of the State of South Carolina, and by proper action has been duly authorized to execute and deliver this Agreement, to enter into the transactions contemplated hereby, and to carry out its obligations hereunder.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the

EXHIBIT 31

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terms and conditions of this Agreement, conflict with or result in a breach of any of the terms, conditions or provisions of any restrictions or any agreement or instrument to which the Tenant is now a party or by which it is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Tenant under the terms of any instrument or agreement.

(c) In the making of this Lease, Tenant represents that Landlord has made no warranty, express or implied, as to the condition of the Premises or that it will be suitable for Tenant's purposes or needs. Landlord has agreed to make repairs to the outside deck off the restaurant; and, once these repairs are made, Tenant accepts the premises"as is".

4. Term: The term of this lease shall be for a period of two (2) years, beginning on May 1, 2005, and ending at midnight on April 30, 2007, unless sooner terminated as hereinafter provided. Termination shall be without the necessity of any notice from either Landlord or Tenant and Tenant hereby waives notice to vacate the Premises and agrees that Landlord shall be entitled to the benefit of all provisions of law respecting the summary recovery of possession of premises from a Tenant holding over to the same extent as if statutory notice had been given. Tenant is granted the option(s) to renew this lease subject to the rental amounts and such other terms stated in Paragraph 36 of this Lease Agreement.

5. Possession: If the Tenant accepts possession of the premises before the commencement date specified hereinabove, the term and rental shall commence on such earlier date.

6. Rent: The Tenant shall pay to the Landlord rental as follows:

(i) For the period from May 1, 2005 to and including April 30, 2006, the Tenant shall pay to the Landlord a rental of One Thousand Eight Hundred and Nineteen Dollars and 13/100 ($1,819.13) per month, in advance, by the first day of each and every calendar month; and

(ii) For the period beginning May 1, 2006 and for the remainder of the term of this Lease Agreement, Tenant shall pay to Landlord a rental of One Thousand Nine Hundred and Ten Dollars and 08/100 ($1,910.08) per month, in advance, by the first day of each and every calendar month.

(iii) All rent payments shall be made to Landlord's office in Hilton Head Island, South Carolina, or at such other place as the Landlord may designate in writing to Tenant. All rents due hereunder which are not received by the Landlord by the tenth (10th) day of each month shall be subject to a delinquency charge of one and one-half percent (1-1/2%) per month on the unpaid balance, occurring from the first day of every month for which rental is due, whichever is the greater. Said delinquency charge shall be subject to the default provisions herein.

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7. Payment of Rentals: The obligations of the Tenant to make the payments required in this Lease, and to perform the observe other agreements on its part contained herein shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim it might otherwise have against the Landlord. Any monies paid or expenses incurred by Landlord to correct violations of any of the Tenant's obligations hereunder shall be additional rent.

8. Net Lease: This Lease is a net lease, and the Rent shall be absolutely net to Landlord at all times during the term of this Lease, so that this Lease shall yield to Landlord the full amount of the Rent throughout the term of this Lease. The rent shall be paid to Landlord when due and the other charges to be borne by Tenant under this Agreement shall be paid when due, without notice or demand, and without any abatement, deduction, diminution, suspensions, interruption, deferment, or reduction by reason of any claim, set-off, counterclaim, defense, or any other reason whatsoever. Except to the extent, if any, as expressly provided in this Lease to the contrary, this Lease shall continue in full force and effect during its full term, and the obligations of Tenant under this Lease shall not be released, discharged, or otherwise affected by reason of (I) any damage to or destruction of the Premises or any part thereof or any condemnation of the Premises or any part thereof; (ii) any restriction or prevention of or interference with any use of the Premises or any part thereof; (iii) any inconvenience or interruption or loss of business caused by any present or future legal requirements or insurance requirements; (iv) any claim which Tenant has or might have against Landlord; (v) any failure on the part of Landlord to perform or comply with any of the terms of this Lease or of any other agreement with Tenant (without effect upon Tenant's right, if any, to recover against Landlord for such failure); or (vi) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, and in each case, whether or not Tenant shall have notice or knowledge of any of the foregoing.

9. Use: The Tenant shall use and occupy the Premises solely for the purposes of operating a quality restaurant and lounge, which restaurant and lounge shall comply with all laws, ordinances, orders, or regulations of any lawful authority having jurisdiction over the Premises and the use thereof. Tenant shall not conduct or allow any activities by anyone to be conducted that are restricted by or in violation of the Rules and Regulations published by the Lessor from time to time.

10. Assignment and Subletting: The Tenant shall not, without the prior written consent of the Landlord, assign this Lease or any interest therein. Likewise Tenant may not sublet the Premises or any part thereof without Landlord's written consent. Landlord agrees not to unreasonably reject an Assignee of the Tenant who: a. in Landlord's judgment demonstrates a financial ability to meet all present and future obligations of Tenant b. in Landlord's judgment has a verifiable history of successfully operating a fine dining establishment c. possesses a credit rating that in Landlord's judgment warrants the approval of the Assignee d. agrees to personally guarantee the Lease if requested by Landlord e. agrees to give Landlord a rent deposit in the amount equal to three (3) months rental payment, if requested by Landlord. If Landlord agrees to accept Tenant's Assignee based on the before mentioned terms and conditions, Landlord will release Tenant from his contractual obligations as defined in this Lease Agreement.

11. Improvements: All improvements, alterations and additions to the Premises desired by Tenant shall be made only at Tenant's expense, in good and workmanlike manner and in

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accordance with plans and specifications which have been previously approved in writing by the Landlord, which shall not be unreasonably withheld. Landlord reserved the right to approve any contractor, which approval shall not be unreasonably withheld, and to require adequate lien waivers, bonds, permits, licenses and insurance. All improvements and additions made by the Tenant and permanently attached to the Premises, including without limitation all partitions, carpets, ceiling lighting and ceiling fan fixtures, Ansel systems, sinks, door hardware, built-in shelving and cabinets and ceilings, shall remain in the Premises and shall be surrendered to Landlord at the expiration or earlier termination of this Lease. Landlord and Tenant agree that the items identified in Paragraph 15 shall be removed by Tenant at the end of the Lease and shall remain the property of the Tenant.

12. Utilities and Service: Tenant shall, during the term hereof, at its own expense, pay all charges for all utilities of the restaurant including electric power, sewage, propane/gas, and telephone charges. Water is to be supplied by Landlord.

13. Maintenance: Landlord shall be responsible for service and maintenance of all roofs, exterior parking, stairs, and restrooms of the Premises and shall keep the same in good repair. Tenant will be responsible for keeping the stairs and walkways clear of all spills and blockages created by its customers, employees, or agents. Landlord shall, except as hereinafter set forth, make all necessary repairs, replacements, and renewals in order to maintain such good repair and condition. Tenant is to give Landlord written notice of any deficiency and Landlord is to take appropriate action to correct the deficiency in a timely manner. Tenant is to take all prudent and available steps to protect all property and continue his business until the repairs are completed. Tenant hereby holds Landlord harmless for any consequential damages or defects arising from operations by Tenant or any such repair made by Tenant or Tenant's contractor, and agrees to make repairs to correct deficiencies at Tenant's own expense. The Tenant shall, at its own and sole expense, be responsible for all repairs, maintenance and service of heating and air conditioning systems as well as the acquisition, maintenance, cleaning, and repair of all of its personal property and restaurant equipment including, but not limited to stoves, ovens, coolers, freezers, dishwashing equipment, grease trap, kitchen equipment, refrigerators, fire suppression equipment, Ansel [sic] system, ice machines, sinks, dish machines, and all plumbing, piping and wiring associated with Tenants personal property and restaurant equipment. In the event that fire suppression equipment and/or the Ansel system must be replaced, such replacement shall be at the sole expense of the Tenant. Landlord shall not be liable for loss or damage to Tenant's property resulting from any defective condition in or about the Premises. Tenant shall surrender same to Landlord at the expiration or earlier termination of this Lease in as good condition as they were when received (or subsequently improved or altered), normal wear and tear excepted. The Tenant shall be responsible for simple repairs and ordinary maintenance including, but not limited to, painting and flooring. Lessee further agrees to change the air filters for the heating and air conditioning system for the Property on a regular basis (at the sole cost of the Lessee).

14. Operation by Tenant: In regard to use and occupancy of the Premises, Tenant shall, in the opinion of the Landlord, (a) keep all exterior surfaces of the Premises clean; (b) replace promptly, at its expense, any cracked or broken plate or window glass of the premises with glass of like kind and quality; (c) replace the entry door(s), interior doors, and all door locks with doors and locks of like kind and quality should entry or interior doors or locks be damaged; (d) maintain the Premises at its expense in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests;

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(e) keep any garbage, trash, rubbish or refuse in proper containers which containers shall be located below the outside stairway closest to the ICW and behind the building; (f) have such garbage, trash, rubbish and refuse removed at its expense on a regular basis; (g) comply with all laws, ordinances, rules and regulations of governmental authorities and all recommendations of the Fire Underwriters Rating Bureau now or hereafter in effect; and Tenant shall not (h) do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will contravene policies insuring against loss or damage by fire or other hazards (including, without limitation, public liability) or which will prevent Tenant from procuring such policies in companies acceptable to Landlord.

15. Property of Tenant: Tenant may, and at the expiration or earlier termination hereof shall remove all furniture, equipment, and other personal property including the antique bar, beveled glass mirror and shelving behind bar, stoves, ovens, dishwashers, ice maker, refrigeration equipment, tables, and chairs, window treatments, and other furnishings and equipment which Tenant shall have placed in the Premises, other than personal property or fixtures which revert to the Landlord as set forth in Section 11 of this Agreement. All such property, including the property to revert to Landlord, shall, during the term thereof, be at the risk of Tenant only, and Landlord shall not be liable for any loss thereof or damage thereto resulting from any cause whatsoever; and each policy of insurance covering such property shall contain a standard waiver of subrogation endorsement. Any such property not removed at the expiration or earlier termination of this Lease, or which cannot be removed without permanent or substantial damage to the Premises, shall be deemed abandoned and may be disposed of by the Landlord in any manner whatsoever. Tenant is to repair any damage caused by the removal of any personal property or equipment from the premises.

16. Taxes: Landlord shall pay all real estate taxes assessed on the Premises. All other taxes and assessments of every kind or nature imposed or assessed upon the restaurant operation or with respect to its furnishings, fixtures, and equipment shall be the responsibility of the Tenant.

17. Insurance Required: At its sole expense, Tenant shall keep the Tenant's trade fixtures, merchandise, operating equipment, personal property, leasehold furnishings, now or hereafter located on or about the Property insured against loss by fire and all of the risk and perils, including without limitation sprinkler damage, vandalism, malicious mischief and other such coverage usually covered by an extended coverage endorsement to a policy of fire and casualty insurance upon property comparable to the property, including plate glass insurance, especially for the interest of the Tenant, in an amount equal to not less than the full replacement cost thereof. Tenant shall further keep in force at its expense as long as this Lease Agreement remains in effect and during such other time as Tenant occupies the Premises or any part thereof the following contracts of insurance:

(1) Comprehensive General Liability Policy with limits as follows:
   (i) $1,000,000 per occurrence $2,000,000 aggregate;
   (ii) $100,000 Fire, Legal liability; and,
   (iii) $5,000 Medical payments.

   RV Resort & Yacht Club Owners Association, Inc shall be endorsed on such policy as Additional Named Insured.

(2) Liquor Legal Liability Insurance.

(3) Workers Compensation Insurance covering all employees of the Tenant.

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Tenant shall supply to Landlord on April 1st of each year a valid certificate of insurance for these policies containing provision for a thirty (30) day written notice of cancellation. Tenant agrees to waive subrogation against the Landlord for any and all losses arising out of the loss or damage to Tenant's contents, whether or not such contents are insured at the time of loss. Landlord shall deem non-compliance with any of the foregoing provisions cause for termination of this Lease upon ten days written notice to Tenant.

18. Signs and Advertising: Tenant shall not place or suffer to be placed or maintained on the Premises, any sign, advertising matter or any other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the Premises without first obtaining Landlord's written approval which will not be unreasonably withheld. Tenant shall maintain such sign, decoration, lettering, advertising matter or other things as may be approved by Landlord, in good condition and repair at all times and shall remove all such sign, decoration, lettering and advertising matter at the termination of this Lease Agreement.

19. Damage or Destruction by Casualty: If the Premises are partially destroyed by fire or other casualty, rental shall not abate and Tenant shall receive all insurance proceeds and, at its own expense, promptly restore the Premises to substantially the same condition as existed before; provided, however, Landlord may by notice to Tenant within thirty (30) days after the date of damage or destruction to all or substantially all of the Building on the Premises elect, at its option, not to require the restoration or repair of the Premises and Tenant may thereafter, at its option, cancel this Lease.

20. Eminent Domain: If the whole of the Premises be taken under the power of eminent domain (including any conveyance in lieu thereof), then the term hereof shall cease as of the date possession thereof is taken by the condemnor, and rental shall be accounted for as between Landlord and Tenant as of that date. If any lesser portion of the Premises is thus taken which exceeds Twenty (20%) percent of the Premises, rental shall abate in the proportion the floor area taken bears to the total floor area of the building on the Premises used at the time of taking. Tenant shall not have any right or claim to any part of any award made to or received by Landlord for such taking or right or claim against Landlord for the value of the then unexpired term of the Lease; provided, however, Tenant shall not be prevented from making a claim against the condemnor (but not against Landlord) for the depreciated value of any improvements made to the Premises by Tenant, any moving expenses, loss of profits, or taking of its personal property (other than its leasehold interest) to which Tenant may be entitled.

21. Indemnity: Tenant shall defend, indemnify and hold harmless the Landlord from and against any claims, damages or expenses, whether due to damage to the premises, claims for injuries to persons or property, or administrative or criminal action by a governmental authority, where such claims arise out of or from use or occupancy of the Premises by Tenant, its agents, employees or invitees, except where such damage, claims or penalties are caused by the gross negligence of Landlord, its employees or agents.

22. Landlord's Entry: Landlord may enter the Premises at reasonable times and in a reasonable manner to inspect or exhibit same, and to exercise Landlord's rights under this Lease

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Agreement Tenant shall be given, except in an emergency, twenty-four (24) hours prior notice of such entry and an employee of Tenant shall be present at all times during such entry.

23. Events of Default: Any one or more of the following events shall amount to the Event of Default or Default under this Agreement:

(a) Failure by the Tenant to pay the Rent agreed to be paid, including all other sums of money which may be considered as additional rent in whole or in part at the time specified herein and continuing for a period of fifteen (15) or more days there from.

(b) Failure of Tenant to provide any certificate required hereunder within the time therein specified.

(c) Failure of the Tenant to observe and perform any covenant, condition or agreement in this Agreement on the part of the Tenant to be observed or performed within five (5) days after written notice specifying such failure and requesting that it be rendered given to the Tenant and any Guarantor by the Landlord, unless the Landlord shall agree in writing to an extension of such time prior to its expiration.

(d) To the extent allowed by law, the dissolution of liquidation of the Tenant or the filing by the Tenant of a voluntary petition in bankruptcy or failure by the Tenant promptly to lift any execution, garnishment or attachment of such consequence as will impair the ability of the Tenant to carry on its operations at the Premises, or the commission by the Tenant of any act of bankruptcy, or adjudication of the Tenant as a bankrupt, or assignment by the Tenant for the befit of its creditors, or the entry by the Tenant into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Tenant in any proceeding for its reorganization instituted under the provision of the general Bankruptcy Act, as amended, or under any similar act in any domestic or foreign jurisdiction which may now be in effect or hereafter entered.

24. Remedies on Default: Whenever any Event of Default shall have happened and be subsisting, the Landlord may take any of the following remedial steps:

(a) The Landlord, at its option, may declare all rental for the remainder of the lease Term to be immediately due and payable, whereupon the same shall become immediately due and payable.

(b) The Landlord, with or without terminating this Agreement (at its option), may (i) exclude and remove the Tenant and all persons and contents from the Premises by force, summary proceedings, or otherwise, without being liable to Tenant therefore; (ii) reenter and take possession of the Premises; and (iii) sublease the Premises for the account of the Tenant, holding the Tenant liable for the

difference in the rent and other amounts actually paid by such sub lessee in such subleasing and other amounts payable by the Tenant hereunder, and Tenant shall remain liable for any damages sustained by Landlord, all reasonable costs, professional fees to include attorney fees, and expenses incurred by Landlord in leasing the Premises to another tenant, and in effecting collection of rentals from Tenant.

©) The Landlord may take whatever action at law or in equity may appear necessary or desirable to collect the rent and other amounts then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Tenant under this Agreement, including utilization of all provisions of applicable laws respecting the speedy recovery of lands and tenements held over by Tenant and proceedings in forcible entry and detainer. In addition, Tenant shall reimburse Landlord for all costs and expenses, including reasonable attorneys' fee, in connection with the enforcement of the terms and obligations of this Agreement.

No action taken pursuant to this Section shall relieve the Tenant from the Tenant's obligation to pay Rent, all of which shall survive any such action, and the Landlord may take whatever action at law or in equity as may appear necessary and desirable to collect the Rent and other amounts then due and thereafter to become due and/or to enforce the performance and observance of any obligations, agreement or covenant of the Tenant hereunder.

25. Remedies Cumulative Non-Waiver: No remedy herein or otherwise conferred upon or reserved to Landlord or Tenant shall be considered exclusive of any other remedy, but the same shall be distinct, separate and cumulative and shall be in addition to every other remedy given hereunder, or not or hereafter existing at law or in equity; and every power and remedy given by this Lease Agreement may be exercised from time to time as often as occasion may arise or as may be deemed expedient. No delay or omission of Landlord to exercise any right or power arising from any default on the part of Tenant shall impair any such right or power, or shall be construed to be a waiver of any such default, or an acquiescence therein. No delay or omission of Tenant to exercise any power or right arising from any default on the part of Landlord shall impair any such right or power, or shall be construed to be a waiver of any such default, or an acquiescence therein. The acceptance of rent by Landlord without knowledge of a default by Tenant hereunder shall not constitute a waiver of such default.

26. Quiet Enjoyment. If Tenant shall pay the Rent and perform and observe all of the other covenants and conditions to be performed and observed by it hereunder, Tenant shall at all times during the term hereof have the peaceable and quiet enjoyment of the Premises without interference from Landlord or any person lawfully claiming through Landlord, subject, however, to the terms of any mortgages or deeds of trust provided for in paragraph 28 hereof. Landlord shall have no responsibility or liability whatsoever for the loss of any property of Tenant resulting from theft, trespass, breaking and entering and the like.

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27. Estoppel Certificate: Within ten (10) days after written request thereof by the Landlord or any mortgagee or trustee under a mortgage or deed of trust covering the Premises, Tenant shall deliver in recordable form a statement to any mortgagee, trustee or other transferee, or to Landlord, certifying any facts that are then true with respect to this Lease Agreement, including without limitation (if such be the case) that this Lease Agreement is in full force and effect, that Tenant is in possession, that Tenant has commenced the payment of Rent, and that Tenant claims no defense or set-off to the due and full performance of its obligations under this Lease Agreement.

28. Subordination and Attornment: Tenant agrees that this Lease shall be subject and subordinate to any mortgages, deeds of trust now or hereafter placed upon the Premises and to all modifications thereto, and to all present and future advances made with respect to any such mortgage or deed of trust. Tenant agrees to attorn to the mortgagee, trustee, or beneficiary under any such mortgage or deed of trust, and to the purchaser at a sale pursuant to the foreclosure thereof, and to the lessor in the event of a termination of any such prior lease. Provided, however, that so long as Tenant shall not be in default under this Lease, its rights of possession and enjoyment of the Premises shall be and remain undisturbed and unaffected by said mortgage or deed of trust or by any foreclosure proceedings thereunder, and any subordination agreement executed pursuant to this paragraph shall contain language specifically so providing.

29. Notices: All notices provided for in this Lease Agreement shall be in writing and shall be deemed to be given when sent by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to the Landlord: RV Resort & Yacht Club Owners Association
P.O. Box 23874
Hilton Head Island, SC 29925

If to the Tenant: Sunset, Inc.
40 Old House Creek Drive
Hilton Head Island, SC 29928

Notice shall also be sent to the holder or holders of any mortgage or deed of trust covering the Premises at such address as such holder or holders may have given by notice as herein provided. Either party hereto, or any such holder, may from time to time, by notice as herein provided, designate a different address to which notices to it shall be sent.

30. Subordination: In no event shall Landlord's interest in the Premises, or any part thereof, be subordinate or junior to the lien of any mortgage or deed of trust covering Tenant's interest in the Premises.

31. Governing Law: This Lease Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina.

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32. Successors: This Lease Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns, except as otherwise provided for in this Lease Agreement.

33. Short Form Memorandum: Each party agrees to execute upon request a short form of this Lease Agreement for purposes of recordation, the cost of which shall be borne by the Tenant. The Tenant shall pay all lease stamps due upon the execution of this Lease and any extension or extensions thereof.

34. Nature and Extent of Agreement: This Lease Agreement, including the exhibits attached hereto, contains the complete agreement between the parties regarding the terms and conditions of the lease of the Premises, and there are no oral or written conditions, terms or warranties, understands or other agreements pertaining thereto which have not been incorporated herein. This Lease Agreement may be modified only by written instrument duly executed by both parties or their respective successors in interest.

35. Holding Over: This Lease expires at the end of the term defined herein, but it is expressly understood that if Tenant holds over for another month at the end of said term for any purpose other than the removal of its property, and Landlord accepts rent for said month, such acceptance shall operate as a renewal of the tenancy for another month and for each additional month for which Landlord accepts rent. Should Landlord require possession of the Premises, it shall give Tenant thirty (30) days to vacate the said premises during such holdover period.

36. Renewal Term: Lessee, having first fully performed all of its obligations, terms, conditions, and covenants hereunder, and having paid all of the rent payable to Lessor under the original term is hereby granted the right and option to renew this lease for two (2) additional terms as hereinafter specified, with the annual increases in rent to be paid as set forth below. Except for the rents, all other terms and conditions set forth in this Lease shall remain unchanged and in effect for the renewal terms unless the parties shall agree in writing to a modification of the terms.

(a) The renewal term rental amounts for Renewal Term 1 are:
May 1, 2007 through April 30, 2008 $24,067.03 per annum ($2,005.59 per mo.)
May 1, 2008 through April 30, 2009 $25,270.38 per annum ($2,105.87 per mo.)

(b) Tenant is granted an additional three (3) year renewal option (May 1, 2009 through April 30, 2012) as Renewal Term 2. The annual rental amounts for each year of the additional three (3) year term shall not be increased by more than 5% over the preceding year's annual rent.

37. Material Change. Any transfer, sale, or change whatsoever in ownership of fifty percent or more of the outstanding shares of stock of Sunset, Inc., which at the time of signing this agreement is hereby represented by the Tennant to be owned by Hugh and Linda Lockman, will be considered a material change and will be cause for termination of this Lease Agreement if so chosen by Landlord.

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38. Deposit. The Lessee has previously furnished to Landlord a deposit of one thousand dollars ($1000). This deposit may be used by Landlord upon termination of this lease as an offset against any unpaid rent, costs incurred by Landlord for cleaning or making repairs that are the responsibility of the Tenant, replacement of any equipment or furnishings that are to remain as part of the premises upon termination of the Lease. Should Landlord use all or any portion of the security deposit as described herein, Landlord shall provide Lessee with a complete itemization of all monies deducted from the security deposit.

In Witness Whereof, the parties hereto have hereunto set their respective Hands and Seals on the day and year first hereinabove written.

WITNESSES:

LANDLORD
RV Resort & Yacht Club Owner's Association, Inc.

By: _____
Its: President

TENANT
Sunset, Inc.

By: _____
Its: _____

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Exhibit 1

EXHIBIT C

6/14/84

953

STATE OF SOUTH CAROLINA)
) LEASE
COUNTY OF BEAUFORT)

THIS LEASE is made this 12 of JUNE, 1981, by and between R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., a South Carolina non-profit corporation (hereinafter referred to as "Lessor"), and OUTDOOR RESORT, R.V. RESORT AND YACHT CLUB, a South Carolina general partnership (hereinafter referred to as "Lessee").

WHEREAS, Lessor is a non-profit corporation organized and existing under the laws of the State of South Carolina for the purpose of administering and maintaining certain real property known as OUTDOOR RESORT, R.V. RESORT AND YACHT CLUB; and

WHEREAS, Lessee is the developer of said property and also the owner and developer of a marina adjacent and contiguous to the property; and

WHEREAS, Lessor and Lessee desire that certain common properties of OUTDOOR RESORT, R.V. RESORT AND CAMPGROUND, owned by the Lessor, shall be entitled to be used by OUTDOOR RESORTS, R.V. RESORT AND YACHT CLUB, a South Carolina partnership, its successors, assigns, guests and invitees.

NOW, THEREFORE, in consideration of the agreements to be performed by each other, Lessor and Lessee agree as follows:

1. Upon the terms and conditions herein set forth and in consideration of the prompt and continuous performance by the Lessee of each and every of its covenants and promises herein made, Lessor does hereby let, lease and demise unto the Lessee and Lessee does hereby lease of and from the Lessor property situate in Beaufort County, South Carolina, and described on EXHIBIT "A" which is attached hereto and thereby made a part hereof.

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EXHIBIT 4

The premises described in the above legal description are hereinafter referred to as the Recreational Facilities which include, among other things, a swimming pool, two tennis courts, decking, bathhouse, and certain portions of the Clubhouse complex. The lease of the above described Recreational Facilities shall be together with its appurtenances, tenements and hereditaments, and together with all improvements, buildings and structures now or hereafter placed thereon, and all furniture, furnishings, fixtures, machinery and equipment now thereon and hereafter brought or placed thereon or intended for the use thereon and all additions thereto.

2. The term of this Lease shall commence on the date first above mentioned and shall end on JUNE 12, 2080. This is an exclusive Lease to the Lessee, under circumstances where the Lessor shall not be entitled to enter into any other leases with any other lessees while this Lease is in effect without the prior written consent of the Lessee. Lessee, however, may at any time assign any and all of its interest in this Lease and upon such assignment taking place, the Lessee shall be relieved of any and all liability under this Lease subject to the Lessee's complying with all terms and conditions of the Lease at the time of said assignment.

3. In consideration of this Lease of the Recreational Facilities to the Lessee, Lessee agrees to pay Lessor the sum of FIVE ($5.00) DOLLARS per month per boat slip at the marina which is shown and designated on EXHIBIT "B" which is attached hereto and thereby made a part hereof. The payment of said rent, however, shall not begin until the improvements described as the Recreational Facilities in Paragraph 1 have been completed. Such rent shall be payable at such places as Lessor shall direct in writing. The amount of rent shall not in any way be increased through the term of this Lease without the prior written consent of Lessee.

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4. Use of the Recreational Facilities shall be subject to all laws, statutes, ordinances, rules and regulations of all appropriate governmental authorities and agencies, covenants and restrictions of record, as well as all rules and regulations adopted by the Association from time to time pursuant to the Declaration of Covenants and Restrictions; however, which rules and regulations shall not discriminate in any manner whatsoever against the Lessee or the invitees of the Lessee.

The persons who may use and enjoy the Recreation Facilities through and under the Lessee shall be limited to agents, officers, employees and guests of the Lessee or its assigns.

5. If any part of the Recreational Facilities is taken pursuant to the law of eminent domain of the State of South Carolina during the term of this Lease, the rent herein provided for shall continue unaffected as to amount unless such taking materially destroys the usefulness of the Recreational Facilities for all purposes leased. In such event, the Lessee shall have the right to terminate this Lease by written notice to the Lessor within thirty (30) days after such taking or to continue in possession of an undivided interest in the remainder of the leased premises under all the terms and conditions hereof. All damages awarded such taking shall belong to and be the property of Lessor whether such damages shall be awarded as compensation for the diminution of the value to the Lease or to the fee of the Recreational Facilities.

6. Lessor shall, throughout the term of this Lease, keep enforced insurance policies as follows: (a) insurance against loss or damage to the buildings and improvements now of hereafter located upon the Recreational Facilities and all of the personal property, including pictures, furniture, machinery, equipment and furnishings located upon the Recreational Facilities. All insurance shall provide against any

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and all loss or damage to the Recreational Facilities by fire, windstorm or causes insured by extended coverage; (b) comprehensive general public liability insurance in which the Lessor and Lessee shall be named insureds against claims of bodily injury, sickness or disease, including death, at any time resulting therefrom and for injury to or destruction of property, including the loss or use thereof arising out of ownership, maintenance, use or operation of the Recreational Facilities or any building or improvement or personalty located thereon with a minimum limitation of $200,000/$500,000/$10,000; and (c) in the event that Lessor shall undertake any construction upon the premises, Lessor shall maintain and pay for a builders risk insurance policy in such amounts and with such companies as Lessor determines proper.

The Lessor shall also pay for and maintain such further and additional insurance policies, including but not limited to workmen's compensation insurance. The amount of the required insurance shall be equal to the maximum insurable replacement value as determined annually by Lessor. The Lessee may require the Lessor to provide proof of existence of insurance coverage required herein as Lessee may reasonably request from time to time. All insurance required to be carried shall be under policies written in such form and issued by such companies as shall be approved by the Lessee, said Lessee, said approval, shall not be unreasonably withheld.

7. In the event of damage or destruction of the Recreational Facilities or the buildings and improvements located thereon by any casualty for which insurance is payable, the Lessor shall promptly make application for the benefits under the insurance policy, which benefits shall be deposited in a bank account and be available to the Lessor for the reconstruction or repair of the Recreational Facilities or that portion thereof which was damaged. Such insurance money shall

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be paid from the account in amounts based upon the estimate of a licensed architect in the State of South Carolina having supervision of such construction work or repair. Said architect shall certify that the amount of such estimate is being applied to the payment for reconstruction or repair and at a reasonable cost. It is the intent hereunder that reconstruction or repair shall take place if covered by insurance, but it is the further intent that Lessor shall not assume the burden of reconstruction or repair if not covered by insurance, unless Lessor chooses to do so. In the event the cost of repair or reconstruction exceeds the insurance benefits, Lessor shall reconstruct or repair those items for which insurance is available; but only at its option must Lessor do any further reconstruction or repair for which there is not adequate insurance proceeds. If Lessor chooses not to reconstruct or repair due to inadequate insurance proceeds, then Lessee, at its option, may either continue this Lease in full force and effect or cancel this Lease upon fifteen (15) days' notice in writing to Lessor, at which time Lessee shall be obligated to perform its covenants and promises hereunder up to the date of notification. For reconstruction or repair for which there are adequate insurance proceeds, or with which Lessor desires to proceed despite the lack of insurance proceeds, it shall be the obligation and duty of Lessor to cause such showing to be made and such to be accomplished as often as said Recreational Facilities, including buildings, improvements or personal property may be destroyed, damaged or lost; and all of such work shall be completed and paid for as promptly as the exercise by the Lessor of due diligence makes possible. The work when completed shall restore the Recreational Facilities substantially to the condition in which it existed before such destruction, damage or loss took place, and in

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any event, the premises as restored shall have a value which is not less than the value which the Recreational Facilities had or possessed prior to the loss or damage which made such reconstruction or repair necessary. Lessee shall have the right to require Lessor to obtain a completion, performance and payment bond in amount and in form and with a company licensed to do business in the State of South Carolina, approved by Lessee. When after the payment of repair or replacement of damage there shall remain any surplus of insurance proceeds, said surplus shall belong to the Lessor.

8. Any demolition or new construction on the Recreational Facilities or major alteration in the buildings located in the Recreational Facilities shall be at the sole expense of the Lessor; nothing in this Paragraph 8 shall ever be construed to relieve Lessor of its obligation to maintain and repair the improvements located upon the Recreational Facilities. The Lessor shall, during the term of this Lease, keep the Recreational Facilities in a good state of repair and shall maintain all of the buildings and other improvements located thereon for the normal and customary use thereof. Lessor shall not suffer or permit any waste, neglect or deterioration of any of the premises, buildings or improvements of the Recreational Facilities and shall replace, renovate and repair the Recreational Facilities and improvements thereon as often as may be necessary in order to keep the Recreational Facilities and such buildings and improvements in a good state of repair and for the use and enjoyment of the Lessor and Lessee.

9. Lessor covenants and agrees with Lessee that so long as the Lessee keeps and performs all of its covenants herein made the Lessee shall have quiet and undisturbed and continued possession of the premises subject only to the rights of Lot Owners to use, occupy and enjoy the same along with

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such other persons as provided in the Declaration of Covenants and Restrictions.

10. Subject to Paragraph 7 hereinabove, no damage or destruction to buildings, structures, improvements or furniture, furnishings, fixtures, machinery or equipment now or hereafter located upon the Recreational Facilities by fire, windstorm, or any other casualty, shall entitle the Lessee to surrender possession or to terminate this Lease or to violate any of its provisions or cause any rebate, abatement or adjustment in the rent then due or that thereafter becoming due under the terms hereof.

11. The Lessor and its agents shall have the right of entry upon the Recreational Facilities at all reasonable times to examine the condition and use thereof; provided that only such rights shall be exercised in such a manner as to not interfere with the conduct of the operation of said Recreational Facilities; and if said premises are damaged by any casualty which causes the premises to be exposed to the elements, then the Lessor may enter upon the premises to make emergency repairs.

12. Where not otherwise provided in this Lease, all sums of money coming due from the Lessee to the Lessor shall bear interest at the rate of one and one-half (1 1/2%) percent per month, commencing fifteen (15) days from the date the same shall become due until the date the same shall be paid.

13. Lessee shall not do or suffer any waste or damage, disfigurement or injury to the Recreational Facilities or any property now or hereafter placed or brought thereon.

14. Except for non-payment of rent which is discussed below, if default shall be made by the Lessee in the performance of any covenants herein set forth, which default is not cured by Lessee within thirty (30) days after receiving written

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notice of such default by Lessor, then in addition to any other rights or remedies which Lessor may have, the Lessor shall have the right to declare this Lease cancelled and terminated and re-enter upon the Recreational Facilities, in which case the Lessee shall peacefully surrender and deliver the Recreational Facilities to Lessor. However, nothing in this Lease shall be construed as authorizing the Lessor to declare this Lease in default where the default consists solely of non-payment of rent, until such non-payment is in violation of Paragraphs 4 or 5 hereinabove.

In the event that Lessor defaults in the terms of this Lease, Lessee shall have all rights or remedies provided by law which shall include but not be limited to specific performance of this Lease by Lessor, and/or recovery of damages due to the default of Lessor.

Any and each remedy available to the Lessor or Lessee for the enforcement of any term or provision hereof shall be construed as cumulative and no single such remedy shall be construed as being exclusive or as preventing the parties from electing such other or additional remedies. In addition to all the remedies set forth above, the Lessee, at its option, may request of a court of competent jurisdiction and receive therefrom the appointment of a receiver to stand in the place and stead of the Lessor and to operate the Recreational Facilities. Said receiver shall fully perform and keep all of the covenants, terms and conditions of this Lease. In connection with any litigation arising from this Lease, the prevailing party shall be entitled to recover all costs incurred including a reasonable attorney's fee.

15. The Recreational Facilities are subject to such easements for public utilities as now appear in public records and Lessor shall have, at all times, the right to create upon

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or over such of the Recreational Facilities for any and all public utilities, easements from time to time as the Lessor, in its discration, shall deem appropriate, free and clear of this Lease.

16. At the termination of this Lease by lapse of time or otherwise, the Lessee will peacefully and quietly deliver possession of the Recreational Facilities and all improvements situated thereon, including all personal property therein and thereon, to the Lessor and all buildings, improvements and personal property then situated upon the premises shall become and remain the property of the Lessor.

17. Time is of the essence in every particular and especially where the obligation to pay money is involved.

18. No waiver, extension or indulgence granted by either party to the other on any one occasion as to any breach shall be construed as a waiver, extension or indulgence of any succeeding breach of the same covenant.

19. This is the entire Lease and there shall be no modification, release or discharge or waiver of any provision hereof unless in writing signed by both parties.

20. Whenever a provision is made for notice of any kind under this Lease, it shall be deemed sufficient notice and service thereof if such notice to either party is in writing, addressed to such party at its last known address and sent by certified mail with postage prepaid.

21. This Lease is to be construed in accordance with the laws of the State of South Carolina. The invalidity in whole or in part of any covenant, promise or undertaking or any section, subsection, sentence, clause, phrase or word or any of the provisions of this Lease shall not affect the validity of the remaining portions thereof. Whenever the context so permits, the use of the plural shall include the

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singular, and the singular the plural, and the use of any gender shall be deemed to include all genders.

22. It is specifically recognized and understood that some or all of the persons comprising the original Board of Directors and the officers of the Lessor, and the partners of the Lessee, are also officers, directors, employees and/or partners of the Lessor and Lessee under this Lease, and that such circumstances of interlocking Boards of Directors, officers, employees, stockholders and/or partners shall not and cannot be considered as a breach of their duties nor as a conflict of interest between the Lessor and Lessee, nor as possible grounds to invalidate this Lease in whole or in part. Each and every person, whether real or corporate, who shall take any interest whatsoever in or to the Lot or any of the Property, or in or to any Lot in the Property, after the recording of this Lease, by acceptance, delivery or the recording of the deed, contract, grant, assignment or such other instrument granting, conveying or providing for such interests, or by the exercise of the rights or uses granted herein, shall be deemed to specifically consent to and ratify without further act being required, the provisions of this Lease to the same effect and extent as if such person or persons had executed this Lease with the formalities required in deeds, for the purpose of subordinating and/or subjecting such person's or persons' interest, in full, to the terms of this Lease and granting the rights to the parties provided for herein, absolutely without exception.

WITNESSES:

LESSOR:
R.V. RESORT AND YACHT CLUB
OWNERS' ASSOCIATION

By:

By:

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WITNESSES:

LESSEE:

OUTDOOR RESORT, R.V. RESORT AND YACHT CLUB

By:

By:

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2:00 O'CLOCK P M	JUN 18 1981	325 PAGE 920

CLERK OF COURT OF COMMON PLEAS

RECORDED THIS 23rd DAY OF June 1981 IN BOOK M PAGE 717

FEES $

AUDITOR, BEAUFORT COUNTY, S. C.

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STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT) MODIFICATION OF LEASE AGREEMENT

WHEREAS, on June 17, 1981 a Lease Agreement was entered into by and between R.V. Resort and Yacht Club Owners' Association, Inc., a South Carolina non-profit corporation (therein and hereinafter referred to as "Lessor"), and Outdoor Resorts, R.V. Resort and Yacht Club, a South Carolina general partnership (therein and hereinafter referred to as "Lessee"), a copy of which is attached hereto as Exhibit "A" for reference; and

WHEREAS, the aforesaid Lease was recorded with the Declaration of Covenants and Restrictions for Outdoor Resorts, R.V. Resort and Yacht Club in Deed Book 125 at Page 970 in the Office of the Clerk of Court, Beaufort County, South Carolina; and

WHEREAS, the provisions of Paragraph 19 of the aforesaid Lease require that any modifications in the Lease Agreement be in writing and signed by both parties; and

WHEREAS, the Lessor and Lessee have agreed that the following modification to Paragraph 3 be made.

IN CONSIDERATION of the sum of Five and 00/100 ($5.00) Dollars and other valuable consideration, Paragraph 3 of the aforesaid Lease is modified to read as follows:

> In consideration of this lease of the Recreational Facilities to the Lessee, Lessee agrees to pay Lessor the sum of Five ($5.00) Dollars per month per boat slip at the marina which is shown and designated on Exhibit "B" which is attached hereto and thereby made a part hereof. The payment of said rent, however, shall not begin until the improvements described as the Recreational Facilities in Paragraph 1 have been completed. Such rent shall be payable at such places as Lessor shall direct in writing. The amount of rent shall be automatically increased proportionately with any increase of assessments as determined by the Board of Directors of the Association pursuant to Article VI, Section 3 of the By-Laws of the R.V. Resort and Yacht Club Owners' Association, Inc.

WITNESS our hands and seals this the 2nd day of October, 1981.

WITNESSES:

Edward M. Boyle

LESSOR:
R.V. Resort and Yacht Club Owners' Association, Inc., a South Carolina non-profit corporation

By: [signature]

By: .....

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EXHBIT 5

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STATE OF SOUTH CAROLINA **COUNTY OF BEAUFORT** **TURNER'S MARINA LLC,** **Plaintiff,** **vs.** **R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., MIKE MORALES, and SUNSET, INC.,** **Defendants.**	**IN THE COURT OF COMMON PLEAS** **FOURTEENTH JUDICIAL CIRCUIT** **Case No. 2021-CP-07-01085** **PLAINTIFF'S REPLY TO COUNTERCLAIMS OF DEFENDANT R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC.**

TO: THE DEFENDANT R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC, BY AND THROUGH ITS COUNSEL OF RECORD, CHRISTOPHER D. LIZZI, ESQ.:

The Plaintiff Turner's Marina LLC, responding to the Defendant R.V. Resort And Yacht Club Owners' Association Inc.'s Counterclaims to the Third Amended Complaint filed on July 20, 2023, replies as follows:

FOR A FIRST DEFENSE TO ALL COUNTERCLAIMS

1. The Counterclaims must be dismissed because each of them fails to state a claim under which relief may be properly granted. See S.C.R.Civ.P. 12(b)(6).

FOR A DEFENSE TO THE FIRST COUNTERCLAIM

2. The Plaintiff denies the allegations of Paragraph 35 in its entirety.

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FOR A DEFENSE TO THE SECOND COUNTERCLAIM

3. The Plaintiff denies the allegations of Paragraph 37 in its entirety. Further as an affirmative defense, the Plaintiff shows that this suit is based upon a 99-year Lease Agreement, not the "Covenants and by-laws."

FOR A DEFENSE TO THE THIRD COUNTERCLAIM

4. In response to Paragraph 39 of the Answer and Counterclaims, the Plaintiff admits it is the successor Developer under the Covenants.

5. The Plaintiff denies the allegations contained in Paragraphs 40, 41 and 43.

6. The Plaintiff denies those allegations of Paragraph 42 stating that requests from the Defendant Association have "either disregarded by the Plaintiff or the Plaintiff has taken contrary action causing further actual and consequential damages to the Defendants." Plaintiff is without sufficient knowledge or information to know what "requests" the Defendant refers to in Paragraph 42, and thus can neither admit nor deny same.

FOR A DEFENSE TO THE FOURTH COUNTERCLAIM

7. The Plaintiff denies the allegations contained in Paragraph 45 and further states that if the Defendant Association took such actions, they are in direct violation of the exclusive 99-year Lease owned by the Plaintiff.

8. The Plaintiff denies the allegations contained in Paragraphs 46 and 47.

FOR A DEFENSE TO THE FIFTH COUNTERCLAIM

9. The Plaintiff denies the allegations contained in Paragraphs 49, 50 and 51.

FOR A DEFENSE TO THE SIXTH COUNTERCLAIM

10. The Plaintiff denies the allegations contained in Paragraphs 53, 54, and 56.

11. Responding to the allegations contained in Paragraph 55, the Plaintiff responds that the Lease speaks for itself and craves reference thereto.

FOR A DEFENSE TO THE SEVENTH COUNTERCLAIM

12. Responding to the allegations contained in Paragraphs 57 and 58, the Plaintiff responds that the Lease speaks for itself and craves reference thereto.

13. The Plaintiff denies the allegations contained in Paragraphs 59, 60, and 61.

FOR A DEFENSE TO THE EIGHTH COUNTERCLAIM

14. The Plaintiff denies the allegations contained in the first Paragraph numbered 63, 64, 65 and 66.

15. As to the second paragraph numbered "63," the Plaintiff states that if such an alleged easement is recorded, then it speaks for itself and craves reference thereto. The Plaintiff denies the existence of any other "easement" granted to the Defendant Association by the Developer.

FOR ITS FURTHER DEFENSES TO THE COUNTERCLAIMS

16. The Plaintiff denies the summary allegations contained in Paragraphs 34, 36, 38, 44, 48, 52, 56, and 62.

17. To the extent this Defendant seeks equitable relief through any of the counterclaims, those claims are barred by Defendant's own inequitable conduct and the doctrine of unclean hands.

18. This Defendants' counterclaims are also barred as a result of this Defendant's breach of the 99-year Lease.

19. This Defendant is estopped from asserting that the Plaintiff is not the successor to the Declarant by its former actions and by its consent Order entered in another case on the exact issue.

ELECTRONICALLY FILED - 2023 Aug 18 4:43 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

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20. Some or all of the counterclaims are barred by the doctrines of res judicata and/or collateral estoppel.

21. Some or all of the counterclaims are barred by this Defendant's failure to adhere to the implied covenant of good faith and fair dealing in the 99-year Lease agreement.

22. Some or all of the counterclaims are barred by this Defendant's failure to raise them as compulsory counterclaims in a prior pending action.

23. Punitive damages are unconstitutional.

24. Each and every other allegation made by the Defendant R.V. Resort And Yacht Club Owners' Association, Inc., in its August 3, 2023 Answer and Counterclaims to the Third Amended Complaint that may be construed herein as a "counterclaim," is denied.

WHEREFORE having fully replied to the Counterclaims, the Plaintiff prays that this Court dismiss all the Counterclaims with prejudice and grant the Plaintiff the relief requested in its Third Amended Complaint.

Law Office of Thomas C. Taylor, LLC

s/Thomas C. Taylor
Thomas C. Taylor
S.C. Bar No. 5499
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ATTORNEY FOR THE PLAINTIFF
TURNER'S MARINA LLC

August 18, 2023
Hilton Head Island, South Carolina

ELECTRONICALLY FILED - 2023 Aug 21 3:31 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

STATE OF SOUTH CAROLINA)	**IN THE COURT OF COMMON PLEAS**
)	**FOURTEENTH JUDICIAL CIRCUIT**
COUNTY OF BEAUFORT)	
)	**Case No. 2021-CP-07-01085**
TURNER'S MARINA LLC,)	
)	
Plaintiff,)	
)	
vs.)	
)	**PLAINTIFF'S REPLY**
R.V. RESORT AND YACHT)	**TO DEFENDANT SUNSET, INC.'S**
CLUB OWNERS')	**ANSWER AND COUNTERCLAIM**
ASSOCIATION, INC., SECURITAS)	
SERVICES, INC., and)	
MIKE MORALES, and)	
SUNSET, INC.,)	
)	
Defendants.)	
)	

TO: THE DEFENDANT SUNSET, INC, BY AND THROUGH ITS COUNSEL OF RECORD RUSSELL P. PATTERSON, ESQ.:

The Plaintiff, replying to the Counterclaims of Sunset, Inc. To Plaintiff's Third Amended Complaint, posited by the Defendant Sunset, Inc. on August 4, 2023, responds as follows:

FOR A FIRST DEFENSE TO COUNTERCLAIMS

1. The Plaintiff denies the allegations contained in paragraph 10 of the Answer and Counterclaims.

2. The Plaintiff is without sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraphs 11, 12, and 13 and thus can neither admit nor deny same. However, the Plaintiff does deny the description of the premises set forth within Paragraphs 11.

3. Responding to the allegations contained in Paragraph 14 of the Answer and Counterclaims, the Plaintiff admits that Sunset, Inc. has produced a copy of a document entitled "Lease Agreement," a copy of same being attached to the Answer and Counterclaims as Exhibit 3. The Plaintiff is without sufficient knowledge or information to form a belief as to the authenticity of the Lease Agreement, and therefore can neither admit nor deny it is a copy of an authentic original. Further, the Plaintiff states that if the Lease Agreement is authentic, then it speaks for itself and to the extent it varies from the allegations contained in Paragraph 14, those allegations are denied.

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Further, the Plaintiff specifically denies that Sunset has ever been legally leased any stairs and entrances to the restaurant, the first-floor restrooms, any parking spaces owned or controlled by the R.V. Resort condominium owner's association ("COA"), and further denies that Sunset, Inc. and its employees, guests, invitees and patrons have "free and unfettered access to and from Jenkins Road."

4. The Plaintiff is without sufficient knowledge or information to form a belief as to the truthfulness of the allegations of Paragraphs 15 and 16, and thus can neither admit nor deny same.

5. The Plaintiff denies the allegations contained in Paragraph 17 and demands strict proof thereof.

6. To the extent the allegations of Paragraph 18 claim or infer that the Plaintiff owns a portion of the "RV Resort," they are denied. However, the Plaintiff admits it owns that property described in the deed identified in Paragraph 18.

7. The Plaintiff admits the allegations contained in Paragraph 19 of the Answer and Counterclaims, but the Plaintiff contends that the leased premises were part of the transaction under the 99-year lease that was transferred in the sale and later confirmed in the assignment of rights recorded in Deed Book 3632, at page 1442.

8. Paragraph 20 of the Answer and Counterclaims does not make allegations of fact and thus no response is due from the Plaintiff. To the extent a response is required, the allegations are denied.

9. Paragraph 21 of the Answer and Counterclaims does not make allegations of fact and thus no response is due from the Plaintiff. To the extent a response is required, the allegations are denied.

10. Responding to the allegations of Paragraphs 22, 23 and 24, the Plaintiff states that the 99-year Lease Agreement speaks for itself, and reference is craved thereto.

11. Paragraph 25 of the Answer and Counterclaims does not make allegations of fact and thus no response is due from the Plaintiff. To the extent a response is required, the allegations are denied.

12. Paragraph 26 of the Answer and Counterclaims does not make allegations of fact and thus no response is due from the Plaintiff. To the extent a response is required, the Plaintiff responds that the 99-year Lease Agreement speaks for itself, and that the Plaintiff is entitled to exclusive use of the real property, including all improvements, demised to it under the 99-year Lease

Agreement, subject only to the right of individual lot owners to also use and enjoy the demised premises alongside the Plaintiff.

13. Responding to the allegations contained in Paragraph 27 of the Answer and Counterclaims, the Plaintiff admits it claims the right to exclusive use of the real property demised to it under the 99-year Lease Agreement as stated in the lease itself, subject only to the right of the individual lot owners to also use and enjoy the demised premises. Further, the Plaintiff denies the existence of anything known as "Disputed Parking Spaces" and specifically denies that any of the parking spaces on its leasehold premises have ever been legally used as parking spaces for the Sunset, Inc. defendant.

14. The allegations of Paragraph 28 of the Answer and Counterclaims are denied.

15. The Plaintiff admits those allegations contained in Paragraph 29 of the Answer and Counterclaim that infer that the Plaintiff has retained independent contractor security guards to protect its private property and assist in traffic direction and control, but denies all other allegations therein. Furthermore, Plaintiff shows the Court that the private security guards are only retained during certain portions of the year.

16. Responding to the allegations contained in Paragraph 30 of the Answer and Counterclaims, the Plaintiff admits the existence of S.C. Code Annot . Section 15-53-10 *et. seq.* and admits that Sunset, Inc. has the legal right to request a declaratory judgment as to issues to which it is a legal party or has a cognizable legal interest under South Carolina law. The remaining allegations of the paragraph state legal conclusions and no response is required from the Plaintiff. To the extent a response is required, the allegations are denied.

17. Responding to the allegations contained in Paragraph 31 of the Answer and Counterclaims, the Plaintiff incorporates its responses made in paragraphs 1-16 above.

18. The allegations contained in Paragraphs 32, 33, 34, 35, 36 and 37 are denied and strict proof thereof demanded.

19. The Plaintiff denies the summary allegations contained in Paragraphs 38, 40, 42, 44, 46, 48 and 50.

20. The Plaintiff denies the allegations of the "WHEREFORE" paragraph set forth on page 11 of the Answer and Counterclaims.

21. The Plaintiff denies any allegations made in the Counterclaims not heretofore admitted, denied, or otherwise addressed.

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FOR A SECOND DEFENSE
(Intervening Negligence or Intentional Acts of another party)

22. The Plaintiff incorporates by reference all allegations set forth above in this Reply and all allegations set forth in the Third Amended Complaint filed on July 20, 2023.

23. As to the damages allegedly incurred by Sunset, Inc. in paragraphs 31 through 37 above, the Plaintiff shows that any loss of parking for Defendant Sunset, Inc.'s patrons was a direct and proximate result of the actions of the Defendant R.V. Resort and Yacht Club Owners 'Association, Inc. removing the former parking along Jenkins Island Road that had always been available for the restaurant patrons.

FOR A THIRD DEFENSE
(Failure to State a Claim)

24. The Counterclaims must be dismissed pursuant to SCRCP 12(b)(6) for failure to state a claim upon which relief may be granted.

FOR A FOURTH DEFENSE
(Statute of Limitations or Laches)

25. The Counterclaims, or parts of them, are barred by the applicable statutes of limitation and/or the equitable doctrine of laches.

FOR A FIFTH DEFENSE
(Waiver)

26. The Counterclaims, or parts of them, are barred by the doctrines of waiver, estoppel, consent, condonation, ratification, course of dealing and/or unclean hands.

FOR A SIXTH DEFENSE
(Punitive Damages Unconstitutional)

27. The punitive damages sought by the Defendant would violate the Plaintiffs constitutional rights under the Fifth, Sixth and Fourteenth Amendments, and comparable provisions of the South Carolina Constitution.

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FOR A SEVENTH DEFENSE
(Statute of Frauds)

28. The Counterclaims of Sunset, Inc. are barred by the Statute of Frauds.

FOR AN EIGHTH DEFENSE
(Additional Defenses)

29. The Plaintiff reserves the right to assert additional defenses as they become known, through discovery or otherwise.

30. To the extent this Defendant seeks equitable relief through any of the counterclaims, those claims are barred by Defendant's own inequitable conduct and the doctrine of unclean hands.

31. This Defendants' counterclaims are also barred as a result of this Defendant's breach of the 99-year Lease.

32. This Defendant is estopped from asserting that the Plaintiff is not the successor to the Declarant by its former actions and non-actions.

33. Some or all of the counterclaims are barred by the doctrines of res judicata and/or collateral estoppel.

34. Each and every other allegation made by the Defendant Sunset, Inc., in its August 4, 2023 Answer and Counterclaims to the Third Amended Complaint that is not addressed above, that may be construed herein as a "counterclaim," is denied.

WHEREFORE, the Plaintiff prays this Honorable Court dismiss Sunset, Inc.'s counterclaims with prejudice and award the Plaintiff the relief as sought in its Third Amended Complaint of July 20, 2023.

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s/Thomas C. Taylor
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ATTORNEY FOR THE PLAINTIFF
TURNER'S MARINA LLC.

August 21, 2023
Bluffton, South Carolina

ELECTRONICALLY FILED - 2023 Dec 14 9:39 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT Turner's Marina, LLC, Plaintiff, vs. R.V. Resort and Yacht Club Owners' Association, Inc., Securitas Services, Inc., Mike Morales and Sunset, Inc., Defendants.	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT CIVIL ACTION NO. 2021-CP-07-01085 **PROOF OF ADR**

PURSUANT to the South Carolina Alternative Dispute Resolutions Rules (SCADR):

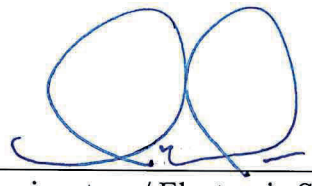
1. Alternative Dispute Resolution (ADR) was conducted on the 12th of December, 2023 in the form of:
   a. ☒ Mediation
   b. ☐ Non-binding arbitration
   c. ☐ Binding arbitration (attached appropriate order of dismissal)

2. The neutral was: Jack G. Gresh, Esq.

3. Present at the ADR conference were:
   a. ☒ Plaintiff
   b. ☒ Defendants
   c. ☒ Lawyers for the Plaintiff
   d. ☒ Lawyers for the Defendants
   e. ☒ Representative for an insurance carrier
   f. ☐ Guardian ad litem _____
   g. ☐ Expert(s) _____
   h. ☐ Others

4. As a result of the ADR, this case should be considered (check one)
   a. ☐ Fully settled by Consent Judgment to be filed by _____
   b. ☒ Fully settled by Voluntary Dismissal to be filed by counsel for the Plaintiff
   c. ☐ Partially settled
   d. ☐ At an impasse

Submitted this 14th day of December, 2024



Neutral's signature / Electronic Signature

cc: All counsel of record

SCADR 104A (12/2023)

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ELECTRONICALLY FILED - 2024 Feb 23 10:09 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**FOURTEENTH JUDICIAL CIRCUIT**
COUNTY OF BEAUFORT	)	
	)	
	)	**Case No. 2021-CP-07-01085**
TURNER'S MARINA LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	**PLAINTIFF TURNER'S MARINA LLC'S MOTION TO ENFORCE MEDIATION SETTLEMENT AGREEMENT**
R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., and MIKE MORALES, and SUNSET, INC.,	)	
	)	
Defendants.	)	
	)	

TO: THE DEFENDANT R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., BY AND THROUGH ITS COUNSEL OF RECORD CHRISTOPHER D. LIZZI, ESQ.:

YOU WILL PLEASE TAKE NOTICE that the Plaintiff Turner's Marina LLC, by and through its undersigned counsel, will 10 days after the filing of this Motion or as soon thereafter as the Court may schedule a hearing, move this Court to issue an Order enforcing the Mediated Settlement Agreement executed by the parties in the above-captioned matter on December 13, 2023, which resolved all pending claims herein. The parties, including counsel of record, signed the Mediated Settlement Agreement. A true and correct copy of the Mediated Settlement Agreement is attached hereto as Exhibit A.

Notwithstanding the settlement, the Defendant R.V. Resort And Yach Club Owners' Association, Inc. has failed and refused and continues to fail and refuse, to execute the Amended Easement that specifically sets forth a designated easement of access for the Association, Owners,

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and their guests, lessees, invitees and licensees, across the property of the Plaintiff to the recreational facilities as was agreed to in the Mediated Settlement Agreement.

In South Carolina, settlement agreements are viewed as contracts. Harris-Jenkins v. Nissan Car Mart, Inc., 348 S.C. 171, 177, 557 S.E.2d 708, 711 (Ct. App. 2001). *See also* Pruitt v. South Carolina Med. Malpractice Liab. Joint Underwriting Ass'n., 343 S.C. 335, 339, 540 S.E.2d 843, 845 (2001)(enforcement of the terms of a settlement agreement is a matter of contract law).

The Court has the power to enforce the Agreement. To enforce a settlement agreement under its inherent equity power, the court "(1) must find that the parties reached a complete agreement and (2) must be able to determine its terms and conditions." Hensley v. Alcon Laboratories, Inc., 277 F.3d 535, 540-541 (4th Cir. 2002) (citing Moore v. Beaufort Cnty., 936 F2d 159, 162 (4th Cir. 1991)) (further citations omitted): *See also*, Millner v. Norfolk & W.R. Co., 643 F.2d 1005, 1009 (4th Cir. 1981)(Although state law governs settlement agreements, federal courts have the "inherent equitable power summarily to enforce a settlement agreement when the practical effect is merely to enter a judgment by consent.").

The Plaintiff respectfully requests an Order from this Court enforcing the settlement reached and signed by these parties at the mediation on December 13, 2023, and directing the Defendant Association to execute the proposed Amended Easement. Further, Plaintiff requests that the Court award it the costs and attorneys' fees of enforcing the settlement. This Motion is based on the S.C. Rules of Civil Procedure, the common law and the pleadings filed in this Court.

Counsel for Plaintiff has consulted in good faith with counsel for the Defendant is regard to this Motion, and certifies that further consultation would serve no useful purpose.

WHEREFORE, the Plaintiff requests that the Court grant it the relief requested, in addition to any other relief the Court may find appropriate.

Respectfully submitted,

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Thomas C. Taylor
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ATTORNEY FOR THE PLAINTIFF
TURNER'S MARINA LLC

February 23, 2024
Bluffton, SC

ELECTRONICALLY FILED - 2024 Feb 23 10:09 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

ELECTRONICALLY FILED - 2024 Feb 23 10:09 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT TURNER'S MARINA LLC, Plaintiff, vs. R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., and MIKE MORALES, and SUNSET, INC., Defendants.	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT Case No. 2021-CP-07-01085 MEDIATED SETTLEMENT AGREEMENT AND DISMISSAL OF ALL CLAIMS AND COUNTERCLAIMS WITH PREJUDICE

AS A RESULT OF CONFIDENTIAL MEDIATION, THE PARTIES HEREBY AGREE TO THE FOLLOWING.

1. The rental obligations under the 99-Year Lease of Turner's Marina to R.V. RESORT AND YACHT AND CLUB OWNERS' ASSOCIATION, INC. (the "Association") has changed. Now the rent owed by Turner's Marina to the Association will be the base monthly dues amount charged for a lot owner in the RV Resort multiplied by 5 (formerly it was 10).

2. With regards to the parking area and the disputed parking spaces, the area in question is referenced in Exhibit A, which is attached hereto. As to those twenty-three spots, the Parties agree:
   a. Spot 2 on Exhibit A will be reserved for Association use.
   b. Spots 5 and 6 on Exhibit A will remain short term parking until 5:00PM at which time these spots will be reserved for restaurant patrons and guests during Business Hours.
   c. Spot 3 on Exhibit A will be for the exclusive use of the restaurant 24/7/365.
   d. Spot 4 on Exhibit A will be for the exclusive use of the restaurant 24/7/365.
   e. Spots 19, 20 and 21 are for the exclusive use of the restaurant on Tuesday through Sunday 6:00pm to 10:00pm and Sunday 10:30am to 2:00pm.
   f. Spot 23 on Exhibit A is a spot under a tree. The Parties agree that Spot 23 will be for the exclusive use of the Marina or its designee.
   g. Spot 22 on Exhibit A will be reserved for Marina use until 6:00PM. Following that time, Spot 22 will be available as a first come, first served parking place.

h. All other Spots enumerated on Exhibit A (including the handicap spot denoted as Spot 1) are first come, first served parking spots that can be utilized without restriction or reservation.

3. The Parties agree that no parking spot can be utilized by anyone for overnight parking.

4. The bathrooms are available to everyone.

5. The pool on Exhibit A shall be available to all non-Commercial Patrons of the complex. It is agreed and understood that slip lease holders at the marina and RV renters and their guests are not included in the definition of Commercial Patrons and that those classes of patrons are permitted access to the pool. Commercial Patrons includes the commercial activities of the marina, including any boat clubs, jet ski rentals, tours, charter fishing and the like.

   a. If the Association determines that it wants to implement an "arm band" type system to denote those that are appropriately within the pool area, it is understood and agreed that the marina slip owners and the RV renters will receive one (1) armband each for pool access for them and their guests.

6. It is agreed by all of the below signatories that the Association may seek to reconfigure the enumerated parking spots denoted on Exhibit A, including reconfiguration of the picnic table area pictured there (subject to the Owner's approval in this change of use). In the event the Association reconfigures or adds additional parking spaces to the 23 parking spaces currently enumerated on Exhibit A, fifty percent (50%) of any new spaces created as a result of the reconfiguration - up to a maximum of 7 new spaces - will be reserved for the restaurant during Business Hours. As used in this agreement, Business Hours are agreed to be Tuesday through Sunday 5:00pm to 10:00pm and Sunday 10:30am to 2:00pm. Any new configuration cannot interfere with direct and open access to the Dumpster, including for emptying and removal of the dumpster, installed on Turner's Marina land adjacent to the former tennis courts. All other newly created spaces shall be available on a first come, first served basis.

   a. If the Association reconfigures the parking lot, Spots 19, 20, and 21 will no longer be the restaurant's spaces; instead, from the new spaces created, there will be three new replacement spaces - and up to seven spaces as contemplated above - in a single line. These new spaces will be the exclusive use of the restaurant space during Business Hours as defined above.

7. Turner's Marina LLC as the lessee acknowledges and affirms the restaurant and former ship store are not part of the 99-Year Lease, recorded at Deed Book 325, page 953 (hereinafter referred to as the 99-Year Lease). Turner's Marina LLC further affirms that the ownership and lease rights to the restaurant space and Ship Store space are controlled by the Association. However, the Association agrees that it will not permit the Ship Store space to be utilized for commercial purposes.

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8. The Association and Sunset, Inc. acknowledge and affirm that Turner's Marina is the rightful holder of the 99-Year Lease and the rights and responsibilities arising therefrom not otherwise addressed in this Settlement Agreement and they agree to not bring upon the leased property any means of restricting lessee from use and enjoyment of the leasehold property.

9. The 1984 easement recorded at Book 397 at Page 1612 will be updated to include granting access to the Association, Owners of the Property, and each of their guests, lessees, invitees and licensees to Parcel "B". The Parties agree that Parcel B is referenced in Plat Book 148 at Page 60.

10. Turner's Marina commits to not use, hire or employ **armed** security guards.

11. Turners Marina further agrees that it shall not undertake any efforts to erect a vehicular gate on the interior portion of the Marina's land.

12. With regards to this agreement only, the Association takes no position as to the propriety of the placement of a gate at the entrance to the marina property; instead, should anyone desire to erect a gate at the entrance of the marina property, the Association shall be given thirty (30) days' written notice prior to the submission of the application seeking authority to erect a gate.

13. In exchange for the above agreements, the Parties will dismiss Civil Action File Number 2021-CP-07-01085 with prejudice.

So agreed, this 13 day of December, 2023.

Thomas C. Taylor Attorney for the Plaintiff

Turner's Marina, LLC by
Neil Turner as Owner

Christopher Lizzi Attorney for the Association

Rodney Phillips, as Vice President and Authorized Representative of the Board for the Association

Linda Lochman for Defendant Sunset Inc.

Russell Patterson as Attorney for Sunset Inc.

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ELECTRONICALLY FILED - 2024 Mar 04 4:50 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2021-CP-07-01085
	)	
TURNER'S MARINA LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC. AND SUNSET, INC.'S MOTION TO ENFORCE SETTLEMENT**
	)	
R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., MIKE MORALES, and SUNSET, INC.,	)	
	)	
Defendants.	)	
	)	

TO: THE PLAINTIFF ABOVE NAMED AND ITS ATTORNEY, THOMAS C. TAYLOR, ESQUIRE:

YOU WILL PLEASE TAKE NOTICE that the Defendants, R.V. Resort and Yacht Club Owners' Association, Inc. and Sunset, Inc. (collectively "Defendants"), will move before the Beaufort County Master-in-Equity for an Order requiring the Plaintiff to comply with the mediated Settlement Agreement, dated December 13, 2023 (Ex. 1) in this matter. The grounds for said motion are as follows:

1. **Settlement** – On December 13, 2023, after over sixteen (16) hours of mediation, the parties reached a detailed, comprehensive settlement of all issues in this matter, as reflected in the attached Settlement Agreement (Ex. 1). Thereafter, the parties attempted to work together to draft an Amended Lease, or other recorded document, to place on record the new restrictions on parking, restrooms, pool, restaurant and Ship's Store (§§ 1, 2, 3, 4, 5, 6, 7, and 8) and an Amended Easement Agreement as to access (§ 9). As discussed below, the Plaintiff has refused to agree to recorded documents to confirm the terms of the Settlement Agreement will be legally binding on the Plaintiff, its successors or assigns.

2. **Proposed Second Amendment to Lease (§§ 1, 2, 3, 4, 5, 6, 7, and 8) of Settlement Agreement** – On or about January 18, 2024 the Defendants sent to the Plaintiff a proposed Second Amendment to Lease, in recordable form, to properly document §§ 1, 2, 3, 4, 5, 6, 7, and 8 of the Settlement Agreement (Exhibit 2). Plaintiff rejected Defendants' request, stating in counsel's letter of February 2, 2024 the "only actual written amendment to the Lease that is necessary is an amendment confirming the reduction in rent in payments," and attached a revised Second Amendment to Lease (Ex. 3). Plaintiff's counsel also sent a one-page letter signed by the Plaintiff simply re-stating §§ 2, 3, 4, and 6 of the Settlement Agreement. No reference was made to § 5 (Pool), § 7 (Restaurant and Ship's Store), § 8 (Rights under 99-Year Lease), § 10 (Armed Security Guards), §§ 11 and 12 (no gate at entrance). In addition, since Plaintiff's proposed "settlement documents" are not in recordable form except as to the decrease in rent, they fall far short of the agreement reached by the parties to finally resolve this 3+ year old litigation.

All of the settlement terms as to rights to parking spaces and surrounding areas (§§ 2, 3 and 6), the right to use restrooms in the two-story building (§ 4), the right to use the pool (§ 5), and the rights to use, possess and rent the restaurant space and Ships Store (§ 7) all involve restrictions on the use of real property. Under long-standing South Carolina law, such restrictions must be recorded to be binding on the Plaintiff, and more importantly, its successors and assigns. Plaintiff's effort to simply regurgitate most of the settlement provisions in a one (1) page, unrecorded letter affords no protection whatsoever if the property is transferred to a related entity, sold to a third party, or mortgaged and then sold at foreclosure.

On or about February 16, 2024 the Defendants sent to the Plaintiff correspondence outlining these concerns and again asking for the Plaintiff to agree to documents in recordable

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ELECTRONICALLY FILED - 2024 Mar 04 4:50 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

form, and gave the Plaintiff fifteen (15) days to respond after which the Defendant's would be forced to file a motion to enforce the settlement agreement (Exhibit 7). The Plaintiff did not respond to the Defendant's correspondence and instead opted to preemptively file its own motion to enforce the settlement before the Defendant had a chance to file their motion.

The Defendants' Second Amendment to Lease, to be recorded, properly achieves the clear intent of the Settlement Agreement by placing on record these settlement terms. If the objection by Plaintiff is the reference to the title of the document as "Amended Lease," Defendants are agreeable to naming the document "Agreement Concerning Real Property," or any other similar name, as long as it is recorded and includes all agreed terms.[1]

3. **Proposed Amended Easement Agreement** – Section 9 of the Settlement Agreement (Ex. 1) reads as follows:

> "9. The 1984 easement recorded at Book 397 at Page 1612 will be updated to include granting access to the Association, Owners of the Property, and each of their guests, lessees, invitees and licensees to Parcel "B". The Parties agree that Parcel B is referenced in Plat Book 148 at Page 60."

A copy of referenced Plat Book 148 at Page 160 is attached as Ex. 4 ("Parcel B Plat"). Defendants submitted to Plaintiff on January 31, 2024 a proposed Amended and Restated Easement Agreement (Ex. 5). Said document clearly and succinctly provides the Association, the 200 lot owners, and their guests, lessees, invitees and licensees an access easement over Parcel B, as stated in § 9 of the Settlement Agreement.

[1] After reviewing Defendants' Second Amended Lease (Ex 2) and the Settlement Agreement (Ex. 1), Defendants discovered they omitted to include the following provisions set forth in the Settlement Agreement §10(no armed security guards), and §11 and § 12 (no entry gates). These provision need to be added to the Second Amended Lease when this Motion is heard.

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On February 2, 2024 the Plaintiff rejected Defendant's Amended Easement and proposed an Amended Easement that basically only grants an easement over **certain paved** roads on Parcel B (Ex. 3).

There are multiple issues with the Plaintiff's proposed Amended Easement (Ex. 3), as follows:

1. It is not what the parties agree to as set forth in the Settlement Agreement. § 9 clearly provides an easement across all of Parcel B, not an easement over certain designated paved roads.
2. The ability of lot owners, their guests, and invitees to walk to various amenities, such as the pool, restaurant, picnic tables across from the restaurant, etc. has been a major issue in this case. Plaintiff has previously filed no trespass notices with the Magistrate Court preventing anyone from walking on the sidewalks, foot paths, or anywhere else on Parcel B other than the paved roads. Thus, § 9 of the Settlement Agreement was specifically negotiated to resolve this long-standing dispute. Further, the granting of these expanded easement rights was a significant consideration in the Defendant's agreement to reduce the Plaintiff's rent by 50%.
3. Plaintiff's proposed easement over certain paved roads substantively provides no new rights to Defendants under § 9 of the Settlement Agreement. Pursuant to the January 1, 1984 Easement, recorded at DB 397 at Page 1611 (Ex. 6), the Defendants already have an ingress-egress easement over all "paved roads" owned by the Plaintiff on Parcel B. Plaintiff's version of the Amended Easement simply re-states these same rights, providing no new rights to the Defendants.

C. Conclusion

The Defendants' proposed Second Amendment to Lease and Amended Easement Agreement place on record all of the terms and conditions agreed to by the parties as to the use of the subject properties. Defendants are entitled to an Order from the Court requiring the Plaintiff to execute same.

DEFENDANTS SO MOVE.

LIZZIE LAW FIRM, P.C.

/s/ Christopher D. Lizzi
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2170 Ashley Phosphate Rd., Ste. 402
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Attorneys for the Defendant, R.V. Resort and Yacht Club Owners Association, Inc.

N. Charleston, South Carolina
March 4, 2024

RUSSELL P. PATTERSON, P.A.

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Attorneys for the Defendant, Sunset, Inc.

Hilton Head Island, South Carolina
March 4, 2024

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ELECTRONICALLY FILED - 2024 Feb 23 10:09 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT TURNER'S MARINA LLC, Plaintiff, vs. R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., and MIKE MORALES, and SUNSET, INC., Defendants.	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT Case No. 2021-CP-07-01085 MEDIATED SETTLEMENT AGREEMENT AND DISMISSAL OF ALL CLAIMS AND COUNTERCLAIMS WITH PREJUDICE

AS A RESULT OF CONFIDENTIAL MEDIATION, THE PARTIES HEREBY AGREE TO THE FOLLOWING.

1. The rental obligations under the 99-Year Lease of Turner's Marina to R.V. RESORT AND YACHT AND CLUB OWNERS' ASSOCIATION, INC. (the "Association") has changed. Now the rent owed by Turner's Marina to the Association will be the base monthly dues amount charged for a lot owner in the RV Resort multiplied by 5 (formerly it was 10).

2. With regards to the parking area and the disputed parking spaces, the area in question is referenced in Exhibit A, which is attached hereto. As to those twenty-three spots, the Parties agree:
   a. Spot 2 on Exhibit A will be reserved for Association use.
   b. Spots 5 and 6 on Exhibit A will remain short term parking until 5:00PM at which time these spots will be reserved for restaurant patrons and guests during Business Hours.
   c. Spot 3 on Exhibit A will be for the exclusive use of the restaurant 24/7/365.
   d. Spot 4 on Exhibit A will be for the exclusive use of the restaurant 24/7/365.
   e. Spots 19, 20 and 21 are for the exclusive use of the restaurant on Tuesday through Sunday 6:00pm to 10:00pm and Sunday 10:30am to 2:00pm.
   f. Spot 23 on Exhibit A is a spot under a tree. The Parties agree that Spot 23 will be for the exclusive use of the Marina or its designee.
   g. Spot 22 on Exhibit A will be reserved for Marina use until 6:00PM. Following that time, Spot 22 will be available as a first come, first served parking place.

EXHIBIT 1

h. All other Spots enumerated on Exhibit A (including the handicap spot denoted as Spot 1) are first come, first served parking spots that can be utilized without restriction or reservation.

3. The Parties agree that no parking spot can be utilized by anyone for overnight parking.

4. The bathrooms are available to everyone.

5. The pool on Exhibit A shall be available to all non-Commercial Patrons of the complex. It is agreed and understood that slip lease holders at the marina and RV renters and their guests are not included in the definition of Commercial Patrons and that those classes of patrons are permitted access to the pool. Commercial Patrons includes the commercial activities of the marina, including any boat clubs, jet ski rentals, tours, charter fishing and the like.

   a. If the Association determines that it wants to implement an "arm band" type system to denote those that are appropriately within the pool area, it is understood and agreed that the marina slip owners and the RV renters will receive one (1) armband each for pool access for them and their guests.

6. It is agreed by all of the below signatories that the Association may seek to reconfigure the enumerated parking spots denoted on Exhibit A, including reconfiguration of the picnic table area pictured there (subject to the Owner's approval in this change of use). In the event the Association reconfigures or adds additional parking spaces to the 23 parking spaces currently enumerated on Exhibit A, fifty percent (50%) of any new spaces created as a result of the reconfiguration - up to a maximum of 7 new spaces - will be reserved for the restaurant during Business Hours. As used in this agreement, Business Hours are agreed to be Tuesday through Sunday 5:00pm to 10:00pm and Sunday 10:30am to 2:00pm. Any new configuration cannot interfere with direct and open access to the Dumpster, including for emptying and removal of the dumpster, installed on Turner's Marina land adjacent to the former tennis courts. All other newly created spaces shall be available on a first come, first served basis.

   a. If the Association reconfigures the parking lot, Spots 19, 20, and 21 will no longer be the restaurant's spaces; instead, from the new spaces created, there will be three new replacement spaces - and up to seven spaces as contemplated above - in a single line. These new spaces will be the exclusive use of the restaurant space during Business Hours as defined above.

7. Turner's Marina LLC as the lessee acknowledges and affirms the restaurant and former ship store are not part of the 99-Year Lease, recorded at Deed Book 325, page 953 (hereinafter referred to as the 99-Year Lease). Turner's Marina LLC further affirms that the ownership and lease rights to the restaurant space and Ship Store space are controlled by the Association. However, the Association agrees that it will not permit the Ship Store space to be utilized for commercial purposes.

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8. The Association and Sunset, Inc. acknowledge and affirm that Turner's Marina is the rightful holder of the 99-Year Lease and the rights and responsibilities arising therefrom not otherwise addressed in this Settlement Agreement and they agree to not bring upon the leased property any means of restricting lessee from use and enjoyment of the leasehold property.

9. The 1984 easement recorded at Book 397 at Page 1612 will be updated to include granting access to the Association, Owners of the Property, and each of their guests, lessees, invitees and licensees to Parcel "B". The Parties agree that Parcel B is referenced in Plat Book 148 at Page 60.

10. Turner's Marina commits to not use, hire or employ **armed** security guards.

11. Turners Marina further agrees that it shall not undertake any efforts to erect a vehicular gate on the interior portion of the Marina's land.

12. With regards to this agreement only, the Association takes no position as to the propriety of the placement of a gate at the entrance to the marina property; instead, should anyone desire to erect a gate at the entrance of the marina property, the Association shall be given thirty (30) days' written notice prior to the submission of the application seeking authority to erect a gate.

13. In exchange for the above agreements, the Parties will dismiss Civil Action File Number 2021-CP-07-01085 with prejudice.

So agreed, this 13 day of December, 2023.

Thomas C. Taylor Attorney for the Plaintiff

Turner's Marina, LLC by
Neil Turner as Owner

Christopher Lizzi Attorney for the Association

Rodney Phillips, as Vice President and Authorized Representative of the Board for the Association

Linda Lochman for Defendant Sunset Inc.

Russell Patterson as Attorney for Sunset Inc.

LIZZI LAW FIRM, PC

Attorney at Law

2170 Ashley Phosphate Road, Suite 402
North Charleston, SC 29406
Telephone: (843)797-0222
Christopher D. Lizzi, Esquire

Post Office Box 61899
North Charleston, SC 29419
Facsimile: (843)797-0202
E-Mail: lizzilawfirm@aol.com

January 18, 2024

Via Email Only
Thomas C. Taylor, Esquire
Law Offices of Thomas C. Taylor, LLC
PO Box 5550
Hilton Head Island, SC 29938

Re: Proposed Easement/Lease Amendment

Dear Tom,

Please find a copy of the amendment to the "1981 99-year lease" pursuant to our settlement agreement. I would appreciate if you would review the document and get back with me by early next week regarding your position to the same. I believe that it contains all mediated agreement terms related to the lease.

I will be sending you our modifications to your proposed amended easement early next week. However, as I previously stated regarding the modification of the easement, paragraph nine (9) of the settlement agreement grants access to the association, owners of the property, and each of their guests, invitees and licensees to Parcel B. There are no restrictions to this access specified in the settlement agreement. As we agreed to in mediation, this additional access was granted to resolve the disputes on access to the recreational facilities in Parcel A, as well as resolve the issue with lot owners being trespassed when going across Parcel B (whether walking or by vehicle). I did not see such language or access granted in your proposed amendment. I will forward our revisions to you as stated above.

I appreciate your time and consideration.

Very truly yours,

Christopher D. Lizzi

CDL/see
Cc: client (via email)

EXHIBIT 2

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STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

SECOND AMENDMENT TO LEASE

This Second Amendment to Lease ("Amendment") is entered into this _____ day of January, 2024 by R.V. Resort and Yacht Club Owner's Association, Inc. ("Landlord") and Turner's Marina, LLC ("Tenant").

WHEREAS, on or about June 12, 1981, the Landlord and Outdoor Resort, R.V. Resort and Yacht Club, a South Carolina general partnership ("Original Tenant") entered into that certain Lease recorded in the Beaufort County Register of Deeds ("ROD") at DB 325 at Page 953 on June 18, 1981, a copy of which is attached hereto as Exhibit 1 ("Lease");

WHEREAS, on October 8, 1981, the Landlord and the Original Tenant entered into that certain Modification of Lease Agreement, a copy of which is attached as Exhibit 2 ("Lease Amendment"). That the Lease and Lease Amendment are collectively referred to as the "1981 Lease";

WHEREAS, the interest of the Original Tenant in the 1981 Lease was sold, transferred or assigned on various occasions thereafter, with the Tenant, Turner's Marina, LLC ("Tenant") since December 21, 2017 holding the interest of Tenant under the 1981 Lease;

WHEREAS, at some point after the Tenant acquired its interest under the 1981 Lease, various disputes arose with the Landlord as to the definition of the leased premises ("Premises") described in the 1981 Lease under § 1, and other provisions, including, (1) whether the restaurant,

known as the Sunset Grille ("Restaurant"), located on the second floor of the two (2) story "Rec Bldg" depicted in PB 29 at P 184 recorded in the ROD ("Rec. Bldg."), was part of the Premises; (2) whether the "Ship's Store" (currently used as the Landlord's office), located on the first floor of the Rec. Bldg. was part of the Premises; (3) who had the right to use certain parking spaces on the property owned by the Landlord, as described as "TENNIS-COMPLEX", consisting of 0.84 acres on PB 57 at P 168 recorded in the ROD, and further described as "Parcel A" on PB 148 at P 160; as well as the rights of the Landlord, its members, the RV Lot Owners, the Restaurant, Sunset, LLC ("Sunset"), the operator of the Restaurant, and said parties' patrons, guests and invitees to cross certain property at the RV Resort owned by the Tenant;

WHEREAS, as a result of said disputes, Tenant filed litigation against the Landlord, Sunset and others in the Beaufort County Court of Common Pleas on June 21, 2021 (C.A. No.: 2021-CP-07-1085 – "Litigation");

WHEREAS, on December 13, 2023 a settlement was reached between the parties as to the Litigation and incorporated into a formal Settlement Agreement ("Settlement Agreement"). That portion of the Settlement Agreement involving the 1981 Lease is set forth in this Addendum.

NOW, THEREFORE, for ten ($10.00) Dollars and other good and valuable consideration, the parties agree as follows:

1. **WHEREAS Provisions** – The above WHEREAS provisions are incorporated herein by reference as if fully set forth. Said provisions are important and material terms and conditions of this Addendum.

2. **Rent (§ 3)** – The existing rent language in Section 3 of the Lease and Section 3 of the Modification is deleted and the following inserted in its place.

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"In consideration of this Lease of the Recreational Facilities to the Lessee, Lessee agrees to pay Lessor monthly Rent in the amount of the base monthly assessment charged for a lot owner in the RV Resort multiplied by 5. Such Rent shall be payable at such places as Lessor shall direct in writing. The amount of Rent shall be automatically increased per the aforementioned formula (monthly dues for a lot owner in the RV Resort multiplied by 5) with any increase of assessments as determined by the Board of Directors of the Association pursuant to Article VI, Section 3 of the By-Laws of the R.V. Resort and Yacht Club Owners' Association, Inc."

3. Parking

I. 23 Parking Spaces – Exhibit A.

With regards to the right to use and access the parking area referenced on attached Exhibit A, consisting of twenty-three (23) spots or spaces, the parties agree:

a. Spot 2 on Exhibit A will be reserved for Landlord use.

b. Spots 5 and 6 on Exhibit A will remain short term parking until 5:00 p.m., at which time these spots will be reserved for use by the Restaurant and its patrons and guests during "Business Hours," defined as Tuesday through Sunday, 5:00 p.m. to 10:00 p.m., and Sunday 10:30 a.m. to 2:00 p.m.

c. Spot 3 on Exhibit A will be for the exclusive use of the Restaurant, its patrons and guests twenty-four hours a day, seven days a week, 365 days a year ("24/7/365").

d. Spot 4 on Exhibit A will be for the exclusive use of the Restaurant, its patrons and guests 24/7/365.

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e. Spots 19, 20 and 21 will be for the exclusive use of the Restaurant, its patrons and guests from Tuesday through Sunday 6:00 p.m. to 10:00 p.m. and Sunday 10:30 a.m. to 2:00 p.m.

f. Spot 23 on Exhibit A is a parking spot under a tree. The parties agree that Spot 23 will be for the exclusive use of the Tenant or its designee.

g. Spot 22 on Exhibit A will be reserved for Tenant's use until 6:00 p.m. Following that time, Spot 22 will be available as a first come, first served parking place.

h. All other Spots enumerated on Exhibit A (including the handicap spot denoted as Spot 1) are first come, first served parking spots that can be utilized without restriction or reservation.

i. The Parties agree that no parking spot can be utilized by anyone for overnight parking.

II. Reconfigured Parking Spaces

a. **Reconfigured Parking Spaces or Spots** – It is agreed by the Landlord and the Tenant that the Landlord may seek to reconfigure the enumerated parking spots denoted on Exhibit A, including reconfiguration of the picnic table area pictured thereon, subject to the RV Lot Owners' approval of this change of use. In the event the Landlord reconfigures or adds additional parking spaces to the twenty-three (23) parking spaces currently enumerated on Exhibit A, fifty percent (50%) of any new spaces, above twenty-three (23), created as a result of the reconfiguration - up to a maximum of seven (7) new spaces - will be reserved for the Restaurant and its patrons and guests during Business Hours. Any such new configuration cannot interfere with direct and open access to the dumpster, including for emptying and removal of the dumpster,

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installed on Tenant's land adjacent to the former tennis courts. All other newly created spaces shall be available on **a first come, first served basis.**

b. If the Landlord reconfigures the parking lot as outlined above, Spots numbered 19, 20, and 21 will no longer be deemed the Restaurant's spaces; instead, from the new spaces created, there will be three (3) new replacement spaces - and up to seven (7) spaces as contemplated above - in a single line, resulting in ten (10) spaces in a row for Restaurant use. These new spaces will be for the exclusive use of the Restaurant, its patrons and guests during Business Hours as defined above.

4. **Restrooms** – The restrooms located on the first floor of the Rec. Bldg. are available to everyone.

5. Pool

a. The pool on Exhibit A shall be available to all non-Commercial Patrons of the RV complex. It is agreed and understood that slip lease holders at the marina and RV renters and their guests are not included in the definition of Commercial Patrons and that those classes of patrons are permitted access to the pool. Commercial Patrons includes those enjoying the commercial activities of the marina operated by the Tenant, either directly or through leases, agreements, or licenses from the Tenant, including but not limited to any boat clubs, jet ski rentals, tours, charter fishing, parasailing, and other similar activities. Commercial Patrons are not allowed to use the pool.

b. If the Landlord determines that it wants to implement an "arm band" type system to denote those that are appropriately within the pool area, it is understood and

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agreed that the marina slip lease holders and the RV owners/renters will receive one (1) arm band each for pool access for themselves and their guests.

6. Tenant's Affirmation of Landlord's Rights/Restriction on Use of Restaurant and Ship's Store – Tenant, as the lessee, acknowledges and affirms the Restaurant and former Ship's Store are not part of the Premises or subject to the 1981 Lease. Tenant further affirms that the ownership and lease rights to the Restaurant space and Ship's Store space are exclusively held, owned and controlled by the Landlord. However, the Landlord agrees that it will not permit the Ship's Store space to be utilized for commercial purposes. The parties acknowledge and agree the use of the Ship's Store space for the Landlord's office shall be permitted.

7. Affirmation of Tenant's Rights – The Landlord and Sunset, Inc. acknowledge and affirm that Tenant is the rightful holder of the rights of the Tenant and lessee under the 1981 Lease and the rights and responsibilities arising therefrom not otherwise addressed in this Addendum. Said parties agree to not bring upon the leased Premises any means of restricting Tenant from the use and enjoyment of its leasehold property.

8. Drafting of the Agreement. The parties acknowledge and agree that each was actively involved with the negotiation and drafting of this Addendum. Further, each party's legal counsel reviewed, or had the opportunity to review the Addendum prior to its execution. The parties agree any Court, arbitrator or mediator which may hereinafter interpret this Addendum will not construe the Addendum against any particular party which may have originated, typed or prepared any particular provision.

9. Binding Effect - This Addendum shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, executors, administrators, successors and assigns.

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10. Conflict- In the event of any conflict of the provision of this Addendum and the Settlement Agreement, the provisions of this Addendum shall control.

WITNESSES:

LANDLORD: R.V. Resort and Yacht Club Owner's Association, Inc.

_____

_____

By:_____

Its:_____

TENANT: Turner's Marina, LLC

_____

_____

By:_____

Its:_____

SUNSET, INC.

_____

_____

By:_____

Its:_____

For purposes of Section 7 only

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STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF BEAUFORT)

I, the undersigned Notary Public, do hereby certify that the within R.V. Resort and Yacht Club Owner's Association, Inc., by _____ its _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS MY HAND AND SEAL this the ____ day of January, 2024.

_____
Notary Public for: South Carolina
My Commission Expires: _____
Name of Notary:_____

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STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF BEAUFORT)

I, the undersigned Notary Public, do hereby certify that the within Sunset, Inc., by _____ its _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS MY HAND AND SEAL this the ____ day of January, 2024.

_____
Notary Public for: South Carolina
My Commission Expires: _____
Name of Notary:_____

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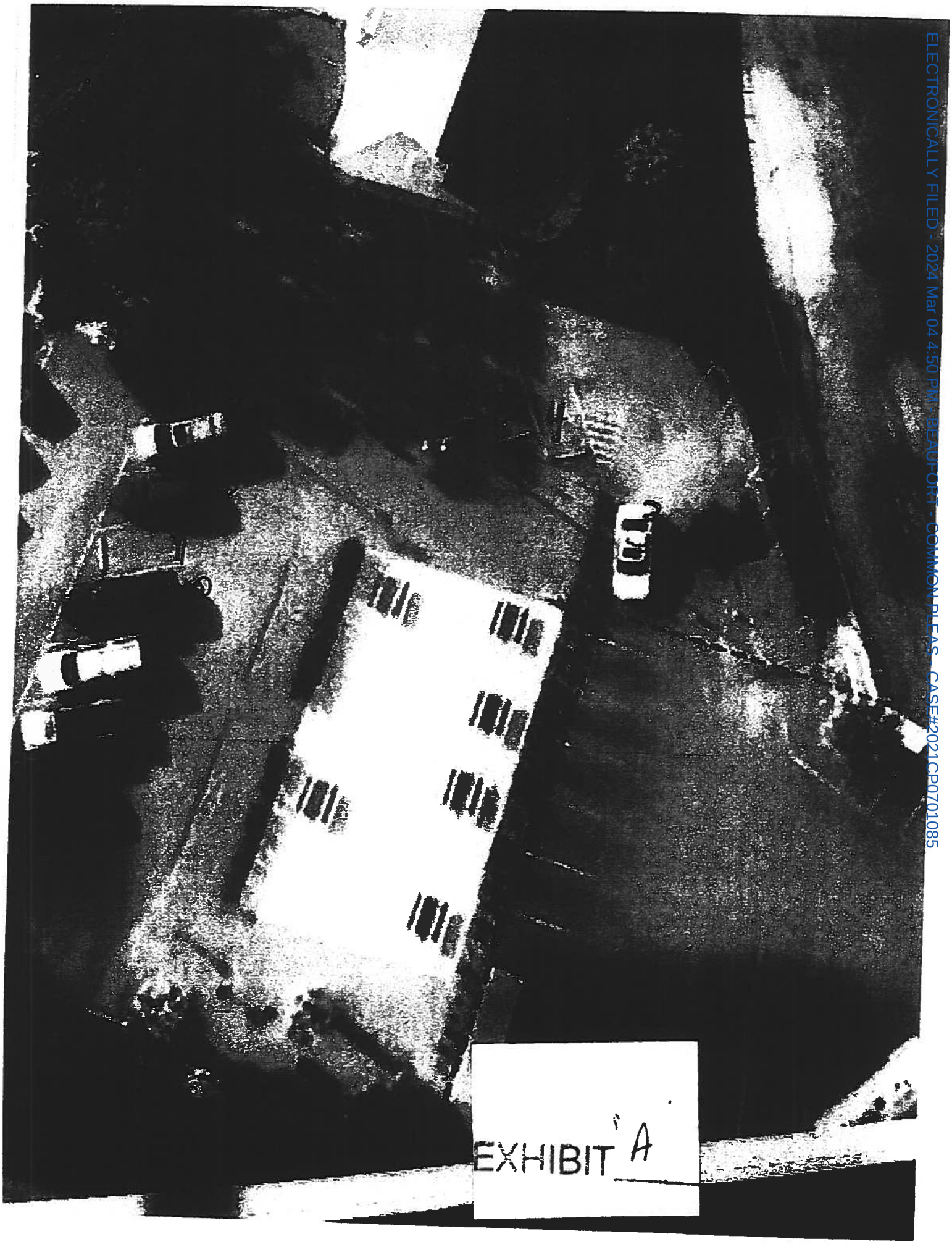
STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF BEAUFORT)

I, the undersigned Notary Public, do hereby certify that the within Turner's Marina, LLC, by _____ its _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS MY HAND AND SEAL this the ____ day of January, 2024.

_____
Notary Public for: South Carolina
My Commission Expires: _____
Name of Notary:_____

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Exhibit 1

EXHIBIT C

953

6/14/84

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

LEASE

THIS LEASE is made this 12 of JUNE, 1981, by and between R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., a South Carolina non-profit corporation (hereinafter referred to as "Lessor"), and OUTDOOR RESORT, R.V. RESORT AND YACHT CLUB, a South Carolina general partnership (hereinafter referred to as "Lessee").

WHEREAS, Lessor is a non-profit corporation organized and existing under the laws of the State of South Carolina for the purpose of administering and maintaining certain real property known as OUTDOOR RESORT, R.V. RESORT AND YACHT CLUB; and

WHEREAS, Lessee is the developer of said property and also the owner and developer of a marina adjacent and contiguous to the property; and

WHEREAS, Lessor and Lessee desire that certain common properties of OUTDOOR RESORT, R.V. RESORT AND CAMPGROUND, owned by the Lessor, shall be entitled to be used by OUTDOOR RESORTS, R.V. RESORT AND YACHT CLUB, a South Carolina partnership, its successors, assigns, guests and invitees.

NOW, THEREFORE, in consideration of the agreements to be performed by each other, Lessor and Lessee agree as follows:

1. Upon the terms and conditions herein set forth and in consideration of the prompt and continuous performance by the Lessee of each and every of its covenants and promises herein made, Lessor does hereby let, lease and demise unto the Lessee and Lessee does hereby lease of and from the Lessor property situate in Beaufort County, South Carolina, and described on EXHIBIT "A" which is attached hereto and thereby made a part hereof.

EXHIBIT 1

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The premises described in the above legal description are hereinafter referred to as the Recreational Facilities which include, among other things, a swimming pool, two tennis courts, decking, bathhouse, and certain portions of the Clubhouse complex. The lease of the above described Recreational Facilities shall be together with its appurtenances, tenements and hereditaments, and together with all improvements, buildings and structures now or hereafter placed thereon, and all furniture, furnishings, fixtures, machinery and equipment now thereon and hereafter brought or placed thereon or intended for the use thereon and all additions thereto.

2. The term of this Lease shall commence on the date first above mentioned and shall end on JUNE 12, 2080. This is an exclusive Lease to the Lessee, under circumstances where the Lessor shall not be entitled to enter into any other leases with any other lessees while this Lease is in effect without the prior written consent of the Lessee. Lessee, however, may at any time assign any and all of its interest in this Lease and upon such assignment taking place, the Lessee shall be relieved of any and all liability under this Lease subject to the Lessee's complying with all terms and conditions of the Lease at the time of said assignment.

3. In consideration of this Lease of the Recreational Facilities to the Lessee, Lessee agrees to pay Lessor the sum of FIVE ($5.00) DOLLARS per month per boat slip at the marina which is shown and designated on EXHIBIT "B" which is attached hereto and thereby made a part hereof. The payment of said rent, however, shall not begin until the improvements described as the Recreational Facilities in Paragraph 1 have been completed. Such rent shall be payable at such places as Lessor shall direct in writing. The amount of rent shall not in any way be increased through the term of this Lease without the prior written consent of Lessee.

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4. Use of the Recreational Facilities shall be subject to all laws, statutes, ordinances, rules and regulations of all appropriate governmental authorities and agencies, covenants and restrictions of record, as well as all rules and regulations adopted by the Association from time to time pursuant to the Declaration of Covenants and Restrictions; however, which rules and regulations shall not discriminate in any manner whatsoever against the Lessee or the invitees of the Lessee.

The persons who may use and enjoy the Recreation Facilities through and under the Lessee shall be limited to agents, officers, employees and guests of the Lessee or its assigns.

5. If any part of the Recreational Facilities is taken pursuant to the law of eminent domain of the State of South Carolina during the term of this Lease, the rent herein provided for shall continue unaffected as to amount unless such taking materially destroys the usefulness of the Recreational Facilities for all purposes leased. In such event, the Lessee shall have the right to terminate this Lease by written notice to the Lessor within thirty (30) days after such taking or to continue in possession of an undivided interest in the remainder of the leased premises under all the terms and conditions hereof. All damages awarded such taking shall belong to and be the property of Lessor whether such damages shall be awarded as compensation for the diminution of the value to the Lease or to the fee of the Recreational Facilities.

6. Lessor shall, throughout the term of this Lease, keep enforced insurance policies as follows: (a) insurance against loss or damage to the buildings and improvements now of hereafter located upon the Recreational Facilities and all of the personal property, including pictures, furniture, machinery, equipment and furnishings located upon the Recreational Facilities. All insurance shall provide against any

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and all loss or damage to the Recreational Facilities by fire, windstorm or causes insured by extended coverage; (b) comprehensive general public liability insurance in which the Lessor and Lessee shall be named insureds against claims of bodily injury, sickness or disease, including death, at any time resulting therefrom and for injury to or destruction of property, including the loss or use thereof arising out of ownership, maintenance, use or operation of the Recreational Facilities or any building or improvement or personalty located thereon with a minimum limitation of $200,000/$500,000/$10,000; and (c) in the event that Lessor shall undertake any construction upon the premises, Lessor shall maintain and pay for a builders risk insurance policy in such amounts and with such companies as Lessor determines proper.

The Lessor shall also pay for and maintain such further and additional insurance policies, including but not limited to workmen's compensation insurance. The amount of the required insurance shall be equal to the maximum insurable replacement value as determined annually by Lessor. The Lessee may require the Lessor to provide proof of existence of insurance coverage required herein as Lessee may reasonably request from time to time. All insurance required to be carried shall be under policies written in such form and issued by such companies as shall be approved by the Lessee, said Lessee, said approval, shall not be unreasonably withheld.

7. In the event of damage or destruction of the Recreational Facilities or the buildings and improvements located thereon by any casualty for which insurance is payable, the Lessor shall promptly make application for the benefits under the insurance policy, which benefits shall be deposited in a bank account and be available to the Lessor for the reconstruction or repair of the Recreational Facilities or that portion thereof which was damaged. Such insurance money shall

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be paid from the account in amounts based upon the estimate of a licensed architect in the State of South Carolina having supervision of such construction work or repair. Said architect shall certify that the amount of such estimate is being applied to the payment for reconstruction or repair and at a reasonable cost. It is the intent hereunder that reconstruction or repair shall take place if covered by insurance, but it is the further intent that Lessor shall not assume the burden of reconstruction or repair if not covered by insurance, unless Lessor chooses to do so. In the event the cost of repair or reconstruction exceeds the insurance benefits, Lessor shall reconstruct or repair those items for which insurance is available; but only at its option must Lessor do any further reconstruction or repair for which there is not adequate insurance proceeds. If Lessor chooses not to reconstruct or repair due to inadequate insurance proceeds, then Lessee, at its option, may either continue this Lease in full force and effect or cancel this Lease upon fifteen (15) days' notice in writing to Lessor, at which time Lessee shall be obligated to perform its covenants and promises hereunder up to the date of notification. For reconstruction or repair for which there are adequate insurance proceeds, or with which Lessor desires to proceed despite the lack of insurance proceeds, it shall be the obligation and duty of Lessor to cause such showing to be made and such to be accomplished as often as said Recreational Facilities, including buildings, improvements or personal property may be destroyed, damaged or lost; and all of such work shall be completed and paid for as promptly as the exercise by the Lessor of due diligence makes possible. The work when completed shall restore the Recreational Facilities substantially to the condition in which it existed before such destruction, damage or loss took place, and in

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any event, the premises as restored shall have a value which is not less than the value which the Recreational Facilities had or possessed prior to the loss or damage which made such reconstruction or repair necessary. Lessee shall have the right to require Lessor to obtain a completion, performance and payment bond in amount and in form and with a company licensed to do business in the State of South Carolina, approved by Lessee. When after the payment of repair or replacement of damage there shall remain any surplus of insurance proceeds, said surplus shall belong to the Lessor.

8. Any demolition or new construction on the Recreational Facilities or major alteration in the buildings located in the Recreational Facilities shall be at the sole expense of the Lessor; nothing in this Paragraph 8 shall ever be construed to relieve Lessor of its obligation to maintain and repair the improvements located upon the Recreational Facilities. The Lessor shall, during the term of this Lease, keep the Recreational Facilities in a good state of repair and shall maintain all of the buildings and other improvements located thereon for the normal and customary use thereof. Lessor shall not suffer or permit any waste, neglect or deterioration of any of the premises, buildings or improvements of the Recreational Facilities and shall replace, renovate and repair the Recreational Facilities and improvements thereon as often as may be necessary in order to keep the Recreational Facilities and such buildings and improvements in a good state of repair and for the use and enjoyment of the Lessor and Lessee.

9. Lessor covenants and agrees with Lessee that so long as the Lessee keeps and performs all of its covenants herein made the Lessee shall have quiet and undisturbed and continued possession of the premises subject only to the rights of Lot Owners to use, occupy and enjoy the same along with

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such other persons as provided in the Declaration of Covenants and Restrictions.

10. Subject to Paragraph 7 hereinabove, no damage or destruction to buildings, structures, improvements or furniture, furnishings, fixtures, machinery or equipment now or hereafter located upon the Recreational Facilities by fire, windstorm, or any other casualty, shall entitle the Lessee to surrender possession or to terminate this Lease or to violate any of its provisions or cause any rebate, abatement or adjustment in the rent then due or that thereafter becoming due under the terms hereof.

11. The Lessor and its agents shall have the right of entry upon the Recreational Facilities at all reasonable times to examine the condition and use thereof; provided that only such rights shall be exercised in such a manner as to not interfere with the conduct of the operation of said Recreational Facilities; and if said premises are damaged by any casualty which causes the premises to be exposed to the elements, then the Lessor may enter upon the premises to make emergency repairs.

12. Where not otherwise provided in this Lease, all sums of money coming due from the Lessee to the Lessor shall bear interest at the rate of one and one-half (1 1/2%) percent per month, commencing fifteen (15) days from the date the same shall become due until the date the same shall be paid.

13. Lessee shall not do or suffer any waste or damage, disfigurement or injury to the Recreational Facilities or any property now or hereafter placed or brought thereon.

14. Except for non-payment of rent which is discussed below, if default shall be made by the Lessee in the performance of any covenants herein set forth, which default is not cured by Lessee within thirty (30) days after receiving written

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notice of such default by Lessor, then in addition to any other rights or remedies which Lessor may have, the Lessor shall have the right to declare this Lease cancelled and terminated and re-enter upon the Recreational Facilities, in which case the Lessee shall peacefully surrender and deliver the Recreational Facilities to Lessor. However, nothing in this Lease shall be construed as authorizing the Lessor to declare this Lease in default where the default consists solely of non-payment of rent, until such non-payment is in violation of Paragraphs 4 or 5 hereinabove.

In the event that Lessor defaults in the terms of this Lease, Lessee shall have all rights or remedies provided by law which shall include but not be limited to specific performance of this Lease by Lessor, and/or recovery of damages due to the default of Lessor.

Any and each remedy available to the Lessor or Lessee for the enforcement of any term or provision hereof shall be construed as cumulative and no single such remedy shall be construed as being exclusive or as preventing the parties from electing such other or additional remedies. In addition to all the remedies set forth above, the Lessee, at its option, may request of a court of competent jurisdiction and receive therefrom the appointment of a receiver to stand in the place and stead of the Lessor and to operate the Recreational Facilities. Said receiver shall fully perform and keep all of the covenants, terms and conditions of this Lease. In connection with any litigation arising from this Lease, the prevailing party shall be entitled to recover all costs incurred including a reasonable attorney's fee.

15. The Recreational Facilities are subject to such easements for public utilities as now appear in public records and Lessor shall have, at all times, the right to create upon

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or over such of the Recreational Facilities for any and all public utilities, easements from time to time as the Lessor, in its discretion, shall deem appropriate, free and clear of this Lease.

16. At the termination of this Lease by lapse of time or otherwise, the Lessee will peacefully and quietly deliver possession of the Recreational Facilities and all improvements situated thereon, including all personal property therein and thereon, to the Lessor and all buildings, improvements and personal property then situated upon the premises shall become and remain the property of the Lessor.

17. Time is of the essence in every particular and especially where the obligation to pay money is involved.

18. No waiver, extension or indulgence granted by either party to the other on any one occasion as to any breach shall be construed as a waiver, extension or indulgence of any succeeding breach of the same covenant.

19. This is the entire Lease and there shall be no modification, release or discharge or waiver of any provision hereof unless in writing signed by both parties.

20. Whenever a provision is made for notice of any kind under this Lease, it shall be deemed sufficient notice and service thereof if such notice to either party is in writing, addressed to such party at its last known address and sent by certified mail with postage prepaid.

21. This Lease is to be construed in accordance with the laws of the State of South Carolina. The invalidity in whole or in part of any covenant, promise or undertaking or any section, subsection, sentence, clause, phrase or word or any of the provisions of this Lease shall not affect the validity of the remaining portions thereof. Whenever the context so permits, the use of the plural shall include the

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singular, and the singular the plural, and the use of any gender shall be deemed to include all genders.

22. It is specifically recognized and understood that some or all of the persons comprising the original Board of Directors and the officers of the Lessor, and the partners of the Lessee, are also officers, directors, employees and/or partners of the Lessor and Lessee under this Lease, and that such circumstances of interlocking Boards of Directors, officers, employees, stockholders and/or partners shall not and cannot be considered as a breach of their duties nor as a conflict of interest between the Lessor and Lessee, nor as possible grounds to invalidate this Lease in whole or in part. Each and every person, whether real or corporate, who shall take any interest whatsoever in or to the Lot or any of the Property, or in or to any Lot in the Property, after the recording of this Lease, by acceptance, delivery or the recording of the deed, contract, grant, assignment or such other instrument granting, conveying or providing for such interests, or by the exercise of the rights or uses granted herein, shall be deemed to specifically consent to and ratify without further act being required, the provisions of this Lease to the same effect and extent as if such person or persons had executed this Lease with the formalities required in deeds, for the purpose of subordinating and/or subjecting such person's or persons' interest, in full, to the terms of this Lease and granting the rights to the parties provided for herein, absolutely without exception.

WITNESSES:

LESSOR:
R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION

By

By:

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2024 Mar 04 4:50 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

WITNESSES:

LESSEE:

OUTDOOR RESORT, R.V. RESORT AND YACHT CLUB

By:

By:

FILED AT	BEAUFORT COUNTY S. C.	RECORDED IN BOOK
2:00 O'CLOCK P M	JUN 18 1981	375 PAGE 920

CLERK OF COURT OF COMMON PLEAS

RECORDED THIS 22nd DAY OF June 1981 IN BOOK M PAGE 717

FEE $

Mary Ann Graybill
AUDITOR, BEAUFORT COUNTY, S. C.

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10/8/87

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

MODIFICATION OF LEASE AGREEMENT

WHEREAS, on June 17, 1981 a Lease Agreement was entered into by and between R.V. Resort and Yacht Club Owners' Association, Inc., a South Carolina non-profit corporation (therein and hereinafter referred to as "Lessor"), and Outdoor Resorts, R.V. Resort and Yacht Club, a South Carolina general partnership (therein and hereinafter referred to as "Lessee"), a copy of which is attached hereto as Exhibit "A" for reference; and

WHEREAS, the aforesaid Lease was recorded with the Declaration of Covenants and Restrictions for Outdoor Resorts, R.V. Resort and Yacht Club in Deed Book 125 at Page 970 in the Office of the Clerk of Court, Beaufort County, South Carolina; and

WHEREAS, the provisions of Paragraph 19 of the aforesaid Lease require that any modifications in the Lease Agreement be in writing and signed by both parties; and

WHEREAS, the Lessor and Lessee have agreed that the following modification to Paragraph 3 be made.

IN CONSIDERATION of the sum of Five and 00/100 ($5.00) Dollars and other valuable consideration, Paragraph 3 of the aforesaid Lease is modified to read as follows:

> In consideration of this lease of the Recreational facilities to the lessor, lessee agrees to pay Lessor the sum of Five ($5.00) Dollars per month per boat slip at the marina which is shown and designated on Exhibit "B" which is attached hereto and thereby made a part hereof. The payment of said rent, however, shall not begin until the improvements described as the Recreational facilities in Paragraph 1 have been completed. Such rent shall be payable at such places as Lessor shall direct in writing. The amount of rent shall be automatically increased proportionately with any increase of assessments as determined by the Board of Directors of the Association pursuant to Article VI, Section 3 of the By-Laws of the R.V. Resort and Yacht Club Owners' Association, Inc.

WITNESS our hands and seals this the 8th day of October, 1981.

WITNESSES:

LESSOR:
R.V. Resort and Yacht Club Owners' Association, Inc., a South Carolina non-profit corporation

By: [signature]

By: .....

EXHIBIT 2

REFERENCED PLATS

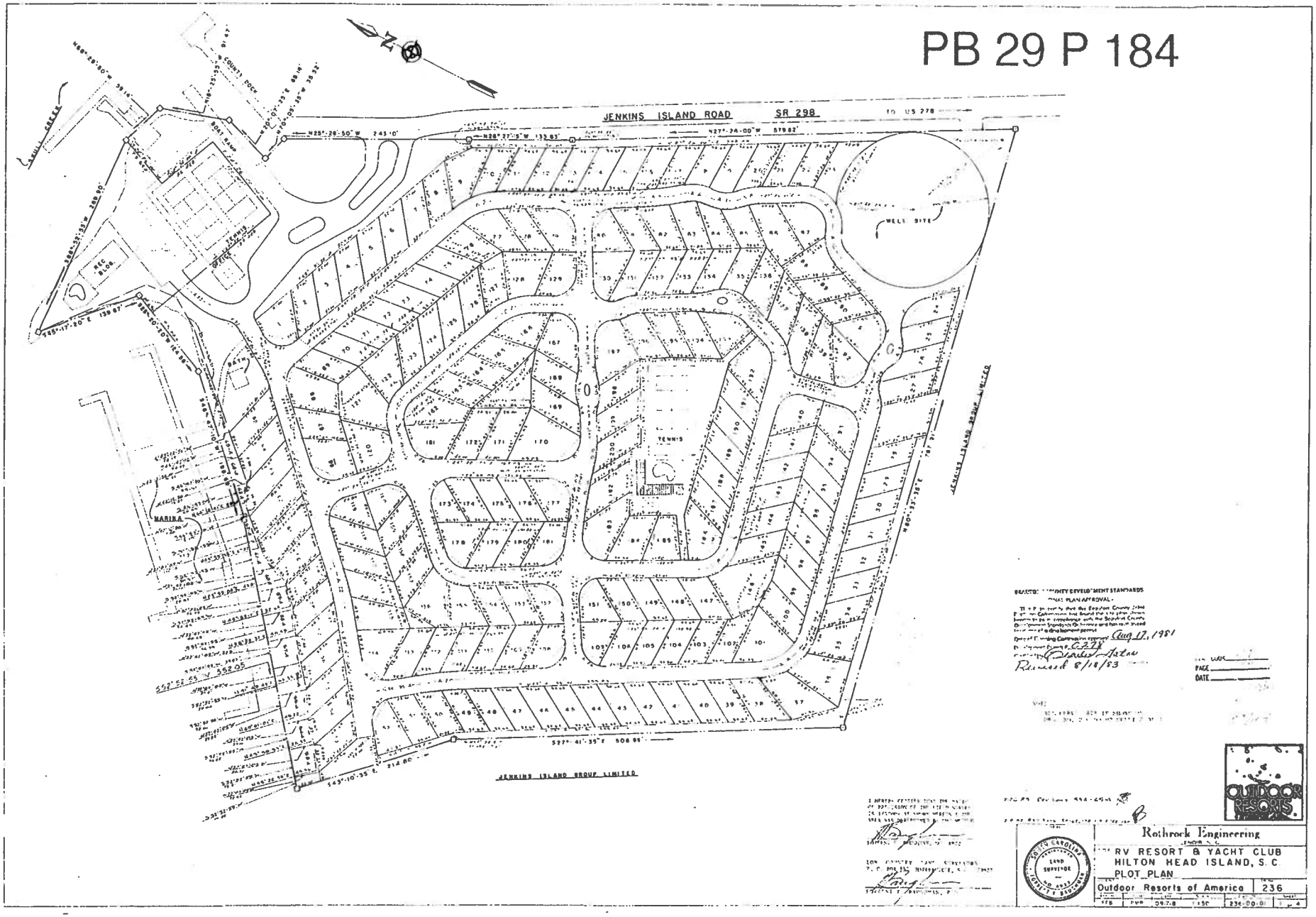
PB 29/184

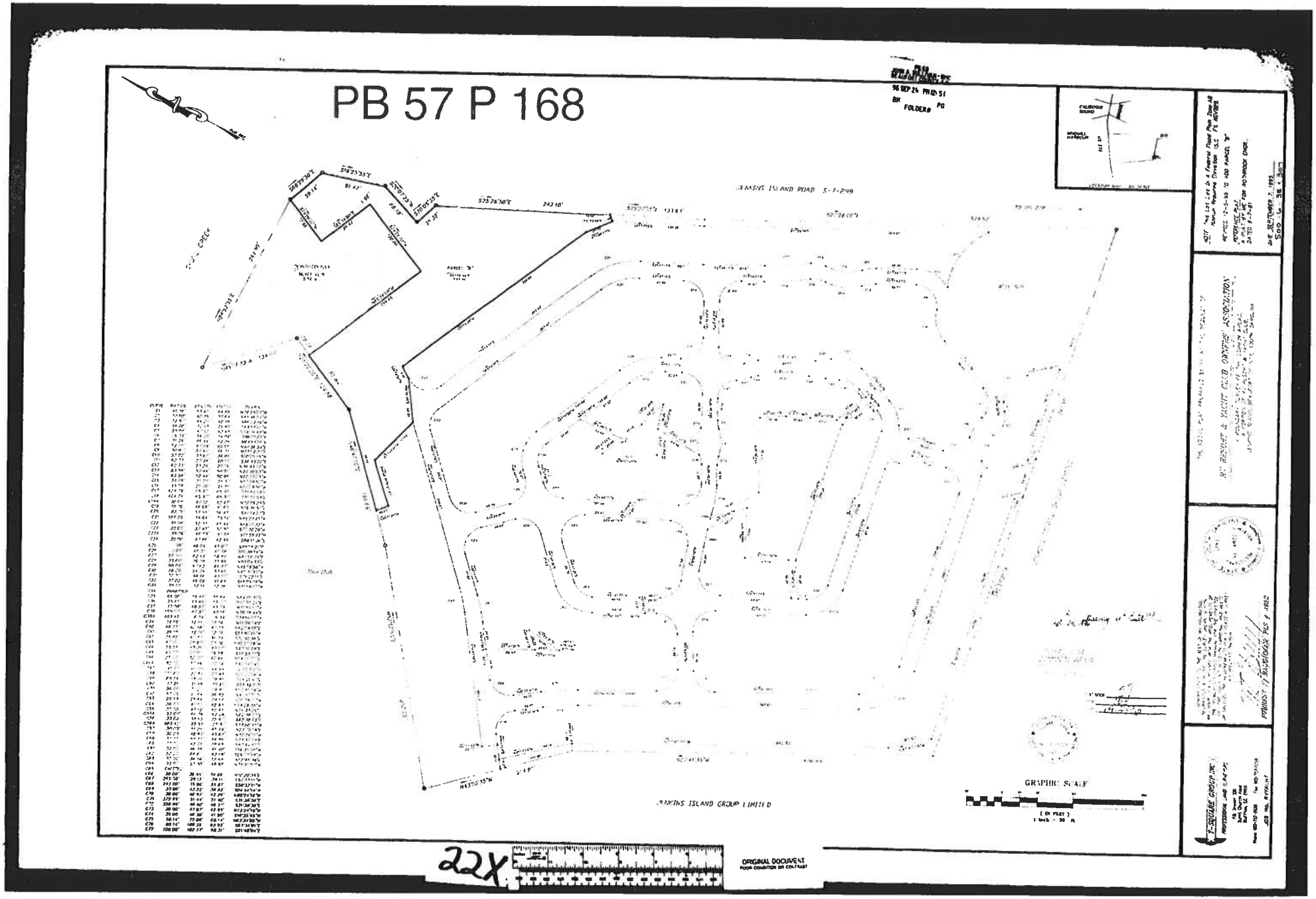
PB 57/168

PB 148/160

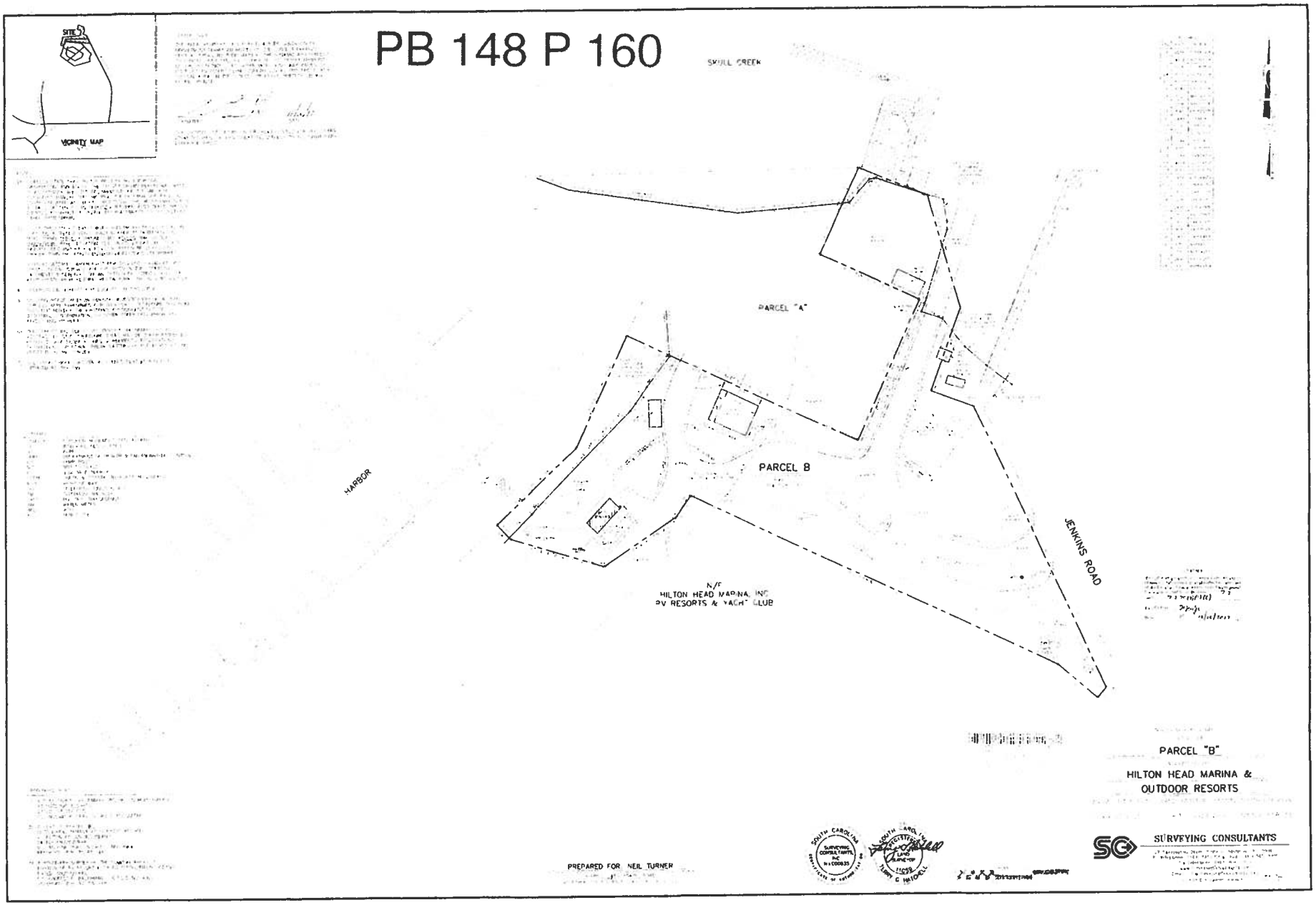
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PB 29 P 184


JENKINS ISLAND ROAD
SR 298
TO US 278
WELL SITE
TENNIS
MARINA
JENKINS ISLAND GROUP LIMITED
Aug 17, 1981
Revised 8/10/83
PAGE
DATE
OUTDOOR RESORTS
Rothrock Engineering
RV RESORT & YACHT CLUB
HILTON HEAD ISLAND, S.C.
PLOT PLAN
Outdoor Resorts of America
236


PB 57 P 168
96 SEP 24 PM 02:51
BK
FOLDER
PG
HAWKINS ISLAND ROAD S-7-248
HAWKINS ISLAND GROUP LIMITED
GRAPHIC SCALE
ORIGINAL DOCUMENT
POOR CONDITION AS CONTAINED
22X

PB 148 P 160


SITE
VICINITY MAP
SKULL CREEK
PARCEL "A"
PARCEL B
HARBOR
JENKINS ROAD
N/F
HILTON HEAD MARINA, INC
PV RESORTS & YACHT CLUB
PARCEL "B"
HILTON HEAD MARINA &
OUTDOOR RESORTS
SURVEYING CONSULTANTS
PREPARED FOR NEIL TURNER

2/2/24

ADMITTED TO THE UNITED STATES SUPREME COURT BAR

ADMITTED IN SOUTH CAROLINA, COLORADO AND GEORGIA

CERTIFIED SC CIRCUIT COURT MEDIATOR

LAW OFFICE OF
THOMAS C. TAYLOR, LLC

10 PINCKNEY COLONY ROAD
BUILDING 400
BLUFFTON, SC 29909

MAILING ADDRESS
P.O. BOX 1808
BLUFFTON, SC
29910-1808

TELEPHONE 843-785-5050
TELECOPIER 843-738-4502
www.thomastaylorlaw.com • tom@thomastaylorlaw.com

February 2, 2024

Via E-Mail Attachment to: lizzilawfirm@aol.com

Christopher D. Lizzi, Esq.
Lizzi Law Firm, PC
2170 Ashley Phosphate Road, Suite 402
North Charleston, SC 29406

Re: Proposed Amended Easement and Lease Agreement

Dear Chris:

As you know, I represent Turner's Marina LLC. The proposed amendment to the 1981 Lease that you forwarded on January 18, 2024, is unnecessary, is overly-broad and was not agreed to in the Mediated Settlement Agreement of December 13, 2023. The existing, recorded Lease states that once written approval has been given to the Lessor (the COA) by Turner's Marina, then the Lessor COA can lease those portions of the demised property to third parties. Our Settlement Agreement specifically sets forth that authorization. However, since the Association seems to be demanding a more formal confirmation, I am attaching a letter of authorization from Turner's Marina granting those rights. The only actual written amendment to the Lease that is necessary is an amendment confirming the reduction in payment, and I've attached a proposed document affirming that.

As to the easement, the only thing that was negotiated and agreed upon at mediation was the extension of the easement to grant additional access to the back parcel (the recreational facilities/demised premises). There are no more restrictions placed upon the amended easement than are in the original. The proposed Amended Easement I sent you earlier is exactly what was agreed upon in the negotiations leading up the execution of the Settlement Agreement. When your client asked for access to Turner's Marina's entire property, that request was declined. You included a reference to the plat to ensure that the Association and lot owners would have written easement access over it to the recreational facilities within the current restrictions of the existing easement, and our proposed Amended Easement reaffirms the restrictions and establishes the extension in writing. No member of the Association will have to worry about trespassing because they are using the easement of access to the demised premises.

EXHIBIT 3

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We ask again that you have the Association execute the proposed Amended Easement forwarded to you earlier, and return it so that we can get it filed. I hope this delay by your client is not going to work into another example of a settlement agreement being reached (and this time confirmed in writing), and your client then attempting to avoid the agreement.

Cordially yours,

LAW OFFICE OF THOMAS C. TAYLOR, LLC

Thomas C. Taylor

TCT/dpt
cc: Mr. Neil Turner via e-mail transmittal

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To: R.V. Resort and Yacht Club Owners' Association, INC.

Turner's Marina, as the current lease holder of the 99 year lease identified as Exhibit C to the original Declarations of Covenants of RV Resort ("Lessee"), as a result of the mediated Settlement Agreement reached in case No. 2021-CP-07-01085, has agreed that the R.V. Resort and Yacht Club Owners' Association, INC. ("landlord") may allow certain parking spots on the leasehold premises to be assigned to other parties and may allow the bathrooms to be used by by other entities.The agreement allows as follows:

a. Spot 2 on Exhibit A to the Settlement Agreement will be reserved for Association use.
b. Spots 5 and 6 on Exhibit A will remain short term parking until 5:00PM at which time these spots will be reserved for restaurant patrons and guests during Business Hours.
c. Spot 3 on Exhibit A will be for the exclusive use of the restaurant 24/7/365.
d. Spot 4 on Exhibit A will be for the exclusive use of the restaurant 24/7/365.
e. Spots 19, 20 and 21 are for the exclusive use of the restaurant on Tuesday through Sunday 6:00pm to 10:00pm and Sunday 10:30am to 2:00pm.
f. Spot 23 on Exhibit A is a spot under a tree. The Parties agree that Spot 23 will be for the exclusive use of the Marina or its designee.
g. Spot 22 on Exhibit A will be reserved for Marina use until 6:00PM. Following that time. Spot 22 will be available as a first come, first served parking place.
h. All other Spots enumerated on Exhibit A (including the handicap spot denoted as Spot 1) are first come, first served parking spots that can be utilized without restriction or reservation.

3. The Parties agree that no parking spot can be utilized by anyone for overnight parking.

4. The bathrooms are available to everyone.

5. It is agreed that the Association may seek to reconfigure the enumerated parking spots denoted on Exhibit A, including reconfiguration of the picnic table area pictured there (subject to the Owner's approval in this change of use). In the event the Association reconfigures or adds additional parking spaces to the 23 parking spaces currently enumerated on Exhibit A, fifty percent (50%) of any new spaces created as a result of the reconfiguration - up to a maximum of 7 new spaces - will be reserved for the restaurant during Business Hours. As used in this agreement. Business Hours are agreed to be Tuesday through Sunday 5:00pm to 10:00pm and Sunday 10:30am to 2:00pm. Any new configuration cannot interfere with direct and open access to the Dumpster, including for emptying and removal of the dumpster, installed on Turner's Marina land adjacent to the former tennis courts. All other newly created spaces shall be available on a first come, first served basis.

a. If the Association reconfigures the parking lot. Spots 19, 20, and 21 will no longer be the restaurant's spaces; instead, from the new spaces created, there will be three new replacement spaces - and up to seven spaces as contemplated above - in a single line. These new spaces will be the exclusive use of the restaurant space during Business Hours as defined above.

Turner's Marina LLC
Lessee

Neil Turner - Owner

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STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

SECOND AMENDMENT TO LEASE

This Second Amendment to Lease ("Amendment") is entered into this 2nd day of February, 2024 by R.V. Resort and Yacht Club Owner's Association, Inc. ("Landlord") and Turner's Marina, LLC ("Tenant").

WHEREAS, on or about June 12, 1981, the Landlord and Outdoor Resort, R.V. Resort and Yacht Club, a South Carolina general partnership ("Original Tenant") entered into that certain Lease recorded in the Beaufort County Register of Deeds ("ROD") at DB 325 at Page 953 on June 18, 1981, a copy of which is attached hereto as Exhibit 1 ("Lease");

WHEREAS, on October 8, 1981, the Landlord and the Original Tenant entered into that certain Modification of Lease Agreement, a copy of which is attached as Exhibit 2 ("Lease Amendment"). That the Lease and Lease Amendment are collectively referred to as the "1981 Lease";

WHEREAS, the interest of the Original Tenant in the 1981 Lease was sold, transferred or assigned on various occasions thereafter, with the Tenant, Turner's Marina, LLC ("Tenant") since December 21, 2017 holding the interest of Tenant under the 1981 Lease;

WHEREAS, on December 13, 2023 an agreement was reached between the parties as to modify the lease.

NOW, THEREFORE, the parties agree as follows:

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1. **Rent (§ 3)** – The existing rent language in Section 3 of the Lease and Section 3 of the October 8, 1981 Modification is deleted and the following inserted in its place.

"In consideration of this Lease of the Recreational Facilities to the Lessee, Lessee agrees to pay Lessor monthly Rent in the amount of the base monthly assessment charged for a lot owner in the RV Resort multiplied by 5. Such Rent shall be payable at such places as Lessor shall direct in writing. The amount of Rent shall be automatically increased per the aforementioned formula (monthly dues for a lot owner in the RV Resort multiplied by 5) with any increase of assessments as determined by the Board of Directors of the Association pursuant to Article VI, Section 3 of the By-Laws of the R.V. Resort and Yacht Club Owners' Association, Inc."

2. Drafting of the Agreement. The parties acknowledge and agree that each was actively involved with the negotiation and drafting of this Addendum. Further, each party's legal counsel reviewed, or had the opportunity to review the Addendum prior to its execution. The parties agree any Court, arbitrator or mediator which may hereinafter interpret this Addendum will not construe the Addendum against any particular party which may have originated, typed or prepared any particular provision.

3. Binding Effect - This Addendum shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, executors, administrators, successors and assigns.

4. Conflict- In the event of any conflict of the provision of this Addendum and the Settlement Agreement, the provisions of this Addendum shall control.

WITNESSES:

_____

_____

_____

_____

_____

LANDLORD: R.V. Resort and Yacht Club Owner's Association, Inc.

By:_____

Its:_____

TENANT: Turner's Marina, LLC

By:_____

Its:_____

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STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF BEAUFORT)

I, the undersigned Notary Public, do hereby certify that the within R.V. Resort and Yacht Club Owner's Association, Inc., by _____ its _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS MY HAND AND SEAL this the ____ day of January, 2024.

_____
Notary Public for: South Carolina
My Commission Expires: _____
Name of Notary:_____

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STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF BEAUFORT)

I, the undersigned Notary Public, do hereby certify that the within Sunset, Inc., by _____ its _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS MY HAND AND SEAL this the ____ day of January, 2024.

_____
Notary Public for: South Carolina
My Commission Expires: _____
Name of Notary:_____

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State of South Carolina)
) Amended Easement
County of Beaufort)

This Agreement is made this 2nd day of February 2024, to amend and update the original Easement granted on the 1st day of January, 1984, recorded in Beaufort County (SC) Deed Book 397 at page 1611. Based upon the Mediated Settlement Agreement And Dismissal Of All Claims And Counterclaims With Prejudice reached and executed in 2021-CP-O7-01085 on December 13, 2023, Turner's Marina LLC, as the successor-in-interest to the original Grantor Outdoor Resorts RV Resort And Yacht Club, a South Carolina joint venture consisting of ORA Of Carolina and Six Ess Corporation (hereinafter referred to as "Grantor"), and the RV Resort And Yacht Club Owners Association, Inc., a South Carolina non-profit corporation and the original Grantee (hereinafter referred to as "Grantee"), agree as follows:

Pursuant to that Mediated Settlement Agreement and Dismissal Of All Claims and Counterclaims With Prejudice identified above, and for and in consideration of the sum of Ten and 00/100THS ($10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor does here grant, bargain, sell and convey to Grantee, a permanent, non-exclusive right-of-way, on, over, and across the paved roads located on that certain property owned by Grantor as more particularly described on Exhibit 1 attached hereto and incorporated herein by this reference. It is agreed by Grantor and Grantee that Exhibit 1 attached hereto and incorporated herein, is a copy of a plat recorded at Book 148 Page 60, and that the Grantor's property over which this Amended Easement applies, is designated as "Parcel B" on Exhibit 1.

This Amended Easement is granted to allow and facilitate general access from the entrance of the RV Resort and Yacht Club (designated on Exhibit 1 as location "X"), by members of the Grantee Association, Lot Owners at the RV Resort, and their guests, lessees, invitees and licensees, to either the boundary of the Lots (designated on Exhibit 1 as location "Y"), or to the entrance to the Association Common Area that is leased to the Grantor pursuant

to that 99-year Lease that was the subject of 2021-CP-07-01085 (designated on Exhibit 1 as location "Z").

This Amended Easement is for the benefit of and is appurtenant to all that certain piece, parcel or tract of land lying, situate and being on Hilton Head Island, Beaufort County, South Carolina, as shown on that certain plat of survey entitled "R.V. Resort and Yacht Club, Hilton Head Island, South Carolina Plot Plan" dated September 7, 1981, and last revised July 26, 1983, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Plat Book 29 at Page 184, as prepared by Forrest F. Baughman, a South Carolina Registered Land Surveyor (S.C. Reg. No. 4922). This grant of Easement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, and all persons or entities aforementioned.

This Amended Easement is restricted to the paved roadways only. Grantor may, at its option, change the locations of the roadways, provided that Grantor shall always provide access as stated above with said access sufficient for motor vehicle traffic.

This Amended Easement is specifically intended by the Grantor and Grantee to replace and supersede that original Easement described above dated January 1, 984 and recorded in Deed Book 397 at Page 1611. Further, this Amended Easement is subject to all matters of record in Beaufort County, South Carolina.

This Amended Easement is non-exclusive and is further subject to the right of Grantor and all persons acting on Grantor's behalf to have access on, over, or across the Amended Easement granted herein to properties owned by Grantor adjacent to the Amended Easement granted herein.

IN WITNESS WHEREOF, Grantor and Grantee have Executed this Amended Easement effective the day and year first above written.

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GRANTOR:

TURNER'S MARINA LLC

_____

By: Nick Turner

It's Owner

GRANTEE:
RV RESORT YACHT CLUB OWNERS ASSOCIARTION, INC. A South Carolina non-profit organization

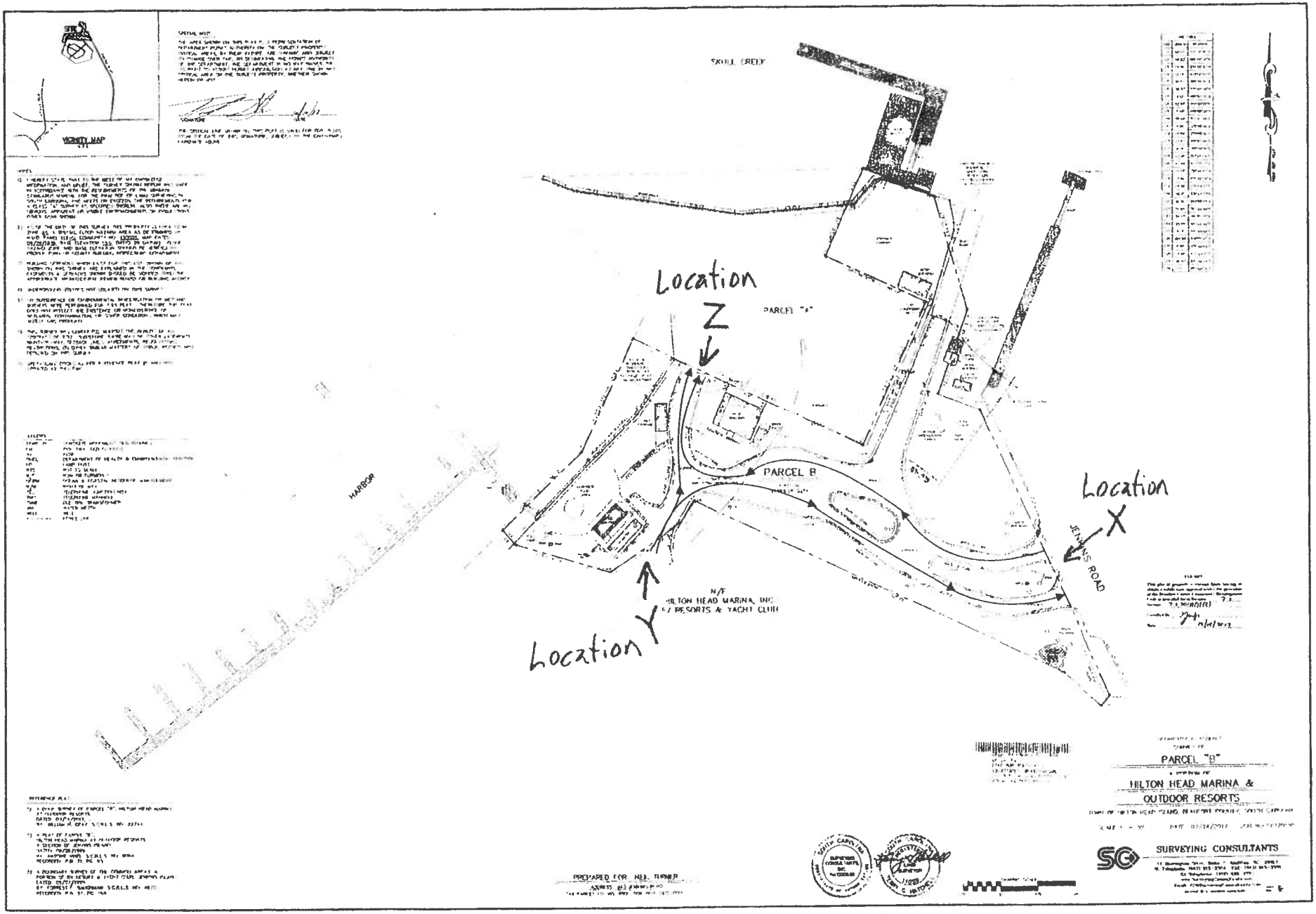
_____

By: _____

It's:_____

ELECTRONICALLY FILED - 2024 Mar 04 4:50 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

Exhibit 3


VICINITY MAP
SKULL CREEK
Location Z
PARCEL "A"
PARCEL B
Location X
JENKINS ROAD
HARBOR
N/F
HILTON HEAD MARINA, INC
C/ RESORTS & YACHT CLUB
Location Y
PARCEL "B"
HILTON HEAD MARINA &
OUTDOOR RESORTS
SURVEYING CONSULTANTS

PB 148 P 160

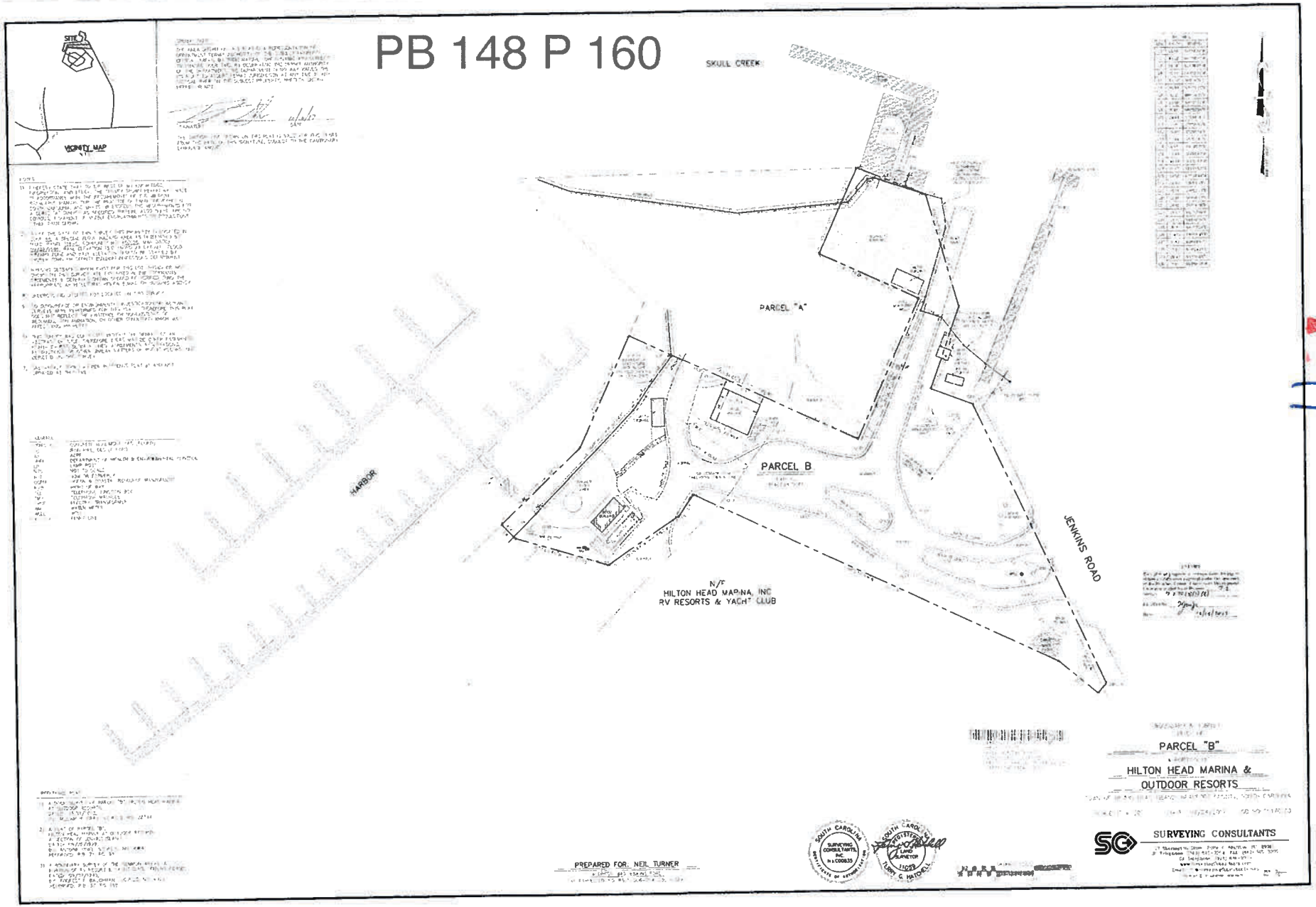


EXHIBIT 4

1/31/24

Russell

From: lizzilawfirm@aol.com
Sent: Wednesday, January 31, 2024 4:28 PM
To: Tom Taylor
Cc: Chris Sibley
Subject: Revised amended easement
Attachments: Amended Easement REFERENCED PLATS.pdf; Amended Easement.1.docx

Dear Tom,

Please find the enclosed revisions your proposed amended easement. I believe that this accurately captures the parties agreement . Please feel free to call me and discuss.

Sincerely,

Chris Lizzi

Lizzi Law Firm, P.C.
2170 Ashley Phosphate Road, Suite 402
North Charleston, SC 29406
Telephone: 843-797-0222
Facsimile: 843-797-0202

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EXHIBIT 5

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STATE OF SOUTH CAROLINA)
) **AMENDED AND RESTATED EASEMENT**
COUNTY OF BEAUFORT)

THIS AMENDED AND RESTATED EASEMENT ("Amended Easement") is executed this _____ day of January, 2024, by Turner's Marina LLC, ("Grantor") and RV Resort and Yacht Club Owners' Association, Inc. ("Grantee" or "POA").

WHEREAS Outdoor Resorts RV Resort and Yacht Club, a South Carolina joint venture, consisting of ORA of Carolina, Inc. and Six Ess Corporation ("Developer"), granted to the POA on the 1st day of January, 1984, an Easement, as recorded in the Beaufort County Register of Deeds ("ROD") in Deed Book 397 at page 1611 ("Original Easement").

WHEREAS, as a result of the Mediated Settlement Agreement And Dismissal Of All Claims And Counterclaims With Prejudice, reached and executed in C. A. 2021-CP-O7-01085 pending in the Beaufort County Court of Common Pleas on December 13, 2023 ("2023 Settlement"), Grantor, as the successor-in-interest or assignee to the Developer, and the POA agreed to amend, replace and supersede the Original Easement pursuant to the terms and conditions of this Amended Easement:

NOW, THEREFORE, in consideration of the execution of the 2023 Settlement and the sum of Ten and 00/100 ($10.00) Dollars, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Whereas Provisions**- The above Whereas provisions are incorporated as if completely set forth herein. Said provisions are material and important terms of this Amended Easement.

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2. **Grant of Easement**

(a) Grantor does hereby grant, bargain, sell and convey to Grantee, a permanent, perpetual, non-exclusive right-of-way on, over, and across that certain property owned by Grantor as more particularly depicted as "Parcel B" on that certain plat or survey entitled "Boundary & As-Built Survey of Parcel "B", a portion of Hilton Head Marina & Outdoor Resorts", dated July 24, 2017 and recorded in the ROD in Plat Book 148 at Page 160, as prepared by Terry G. Hatchell , a South Carolina Registered Land Surveyor (SC Reg. No. 11059) ("2017 Survey").

(b) This Amended Easement is granted for use by the POA, owners of the two-hundred (200) individual RV lots at the RV Resort, and their collective guests, lessees, invitees, successors, successors in title, agents, employees, servants, contractors, administrators, mortgagees, and licensees.

(c) This Amended Easement is for the benefit of and is appurtenant to all those certain pieces, parcels or tracts of land lying, situate and being on Hilton Head Island, Beaufort County, South Carolina, consisting of approximately 200 RV Lots (1 – 200), the roadways, tennis court(s), pool(s), building(s), parking, open spaces, and the well site, all as shown on that certain plat or survey entitled "R.V. Resort & Yacht Club, Hilton Head Island, South Carolina Plot Plan" dated September 7, 1981, and last revised July 26, 1983, recorded in the ROD in Plat Book 29 at Page 184, as prepared by Forrest F. Baughman, a South Carolina Registered Land Surveyor (S.C. Reg. No. 4922) **and** that certain property owned by Grantee as more particularly depicted as "Parcel A" on the 2017 Survey.

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3. **Running with Land** - This Amended Easement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, and all persons or entities aforementioned.

4. **Assignment-** Grantee shall have the right to assign its rights and obligations, if any, under this Amended Easement, in whole or in part.

5. **Modification of Roadways-** Grantor may, at its option, change the location of the paved roadways from time-to-time, as depicted on the 2017 Survey, provided that Grantor shall always provide to Grantee sufficient and reasonable ingress and egress access for motor vehicles, recreational vehicles, pedestrians, golf carts, and bicycles.

6. **Replacement of Original Easement** - This Amended Easement is specifically intended by the Grantor and Grantee to replace and supersede that Original Easement. Further, this Amended Easement is subject to all matters of record in Beaufort County, South Carolina.

7. **Non-Exclusive** - This Amended Easement is non-exclusive and is further subject to the right of Grantor and all persons acting on Grantor's behalf to have access on, over, or across the Amended Easement granted herein to Parcel B shown on the 2017 Survey owned by Grantor.

8. **Purchaser(s) of Parcel B Bound-** Each party agrees that upon any conveyance or transfer of all or any part of Parcel B on the 2017 Survey, said purchaser or transferee by accepting such conveyance will thereby be bound by this Amended Easement.

9. **Modifications-** This Amended Easement may be amended, modified, or terminated only by recorded written instrument duly executed and acknowledged by Grantee and Grantee, or their respective successors, successors-in-title and assigns.

10. **Choice of Law-** This Amended Easement will be construed in accordance with the laws of the State of South Carolina.

11. **Rights to Public-** Nothing contained in this Amended Easement will be deemed to constitute a gift, grant, or dedication to the general public.

12. **Authority-** Each individual executing this Amended Easement on behalf of Grantee and Grantor, respectively, represents and warrants that he or she is duly authorized to execute and deliver this Amended Easement in accordance with duly adopted resolutions and approvals or in accordance with organizational or incorporation documents, and that this Amended Easement is binding upon Grantee and Grantor in accordance with its terms.

13. **Severability -** If any provision of this Amended Easement is, to any extent, declared by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Amended Easement (or the application of such provision to persons or circumstances other than those in respect to which the determination of invalidity or unenforceability was made) will not be affected thereby and each provision of this Amended Easement will be valid and enforceable to the fullest extent permitted by law.

14. **Drafting Agreement -** The parties acknowledge and agree that each was actively involved with the negotiation and drafting of this Amended Easement. Further, each party's legal counsel reviewed, or had the opportunity to review the Amended Easement prior to its execution. The parties agree that any Court, arbitrator or mediator which may hereinafter interpret this

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Amended Easement will not construe the Amended Easement against any particular party which may have originated, typed or prepared any particular provision.

15. **Attorney Fees-** In any legal action to enforce the terms and provisions of this Amended Easement, the prevailing party shall be entitled to recover its reasonable attorney fees and costs.

16. **Entire Agreement** - This Amended Easement constitutes the entire agreement among the parties hereto and supersedes and cancels any prior agreements, representations, warranties, or communications, whether oral or written, among the parties hereto relating to the transactions contemplated hereby or the subject matter herein.

17. **Counterparts-** This Amended Easement may be executed in one or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Amended Easement or its terms to produce or account for more than one of such counterparts.

IN WITNESS WHEREOF, Turner's Marina LLC, a South Carolina limited liability company has caused this Amended Easement to be signed and sealed on January ____, 2024.

SIGNED, SEALED, AND DELIVERED IN THE PRESENCE OF:

_____

_____

Turner's Marina LLC, a South Carolina limited liability company

By: _____(L.S.)
Neil Turner, Manager

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGEMENT

I, the undersigned Notary Public, do hereby certify that Neil Turner personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal on January ____, 2024.

_____(SEAL)
Notary Public for South Carolina
My Commission Expires: _____
Name of Notary:_____

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IN WITNESS WHEREOF, the R.V. Resort And Yacht Club Owners' Association, Inc., a South Carolina nonprofit corporation has caused this Amended Easement to be signed and sealed on January ____, 2024

SIGNED, SEALED, AND DELIVERED IN THE PRESENCE OF:

_____

_____

R.V. Resort And Yacht Club Owners' Association, Inc., a South Carolina nonprofit corporation

By: _____(L.S.)
Christopher Sibley,
President

STATE OF _____)
)
COUNTY OF _____)

ACKNOWLEDGEMENT

I, the undersigned Notary Public, do hereby certify that Christopher Sibley personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal on January ____, 2024.

_____(SEAL)

Notary Public for _____

My Commission Expires: _____

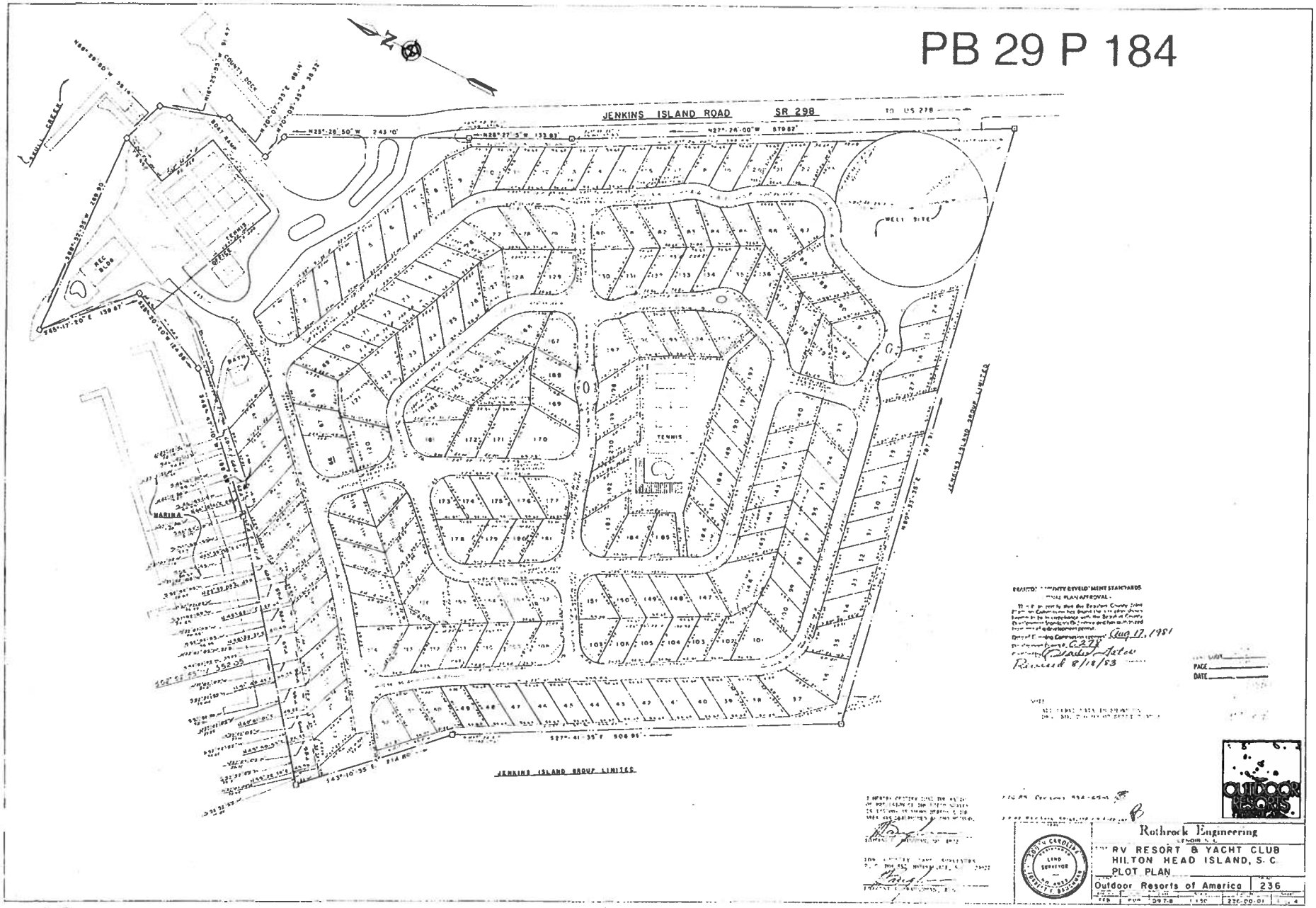
Name of Notary:_____

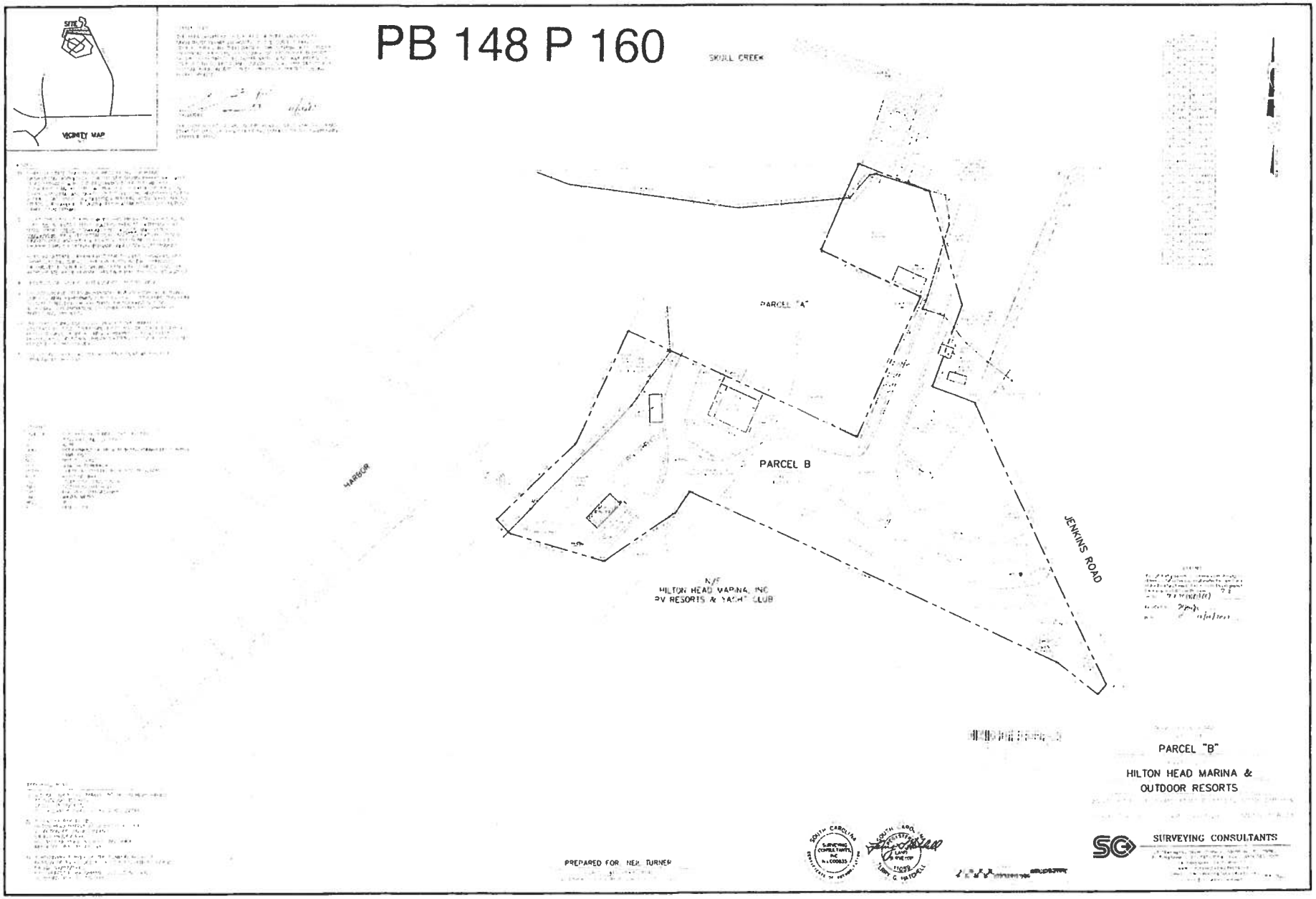
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ROA 399

PB 29 P 184




PB 148 P 160
SKULL CREEK
VICINITY MAP
PARCEL "A"
PARCEL B
HARBOR
JENKINS ROAD
N/F
HILTON HEAD MARINA, INC
PV RESORTS & YACHT CLUB
PARCEL "B"
HILTON HEAD MARINA &
OUTDOOR RESORTS
PREPARED FOR: NEIL TURNER
SURVEYING CONSULTANTS

397/611
(1/1/84)

A.17 HMA304

STATE OF SOUTH CAROLINA)
) EASEMENT
COUNTY OF BEAUFORT)

This Agreement is made this 1st day of January, 1984, by and between OUTDOOR RESORTS RV RESORT AND YACHT CLUB, a South Carolina joint venture consisting of ORA OF CAROLINA, INC. AND SIX ESS CORPORATION (hereinafter referred to as "Grantor"), and RV RESORT AND YACHT CLUB OWNERS ASSOCIATION, INC., a South Carolina non-profit corporation, its successor and assigns (hereinafter referred to as "Grantee').

FOR AND IN CONSIDERATION of the sum of TEN AND 00/100 ($10.00) DOLLARS and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant, bargain, sell and convey to Grantee a permanent, non-exclusive right-of-way, on, over, and across the paved roads located on that certain property owned by Grantor as more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

This Easement is granted to allow and facilitate general access from the entrance of the RV Resort and Yacht Club to the boundary of the lots by those persons or entities who are owners of the property described in Exhibit "B" or any interest therein or portions thereof, their guests, lessees, invitees, and licensees of Grantee employed to operate and maintain the improvements constructed on the property described in Exhibits "A" or "B" and their employees, Grantee's successors and assigns, and property managers.

This Easement is for the benefit of and is appurtenant to the property more particularly described as Exhibit "B". This grant of

FILED IN DEEDS - BOOK 397 PAGE 611
FILED AT 124500 ON 06/28/84

6

EXHIBIT

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Easement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, and all persons or entities aforementioned.

This Easement is restricted to the paved roadways only. Grantor may, at its option, change the location of the roadways, provided that the Grantor shall always provide access as stated above with said access sufficient for motor vehicle traffic.

This grant of Easement is subject to all matters of record in the Office of the Clerk of Court for Beaufort County, South Carolina.

This grant of Easement herein is non-exclusive and is further subject to the right of Grantor and all persons acting on Grantor's behalf to have access on, over, or across the Easement granted herein to properties owned by Grantor adjacent to the Easement granted herein.

IN WITNESS WHEREOF, Grantor and Grantee have executed the Easement effective the day and year first above written.

WITNESSES:

Ronald W. Petty

Carolyn E. Rust

GRANTOR:

OUTDOOR RESORTS RV RESORT AND YACHT CLUB, a South Carolina Joint Venture

By: [signature] its President

By: _____ its _____

FILED IN DEEDS - BOOK 397 PAGE 1612
FILED AT 104500 ON 06/28/84

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A_17 HMA304

GRANTEE:

RV RESORT AND YACHT CLUB OWNERS ASSOCIATION, INC., a South Carolina non-profit organization

By: William E. Linell
its authorized signatory

5/7/84

6/26/84

FILED IN DEEDS - BOOK 397 PAGE 1613
FILED AT 104500 ON 06/28/84

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A.13 HMC257

STATE OF TENNESSEE)
Davidson COUNTY)

PERSONALLY appeared before me Ronald W. Petty and made oath that (s)he saw the within named Outdoor Resorts R.V. Resort and Yacht Club, a South Carolina Joint Venture, consisting of Outdoor Resorts of Carolina, Inc., and Six Ess Corporation by and through E. Randall Henderson, its president and authorized signatory, sign, seal and as its act and deed, deliver the within Easement and that (s)he with Carolyn E. Burt witnessed the execution thereof.

Ronald W. Petty

SWORN TO AND SUBSCRIBED BEFORE ME
This 20th day of June, 1984.

Carolyn E. Burt
Notary Public for Tennessee

My Commission Expires: July 21, 1985

FILED IN DEEDS - BOOK 397 PAGE 1614
FILED AT 104500 ON 06/28/84

ELECTRONICALLY FILED - 2024 Mar 04 4:50 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

A.13 HMC257

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PERSONALLY appeared before me ~~Rex E. Coffee~~ DeThane Johnson and made oath that (s)he saw the within named R.V. Resort and Yacht Club Owners Association, Inc., a South Carolina non-profit organization by and through William E. Littell, its authorized signatory, sign, seal and as its act and deed, deliver the within Easement and that (s)he with ~~James E. Rigdon~~ Susan J. Flynn witnessed the execution thereof.

DeThane Johnson

~~Joyce Gantt~~

SWORN TO AND SUBSCRIBED BEFORE ME
This 21st day of June, 1984.

(L.S.)
Notary Public for South Carolina

My Commission Expires:

~~My Commission Expires September 12, 1988~~

Sworn to & subscribed before me
this 26th day of June, 1984
Susan J. Flynn (L.S.)
Notary Public for South Carolina
My commission expires April 15, 1993.

FILED IN DEEDS - BOOK 397 PAGE 1615
FILED AT 104500 ON 06/28/84

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EXHIBIT "A"

ALL that certain piece, parcel or tract of land lying, situate and being on Hilton Head Island, Beaufort County, South Carolina, as shown on that certain plat of survey entitled "R. V. Resort and Yacht Club, Hilton Head Island, South Carolina, Plot Plan" dated September 7, 1981, and last revised July 26, 1983, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Plat Book 29 at Page 184, as prepared by Forrest F. Baughman, a South Carolina registered land surveyor (S.C. Reg. L.S. No. 4922) and being more particularly described as follows:

BEGINNING at a point located at the northeastern boundary of Lot #65 where it joins an unnamed right-of-way approximately 22 feet in width; running thence along the northerly boundary of Lot #65 and N 73 degrees 40 minutes 45 seconds W a distance of 77.53 feet to a point; running thence N 43 degrees 12 minutes 50 seconds W a distance of 14.13 feet to a point; running thence 46 degrees 47 minutes 10 seconds E a distance of 88.64 feet to a concrete monument running thence N 25 degrees 20 minutes 20 seconds E a distance of 95.884 feet to a point; running thence S 65 degrees 34 minutes 00 seconds E a distance of 199.449 feet to a point; Said point being the southeasterly point of the boundaries of the tennis courts; running thence along the Easterly boundary of the tennis courts N 24 degrees 26 minutes 00 seconds E a distance of 120.00 feet to a point; Said point being the northeasterly most boundary of the tennis courts; running thence along the northerly boundary of the tennis courts N 65 degrees 34 minutes 00 seconds W a distance of 86.468 feet to a point; running thence N 24 degrees 26 minutes 00 seconds E a distance of 73.550 feet to a concrete monument; running thence S 68 degrees 29 minutes 50 seconds E a distance of 59.14 feet to a concrete monument; running thence S 16 degrees 25 minutes 55 seconds E a distance of 91.47 feet to a point across the boat ramp to a concrete monument; running thence S 20 degrees 07 minutes 25 seconds E a distance of 68.18 feet to a concrete monument; running thence S 70 degrees 05 minutes 35 seconds E a distance of 35.32 feet to a concrete monument; running thence S 25 degrees 26 feet 50 minutes W a distance of 243.10 feet to a concrete monument; running thence S 43 degrees 58 minutes 50 seconds W a distance of 10.681 feet to a point; running thence N 51 degrees 09 minutes 10 seconds W a distance of 40.32 feet to a point; running thence along the northernmost boundary of Lots 1, 2, 3, 4, 5, 6, 7, and 8 N 65 degrees 19 minutes 35 seconds E a distance of 320.00 feet to a point; running thence S 34 degrees 36 minutes 31 seconds W a distance of 19.51 feet to a point; running thence across the unnamed right-of-way S 56 degrees 16 minutes 49 seconds W a distance of 68.593 feet to a POINT OF BEGINNING.

FILED IN DEEDS - BOOK 397 PAGE 1515
FILED AT 104502 ON 06/28/84

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ELECTRONICALLY FILED - 2024 Mar 04 4:50 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

EXHIBIT "B"

ALL that certain piece, parcel or tract of land lying, situate and being on Hilton Head Island, South Carolina, Beaufort, County, as shown on that certain plat of survey entitled "R.V. Resort and Yacht Club, Hilton Head Island, South Carolina Plot Plan" dated September 7, 1981, and last revised July 26, 1983, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Plat Book 29 at Page 184, as prepared by Forrest F. Baughman, a South Carolina Registered Land Surveyor (S.C. Reg. No. 4922).

Hughes & Wieters

FILED IN DEEDS - BOOK 397 PAGE 1617
FILED AT 134500 ON 06/28/84 43518
BOOK NUMBER 397 PAGES 1611- 1617
FILING FEE 7.00
STATE STAMPS .00
COUNTY STAMPS .00
TOTAL FEES 7.00
HENRY JACKSON
CLERK OF COURT BFT CNTY, SC

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LIZZI LAW FIRM, PC

Attorney at Law

2170 Ashley Phosphate Road, Suite 402
North Charleston, SC 29406
Telephone: (843)797-0222
Christopher D. Lizzi, Esquire

Post Office Box 61899
North Charleston, SC 29419
Facsimile: (843)797-0202
E-Mail: lizzilawfirm@aol.com

February 16, 2024

Via Email Only
Thomas C. Taylor, Esquire
Law Offices of Thomas C. Taylor, LLC
PO Box 5550
Hilton Head Island, SC 29938

Re: Proposed Easement/Lease Amendment

Dear Tom,

This letter is in response to your February 2, 2024 correspondence regarding the proposed Amended Easement and Amended Lease.

First, I draw your attention to the language of the Mediated Settlement Agreement and Dismissal of all Claims and Counterclaims with Prejudice, dated December 13, 2023. ("Agreement") As you know, any provisions of an agreement that affect the use and restriction on real property must be recorded to put all future owners on notice. Looking to the Agreement, it is clear that all items contained in this Agreement relating to the parking lots, bathrooms, pool and use of Property would fit that criteria. Therefore, the terms contained in paragraph numbers two, three, four, five, six, seven, and eight clearly need to be reduced to a written recorded Amended Lease, or otherwise set forth in a fully executed recorded agreement. We believe the Amended Lease is the more appropriate document.

Regarding paragraph nine of the Agreement, this language specifies that the "1984 easement recorded in Book 397 at page 1612 will be updated to include granting access to the Association, Owners of the Property, and each of their guests, lessees, invitees, and licensees to Parcel "B". The Parties agree Parcel B is referenced in Plat Book 148 at Page 60". This agreed upon language has no restrictions or qualifications to limit said new easement just to paved roads, as you assert today. It clearly was intended to cover Parcel B in its entirety. This is consistent with the language of our Amended Easement

Paragraphs ten, eleven, and twelve need to either be part of the aforementioned Amended Easement or contained in a separate recorded document because of the need for these provisions to be binding on the Property and its current and subsequent owners.

EXHIBIT 7

I am requesting that you discuss these issues with your client over the next 15 days and advise of its position. If we are unable to agree to such terms we will have no other alternative but to file for the enforcement of the terms of the Agreement, seeking all legal fees and costs associated with said efforts.

I hope that this matter can be resolved amicably so the parties can move forward. Also, once these items are completed, we will be able to let Judge Dukes know that the corresponding issues in CA No 2020-CP-07-0989 case have been resolved.

Very truly yours,

Christopher D. Lizzi

CDL/see
Cc: client (via email)

ELECTRONICALLY FILED - 2024 Mar 04 4:50 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

ELECTRONICALLY FILED - 2024 Apr 02 1:39 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

onlySTATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT)	
)	Case No. 2021-CP-07-01085
TURNER'S MARINA LLC,)	
)	
Plaintiff,)	
)	
vs.)	AFFIDAVIT OF NEIL TURNER
)	
R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., and MIKE MORALES, and SUNSET, INC.,)	
)	
Defendants.)	

BEFORE THE UNDERSIGNED came Neil A. Turner, who, under oath, deposed and stated as follows:

1. I am Neil A. Turner, and I am the President and owner of the Plaintiff Turner's Marina, LLC. I give this Affidavit in support to the Plaintiff's Motion To Enforce Settlement February 23, 2024.

2. I am over the age of 18, am competent to testify, and make this Affidavit of my own personal knowledge of the matters stated herein.

3. Turner's Marina, LLC is the successor in interest to all rights of the original developer of the Outdoor Resorts RV Resort and Yacht Club located on the northern end of Hilton Head Island,

which was the Outdoor Resorts, R.V. Resort and Yacht Club, a South Carolina General Partnership (hereinafter sometimes referred to as the "Developer").

4. On December 12, 2023, I attended the mediation of this case in Beaufort, South Carolina, which started at 10 a.m. I attended as President and sole member of Turner's Marina, LLC.

5. During the course of the next 12 hours of negotiations at the behest of Jack Gresh, the mediator, I began to draft a proposed Settlement Agreement document that reflected the terms of the settlement agreement that was coming together.

6. At 10:28 p.m. on December 12, 2023, I forwarded the draft Settlement Agreement attached hereto as Exhibit A, to our mediator Jack Gresh, providing him with a working draft of the terms that Turner's Marina had agreed to in order to settle this case. As is indicated on the document forwarded to the mediator after 12 hours of mediation, Turner's Marina agreed to update the 1984 easement "to include access to parcel "B" by roadway.

7. When I signed the final Settlement Agreement, a true and correct copy of which is attached to the pending Motion by Turner's Marina LLC to enforce the settlement agreement, Turner's Marina continued to only agree to update the 1984 easement to include access to parcel "B" by the same existing restrictions the roadway.

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FURTHER AFFIANT SAYETH NOT.

Neil A. Turner

Sworn to before me this 1 day of April, 2024.

Notary Public of South Carolina

My commission expires: 04/04/2027

LINDSAY JOHNSON
Notary Public, State of South Carolina
My Commission Expires April 4, 2027

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Tom Taylor

From: Neil Turner <neil@hiltonheadharbor.com>
Sent: Monday, April 1, 2024 11:17 AM
To: Tom Taylor
Subject: Fwd: Settlement Terms for Lease case 12-12-23
Attachments: Settlement Terms for Lease case 12-12-23.docx

Begin forwarded message:

> **From:** Neil Turner <neil@hiltonheadharbor.com>
> **Date:** December 12, 2023 at 10:28:32 PM EST
> **To:** jack@dhs-lawfirm.com
> **Subject: Settlement Terms for Lease case 12-12-23**

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ELECTRONICALLY FILED - 2024 Apr 02 1:39 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**FOURTEENTH JUDICIAL CIRCUIT**
COUNTY OF BEAUFORT	)	
	)	
	)	**Case No. 2021-CP-07-01085**
TURNER'S MARINA LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	**SETTLEMENT AGREEMENT OF**
CASE		
R.V. RESORT AND YACHT	)	**AND DISMISSAL OF ALL CLAIMS AND**
CLUB OWNERS'	)	**COUNTERCLAIMS WITH PREJUDICE**
ASSOCIATION, INC., SECURITAS	)	
SERVICES, INC., and	)	
MIKE MORALES, and	)	
SUNSET, INC.,	)	
	)	
Defendants.	)	
_____	)	

AS TO ALL CLAIMS AND COUNTERCLAIMS IN THIS COMPLAINT THEY ARE WITHDRAWN WITH PREJUDICE WITH THE AGREEMENTS OF THE FOLLOWING TERMS BE INCORPORATED INTO THIS ORDER.

1. The lease in the restrictive covenants recorded on page 953 in book 325 as Exhibit "C" in the register of deeds is amended to read:

The payment for this lease will be the base monthly dues amount charged for a lot owner in the campground multiplied by 5.

2. The lessee gives written permission for the leased parking lot (formerly the two tennis courts), the appurtenant parking spaces to those former tennis courts and restroom facilities to be utilized by restaurant patrons. In addition 5 designated spots next to the parking area covering the former tennis courts will be reserved for the restaurant Tuesday - Saturday 6:00pm - 10:00pm, Sunday 11:00am - 2:00pm and 6:00pm to 10:00pm. Two of those spots will be reserved for the restaurant all day, two will be reserved for short term parking less than 20 mins for laundry room access until 6:00pm and convert to restaurant parking from 6:00pm to 10:00 pm, and one spot located next to the handicap will be reserved for the association from 6:00am to 3:00 pm and then from 6:00 pm to 10:00 pm for the restaurant. The parking spot under the tree is to reserved solely for the Marina. The spot closest to the tree parking spot and the property line between Turner's Marina's land and the is for reserved for the Marina until 6:00pm daily. All leased parking spaces and bathrooms are to be used by anyone in connection to or under the direction of Turner's Marina LLC or its successors, assigns or heirs, subject to these time restrictions. The pool spelled out in the lease will be only for slip customers and their non paying guests as well as any patron of the RV rental

program and their guest through the Declarant. In the event the Association reconfigures or adds additional parking spaces to the 23 parking spaces currently on the leasehold land 50% of any new spaces up to a maximum of 7, clumped together moving the original 3 to the new portion as well, will be reserved for the restaurant at Tuesday through Sunday 5:00pm to 10:00pm and Sunday 11:00am to 2:00pm. Any new configuration cannot interfere with direct and open access to the Dumpster installed on Turner's Marina land adjacent to the former tennis courts.

3. Turner's Marina LLC as the lessee acknowledges and affirms the restaurant and former ship store are not part of the 99 year lease. And the restaurant is in the full purview, ownership rights and lease rights of the Association. The former ship store is in the full purview and ownership rights of the Association and is to remain as the Association office only not allowing commercial activity to take place therein or anywhere on the leased property with the exception of the Restaurant, Landry room facilities and marina operations (under the Marina's control).

4. The Association, Sunset Inc and Securitas Acknowledges and affirms Turner's Marina is the rightful holder of the 99 year lease and commits to the peaceful possession and quiet enjoyment of the leased property to Turner's Marina and it agrees to not bring upon the leased property any security or means of restricting lessee from said possession and enjoyment.

5. An agreement has been reached by Securities as evidence by separate agreement.

6. The 1984 easement will be updated to include access to parcel "B" by roadway.

7. Turner's Marina commits to not hire armed security guards, not erect gates on the interior portion of the Marina's land and give notice 30 days prior to filing an application for a gate installation.

EACH OF THE ABOVE INTERROGATORIES SHALL BE DEEMED CONTINUING FROM THE TIME OF SERVICE UNTIL THE TRIAL OF THE CASE AND ANY FURTHER INFORMATION OBTAINED BY THIS DEFENDANT RESPONSIVE TO THESE INTERROGATORIES SHALL BE PROMPTLY SUBMITTED TO THE UNDERSIGNED.

_____
Thomas C. Taylor Attorney for the Plaintiff

_____
Neil Turner Owner of the Plaintiff

_____
Christopher Lizzi Attorney for the Defendant

_____
Rodney Phillips Board Member for the Defendant

ELECTRONICALLY FILED - 2024 Apr 02 1:39 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

Linda Lochman owner for Defendant Sunset Inc.

Russel Patteron Attorney for Defendant Sunset Inc.

Evan Sobocinski Attorney for Defendant Secruitas

Jack Gresh Mediator

December ____, 2023
Hilton Head Island, South Carolina

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ELECTRONICALLY FILED - 2024 Apr 09 8:47 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT TURNER'S MARINA LLC, Plaintiff, vs. R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, LLC, and MIKE MORALES, Defendants.	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT CIVIL ACTION NO.: 2021-CP-07-01085 **AFFIDAVIT OF CHRISTOPHER SIBLEY**

PERSONALLY APPEARED before me, Christopher Sibley, who, being first duly sworn, does state as follows:

1. He is an adult and competent to make this affidavit.

2. **Board Member** – That at all times relevant he has been and is a board member of the R. V. Resort and Yacht Club Owners' Association Inc. ("POA") and further holds the position of President.

3. **Mediation**-

a. That he, along with seven (7) other POA board members attended the mediation in Beaufort South Carolina conducted by Jack G. Gresh, Esquire ("Mediator")

b. That the mediation commenced at 10:00 AM on Tuesday, December 12, 2023 and did not end until Wednesday, December 13, at approximately 2:15 AM. **Thus, said mediation lasted a total of over 16 continuous hours.**

ELECTRONICALLY FILED - 2024 Apr 09 8:47 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

c. During the 16+ hour mediation process, a significant number of different settlement proposals were discussed and presented by the four different parties in the litigation, including their respective attorneys.

d. All parties and their legal counsel negotiated every specific detail of the many disputed issues, which were eventually incorporated around 2:00 AM into the final, fully executed Settlement Agreement, a copy of which is attached as Exhibit 1 hereto ("Settlement Agreement"). All parties and their counsel had ample opportunity to review each and every single word of the Settlement Agreement and did so during this marathon mediation proceeding.

e. That he, nor any other POA board member present, nor its counsel, ever saw the purported Tuesday, December 12, 2023 email sent by Mr. Turner at 10:26 PM, directly to the Mediator. (Turner Aff. Ex. 1). Not only was the e-mail never presented to the POA board, or its counsel, said parties never agreed to the outline of a settlement purportedly attached to same. It should be further noted that this purported e-mail, was sent at 10:26 PM, **some 3 ½ hours before** the final Settlement Agreement was fully executed around 2:15 AM the following day. A cursory review of the purported e-mail and attachment shows many, many differences from the final Settlement Agreement that was actually signed by the parties.

f. It appears, based on the Turner affidavit, and Plaintiff's Motion to Enforce Settlement filed by the Plaintiff, that Turner is seeking to completely rewrite, alter and change the specific language agreed to in Section 9 as to the new, additional easement rights to be granted to the POA. Plaintiff appears to be attempting to re-write the Settlement Agreement negotiated during the Mediation by limiting said easement rights to just **paved roads**.

Section 9 of the Settlement Agreement reads as follows:

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"The 1984 easement recorded at Book 397 at Page 1612 will be updated to include granting access to the Association, Owners of the Property, and each of their guests, lessees, invitees and licensees to Parcel "B". The parties agree the Parcel B is referenced in Plat Book 148 at Page 60."

Under the January 1, 1984 Easement granted to the POA by the prior owners of the Marina Property, recorded at Book 397 at Page 1611 (Ex 2 attached hereto), the POA prior to this litigation clearly already held easement rights over all paved roads located within Parcel B. Ever since the Plaintiff took over ownership of its property, there has been continual disputes about the POA, its members, lessees and invitees using sidewalks and other areas within Parcel B. All of these access issues were resolved when the Plaintiff in its counsel reviewed and executed the Settlement Agreement which clearly granted an easement for access over all of Parcel B - not just the paved roads. Further, the primary reason the POA agreed to reduce the Plaintiff's rent by half (1/2) in the Settlement Agreement was in consideration of the Plaintiff granting this expanded easement.

4. **Relief Requested-** The POA simply wants the Court to enforce the Settlement Agreement as it was written, that was negotiated over 16 hours and was executed by the Plaintiff and its attorney.

Further Sayeth Affiant Not.

W Christopher Sibley

SWORN to before me this
8th day of April, 2024.

Electronically signed and notarized online using the Proof platform.

Notary Public for Texas
Notary Name: Efraim Menashe Salvador
My Commission Expires: 08/10/2027

NOTARY PUBLIC STATE OF TEXAS

Efraim Menashe Salvador
ID NUMBER
134501582
COMMISSION EXPIRES
August 10, 2027

ELECTRONICALLY FILED - 2024 Feb 23 10:08 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085
Apr 09 8:47 AM

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT TURNER'S MARINA LLC, Plaintiff, vs. R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., and MIKE MORALES, and SUNSET, INC., Defendants.	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT Case No. 2021-CP-07-01085 MEDIATED SETTLEMENT AGREEMENT AND DISMISSAL OF ALL CLAIMS AND COUNTERCLAIMS WITH PREJUDICE

AS A RESULT OF CONFIDENTIAL MEDIATION, THE PARTIES HEREBY AGREE TO THE FOLLOWING.

1. The rental obligations under the 99-Year Lease of Turner's Marina to R.V. RESORT AND YACHT AND CLUB OWNERS' ASSOCIATION, INC. (the "Association") has changed. Now the rent owed by Turner's Marina to the Association will be the base monthly dues amount charged for a lot owner in the RV Resort multiplied by 5 (formerly it was 10).

2. With regards to the parking area and the disputed parking spaces, the area in question is referenced in Exhibit A, which is attached hereto. As to those twenty-three spots, the Parties agree:
   a. Spot 2 on Exhibit A will be reserved for Association use.
   b. Spots 5 and 6 on Exhibit A will remain short term parking until 5:00PM at which time these spots will be reserved for restaurant patrons and guests during Business Hours.
   c. Spot 3 on Exhibit A will be for the exclusive use of the restaurant 24/7/365.
   d. Spot 4 on Exhibit A will be for the exclusive use of the restaurant 24/7/365.
   e. Spots 19, 20 and 21 are for the exclusive use of the restaurant on Tuesday through Sunday 6:00pm to 10:00pm and Sunday 10:30am to 2:00pm.
   f. Spot 23 on Exhibit A is a spot under a tree. The Parties agree that Spot 23 will be for the exclusive use of the Marina or its designee.
   g. Spot 22 on Exhibit A will be reserved for Marina use until 6:00PM. Following that time, Spot 22 will be available as a first come, first served parking place.

EXHIBIT 1

h. All other Spots enumerated on Exhibit A (including the handicap spot denoted as Spot 1) are first come, first served parking spots that can be utilized without restriction or reservation.

3. The Parties agree that no parking spot can be utilized by anyone for overnight parking.

4. The bathrooms are available to everyone.

5. The pool on Exhibit A shall be available to all non-Commercial Patrons of the complex. It is agreed and understood that slip lease holders at the marina and RV renters and their guests are not included in the definition of Commercial Patrons and that those classes of patrons are permitted access to the pool. Commercial Patrons includes the commercial activities of the marina, including any boat clubs, jet ski rentals, tours, charter fishing and the like.

    a. If the Association determines that it wants to implement an "arm band" type system to denote those that are appropriately within the pool area, it is understood and agreed that the marina slip owners and the RV renters will receive one (1) armband each for pool access for them and their guests.

6. It is agreed by all of the below signatories that the Association may seek to reconfigure the enumerated parking spots denoted on Exhibit A, including reconfiguration of the picnic table area pictured there (subject to the Owner's approval in this change of use). In the event the Association reconfigures or adds additional parking spaces to the 23 parking spaces currently enumerated on Exhibit A, fifty percent (50%) of any new spaces created as a result of the reconfiguration - up to a maximum of 7 new spaces - will be reserved for the restaurant during Business Hours. As used in this agreement, Business Hours are agreed to be Tuesday through Sunday 5:00pm to 10:00pm and Sunday 10:30am to 2:00pm. Any new configuration cannot interfere with direct and open access to the Dumpster, including for emptying and removal of the dumpster, installed on Turner's Marina land adjacent to the former tennis courts. All other newly created spaces shall be available on a first come, first served basis.

    a. If the Association reconfigures the parking lot, Spots 19, 20, and 21 will no longer be the restaurant's spaces; instead, from the new spaces created, there will be three new replacement spaces - and up to seven spaces as contemplated above - in a single line. These new spaces will be the exclusive use of the restaurant space during Business Hours as defined above.

7. Turner's Marina LLC as the lessee acknowledges and affirms the restaurant and former ship store are not part of the 99-Year Lease, recorded at Deed Book 325, page 953 (hereinafter referred to as the 99-Year Lease). Turner's Marina LLC further affirms that the ownership and lease rights to the restaurant space and Ship Store space are controlled by the Association. However, the Association agrees that it will not permit the Ship Store space to be utilized for commercial purposes.

ELECTRONICALLY FILED - 2024 Feb 23 10:09 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085
ELECTRONICALLY FILED - 2024 Apr 09 8:47 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

ELECTRONICALLY FILED - 2024 Feb 23 10:09 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

8. The Association and Sunset, Inc. acknowledge and affirm that Turner's Marina is the rightful holder of the 99-Year Lease and the rights and responsibilities arising therefrom not otherwise addressed in this Settlement Agreement and they agree to not bring upon the leased property any means of restricting lessee from use and enjoyment of the leasehold property.

9. The 1984 easement recorded at Book 397 at Page 1612 will be updated to include granting access to the Association, Owners of the Property, and each of their guests, lessees, invitees and licensees to Parcel "B". The Parties agree that Parcel B is referenced in Plat Book 148 at Page 60.

10. Turner's Marina commits to not use, hire or employ **armed** security guards.

11. Turners Marina further agrees that it shall not undertake any efforts to erect a vehicular gate on the interior portion of the Marina's land.

12. With regards to this agreement only, the Association takes no position as to the propriety of the placement of a gate at the entrance to the marina property; instead, should anyone desire to erect a gate at the entrance of the marina property, the Association shall be given thirty (30) days' written notice prior to the submission of the application seeking authority to erect a gate.

13. In exchange for the above agreements, the Parties will dismiss Civil Action File Number 2021-CP-07-01085 with prejudice.

So agreed, this 13 day of December, 2023.

Thomas C. Taylor Attorney for the Plaintiff

Turner's Marina, LLC by
Neil Turner as Owner

Christopher Lizzi Attorney for the Association

Rodney Phillips, as Vice President and Authorized Representative of the Board for the Association

Linda Lochman for Defendant Sunset Inc.

Russell Patterson as Attorney for Sunset Inc.

397/611
(1/1/84)

A.17 HMA304

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

EASEMENT

This Agreement is made this 1st day of January, 1984, by and between OUTDOOR RESORTS RV RESORT AND YACHT CLUB, a South Carolina joint venture consisting of ORA OF CAROLINA, INC. AND SIX ESS CORPORATION (hereinafter referred to as "Grantor"), and RV RESORT AND YACHT CLUB OWNERS ASSOCIATION, INC., a South Carolina non-profit corporation, its successor and assigns (hereinafter referred to as "Grantee').

FOR AND IN CONSIDERATION of the sum of TEN AND 00/100 ($10.00) DOLLARS and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant, bargain, sell and convey to Grantee a permanent, non-exclusive right-of-way, on, over, and across the paved roads located on that certain property owned by Grantor as more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

This Easement is granted to allow and facilitate general access from the entrance of the RV Resort and Yacht Club to the boundary of the lots by those persons or entities who are owners of the property described in Exhibit "B" or any interest therein or portions thereof, their guests, lessees, invitees, and licensees of Grantee employed to operate and maintain the improvements constructed on the property described in Exhibits "A" or "B" and their employees, Grantee's successors and assigns, and property managers.

This Easement is for the benefit of and is appurtenant to the property more particularly described as Exhibit "B". This grant of

FILED IN DEEDS - BOOK 397 PAGE 161
FILED AT 104500 ON 06/28/84

EXHIBIT 2

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Easement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, and all persons or entities aforementioned.

This Easement is restricted to the paved roadways only. Grantor may, at its option, change the location of the roadways, provided that the Grantor shall always provide access as stated above with said access sufficient for motor vehicle traffic.

This grant of Easement is subject to all matters of record in the Office of the Clerk of Court for Beaufort County, South Carolina.

This grant of Easement herein is non-exclusive and is further subject to the right of Grantor and all persons acting on Grantor's behalf to have access on, over, or across the Easement granted herein to properties owned by Grantor adjacent to the Easement granted herein.

IN WITNESS WHEREOF, Grantor and Grantee have executed the Easement effective the day and year first above written.

WITNESSES:

Ronald W. Petty

Carolyn E. Rust

GRANTOR:

OUTDOOR RESORTS RV RESORT AND YACHT CLUB, a South Carolina Joint Venture

By: _____
Its President

By: _____
Its _____

FILED IN DEEDS - BOOK 397 PAGE 1612
FILED AT 104500 ON 06/28/84

ELECTRONICALLY FILED - 2024 Apr 09 8:47 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

A_17 HMA304

GRANTEE:

RV RESORT AND YACHT CLUB OWNERS ASSOCIATION, INC., a South Carolina non-profit organization

By: William E. Sweeney
its authorized signatory

5/7/84

6/26/84

FILED IN DEEDS - BOOK 397 PAGE 1613
FILED AT 104500 ON 06/28/84

ELECTRONICALLY FILED - 2024 Apr 09 8:47 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

A.13 HMC257

STATE OF TENNESSEE)
Davidson COUNTY)

PERSONALLY appeared before me Ronald W. Petty and made oath that (s)he saw the within named Outdoor Resorts R.V. Resort and Yacht Club, a South Carolina Joint Venture, consisting of Outdoor Resorts of Carolina, Inc., and Six Ess Corporation by and through E. Randall Henderson, its president and authorized signatory, sign, seal and as its act and deed, deliver the within Easement and that (s)he with Carolyn E. Burt witnessed the execution thereof.

Ronald W. Petty

SWORN TO AND SUBSCRIBED BEFORE ME
This 20th day of June, 1984.

Carolyn E. Burt
Notary Public for Tennessee

My Commission Expires: July 21, 1985

FILED IN DEEDS - BOOK 397 PAGE 1614
FILED AT 10:45:00 ON 06/28/84

ELECTRONICALLY FILED - 2024 Apr 09 8:47 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

A.13 HMC257

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PERSONALLY appeared before me ~~Rex E. Goette~~ DeThane Johnson and made oath that (s)he saw the within named R.V. Resort and Yacht Club Owners Association, Inc., a South Carolina non-profit organization by and through William E. Littell, its authorized signatory, sign, seal and as its act and deed, deliver the within Easement and that (s)he with ~~James E. Knight~~ Susan J. Flynn witnessed the execution thereof.

DeThane Johnson

~~Rex E. Goette~~

SWORN TO AND SUBSCRIBED BEFORE ME
This 21st day of June, 1984.

(L.S.)
Notary Public for South Carolina

My Commission Expires:

~~My Commission Expires September 12, 1988~~

Sworn to & subscribed before me
this 26th day of June, 1984
Susan J. Flynn (L.S.)
Notary Public for South Carolina
My commission expires April 15, 1993.

FILED IN DEEDS - BOOK 397 PAGE 1615
FILED AT 104500 ON 06/28/84

ELECTRONICALLY FILED - 2024 Apr 09 8:47 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

EXHIBIT "A"

ALL that certain piece, parcel or tract of land lying, situate and being on Hilton Head Island, Beaufort County, South Carolina, as shown on that certain plat of survey entitled "R. V. Resort and Yacht Club, Hilton Head Island, South Carolina, Plot Plan" dated September 7, 1981, and last revised July 26, 1983, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Plat Book 29 at Page 184, as prepared by Forrest F. Baughman, a South Carolina registered land surveyor (S.C. Reg. L.S. No. 4922) and being more particularly described as follows:

BEGINNING at a point located at the northeastern boundary of Lot #65 where it joins an unnamed right-of-way approximately 22 feet in width; running thence along the northerly boundary of Lot #65 and N 73 degrees 40 minutes 45 seconds W a distance of 77.53 feet to a point; running thence N 43 degrees 12 minutes 50 seconds W a distance of 14.13 feet to a point; running thence 46 degrees 47 minutes 10 seconds E a distance of 88.64 feet to a concrete monument running thence N 25 degrees 20 minutes 20 seconds E a distance of 95.884 feet to a point; running thence S 65 degrees 34 minutes 00 seconds E a distance of 199.449 feet to a point; Said point being the southeasterly point of the boundaries of the tennis courts; running thence along the Easterly boundary of the tennis courts N 24 degrees 26 minutes 00 seconds E a distance of 120.00 feet to a point; Said point being the northeasterly most boundary of the tennis courts; running thence along the northerly boundary of the tennis courts N 65 degrees 34 minutes 00 seconds W a distance of 86.468 feet to a point; running thence N 24 degrees 26 minutes 00 seconds E a distance of 73.550 feet to a concrete monument; running thence S 68 degrees 29 minutes 50 seconds E a distance of 59.14 feet to a concrete monument; running thence S 16 degrees 25 minutes 55 seconds E a distance of 91.47 feet to a point across the boat ramp to a concrete monument; running thence S 20 degrees 07 minutes 25 seconds E a distance of 68.18 feet to a concrete monument; running thence S 70 degrees 05 minutes 35 seconds E a distance of 35.32 feet to a concrete monument; running thence S 25 degrees 26 feet 50 minutes W a distance of 243.10 feet to a concrete monument; running thence S 43 degrees 58 minutes 50 seconds W a distance of 10.681 feet to a point; running thence N 51 degrees 09 minutes 10 seconds W a distance of 40.32 feet to a point; running thence along the northernmost boundary of Lots 1, 2, 3, 4, 5, 6, 7, and 8 N 65 degrees 19 minutes 35 seconds E a distance of 320.00 feet to a point; running thence S 34 degrees 36 minutes 31 seconds W a distance of 19.51 feet to a point; running thence across the unnamed right-of-way S 56 degrees 16 minutes 49 seconds W a distance of 68.593 feet to a POINT OF BEGINNING.

FILED IN DEEDS - BOOK 397 PAGE 1515
FILED AT 10450P ON 06/28/84

ELECTRONICALLY FILED - 2024 Apr 09 8:47 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

EXHIBIT "B"

ALL that certain piece, parcel or tract of land lying, situate and being on Hilton Head Island, South Carolina, Beaufort, County, as shown on that certain plat of survey entitled "R.V. Resort and Yacht Club, Hilton Head Island, South Carolina Plot Plan" dated September 7, 1981, and last revised July 26, 1983, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Plat Book 29 at Page 184, as prepared by Forrest F. Baughman, a South Carolina Registered Land Surveyor (S.C. Reg. No. 4922).

Hughes & Wieters

FILED IN DEEDS - BOOK 397 PAGE 161?
FILED AT 134500 ON 06/28/84 43518
BOOK NUMBER 397 PAGES 161!- 161?
FILING FEE 7.00
STATE STAMPS .00
COUNTY STAMPS .00
TOTAL FEES 7.00
HENRY JACKSON
CLERK OF COURT BFT CNTY, SC

ELECTRONICALLY FILED - 2024 Apr 09 8:47 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

ELECTRONICALLY FILED - 2024 Apr 11 10:56 AM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701085

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	C.A. No. 2021-CP-07-01085
	)	
TURNER'S MARINA LLC,	)	
	)	**DEFENDANT'S MEMORANDUM IN**
Plaintiff,	)	**OPPOSITION TO PLAINTIFFS**
	)	**MOTION AND IN SUPPORT OF**
-vs-	)	**DEFENDANTS' MOTION TO**
R.V. RESORT AND YACHT CLUB	)	**ENFORCE MEDIATED**
OWNERS' ASSOCIATION, INC.,	)	**SETTLEMENT AGREEMENT**
SECURITAS SERVICES, LLC, MIKE	)	
MORALES, AND SUNSET INC.	)	
Defendants.	)	
	)	

Defendants R.V Resort and Yacht Club Owners' Association, Inc. and Sunset, Inc. submit the following Memorandum in Opposition to Plaintiff's Motion and in Support of Defendants' Motion to Enforce Settlement Agreement because the Plaintiff has consistently and repeatedly failed to abide by the terms of the Mediated Settlement Agreement, it cannot enforce the Settlement Agreement by way of parol documents, and the Defendants are entitled to the enforcement of said Mediated agreement by the plain and unambiguous meaning of its terms and provisions.

SUMMARY OF RELEVANT FACTS

That on December 12, 2023 the Parties engaged in mediation with Jack G. Gresh (Mediator) in Beaufort South Carolina. The mediation was attended by eight (8) members of the Defendant Association Board of Directors, their Attorney Christopher D. Lizzi, Neil Turner, His Attorney Tom Taylor, Linda Lochman, and her Attorney Russell Patterson. Securitas, Mike Morales, and their Attorney were also in attendance but settled by way of a separate agreement. That the Parties reached a Mediated Settlement Agreement that was signed by all of the Parties and their counsel. Thereafter the Defendants drafted an amendment to the 1984 easement recorded in Book 397 at page 1612 and an amended lease as to the 1981 99-year lease to effectuate the terms

of the agreement as set forth therein. The Plaintiff refused to execute said documents as required to comply with the terms of the agreement.

STANDARD OF REVIEW

"Rule 43(k)[, SCRCP,] is intended to prevent disputes as to the existence and terms of agreements regarding pending litigation". *Ashfort Corp. v. Palmetto Constr. Group, Inc.*, 318 S.C. 492, 493-94, 458 S.E.2d 533, 534 (1995). It is applicable to settlement agreements. *Id.*

"In South Carolina jurisprudence, settlement agreements are viewed as contracts." *Pee Dee Stores, Inc. v. Doyle*, 381 S.C. 234, 241, 672 S.E.2d 799 (Ct. App. 2009). The Motion to Enforce Settlement has the legal effect of seeking summary judgment on the Settlement Agreement, and therefore, the summary judgment standard should apply. *See id.* (applying summary judgment standard to Motion to Compel Settlement Agreement.) In *Pee Dee Stores,* the Court of Appeals held:

> General contract principles are applied in the construction of a settlement agreement because, as stated above, a settlement agreement is a contract. Summary judgment is not appropriate if a contract is ambiguous. Thus, the initial determination for a court seeking to ascertain whether a grant of summary judgment based on a settlement agreement's interpretation is proper is whether the agreement is ambiguous.

Id. (internal citations omitted). Courts must determine as a matter of law whether the language of a settlement agreement is ambiguous. *Id.* at 242, 672 S.E.2d at 803. If the contract is not ambiguous, the facts assessing compliance therewith shall be evaluated in the light most favorable to the non-moving party, pursuant to the terms of Rule 56, SCRCP.

LEGAL ARGUMENT

Plaintiff Cannot Compel Compliance with the Settlement Agreement because the Plaintiff has Failed to Abide By the Terms of the Settlement Agreement.

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Plaintiffs have failed to perform their obligations under the Mediated Settlement Agreement. Such non-compliance is proven and detailed in Defendants' own filings relating to this Motion. The Plaintiff immediately took advantage of the provisions of the agreement regarding the reduction of his rents as set forth in Paragraph 1 of the Mediated Agreement but refuses to execute a modification of the 1981 99-year lease agreement between the Plaintiff and the Defendant Association, as well as refuses to execute the Amended and Restated Easement as set forth in Paragraph 9 of the Mediated Agreement.

1. Terms of the Settlement Agreement

For purposes of the Court's evaluation of Plaintiff's compliance with the Settlement Agreement and the lack of ambiguity of the terms thereof, the Defendants refer exclusively to the written terms of the Mediated Settlement Agreement and its clear and unambiguous language and the meaning thereof. The Plaintiff requests the Court to rely on an unverified document, not seen prior to its filing, created by the Plaintiff to infer certain negotiated interpretations. It is inappropriate to consider negotiations and other discussions resulting in the Settlement Agreement because they constitute parol evidence and because the discussions in and relating to mediation are exempt from disclosure under the Mediation Agreement and Rule 6(e), SCADR. Furthermore, such discussions are deemed to be merged into the fully executed Settlement Agreement.

2. There Is No Ambiguity in the Settlement Agreement between the Parties.

Undesirous results does not render the terms of those agreements ambiguous. One cannot simply have regrets as to the negotiated settlement and request that the Court deem that there is an alternate meaning to the terms of an agreement. "Whether a contract is ambiguous is to be determined from the entire contract and not from isolated portions of the contract." *Farr v. Duke*

Power Co., 265 S.C. 356, 362, 218 S.E.2d 431, 433 (1975). "A contract is ambiguous only when it may fairly and reasonably be understood in more ways than one." *Id.*

Here, the terms of the Settlement Agreement are clear. Paragraph number 9 of the Mediated Settlement agreement states that "The 1984 easement recorded at Book 397 at Page 1612 will be updated to include granting access to the Association, Owners of the Property, and each of their guests, lessees, invitees, and licensees to Parcel "B". The Parties agree that Parcel B is referenced in Plat Book 148 at Page 60." Although the Mediated Settlement Agreement did not specify a specific period for the performance of obligations under it, under South Carolina law, the required actions must be completed within a reasonable period of time. *Koontz v. Thomas*, 333 S.C. 702, 711, 511 S.E.2d 407, 412 (Ct. App. 1999) (holding that where contract does not provide time frame for performance, courts should imply a reasonable time). In this matter, the Mediated Settlement Agreement required amendments to the 1984 Easement to Parcel B as referenced in Book 397 at Page 1612, and an amendment to the 1981 99-year Lease between the Plaintiff and the Defendant Association which are both items that can affect title to real property and public at large and therefore must be recorded.

"A contract is ambiguous when the terms of the contract are reasonably susceptible to more than one interpretation." *S.C. Dep't of Natural Res. v. Town of McClellanville*, 345 S.C. 617, 623, 550 S.E.2d 299, 302 (2001). "It is a question of law for the court whether the language of a contract [or a settlement agreement] is ambiguous." *Id.* If a court determines that a contract is ambiguous as a matter of law, parties can submit evidence to demonstrate their intent, and the determination of intent becomes a question of fact for jury resolution. *Id.* Where a court finds an ambiguity as a matter of law, the "parties' intention [in a settlement agreement] is a question of fact to be ascertained by the trier of fact." *Pee Dee Stores, Inc. v. Doyle,* 381 S.C. 234, 245, 672 S.E.2d 799, 804 (Ct. App. 2009).

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CONCLUSION

Plaintiffs failure to complete agreed-upon modifications to the Easement and 1981 Lease agreement does not give them the right to try to enlist the Court to modify the terms of the Mediated Agreement to its liking. There is no ambiguity of the terms of the Mediated Settlement Agreement, therefore the Settlement Agreement is enforceable as written. For the reasons set forth above, The Plaintiffs' Motion to Enforce Settlement should be DENIED and the Defendants' Motion to Enforce the Settlement Agreement should be GRANTED.

April 9, 2024

By: s/ Christopher D. Lizzi

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STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**FOURTEENTH JUDICIAL CIRCUIT**
COUNTY OF BEAUFORT	)	
	)	
	)	**Case No. 2021-CP-07-01085**
TURNER'S MARINA LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**MEMO IN SUPPORT OF PLAINTIFF TURNER'S MARINA LLC'S MOTION TO ENFORCE MEDIATION SETTLEMENT AGREEMENT**
	)	
R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., and MIKE MORALES, and SUNSET, INC.,	)	
	)	
Defendants.	)	
	)	

In support of its pending Motion to Enforce Mediated Settlement Agreement as was filed on February 23, 2024, the Plaintiff provides the Court with the following summary of the law of easements:

The South Carolina Supreme Court in Steele v. Williams, 204 S.C. 124, 28 S.E.2d 644 (1944) defined an easement in its simplest terms as the right of one person to use the land of another for a specific purpose. An easement must have a dominant tenement, a servient tenement and an easement area.

The present recorded Easement, which is to be amended as per the Mediated Settlement Agreement, is an appurtenant easement, which has as it must, a dominant (benefited) estate and servient (burdened) estate. *See* Windham v. Riddle, 381 S.C. at 201-22, 672 S.E.2d at 583. South Carolina imposes four additional criteria on appurtenant easements: (1) the easement must be essentially necessary to the use of the dominant tenement (e.g., a right of way for ingress and egress to a landlocked lot); (2) there must be a terminus on the dominant tenement; (3) the easement must inhere in the land, and (4) the easement must concern the premises. Carolina Land Co., Inc. v. Bland, 265 S.C. 98, 217 S.E.2d 16 (1975).

The determinative factor of the issue before this Court is that an easement *must* have a terminus (or ending) in the dominant property: "[A]n essential feature of an appurtenant easement is that it must have one of its termini on the dominant property." Moore v. Reynolds, 285 S.C. 574, 576, 330 S.E.2d 542, 544 (Ct.App. 1985). This is a legal way of saying what everyone understands about an easement: it's a right to cross someone's property to get to somewhere they need to go and have no other way to do it.

The proposed Amended Easement as drafted by the Plaintiff and which the Plaintiff asks this Court to incorporate into its Order, has, like the current recorded easement, a clear-cut terminus

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and easement area. The interpretation sought by the Defendants is for this Court to basically order that all current and future members of the Defendant Association have a license to enter upon and loiter on any portion of Turner's Marina's private property at any time they wish, 24/7/365. A good analogy would be where a working farm grants an easement to an adjacent property owner on the farm's eastern border, to allow the adjacent property owner to have access to a piece of property that he acquired on the farm's western border. The law and reason would dictate that the owner of the easement would have the right to enter the farm from his property, and drive across the farm on a designated roadway assigned by the farmer that would lead to the new property. Under no set of circumstances or within anyone's idea of reason, would the property owner assume he could simply have carte blanche access to the farm, go in the barns, herd some goats, pick some corn, or sit on the farmer's front porch and watch the sun go down. That would be preposterous. But that is the exact thing the Association is asking this Court to give its members regarding Turner's Marina's property.

The Court should reject such a request to strip Turner's Marina's private property rights away, and order the execution of the proposed Amended Easement that provides the Association members with a platted easement to access the parking lot on Turner's Marina's leasehold that was agreed to in the mediation.

Respectfully submitted,

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ATTORNEY FOR THE PLAINTIFF
TURNER'S MARINA LLC

May 3, 2024
Bluffton, SC

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STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**FOURTEENTH JUDICIAL CIRCUIT**
COUNTY OF BEAUFORT	)	
	)	
	)	**Case No. 2021-CP-07-01085**
TURNER'S MARINA LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	**PLAINTIFF TURNER'S MARINA LLC'S MOTION TO SET ASIDE SETTLEMENT AGREEMENT DUE TO MUTUAL MISTAKE**
R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., and MIKE MORALES, and SUNSET, INC.,	)	
	)	
Defendants.	)	
	)	

TO: THE DEFENDANTS R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., MIKE MORALES, AND SUNSET, INC:

YOU WILL PLEASE TAKE NOTICE that the Plaintiff Turner's Marina LLC, by and through its undersigned counsel, moves the Court to issue an Order setting aside and invalidating the "Mediated Settlement Agreement" in this case, dated December 13, 2023. This motion was originally made verbally in open court during a hearing on April 11, 2024, before the Hon. Marvin Dukes, Master In Equity, with a court reporter present. The court has since requested that the record be perfected by the filing of this written motion.

As this basis for this motion, the Plaintiff would show that the Mediated Settlement Agreement, a true and correct copy of same being attached hereto as Exhibit A, as to Paragraph 9, was entered into under a mutual mistake of fact in that the parties believed the wording of Paragraph 9 would result in two totally different outcomes. The Plaintiff signed the Agreement at

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2 a.m. on December 13, 2023, under the belief that the wording of Paragraph 9 provided for the preparation and filing of an Amended Easement that would follow South Carolina law with a required easement entry and terminus, and that would allow the Association members, owners, and their guests, lessees, invitees and licensees, access to Turner's Marina's leasehold interest at issue in this case. The Defendants apparently believed that the wording of Paragraph 9 would create a license for the Association, owners of the property, and their guests, lessees, invitees and licensees, to enter upon and loiter on any portion of Turner's Marina's private property at any time for any reason.

The Court having indicated that it may rule that Paragraph 9 does create such a wide-ranging license instead of simply amending the existing easement to provide access to the leasehold interest that is at the heart of this dispute, the Plaintiff moves the Court to invalidate and set aside the Mediated Settlement Agreement *nunc pro tunc*.

Counsel for Plaintiff certifies that consultation with the Defendants' counsel on this issue would serve no useful purpose.

WHEREFORE, the Plaintiff requests that the Court grant it the relief requested, in addition to any other relief the Court may find appropriate.

Respectfully submitted,

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May 7, 2024
Bluffton, SC

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Exhibit A

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT TURNER'S MARINA LLC, Plaintiff, vs. R.V. RESORT AND YACHT CLUB OWNERS' ASSOCIATION, INC., SECURITAS SERVICES, INC., and MIKE MORALES, and SUNSET, INC., Defendants.	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT Case No. 2021-CP-07-01085 MEDIATED SETTLEMENT AGREEMENT AND DISMISSAL OF ALL CLAIMS AND COUNTERCLAIMS WITH PREJUDICE

AS A RESULT OF CONFIDENTIAL MEDIATION, THE PARTIES HEREBY AGREE TO THE FOLLOWING.

1. The rental obligations under the 99-Year Lease of Turner's Marina to R.V. RESORT AND YACHT AND CLUB OWNERS' ASSOCIATION, INC. (the "Association") has changed. Now the rent owed by Turner's Marina to the Association will be the base monthly dues amount charged for a lot owner in the RV Resort multiplied by 5 (formerly it was 10).

2. With regards to the parking area and the disputed parking spaces, the area in question is referenced in Exhibit A, which is attached hereto. As to those twenty-three spots, the Parties agree:
   a. Spot 2 on Exhibit A will be reserved for Association use.
   b. Spots 5 and 6 on Exhibit A will remain short term parking until 5:00PM at which time these spots will be reserved for restaurant patrons and guests during Business Hours.
   c. Spot 3 on Exhibit A will be for the exclusive use of the restaurant 24/7/365.
   d. Spot 4 on Exhibit A will be for the exclusive use of the restaurant 24/7/365.
   e. Spots 19, 20 and 21 are for the exclusive use of the restaurant on Tuesday through Sunday 6:00pm to 10:00pm and Sunday 10:30am to 2:00pm.
   f. Spot 23 on Exhibit A is a spot under a tree. The Parties agree that Spot 23 will be for the exclusive use of the Marina or its designee.
   g. Spot 22 on Exhibit A will be reserved for Marina use until 6:00PM. Following that time, Spot 22 will be available as a first come, first served parking place.

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h. All other Spots enumerated on Exhibit A (including the handicap spot denoted as Spot 1) are first come, first served parking spots that can be utilized without restriction or reservation.

3. The Parties agree that no parking spot can be utilized by anyone for overnight parking.

4. The bathrooms are available to everyone.

5. The pool on Exhibit A shall be available to all non-Commercial Patrons of the complex. It is agreed and understood that slip lease holders at the marina and RV renters and their guests are not included in the definition of Commercial Patrons and that those classes of patrons are permitted access to the pool. Commercial Patrons includes the commercial activities of the marina, including any boat clubs, jet ski rentals, tours, charter fishing and the like.

   a. If the Association determines that it wants to implement an "arm band" type system to denote those that are appropriately within the pool area, it is understood and agreed that the marina slip owners and the RV renters will receive one (1) armband each for pool access for them and their guests.

6. It is agreed by all of the below signatories that the Association may seek to reconfigure the enumerated parking spots denoted on Exhibit A, including reconfiguration of the picnic table area pictured there (subject to the Owner's approval in this change of use). In the event the Association reconfigures or adds additional parking spaces to the 23 parking spaces currently enumerated on Exhibit A, fifty percent (50%) of any new spaces created as a result of the reconfiguration - up to a maximum of 7 new spaces - will be reserved for the restaurant during Business Hours. As used in this agreement, Business Hours are agreed to be Tuesday through Sunday 5:00pm to 10:00pm and Sunday 10:30am to 2:00pm. Any new configuration cannot interfere with direct and open access to the Dumpster, including for emptying and removal of the dumpster, installed on Turner's Marina land adjacent to the former tennis courts. All other newly created spaces shall be available on a first come, first served basis.

   a. If the Association reconfigures the parking lot, Spots 19, 20, and 21 will no longer be the restaurant's spaces; instead, from the new spaces created, there will be three new replacement spaces - and up to seven spaces as contemplated above - in a single line. These new spaces will be the exclusive use of the restaurant space during Business Hours as defined above.

7. Turner's Marina LLC as the lessee acknowledges and affirms the restaurant and former ship store are not part of the 99-Year Lease, recorded at Deed Book 325, page 953 (hereinafter referred to as the 99-Year Lease). Turner's Marina LLC further affirms that the ownership and lease rights to the restaurant space and Ship Store space are controlled by the Association. However, the Association agrees that it will not permit the Ship Store space to be utilized for commercial purposes.

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8. The Association and Sunset, Inc. acknowledge and affirm that Turner's Marina is the rightful holder of the 99-Year Lease and the rights and responsibilities arising therefrom not otherwise addressed in this Settlement Agreement and they agree to not bring upon the leased property any means of restricting lessee from use and enjoyment of the leasehold property.

9. The 1984 easement recorded at Book 397 at Page 1612 will be updated to include granting access to the Association, Owners of the Property, and each of their guests, lessees, invitees and licensees to Parcel "B". The Parties agree that Parcel B is referenced in Plat Book 148 at Page 60.

10. Turner's Marina commits to not use, hire or employ **armed** security guards.

11. Turners Marina further agrees that it shall not undertake any efforts to erect a vehicular gate on the interior portion of the Marina's land.

12. With regards to this agreement only, the Association takes no position as to the propriety of the placement of a gate at the entrance to the marina property; instead, should anyone desire to erect a gate at the entrance of the marina property, the Association shall be given thirty (30) days' written notice prior to the submission of the application seeking authority to erect a gate.

13. In exchange for the above agreements, the Parties will dismiss Civil Action File Number 2021-CP-07-01085 with prejudice.

So agreed, this 13 day of December, 2023.

Thomas C. Taylor Attorney for the Plaintiff

Turner's Marina, LLC by
Neil Turner as Owner

Christopher Lizzi Attorney for the Association

Rodney Phillips, as Vice President and Authorized Representative of the Board for the Association

Linda Lochman for Defendant Sunset Inc.

Russell Patterson as Attorney for Sunset Inc.

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