

**DECLARATION OF CONDOMINIUM  
FOR  
BESA CONDOMINIUM  
FINAL DRAFT FOR REVIEW**

Return to:  
Nathan J. Wautier  
Reinhart Boerner Van Deuren s.c.  
P.O. Box 2018  
Madison, WI 53701-2018

[\_\_\_\_\_]

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Parcel Number

**This is not a conveyance under Section 77.21(1), Wis. Stats. and is not subject to the Wisconsin real estate transfer fee or return.**

There are no objections to this condominium with respect to Chapter 703 Wis. Stats. and it is hereby approved for recording.

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Director of Planning and Community & Economic Development  
City of Monona

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Date

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## DECLARATION OF CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM (this “Declaration”), is made this [ ] day of [ ], 2024, by BESA MONONA, LLC, a Wisconsin limited liability company (the “Declarant”).

### ARTICLE I DECLARATION

Declarant hereby declares that it is the sole owner of the Land (as defined in Section 2.02), together with all improvements to be constructed thereon and all easements, rights and appurtenances pertaining thereto (the “Property”), and further declares that the Property is hereby submitted to the condominium form of ownership as provided in Chapter 703, Wisconsin Statutes (the “Condominium Ownership Act”).

### ARTICLE II NAME; DESCRIPTION OF PROPERTY

1. Name. The name of the condominium created by this Declaration (the “Condominium”) is “Besa Condominium.”
2. Legal Description. The land comprising the Property (the “Land”) is located in the City of Monona, County of Dane, State of Wisconsin, and is legally described on Exhibit A attached hereto and made a part hereof.
3. Address. The address of the Condominium is 6501 Bridge Road, Monona, Wisconsin 53713.

### ARTICLE III DESCRIPTION OF UNITS

1. Identification of Units. The Condominium shall consist of Eighteen (18) units (individually a “Unit” and collectively the “Units”) located in the building (the “Building”) identified on the condominium plat attached hereto as Exhibit B and made a part hereof (the “Condominium Plat”), together with the Common Elements as described in Article IV. The Condominium Plat shows floor plans for each Unit showing the layout, boundaries and dimensions of each Unit. The Units shall be identified as

XXX, inclusive; as numbered on the Condominium Plat. Each owner of a Unit is referred to as a "Unit Owner." Where a Unit has been sold under a land contract, the purchaser (and not the vendor) shall be the Unit Owner.

2. Boundaries of Units. The boundaries of each Unit shall be as follows:

(a) Upper Boundary. The upper boundary of the Unit shall be the interior lower surface of the supporting members of the ceiling above the highest level of the living area, extended to an intersection with the perimetrical boundaries.

(b) Lower Boundary. The lower boundary of the Unit shall be the upper surface of the unfinished floor of the lowest level of the Unit extended to an intersection with the perimetrical boundaries.

(c) Perimetrical Boundary. The perimetrical boundaries of the Unit shall be vertical planes of the inside surface of the studs supporting the interior walls, in either case extending to intersections with each other and with the upper and lower boundaries.

3. Description of Units. It is intended that the surface of each plane described above (be it drywall, tiles, wallpaper, paneling, carpeting or otherwise covered) is included as part of each defined Unit. The Unit shall include, without limitation, all improvements now or hereafter located within such boundaries, including:

(a) Windows and doors (with all opening, closing and locking mechanisms and all hardware) which provide direct access to or within the Unit.

(b) Interior lights and light fixtures.

(c) Cabinets.

(d) Floor, wall, baseboard, or ceiling electrical outlets and switches and the junction boxes serving them.

(e) Telephone, cable television, computer, internet, stereo or other sound systems, if any, including outlets, switches, hardware and other appurtenances serving them.

(f) Plumbing fixtures, hot water heaters, fire sprinklers, if any, water softeners, if any, and the piping, valves, and other connecting and controlling mechanisms and devices lying between the fixture and water or sewage lines serving more than one (1) Unit.

(g) The heating, ventilating and air conditioning system, including the furnaces, air conditioning equipment, the control mechanisms, all vents from the Unit to the exterior of the Condominium, including vents for furnaces, clothes dryer, range hood, all other exhaust fans, and such other vents appurtenant to each Unit, condensers and all connections thereto serving each Unit.

Specifically not included as part of a Unit are those structural components of each Building and any portion of the plumbing, electrical or mechanical systems of the Building serving more than one (1) Unit, even if located within the Unit. Any structural components, plumbing, electrical, mechanical and public or private utility lines running through a Unit that serve more than one Unit are Common Elements.

4. Unit Designations.

Unit E100 is referred to in this Declaration as “Commercial Unit.”

Units A101-A105

Units B101-B104

Units C101-C104

Units D101-D103

are referred to in this Declaration as “Live/Work Units.”

3<sup>rd</sup> and 4<sup>th</sup> Floors are referred to in this Declaration as “Residential Units.”

#### ARTICLE IV

#### COMMON ELEMENTS; LIMITED COMMON ELEMENTS

1. Common Elements. The common elements (the “Common Elements”) are all of the Condominium except for the Units. The Common Elements include, without limitation, the following:

(a) The Land;

- (b) The paved walkways and entrance areas situated on the Land;
- (c) The foundations, columns, pilasters, girders, beams, supports, main walls (which shall be defined as exterior walls and surfaces, structural walls, roof trusses and roofs;
- (d) That part of the fire sprinkler system, if any, and its associated piping and operating mechanisms serving more than one Unit;
- (e) Any other portion of the improvements to the Land which is not included within the boundary of a Unit as described above;
- (f) Interior corridors serving more than one Unit;
- (g) The Building elevator;
- (h) Stair "A" serving all Units
- (i) The vehicular access areas
- (j) All rights and obligations under any cross-easements benefiting the Property.

2. Limited Common Elements. Certain Common Elements as described in this Section shall be reserved for the exclusive use of the Unit Owners of one or more but less than all of the Units. Such Common Elements shall be referred to collectively as "Limited Common Elements." The following Common Elements shall be reserved for the exclusive use of one or more Unit Owners as described herein:

- (a) All rooftop patios or balconies, if any and as applicable, attached to a given Unit and as designated and reserved on the Condominium Plat for such Unit;
- (b) The parking spaces identified on the Condominium Plat as designated and reserved for any Unit; and
- (c) The mailbox that exclusively serves such Unit.

- (d) Interior corridors serving more than one Unit on Floors 3 and 4;
- (e) Stair “B” serving Residential Units
- (f) Exterior area on grade reserved and noted for “Future Parking” is dedicated to the Commercial Unit for potential future use at the sole expense of the Unit Owner. All future maintenance of this area will be the sole responsibility of the unit owner.

3. Conflict Between Unit Boundaries; Common Element Boundaries.

(a) If any portion of the Common Elements shall encroach upon any Unit, or if any Unit shall encroach upon any other Unit or upon any portion of the Common Elements as a result of the duly-authorized construction, reconstruction or repair of a Building, or as a result of settling or shifting of a Building, such that all of the actual as-built boundaries of any such Units and Common Elements are located within six (6) inches of the locations of the corresponding boundaries of such Units and Common Elements as described in Section 3.02 or elsewhere in this Declaration or as shown on the Condominium Plat, then the existing physical boundaries of such Units or Common Elements shall be conclusively presumed to be the boundaries of such Units or Common Elements, regardless of the variations between the physical boundaries described in Sections 3.02 and 3.03 or elsewhere in this Declaration or shown on the Condominium Plat and the existing physical boundaries of any such Units or Common Elements.

(b) If any portion of the Common Elements shall encroach upon any Unit, or if any Unit shall encroach upon any other Unit or upon any portion of the Common Elements as a result of the duly-authorized construction, reconstruction or repair of a Building, or as a result of settling or shifting of a Building, then a valid easement for the encroachment and for its maintenance shall exist so long as such Building stands; provided, however, that if any such encroachment or easement materially impairs any Unit Owner's enjoyment of the Unit owned by such Unit Owner or of the Common Elements in the judgment of the board of directors of the Association (as defined below), such encroachment shall be removed or

just compensation shall be provided to each injured Unit Owner within ninety (90) days of the discovery of the encroachment.

(c) Following any change in the location of the boundaries of the Units under this Section 4.03, the square footages of all affected Units or Common Elements shall continue to be determined by the square footages, if any, shown on the Condominium Plat for all purposes under this Declaration.

## ARTICLE V PERCENTAGE INTERESTS; VOTING

1. Percentage Interests. The undivided percentage interest in the Common Elements (the "Percentage Interest") appurtenant to each Unit shall be as follows:

Commercial Unit shall be Sixteen (16) percent.

Live/Work Units shall be Three point Six Eight (3.68) percent.

Residential Unit shall be Twenty-Five (25) percent.

With the following exception:

Elevator Maintenance and repair:

Commercial Unit shall be Six (6) percent.

Live/Work Units shall be Zero point Three Seven Five (0.375) percent.

Residential Unit shall be Eighty Eight (88) percent.

2. Conveyance, Lease or Encumbrance of Percentage Interest. Any deed, mortgage, lease or other instrument purporting to convey, encumber or lease any Unit shall be deemed to include the Unit Owner's Percentage Interest even though such interest is not expressly described or referred to therein.

3. Voting. Each Unit shall have the following votes, appurtenant to such Unit at meetings of the Association (as defined in Article VI).

Commercial Unit shall have Four (4) votes

Live/Work Units shall have One (1) vote per Live/Work Unit

Residential Unit shall have Seven (7) votes total

LIVE WORK	16	59%	32	58%
AD	4	15%	9	16%
MFR	7	26%	14	25%
	27		55	

4. Multiple Owners. If there are multiple owners of any Unit, their votes shall be counted in the manner provided in the Bylaws.
5. Limitations on Voting Rights. No Unit Owner shall be entitled to vote on any matter submitted to a vote of the Unit Owners until the Unit Owner's name and current mailing address, and the name and address of the Mortgagee of the Unit, if any, has been furnished to the secretary of the Association. The bylaws of the Association may contain a provision prohibiting any Unit Owner from voting on any matter submitted to a vote of the Unit Owners if the Association has recorded a statement of condominium lien on the Unit and the amount necessary to release the lien has not been paid at the time of the voting.

No voting matter may be brought to the Association, Board, or Unit owners that would affect the operations of the Commercial Unit, their users, employees, parking, or other components of business unless such actions by the unit owner are in direct and documentable violation of laws or ordinances and pose a health or life safety hazard to other Owners and users of the property.

## ARTICLE VI CONDOMINIUM ASSOCIATION

1. General. Following the conveyance of the first Unit to any person other than Declarant, all Unit Owners shall be entitled and required to be a member of an association of Unit Owners known as "Besa Unit Owners Association, Inc." (the "Association"), which shall be responsible for carrying out the purposes of this Declaration, including exclusive management and control of the Common Elements and facilities of the Condominium, which may include the appointment and delegation of duties and responsibilities hereunder to a committee or subcommittee commissioned by the Association for that purpose. The Association shall be incorporated as a nonprofit corporation under the laws of the State of Wisconsin. The powers and duties of the Association shall include those set forth in the Association's articles of incorporation (the "Articles") and bylaws (the "Bylaws"), the Condominium Ownership Act, this Declaration and Chapter 181, Wisconsin Statutes (the "Wisconsin Nonstock

Corporation Law”). All Unit Owners, tenants of Units and all other persons and entities that in any manner use the Property or any part thereof shall abide by and be subject to all of the provisions of all rules and regulations of the Association (collectively, the “Rules and Regulations”), this Declaration, the Articles and Bylaws. The Association shall have the exclusive right to promulgate, and to delegate the right to promulgate, the Rules and Regulations from time to time and shall distribute to each Unit Owner, the updated version of such Rules and Regulations upon any amendment or modification to the Rules and Regulations. Any new rule or regulation or any revision to an existing rule and regulation shall become effective immediately upon distribution to the Unit Owners.

2. Declarant Control. Notwithstanding anything contained in this Declaration to the contrary, the Declarant shall totally govern the affairs of the Condominium and pay all expenses thereof until a Unit has been conveyed to any person other than the Declarant. The Declarant may exercise any rights granted to, or perform any obligations imposed upon, Declarant under this Declaration through its duly authorized agent. After a Unit has been conveyed to any person other than the Declarant, except as provided in Section 6.03, the Declarant shall have the right to appoint and remove the officers of the Association and to exercise any and all of the powers and responsibilities assigned to the Association and its officers by the Articles, Bylaws, the Condominium Ownership Act, this Declaration and the Wisconsin Nonstock Corporation Law from the date the first Unit of this Condominium is conveyed by the Declarant to any person other than Declarant, until the earliest of: (a) three (3) years from such date; or (b) thirty (30) days after the conveyance of seventy five percent (75%) of the Percentage Interests; or (c) thirty (30) days after the Declarant's election to waive its right of control.

3. Board of Directors. The affairs of the Association shall be governed by a board of directors (the “Board of Directors”). Within thirty (30) days after the conveyance of twenty five percent (25%) of the Percentage Interests to purchasers, the Association shall hold a meeting, and the Unit Owners other than the Declarant shall elect at least twenty five percent (25%) of the directors on the Board of Directors. Within thirty (30) days after the conveyance of fifty percent (50%) of the Percentage Interests to purchasers, the Association shall hold a meeting, and the Unit Owners other than the Declarant shall elect at least thirty three and one third percent (33 1/3%) of the directors on the Board of Directors.

4. Maintenance and Repairs.

(a) Common Elements. The Association shall be responsible for the management and control of the Common Elements and Limited Common Elements (except balconies) and shall maintain the same in good, clean and attractive order and repair. In addition, the Association shall be responsible for maintaining all Limited Common Elements (except balconies and rooftop patios), for snow plowing all sidewalks, driveways, private streets or alleys, walkways, parking areas, the maintenance, repair and replacement of all outdoor amenities, including lawns, landscaping, sidewalks, bicycle paths, driveways and common exterior entrances. The Association shall be responsible for replacing when necessary any Common Elements and Limited Common Elements.

(b) Units. Each Unit Owner shall be responsible for the maintenance, repair, and replacement of all other improvements constructed within the Unit (including the electrical, heating and air conditioning systems serving such Unit, and including any ducts, vents, wires, cables or conduits designed or used in connection with such electrical, heating or air conditioning systems), and for the maintenance (but not the repair or replacement) of balconies or rooftop patios, if any, appurtenant to the Unit, except to the extent any repair cost for any of the foregoing is paid by the Association's insurance policy described in Section 8.01. Each Unit shall at all times be kept in good condition and repair. If any Unit or portion of a Unit for which a Unit Owner is responsible falls into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, or a condition that results in damage to the Common Elements, the Association, upon fifteen (15) days' prior written notice to the Unit Owners of such Unit, shall have the right to correct such condition or to restore the Unit to its condition existing prior to the disrepair, or the damage or destruction if such was the cause of the disrepair, and to enter into such Unit for the purpose of doing so, and the Unit Owners of such Unit shall promptly reimburse the Association for the cost thereof. All amounts due for such work shall be paid within ten (10) days after receipt of written demand therefor, or the amounts may, at the option of the Association, be levied against the Unit as a Special Assessment under Section 6.07.

(c) Damage Caused by Unit Owners. To the extent (i) any cleaning, maintenance, repair or replacement of all or any part of any

Common Elements or the Unit is required as a result of the negligent, reckless or intentional act or omission of any Unit Owner, tenant or occupant of a Unit, or (ii) any cleaning, maintenance, repair, replacement or restoration of all or any part of any Common Element or the Unit is required as a result of an alteration to a Unit by any Unit Owner, tenant or occupant of a Unit, or the removal of any such alteration (regardless of whether the alteration was approved by the Association or any committee thereof) or (iii) the Association is required to restore the Common Elements or the Unit following any alteration of a Common Element or Limited Common Element required by this Declaration, or the removal of any such alteration, the Unit Owner that committed the act or omission or that caused the alteration, or the Unit Owners of the Unit occupied by such tenant or occupant or responsible for such guest, contractor, agent or invitee, shall pay the cost of such cleaning, maintenance, repair, replacement and restoration.

5. Common Expenses. Any and all expenses incurred by the Association in connection with the management of the condominium, maintenance of the Common Elements and other areas described in Section 6.04 and administration of the Association shall be deemed to be common expenses (the "Common Expenses"), including, without limitation, expenses incurred for: landscaping and lawn care; snow shoveling and plowing; improvements to the Common Elements; common grounds security lighting; municipal utility services provided to the Common Elements; trash collection; and maintenance and management salaries and wages.

6. General Assessments. The Association shall levy monthly general assessments (the "General Assessments") against the Unit Owners for the purpose of maintaining a fund from which Common Expenses (other than those that are the subject of Special Assessments) may be paid. The General Assessments against the Unit Owners shall be assessed in proportion to their Percentage Interests, except that until occupancy permits have been issued for all Units, the General Assessments for insurance premiums shall be levied evenly against all Units for which occupancy permits have been issued. General Assessments shall be due in advance on the first day of each month, or in such other manner as the Association may set forth in the Bylaws. Any General Assessment not paid when due shall bear interest until paid, as set forth in the Bylaws and, together with interest, collection costs, and reasonable attorneys' fees, shall constitute a

lien on the Unit on which it is assessed if a statement of condominium lien is filed within two (2) years after the assessment becomes due as provided in the Condominium Ownership Act. Notwithstanding the foregoing, Units owned by Declarant for which occupancy permits have not been issued shall not be subject to General Assessments. If, however, during the period of Declarant control the General Assessments against any Unit not owned by Declarant would exceed the amount set forth in the budget per Unit (excluding any portion of General Assessments to fund reserves), Declarant shall either: (a) record a document to cause its Units to be subject to General Assessments; or (b) pay to the Association the amount necessary to cause the General Assessments against the Unit not owned by Declarant to be reduced to the amount set forth in the budget per Unit (excluding any portion of General Assessments used to fund reserves).

7. Special Assessments.

(a) General. The Association may, whenever necessary or appropriate, levy special assessments (the "Special Assessment(s)") against the Unit Owners, or any of them, for deficiencies in the case of destruction or condemnation as set forth in Section 9.05 and Section 10.05; for defraying the cost of improvements to the Common Elements; for the collection of monies owed to the Association under any provision of this Declaration, including, without limitation, Section 6.04 and Article XIII, or for any other purpose for which the Association may determine a Special Assessment is necessary or appropriate for the improvement or benefit of the Condominium.

(b) Improvements that Benefit Only One Class of Units. Following completion of initial construction of the Condominium, the Association may, with the written consent or signed petition of those Residential Unit Owners or Commercial Unit Owners holding at least fifty-one percent (51%) of the votes appurtenant to the Residential Units or the Commercial Units, respectively, levy Special Assessments against the Residential Units or the Commercial Units for the purpose of:

- i. making improvements that benefit only the Residential Unit Owners as a class or only the Commercial Unit Owners as a class, and for the purpose of
- ii. maintaining a fund to insure, maintain or manage any improvements made under (i), above.

In either case described in (i) or (ii), the Special Assessments shall be levied equally against all of the Units within such class and shall not be levied against any of the Units in the class not benefited without the consent of the Unit Owners in such class who hold 51% of the votes appurtenant to such class.

EXAMPLE: If Residential Unit Owners holding 51% of the votes appurtenant to the Residential Units consent to upgraded wall art in the common hallways and lobbies serving the Residential Units exclusively, then the Association may levy Special Assessments against all Residential Unit Owners equally to maintain a fund to pay for insuring the upgraded wall art. The Commercial Units shall not be subject to such Special Assessments without the consent of those Commercial Unit Owners holding 51% of the votes appurtenant to the Commercial Units.

(c) Collection. Special Assessments shall be paid at such time and in such manner as the Association may determine. Any Special Assessment or installment not paid when due shall bear interest until paid, as set forth in the Bylaws and, together with the interest, collection costs and reasonable attorneys' fees, shall constitute a lien on the Unit on which it is assessed if a statement of condominium lien is filed within two (2) years after the Special Assessment becomes due as provided in the Condominium Ownership Act.

8. Common Surpluses. In the event that the surpluses of the Association (the "Common Surpluses") should be accumulated, other than surpluses in any construction fund as described in Section 9.06 and Section 10.06, such Common Surpluses may be credited against the Unit Owners' General Assessments in proportion to their respective Percentage Interests or may be used for any other purpose as the Association may determine.

9. Certificate of Status. The Association shall, upon the written request of an owner, purchaser or Mortgagee of a Unit, issue a certificate of status of lien. Any such party may conclusively rely on the information set forth in such certificate.

10. Management Services. The Association shall have the right to enter into a management contract with a manager selected by the Association (the “Manager”) under which services may be provided to the Unit Owners. The management contract shall be subject to termination by the Association under Section 703.35 of the Wisconsin Statutes.

11. Utilities and Real Estate Taxes. Each Unit Owner shall be responsible for and must pay real estate and personal property taxes and special assessments assessed or levied against the Unit. Each Unit Owner shall also be responsible for the costs of all utilities used or consumed within each Unit, including, without limitation, all electric, gas, water, sewer service, and all telephone, cable, data and similar services provided to each Unit, which shall be separately metered and billed directly by the provider to the Unit Owner.

## ARTICLE VII ALTERATIONS AND USE RESTRICTIONS

### 1. Unit Alterations.

(a) A Unit Owner may make improvements and alterations within its Unit; provided, however, that such improvements or alterations shall not (1) impair the structural soundness or integrity or lessen the structural support of any portion of the Condominium, (2) does not impair any easement, or (3) affect in any way the horizontal and vertical sound control measures in place as constructed. A Unit Owner may not change the dimensions of or the exterior appearance of a Unit or any portion of the Common Elements without obtaining the prior written permission of the Association, which permission may be denied in the sole discretion of the Association. Any approved improvement or alteration which changes the exterior dimensions of a Unit must be evidenced by recording a modification to this Declaration and the Condominium Plat before it shall be effective and must comply with the then applicable legal requirements for such amendment or addendum. Furthermore, any approved improvements or alterations must be accomplished in accordance with applicable laws and regulations, must not unreasonably interfere with the use and enjoyment of the other Units and the Common Elements, and must not be in violation of any underlying mortgage, land contract or similar security interest.

(b) A Unit Owner acquiring an adjoining part of another Unit may remove all or any part of the intervening partition wall or create doorways or other apertures therein. This may be done even if the partition wall may, in whole or in part, be a Common Element, provided that those acts do not impair the structural integrity or lessen the support of any portion of the Condominium, do not reduce the value of the Condominium, and do not impair any easement. The creation of doorways or other apertures is not deemed an alteration of boundaries.

## 2. Relocation of Boundaries.

(a) If the Unit Owners of adjoining Units desire to relocate their mutual boundary, the affected Unit Owners shall prepare and execute appropriate instruments.

(b) An amendment to the Declaration and an addendum to the Condominium Plat shall identify the Units and shall state that the boundaries between those Units are being relocated by agreement of the Unit Owners thereof. The amendment shall contain words of conveyance between those Unit Owners, and when recorded shall also be indexed in the name of the grantor and grantee, if applicable. If not stated, the prior allocation shall govern, until such time as the Unit Owners shall record an amendment to that effect with the Dane County Register of Deeds.

(c) Plats and plans showing the altered boundaries and the dimensions thereof between adjoining Units, and their identifying numbers or letters, shall be prepared. The plats and plans shall be certified as to their accuracy in compliance with Subsection 703.13(6) of the Wisconsin Statutes, by civil engineer, architect, or licensed land surveyor authorized to practice his or her profession in the State of Wisconsin.

(d) No boundaries of any Units may be relocated without the written consent of the Mortgagees of the Units affected.

(e) After appropriate instruments have been prepared and executed, those instruments shall become effective when the adjoining Unit Owners and the Association have executed them and they have been recorded with the Dane County Register of Deeds. The recording thereof shall be conclusive evidence that the relocation of boundaries did not violate the Condominium documents.

3. Separation of Units.

(a) A Commercial Unit may be separated into two (2) or more Units upon compliance with the provisions of this Section, provided that the Association approves the separation of such Unit (which approval may be denied in the sole discretion of the Association). The Association's President, upon written application of a Unit Owner proposing the separation of a Unit (the "Separator") and after thirty (30) days' written notice to all of the Unit Owners shall promptly present the matter to the Board of Directors. If approved, the President of the Association shall promptly prepare and execute appropriate instruments under this Section. An amendment to this Declaration and an addendum to the Condominium Plat shall assign a new identifying number to each new Unit created by the separation of a Unit, shall allocate to those Units, on a reasonable basis acceptable to the Separator and the other Unit Owners, all of the Percentage Interest and right to use the applicable Limited Common Elements. The vote in the Association formerly appertaining to the separated Unit will be allocated among the resulting Units. For this purpose, a fractional vote shall be permitted. The amendment shall reflect a proportionate allocation to the new Unit(s) of the liability for Common Expenses and right to Common Surpluses formally appertaining to the separated Unit.

(b) Plats and plans showing the boundaries and dimensions separating the new Units together with their other boundaries and their new identifying numbers or letters shall be prepared. The plats and plans shall be certified as to their accuracy and compliance with Subsection 703.13(7), Wisconsin Statutes, by a civil engineer, architect, or licensed land surveyor authorized to practice his or her profession in the State of Wisconsin.

(c) No Unit may be separated without the written consent of the Mortgagees of the Unit.

(d) After appropriate instruments have been prepared and executed, they shall be delivered promptly to the Separator upon payment by it of all reasonable costs for their preparation. Those instruments are effective when the Association, the Separator and the new Unit Owners have executed them and they are recorded with the Dane County Register of Deeds. The recording of the instruments shall be conclusive evidence that the separation did not violate any restrictions or limitations specified by this Declaration and that any reallocations were reasonable.

(e) No separation or subdivision of Residential Units shall be allowed.

4. Expenses. All expenses involved in any improvements, alterations boundary changes or Unit separations approved by the Association or permitted under this Article, whether or not completed, including all expenses to the Association, shall be borne by the Unit Owner or Unit Owners involved and may be charged as a Special Assessment to the affected Units in accordance with Section 6.07.

5. Use and Restrictions on Use of Unit.

(a) Commercial Units. The Commercial Unit shall be used only for legal uses and in compliance with all Municipal ordinances.

(b) Live/Work Units. Each Live/Work Unit shall be used for Commercial and Residential use. A commercial/office area must be dedicated on the first floor of each Live/Work unit. Restrictions for uses are provided by the Authority having Juris Diction and applicable Municipal Zoning Codes, however, the following uses are prohibited:

- 1: Wholesale and retail sales and storage of flammable and combustible liquids
- 2: Cleaning establishments that utilize combustible liquid solvents having a flash point of 140°F (60°C) or higher
- 3: Liquor stores and distributors
- 4: The storage or utilization of materials for agricultural purposes on the premises.
- 5: Corrosive personal or household products in their original packaging used in retail display.
- 6: Commonly used corrosive building materials.

7: The storage of black powder, smokeless propellant and small arms primers

(c) Residential Unit. The Residential Unit consists of 29 rental apartments and shall be used for residential purposes and for no other purpose unless otherwise authorized by the Association prior to the commencement of such use. A Residential Unit shall be deemed to be used for "Rental residential purposes" if it is occupied by no more than one family (defined to include persons related by birth, marriage or legal adoption) plus no more than two unrelated persons. No business, whether or not for profit, including, without limitation, any day care center, animal boarding business, products distributorship, manufacturing facility, sales office or professional practice, may be conducted from any Residential Unit. The foregoing restrictions as to residence and use shall not, however, be construed in such a manner as to prohibit a Residential Unit Owner from:

i.maintaining his or her personal professional library in his or her Unit;

ii.keeping his or her personal business or professional records or accounts in his or her Unit;

iii.handling his or her personal or business records or accounts in his or her Unit; or

iv.handling his or her personal business or professional telephone calls or correspondence from his or her Unit.

Nothing in this Section 7.05(a) shall authorize the maintaining of an office within a Residential Unit at which customers or clients customarily call and the same is prohibited.

6. Nuisances. No nuisances shall be allowed upon the Property, nor any use or practice that is unlawful or interferes with the peaceful possession and proper use of the Condominium by the Unit Owners or that would cause an increase in the premiums for insurance required to be maintained by the Association under Section 8.01. All parts of the

Condominium shall be kept in a clean and sanitary condition, and no fire or other hazard shall be allowed to exist. No Unit Owner shall permit any use of its Unit or of the Common Elements that increases the cost of insuring the Condominium.

7. Lease of Units. Each Commercial or Live/Work Unit or any part thereof may be rented by written lease or short term agreement, provided that:

(a) in the case of a Live/Work Unit, the lease or agreement contains a statement obligating all users to abide by this Declaration, the Articles, the Bylaws and the Rules and Regulations, providing that the lease or agreement is subject and subordinate to the same; and

(b) in the case of a Live/Work Unit, the lease or agreement provides that any default arising out of the user's failure to abide by the Declaration, the Articles, the Bylaws and the Rules and Regulations shall be enforceable by the Association as a third-party beneficiary to the lease or agreement and that the Association shall have, in addition to all rights and remedies provided under the Declaration, the Articles, the Bylaws and the Rules and Regulations, the right to evict the user and/or terminate the lease or agreement should any such violation continue for a period of ten (10) days following delivery of written notice to the tenant specifying the violation.

The Association may withhold approval of any lease upon any reasonable basis, including, but not limited to: the failure of the lease terms to comply with all provisions of this Declaration, the Articles, the Bylaws and the Rules and Regulations; the past failure of the tenant or its guests to abide by all provisions of this Declaration, the Articles, the Bylaws and the Rules and Regulations; and the past use by the tenant or its invitees or guests of any part of the Condominium in a manner offensive or objectionable to the Association or other occupants of the Condominium by reason of noise, odors, vibrations, or nuisance. During the term of any lease or agreement of all or any part of a Unit, each Unit Owner of such Unit shall remain liable for the compliance of the Unit, such Unit Owner and all tenants of the Unit with all provisions of this Declaration, the Bylaws and the Rules and Regulations of the Association, and shall be responsible for securing such compliance from the tenants of the Unit. The Association may require that a copy of each lease of all or any part of a Unit be filed with the Association. The restrictions against leasing contained in this Section 7.07 shall not apply to

leases of Commercial Units, leases of the Units by the Declarant, leases of the Units to the Association, or leases of individual apartments contained in the Residential Unit.

8. Signs. No sign of any kind shall be displayed to the public view on any Unit without the written consent of the Association and, if Declarant owns at least one Unit, the Declarant. The Declarant reserves the right to erect signs, gates or other entryway features surrounded with landscaping at the entrances to the Condominium and to erect appropriate signage for the sales of Units.

9. Garbage and Refuse Disposal. No Unit shall be used or maintained as a dumping ground for rubbish, trash, garbage or waste. All clippings, rocks or earth must be in containers.

10. Storage. Outdoor storage of personal property shall not be permitted. No firewood or wood pile shall be kept outside a structure unless it is neatly stacked and screened from street view.

11. Pets are permitted in accordance with the current applicable Rules and Regulations.

12. Landscaping. Unit Owners may not plant any decorative plants, vegetables and shrubbery outside of their Unit without the prior written consent of the Association.

## ARTICLE VIII INSURANCE

1. Fire and Extended Loss Insurance. The Board of Directors shall, obtain and maintain fire, casualty, and special form insurance coverage for the Units, the Common Elements and for the Association's service equipment, supplies and personal property. Insurance coverage for the Units and Common Elements shall be reviewed and adjusted by the Board of Directors from time to time to ensure that the required coverage is at all times provided. The insurance, if any, maintained by the Association shall be written on the Condominium's Units and Common Elements in the name of the Association as insurance trustee for the individual Unit Owners in their respective Percentage Interests, and may list each Unit Owner as an

additional insured with respect to its Unit. The policy shall contain the standard mortgagee clause, which shall be endorsed to provide that any proceeds shall be paid to the Association, as insurance trustee, for the use and benefit of any Mortgagee as its interest may appear. All premiums for such insurance shall be Common Expenses. In the event of damage to or destruction of all or part of the Condominium insured hereunder, the proceeds of the insurance shall be paid to the Association, as insurance trustee, for the Unit Owners and the Mortgagees and distributed as provided in Article IX.

2. Public Liability Insurance. The Board of Directors shall obtain and maintain a comprehensive liability insurance policy insuring the Association, its officers, directors, and the Unit Owners against any liability arising out of the maintenance, repair, ownership, or use of the Common Elements. Liability coverage shall be for at least \$1,000,000 per occurrence for personal injury and/or property damage or such higher limit as may be adopted from time to time by the Association to comport with the prevailing commercial practice. The insurance coverage shall be written on the Condominium in the name of the Association as insurance trustee for the Association, its directors and officers, and for the individual Unit Owners in their respective Percentage Interests. Such insurance policy shall contain a “severability of interest” or cross-liability endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association or other Unit Owners. All premiums for such insurance shall be Common Expenses. Each Unit Owner shall have the right to insure its own Unit for personal benefit.

3. Fidelity Insurance. Subsequent to the sale by Declarant of the first Unit, the Association shall require or maintain fidelity coverage against dishonest acts by any person responsible for handling the funds belonging to or administered by the Association. The Association shall be named insured and the insurance shall be in an amount of not less than fifty percent (50%) of the Association's annual operating expenses and reserves. All premiums for such insurance shall be Common Expenses.

4. Directors’ and Officers’ Insurance. The Association shall require or maintain insurance on behalf of any person who is or was a director or officer of the Association against liability asserted against or incurred by him or her in any such capacity or arising out of his or her status as such. Such coverage shall be in the minimum amount of at least \$1,000,000, or

such higher minimum amounts as are needed in the discretion of the Association to comport with the prevailing commercial practice

5. Unit Owners' Insurance. Each Unit Owner shall insure all of its own personal property (whether or not such personal property is stored within the Unit owned by such Unit Owner or any Common Element or Limited Common Element) and any insurable portion of the Unit not covered by the Association's insurance as specified herein, and shall also maintain in effect at all times a comprehensive homeowner's liability policy. Each such policy shall name the Association as an additional insured. The homeowner's liability policy shall provide for coverage in the minimum amount of at least \$500,000 per occurrence for personal injury and/or property damage or such higher minimum as is needed in the discretion of the Association to comport with the prevailing commercial practice. Nothing shall prohibit Unit Owners from maintaining insurance with limits in excess of those maintained by the Association or with additional insured risks; provided, however, that each Unit Owner's own property insurance coverage shall be excess coverage only and the insurance obtained by the Association, as required under Section 8.01, shall at all times be primary coverage. Unit Owners are encouraged to submit copies of the disclosure materials for the Condominium to their insurance carriers in order to ensure adequate property and liability coverages.

6. Mutual Waiver of Subrogation. Nothing in this Declaration shall be construed so as to authorize or permit any insurer of the Association or a Unit Owner to be subrogated to any right of the Association or a Unit Owner arising under this Declaration. The Association and each Unit Owner hereby release each other to the extent of any perils to be insured against by either of such parties under the terms of this Declaration or the Bylaws, whether or not such insurance has actually been secured, and to the extent of their respective insurance coverage for any loss or damage caused by any such casualty, even if such incidents shall be brought about by the fault or negligence of either party for whose acts, omissions or negligence the other party is responsible. All insurance policies to be provided under this Article by either the Association or a Unit Owner shall contain a provision that they are not invalidated by the foregoing waiver. Such waiver shall, however, cease to be effective if the existence thereof precludes either the Association or a Unit Owner from obtaining such policy.

7. Standards for All Insurance Policies. All insurance policies provided under this Article VIII shall be written by companies duly qualified to do business in the State of Wisconsin, with a general policyholder's rating of at least "A" and a financial rating of at least Class VII, as rated in the latest edition of Best's Key Rating Guide, unless the Board of Directors determines by unanimous vote or unanimous written consent that any policy may be issued by a company having a different rating.

## ARTICLE IX RECONSTRUCTION, REPAIR OR SALE IN THE EVENT OF DAMAGE OR DESTRUCTION

1. Determination to Reconstruct or Repair. If all or any part of the Common Elements (including the Limited Common Elements) become damaged or are destroyed by any cause, the damaged Common Elements shall be repaired or reconstructed except as otherwise provided in this Section 9.01.

(a) Damage Less Than Five Percent of Replacement Cost. If the cost to repair or reconstruct the damaged portion of the Condominium is less than five percent (5%) of the replacement cost of all improvements constituting the Condominium, the damaged portion of the Condominium shall be repaired or reconstructed even if the cost of such repair or reconstruction exceeds the available insurance proceeds. Acceptance by a Unit Owner of a deed to a Unit shall be deemed to be consent to the authorization to the Association to repair or reconstruct, as may in the future be needed from time to time, up to such stated dollar amount. If such authorization is challenged, whether through action taken at a meeting of the Unit Owners or otherwise, the issue of whether to repair or reconstruct shall be put to a vote of all of the Unit Owners entitled to vote, and such repair or reconstruction shall be deemed approved if all votes appurtenant to any one (1) Unit are cast in favor of such repair or reconstruction.

(b) Damage Equal To or Greater Than Five Percent of Replacement Cost; Insurance Available. If the cost to repair or reconstruct the damaged portion of the Condominium is equal to or greater than five percent (5%) of the replacement cost of all improvements constituting the Condominium, and the insurance proceeds plus five percent (5%) of the replacement cost of all improvements constituting the Condominium are

sufficient to complete such repair or reconstruction, the damaged portion of the Condominium shall be repaired or reconstructed even if the cost of such repair or reconstruction exceeds the available insurance proceeds.

Acceptance by a Unit Owner of a deed to a Unit shall be deemed to be consent to the authorization of the Association to repair or reconstruct, as may in the future be needed from time to time, up to the amount of the available insurance proceeds plus five percent (5%) of the replacement cost of all improvements constituting the Condominium. If such authorization is challenged, whether through action taken at a meeting of the Unit Owners or otherwise, the issue of whether to repair or reconstruct shall be put to a vote of all of the Unit Owners entitled to vote, and such repair or reconstruction shall be deemed approved if all votes appurtenant to any one (1) Unit are cast in favor of such repair or reconstruction.

(c) Damage Equal to or Greater Than Five Percent of Replacement Cost; Insurance Not Available. If the cost to repair or reconstruct the damaged portion of the Condominium is equal to or greater than five percent (5%) of the replacement cost of all improvements constituting the Condominium and insurance proceeds plus five percent (5%) of the replacement cost of all improvements constituting the Condominium are insufficient to complete such repair or reconstruction, the damaged portion of the Condominium shall be repaired or reconstructed unless within thirty (30) days of the date the Association receives repair or reconstruction estimates, the Unit Owners having seventy-five percent (75%) or more of the votes consent in writing to not repair or reconstruct the damaged portion of the Condominium. Delivery of such written consent under the circumstances described in this Section 9.01(c) shall be deemed to be consent to subject the Condominium to an action for partition.

2. Plans and Specifications. Any reconstruction or repair shall, as far as is practicable, be made in accordance with the maps, plans, and specifications used in the original construction of the Condominium, unless (1) a majority of the first Mortgagees (one vote per mortgaged Unit) approve of the variance from such plans and specifications; and (2) the Board of Directors authorizes the variance in the case of reconstruction of or repair to the Condominium. If a variance is authorized from the maps, plans, and specifications contained in the Condominium Plat or this Declaration, an amendment shall be recorded by the Association setting forth such authorized variance.

3. Responsibility for Repair. In all cases after a casualty has occurred to the Condominium (except as otherwise provided in Section 9.01), the Association has the responsibility of reconstruction and repair, and immediately shall obtain reliable and detailed estimates of the cost to rebuild or repair.
4. Insurance Proceeds and Construction Fund. Insurance proceeds held by the Association as trustee pursuant to Section 8.01 shall be disbursed by the Association for the repair or reconstruction of the damaged portion of the Condominium and Units. Unit Owners and Mortgagees shall not be entitled to receive payment of any portion of the insurance proceeds unless there is a surplus of insurance proceeds after the damaged portion of the Condominium has been completely restored or repaired as set forth in Section 9.06.
5. Assessments For Deficiencies. If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair by the Association, a Special Assessment shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such assessments on account of damage to the Condominium shall be in proportion to each Unit Owner's Percentage Interest. All assessed funds shall be held and disbursed by the Association as trustee for the Unit Owners and Mortgagees involved.
6. Surplus in Construction Funds. All insurance proceeds and Special Assessments held by the Association as trustee for the purpose of rebuilding or reconstructing any damage to the Units, Common Elements or any Property taken by eminent domain are referred to herein as "Construction Funds." It shall be presumed that the first monies disbursed in payment of costs of reconstruction or repair are insurance proceeds. If there is a balance in the Construction Funds after payment of all costs of reconstruction or repair, such balance shall be divided among the Unit Owners according to their respective Percentage Interests.

## ARTICLE X CONDEMNATION

1. Allocation of Award. Any damages for a taking of all or part of the Condominium shall be awarded as follows:

(a) Every Unit Owner shall be allocated the entire award for the taking of all or part of the respective Unit or any equipment, fixtures or improvements located therein and for consequential damages to the Unit or any equipment, fixtures or improvements located therein.

(b) If no reconstruction is undertaken, any award for the taking of Common Elements shall be allocated to all Unit Owners in proportion to their respective Percentage Interests.

2. Determination to Reconstruct Condominium. Following the taking of any part of the Condominium, then, if the Association determines that the Condominium can be restored to a usable whole, the Condominium shall be restored or reconstructed.

3. Plans and Specifications for Condominium. Any reconstruction shall, as far as is practicable, be made in accordance with the maps, plans and specifications used in the original construction of the portion unless seventy five percent (75%) of the Unit Owners and a majority of the first Mortgagees (one vote per mortgaged Unit) shall authorize a variance from such plans and specifications. In the event that a variance is authorized from the maps, plans or specifications contained in the Condominium Plat or this Declaration, an amendment shall be recorded by the Association setting forth such authorized variances.

4. Responsibility for Reconstruction. In all cases after a taking of all or part of the Condominium, the responsibility for restoration and reconstruction shall be that of the Association and it shall immediately obtain reliable and detailed estimates of the cost to rebuild.

5. Assessments for Deficiencies. If the condemnation award for the taking of the Common Elements is not sufficient to defray the costs of reconstruction by the Association, Special Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Special Assessments shall be in proportion to

each Unit Owner's respective Percentage Interest and shall constitute a Common Expense.

6. Surplus in Construction Fund. It shall be presumed that the first monies disbursed in payment of costs of reconstruction or restoration shall be from the award for taking. If there is a surplus of Construction Funds after payment of all costs of construction, such balance shall be divided among all Unit Owners in proportion to their respective Percentage Interests.

7. Percentage Interests Following Taking. Following the taking of all or any part of any Unit, the Percentage Interest appurtenant to any Unit shall be equitably adjusted to reflect the respective relative values of the remaining Units (or portions thereof) to all of the Units, determined without regard to the value of any improvements located within the Units other than those that were part of the Unit as originally constructed. The Association shall promptly prepare and record an amendment to the Declaration reflecting the new Percentage Interests appurtenant to the Units.

8. Partition and Sale Upon Consent. If following damage or destruction described in Section 9.01(c), the Unit Owners having Seventy-Five Percent (75%) or more of the votes consent to subject the Condominium to an action for partition, the Association shall record with the office of the Register of Deeds for Dane County, Wisconsin, a notice setting forth such facts, and upon the recording of such notice, the Condominium shall be subject to an action for partition, in which event the net proceeds of sale together with any amounts held by the Association as Construction Funds shall be considered as one (1) fund and shall be divided among the Unit Owners according to their respective Percentage Interests.

## ARTICLE XI MORTGAGEES

1. Notice. Any holder of a recorded mortgage or any vendor under a recorded land contract encumbering a Unit (a "Mortgage") or any guarantor of a recorded mortgage or land contract encumbering a Unit that has so requested of the Association in writing received by the Association's agent for service of process shall be entitled to receive timely written notice of the following matters:

(a) The call of any meeting of the membership of the Association or the Board of Directors to be held for the purpose of considering any proposed amendment to this Declaration, the Articles or the Bylaws;

(b) Any default under, any failure to comply with, or any violation of, any of the provisions of this Declaration, the Articles or Bylaws or the Rules and Regulations by the Unit Owner whose Unit is subject to the mortgage or land contract;

(c) Any physical damage to the Common Elements in an amount exceeding Five Percent (5%) of their replacement value;

(d) Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing the mortgage or land contract;

(e) Any sixty (60)-day delinquency in the payment of any charges and assessments owed under Article IX above by the owner of any Unit securing the mortgage or land contract;

(f) A lapse, cancellation, or material modification of any insurance policy maintained by the Association or under the land contract; and

Any proposed action that requires the consent of a specified percentage of Mortgagees.

2. Amendment of Provisions Affecting Mortgagees. Notwithstanding the provisions of Article XII of this Declaration, neither Section 11.01 nor any Section of this Declaration requiring the approval of any Mortgagee to any action shall be amended unless all Mortgagees have given their prior written approval. The Mortgagees of at least Fifty-one Percent (51%) of the mortgaged Units must consent to an amendment that is materially adverse to the Mortgagees' interests. If a Mortgagee does not respond within sixty (60) days after receipt of proper notice of any written proposal to amend this Declaration, such amendment shall be deemed approved by that Mortgagee, provided such notice was delivered to the Mortgagee by certified or registered mail with a "return receipt" requested.

3. Owners of Unmortgaged Units. Except as otherwise set forth in Section 11.02 above, whenever any provision contained in this Declaration requires the consent or approval (whether by vote or in writing) of a stated

number or percentage of Mortgagees to any decision, each Unit Owner of any unmortgaged Unit shall be considered a "Mortgagee" as well as a "Unit Owner" for purposes of such provision.

4. Condominium Liens. Any Mortgagee who obtains title to a Unit under the remedies provided in the mortgage or land contract against the Unit or through foreclosure shall not be liable for more than six (6) months of the Unit's unpaid dues and assessments accrued before the date on which the holder acquired title.

## ARTICLE XII AMENDMENT

Except as otherwise provided by the Condominium Ownership Act, or as otherwise provided in this Declaration, this Declaration may be amended with the written consent of not less than the number of Unit Owners who together hold at least two-thirds (2/3) of the total voting interests held by all Unit Owners. No Unit Owner's consent shall be effective without the consent of the first mortgagee of such Unit. So long as the Declarant owns any Unit, the consent in writing of the Declarant, its successors or assigns, shall also be required. No amendment shall alter or abrogate the rights of Declarant as contained in this Declaration. No amendment shall adversely affect the use and enjoyment of any Commercial Unit without the written consent of all Unit Owners of the Commercial Units and their Mortgagees. Copies of amendments shall be certified by the president and secretary of the Association in a form suitable for recording. A copy of the amendment shall be recorded with the Register of Deeds for Dane County, and a copy of the amendment shall also be mailed or personally delivered to each Unit Owner at its address on file with the Association. Until the initial conveyance of all Units, this Declaration may be amended by the Declarant alone for purposes of clarification and correction of errors and omissions.

## ARTICLE XIII REMEDIES

The Association shall have the sole right to enforce the provisions hereof or any of its orders by proceedings at law or in equity against any person or persons violating or attempting to violate any provision of the Declaration, either to restrain or cure the violation or to recover damages, or both, for a period which shall include thirty (30) days from the date of the filing with the Association of a petition by any person who shall be a Unit Owner subject to this Declaration on the date of the

filing, petitioning the Association to redress the violation or attempted violation of any of the provisions of this Declaration by any other persons. Liability among multiple owners of a Unit shall be joint and several. (Nothing herein shall be deemed to limit the rights of the City of Monona or the County of Dane to enforce any zoning codes, ordinances, regulations or other requirements which may be identical or similar to the requirements of this Declaration.) Such period of thirty (30) days shall be considered to be a period for the consideration of the petition by the Association and in the event the Association denies or fails to act upon the petition to the satisfaction of the petitioner within the thirty (30) day period, thereafter petitioner shall have the right to enforce the provisions hereof (except for the collection of charges and assessments under Article VI), to the extent that he or she shall so have petitioned, by proceedings at law or in equity against any person or persons violating or attempting to violate the provisions of this Declaration, either to restrain the violation or to recover damages, or both, provided, however, that any such person shall be a Unit Owner and commence such proceedings against such other person or persons within a period of sixty (60) days from (i) the date of the Association's denial of such petition, or (ii) the passage of the aforementioned thirty (30) day period for consideration of the petition by the Association. The Association or the petitioning Unit Owner(s), as the case may be, shall have the right to recover court costs and reasonable attorneys' fees in any successful action brought against another Unit Owner to enforce, or recover damages for a violation of, this Declaration. Any damages collected by the Association shall be distributed, first, to pay for all costs of enforcement, and secondly to the owners of the Units damaged by the violation pro rata. Notwithstanding the foregoing, if any Unit Owner fails to comply with the terms and conditions of this Declaration, and such failure continues beyond any applicable cure period, the Association shall have the right to cure on behalf of the Unit Owner and such Unit Owner shall promptly reimburse the Association for the cost thereof within ten (10) days after receipt of written demand therefor. Alternatively, the Association may, at the option of the Association, levy such amounts against the Unit as a Special Assessment under Article VI.

#### ARTICLE XIV GENERAL

1. Utility Easements. The Declarant hereby reserves for the Association acting by and in the discretion of the Board of Directors, the rights to grant to the City of Monona and County of Dane or public or semipublic utility companies, easements and rights of way for the erection, construction and maintenance of all poles, wires, pipes and conduits for the transmission of electricity, gas, water, telephone and for other purposes, for

sewers, stormwater drains, gas mains, water pipes and mains, and similar services and for performing any public or quasi public utility function that the Board of Directors may deem fit and proper for the improvement and benefit of the Condominium. Such easements and rights of way shall be confined, so far as possible in underground pipes or other conduits, with the necessary rights of ingress and egress and with the rights to do whatever may be necessary to carry out the purposes for which the easement is created.

2. Right of Entry. By acceptance of a Condominium Deed, each Unit Owner shall have granted a right of entry and access to its Unit to the Association to correct any condition originating in its Unit and threatening another Unit or the Common Elements, to install, alter or repair mechanical or electrical services or other Common Elements in its Unit or elsewhere in the Condominium, and to maintain and repair Common Elements and other areas as described in Section 7.04. Such entry shall be made with prior notice to the Unit Owners, and shall be scheduled for a time reasonably convenient to the Unit Owners, except in the case of an emergency when injury or property damage will result in delayed entry. Such entry shall be done with as little inconvenience to the Unit Owners as practical, and any damage caused thereby shall be repaired by the Association and treated as a Common Expense, except as allocable to an individual Unit or Units for cause in the discretion of the Board of Directors.

3. Notices. All notices and other documents required to be given by this Declaration or by the Bylaws of the Association shall be sufficient if given to one (1) registered owner of a Unit regardless of the number of owners who have an interest therein. Notices and other documents to be served upon Declarant shall be given to the agent for service of process specified in Section 14.06. All owners shall provide the secretary of the Association with an address for the mailing or service of any notice or other documents and the secretary shall be deemed to have discharged his or her duty with respect to the giving of notice by mailing it or having it delivered personally to such address as is on file with him or her.

4. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or unenforceability of the remaining portion of said provision or of any other provision hereof.

5. Declarant Access During Construction of Improvements. During any period of construction of the Building and other improvements on the Property by the Declarant, the Declarant and its contractors, and subcontractors, and their respective agents and employees, shall have access to all Common Elements as may be required in connection with said construction and shall have easements for the installation and construction of the Building, improvements, utilities, driveways, parking areas, landscaping and other repairing or servicing of all or any part of the Condominium.

6. Agent for Service of Process. The Declarant shall be the agent for service of process in any action against the Association or brought under the Condominium Ownership Act. Service may be made upon the Declarant by serving **XXXX** provided, however, that the Board of Directors may at any time by duly-adopted resolution designate a successor resident agent for service of process. The designation of such person as agent shall become effective upon the execution and filing of a statement of change of registered agent with the Department of Financial Institutions as provided in the Condominium Ownership Act and the Wisconsin Nonstock Corporation Law.

7. Assignment of Declarant's Rights. The rights granted to the party named as "Declarant" in this Declaration may be assigned by a written, recorded instrument to any other party who assumes such rights, and, upon the recording of any such instrument, such assignee shall become, and succeed to all rights and powers granted to, "Declarant" under this Declaration.

8. Conflicts. In the event a conflict exists among any provisions of this Declaration, the Articles, the Bylaws and the Rules and Regulations, the Declaration shall prevail over the Articles, Bylaws and Rules and Regulations; the Articles shall prevail over the Bylaws and the Rules and Regulations; and the Bylaws shall prevail over the Rules and Regulations.

9. Disclosure Regarding Construction. Declarant discloses that until and after Declarant has sold all of the Units, there will be construction activity in connection with the construction of Units which may lead to noise, construction traffic, dust and other conditions incident to construction. Every Unit Owner, including Declarant, shall use reasonable

efforts to avoid and to cause its contractors to limit disruption to other Unit Owners during all periods of construction activity relating to the Unit owned by such Unit Owner.

10. Disclosure Regarding Warranties. The Declarant shall assign to the Association upon substantial completion of each phase of construction all warranties held by the Declarant and covering any construction of the Common Elements. No warranties or representations, express or implied, including, but not limited to, the implied warranty of fitness for a particular purpose and merchantability, are made by the Declarant to any Unit Owner or other person or entity regarding the past or future performance or quality of the Common Elements, including the Limited Common Elements. Any implied warranty of workmanlike performance and that the Building or other Common Elements, including the Limited Common Elements, are or will be reasonably adequate for use and occupancy, created by Section 706.10(7), Wisconsin Statutes, which statutory section creates the above-stated implied warranties, for the conveyance of a newly constructed home or condominium, is hereby expressly disclaimed and excluded. Any other implied warranties created by common law, including, without limitation, the Declarant's duty to perform all work in a good and sufficient workmanlike manner, are also disclaimed and excluded. Any claims by the Association against a contractor to recover damages resulting from construction defects in any of the Common Elements or Limited Common Elements shall be subject to the provisions of Section 895.07, Wis. Stats.

[Execution Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this Declaration of Condominium as of the day and year set forth above.

Besa Monona, LLC (“Declarant”)

By: \_\_\_\_\_

Jason Iverson

Its: \_\_\_\_\_

STATE OF WISCONSIN )

) ss.

COUNTY OF DANE )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_ 2024, Jason Iverson, the Managing Member of Besa Monona, LLC, a Wisconsin limited liability company, who acknowledged the foregoing document for the purposes recited therein on behalf of said limited liability company.

Name: \_\_\_\_\_

Notary Public, State of Wisconsin

My Commission: \_\_\_\_\_

This document drafted by  
and should be returned to:

Nathan J. Wautier  
Reinhart Boerner Van Deuren s.c.  
P.O. Box 2018  
Madison, Wisconsin 53701-2018  
(608) 229-2200

## CONSENT OF MORTGAGEE

The undersigned, being the holder of a mortgage against the Property, does hereby consent to all of the terms and conditions of the foregoing Declaration, and agrees that its interest in the Property shall be subject in all respects to the terms thereof.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF WISCONSIN )

) ss.

COUNTY OF DANE )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2024, the \_\_\_\_\_ of \_\_\_\_\_, who acknowledged the foregoing document for the purposes recited therein on behalf of the same.

Name: \_\_\_\_\_

Notary Public, State of Wisconsin

My Commission: \_\_\_\_\_

## EXHIBIT A

### LEGAL DESCRIPTION

[\_\_\_\_\_]

EXHIBIT B

CONDOMINIUM PLAT

# BESA Condominium, A Condominium Plat

Located In:

Lot Fourteen (14), South Towne Plat, in the NW ¼ of the NW ¼ of Section 29, T7N, R10E, in the City of Monona, Dane County, Wisconsin.

WEST BROADWAY

C. I. H. "B W"  
(WIDTH VARIES)

Legal Description: Lot Fourteen (14), South Towne Plat, in the City of Monona, Dane County, Wisconsin.

## LEGEND

- SOLID IRON ROD FOUND-1.25" Diameter
  - IRON PIPE FOUND (1" Outside Diam. unless Noted)
  - FOUND CUT '+' IN CONCRETE
  - ( ) INDICATES RECORDED AS
- DISTANCES ARE MEASURED TO THE NEAREST HUNDREDTH OF A FOOT.

- Limited Common Element (L.C.E.)
- Parcel Boundary line
- Building Perimeter at each level
- Street Right-of-way and Platted Lines
- Street Centerlines
- Easement Lines

## Notes:

- All areas not designated as Units or Limited Common Elements are Common Elements.
- Refer to the Declaration of Condominium for BESA Condominium for further definition of Units, Limited Common Elements and Common Elements.
- The approximate square footage of each Unit is depicted on each sheet. The approximate Unit areas provided are generally shown on the map and are further defined in the BESA Condominium Declaration.

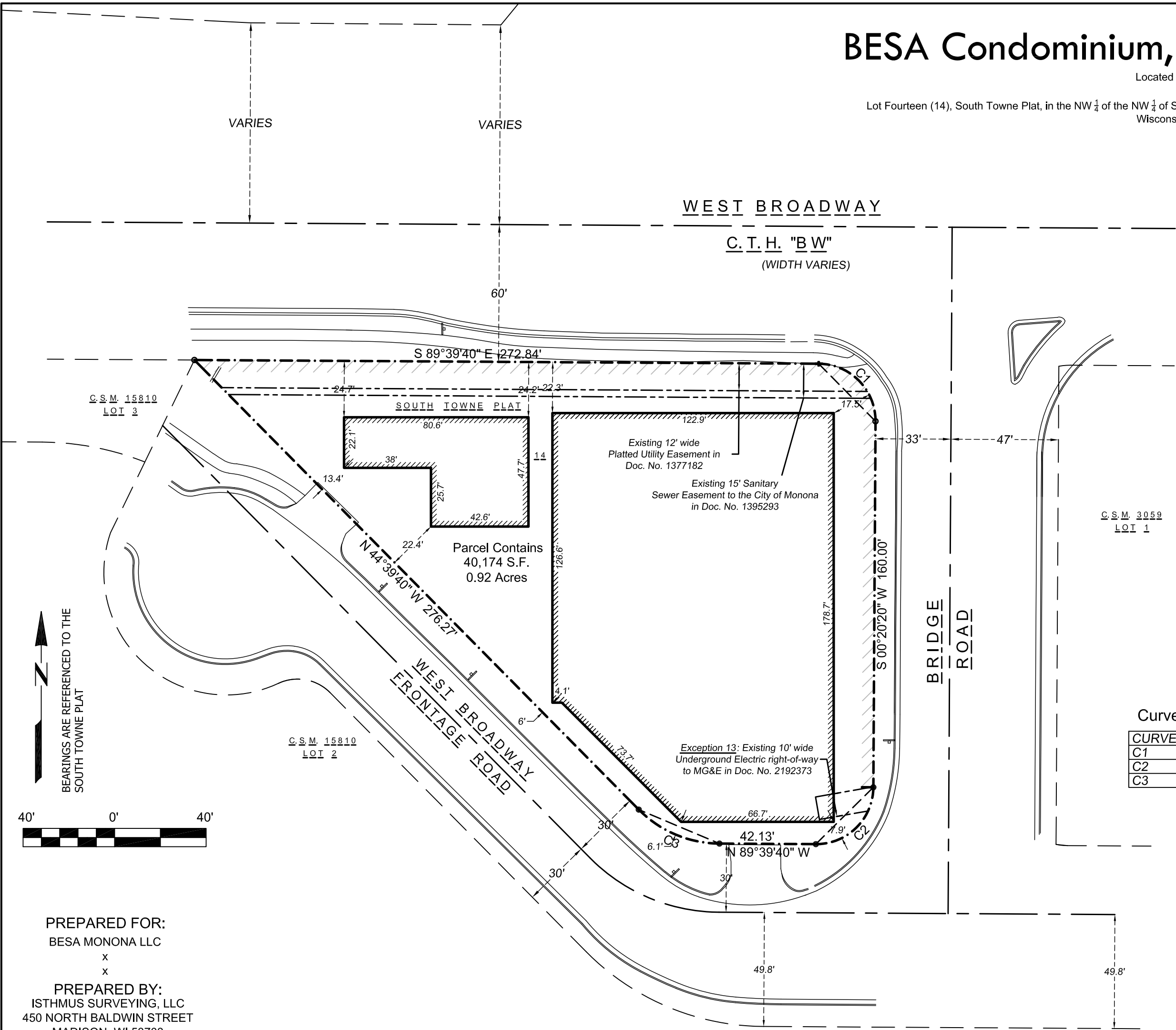
## Curve Data

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	39.27'	25.00'	90°00'00"	N 44°39'40" W	35.36'
C2	39.27'	25.00'	90°00'00"	N 45°20'20" E	35.36'
C3	39.27'	50.00'	45°00'00"	N 67°09'40" W	38.27'

## REGISTER OF DEEDS CERTIFICATE

Received for recording on this \_\_\_\_ day of \_\_\_\_\_, 2023, at \_\_\_\_\_ o'clock \_\_\_\_\_, m. and recorded in Volume \_\_\_\_\_ of Condominium Plats, on pages \_\_\_\_\_, as Document No. \_\_\_\_\_.

Kristi Chlebowski, Register of Deeds  
Dane County, Wisconsin



PREPARED FOR:  
BESA MONONA LLC

PREPARED BY:  
ISTHMUS SURVEYING, LLC  
450 NORTH BALDWIN STREET  
MADISON, WI 53703  
(608) 244.1090  
www.isthmussurveying.com



# BESA Condominium, A Condominium Plat

Located In:

Lot Fourteen (14), South Towne Plat, in the NW ¼ of the NW ¼ of Section 29, T7N, R10E, in the City of Monona, Dane County, Wisconsin.

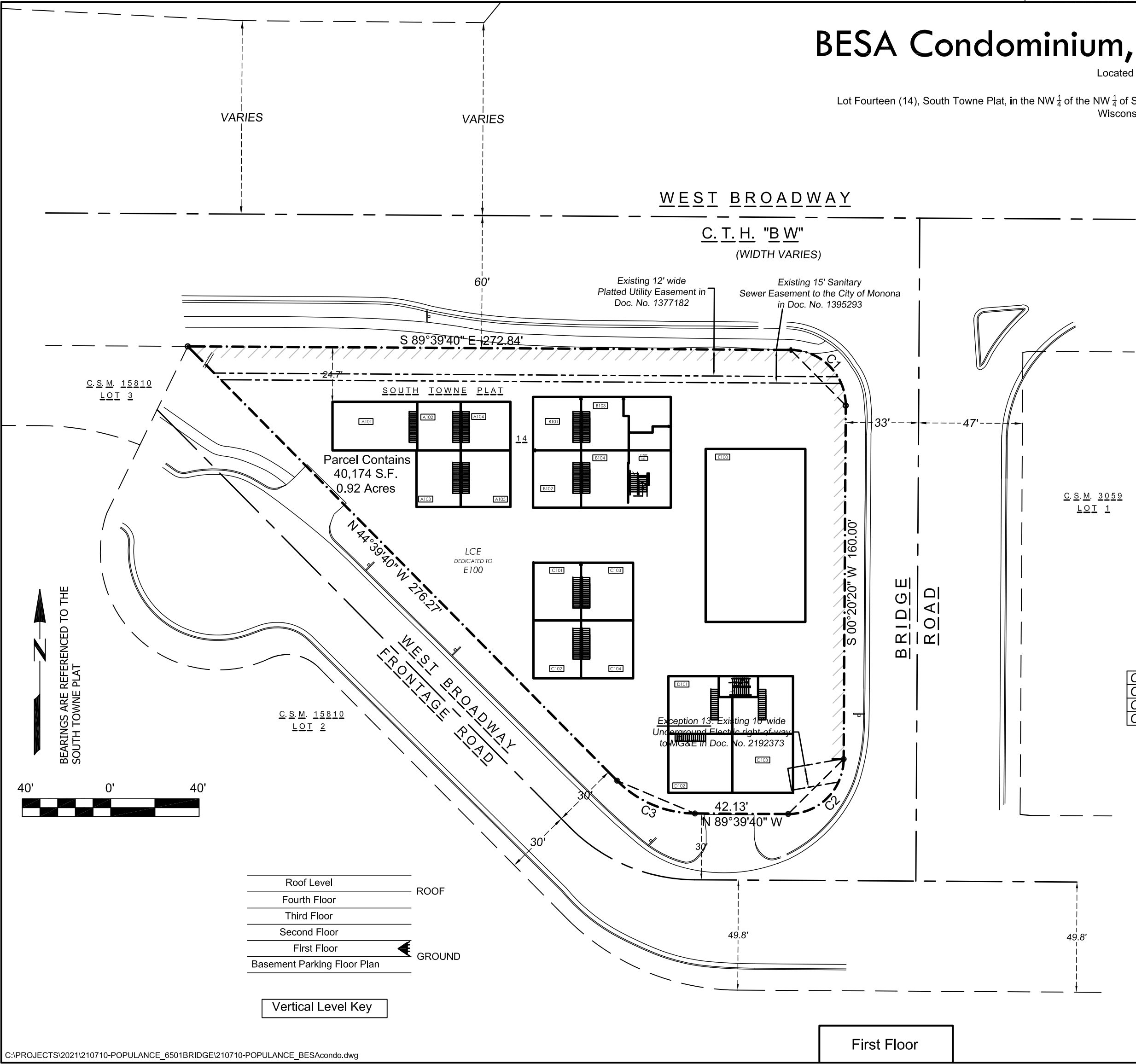
Legal Description: Lot Fourteen (14), South Towne Plat, in the City of Monona, Dane County, Wisconsin.

### LEGEND

- SOLID IRON ROD FOUND-1.25" Diameter
  - ⊙ IRON PIPE FOUND (1" Outside Diam. unless Noted)
  - ⊕ FOUND CUT '+' IN CONCRETE
  - ( ) INDICATES RECORDED AS
- DISTANCES ARE MEASURED TO THE NEAREST HUNDREDTH OF A FOOT.

### Curve Data

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	39.27'	25.00'	90°00'00"	N 44°39'40" W	35.36'
C2	39.27'	25.00'	90°00'00"	N 45°20'20" E	35.36'
C3	39.27'	50.00'	45°00'00"	N 67°09'40" W	38.27'



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# BESA Condominium, A Condominium Plat

Located In:

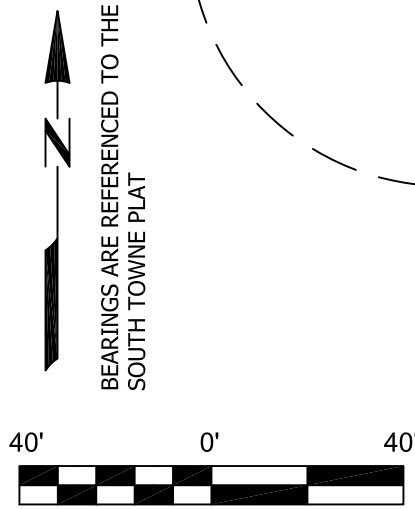
Lot Fourteen (14), South Towne Plat, in the NW ¼ of the NW ¼ of Section 29, T7N, R10E, in the City of Monona, Dane County, Wisconsin.

WEST BROADWAY

C. I. H. "B W"  
(WIDTH VARIES)

Legal Description: Lot Fourteen (14), South Towne Plat, in the City of Monona, Dane County, Wisconsin.

- Limited Common Element (L.C.E.)
- Parcel Boundary line
- Building Perimeter at each level
- Street Right-of-way and Platted Lines
- Street Centerlines
- Easement Lines



- Roof Level
  - Fourth Floor
  - Third Floor
  - Second Floor
  - First Floor
  - Basement Parking Floor Plan
- ROOF
- GROUND

Vertical Level Key

Second Floor

# BESA Condominium, A Condominium Plat

Located In:

Lot Fourteen (14), South Towne Plat, in the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 29, T7N, R10E, in the City of Monona, Dane County, Wisconsin.

WEST BROADWAY

C. T. H. "B W"

(WIDTH VARIES)

Legal Description: Lot Fourteen (14), South Towne Plat, in the City of Monona, Dane County, Wisconsin.



Limited Common Element (L.C.E.)

Parcel Boundary line

Building Perimeter at each level

— Street Right-of-way and Platted Lines

— Street Centerlines

— Easement Lines

C. S. M. 15810  
LOT 3

SOUTH TOWNE PLAT

## 2ND FLOOR

14

2ND FLOOR

UNIT 319

BRIDGE ROAD

C. S. M. 3059  
LOT 1

49.8'

BEARINGS ARE REFERENCED TO THE  
SOUTH TOWNE PLAT

40' 0' 40'




Diagram showing the vertical levels of the building:

- Roof Level
- Fourth Floor
- Third Floor
- Second Floor
- First Floor
- Basement Parking Floor Plan

The diagram is oriented vertically with "GROUND" at the bottom and "ROOF" at the top. A black arrow points to the Third Floor level.

### Vertical Level Key

### Third Floor

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SHEET 5 OF 7

# BESA Condominium, A Condominium Plat

Located In:

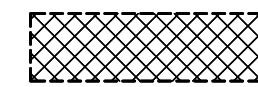
Lot Fourteen (14), South Towne Plat, in the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 29, T7N, R10E, in the City of Monona, Dane County, Wisconsin.

WEST BROADWAY

C. T. H. "B W"

(WIDTH VARIES)

Legal Description: Lot Fourteen (14), South Towne Plat, in the City of Monona, Dane County, Wisconsin.



Limited Common Element (L.C.E.)

Parcel Boundary line

### Building Perimeter at each level

- Street Right-of-way
- Street Centerlines

- Street Centerlines
- Easement Lines

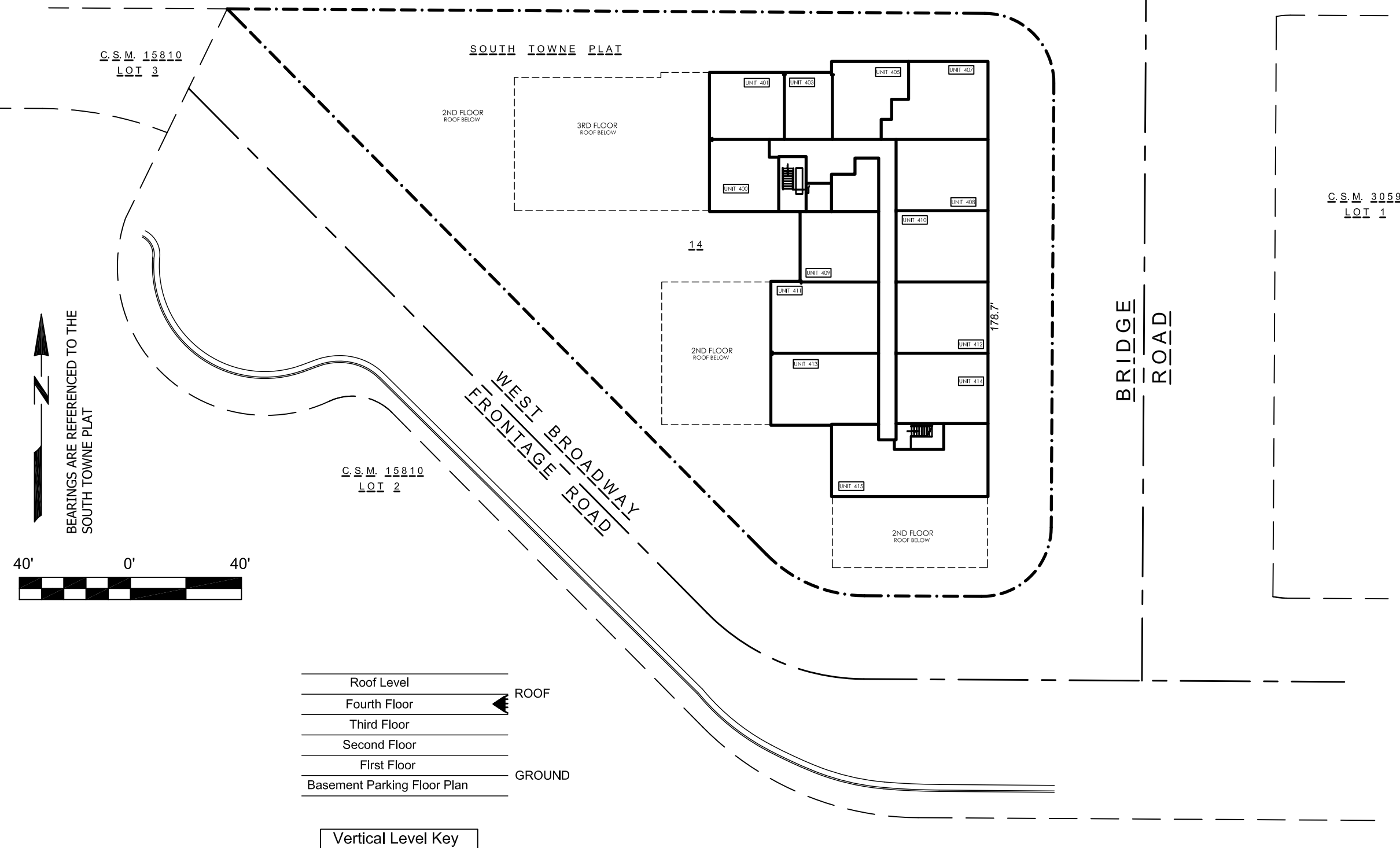


Diagram showing the vertical levels of the building:

- Roof Level
- Fourth Floor
- Third Floor
- Second Floor
- First Floor
- Basement Parking Floor Plan

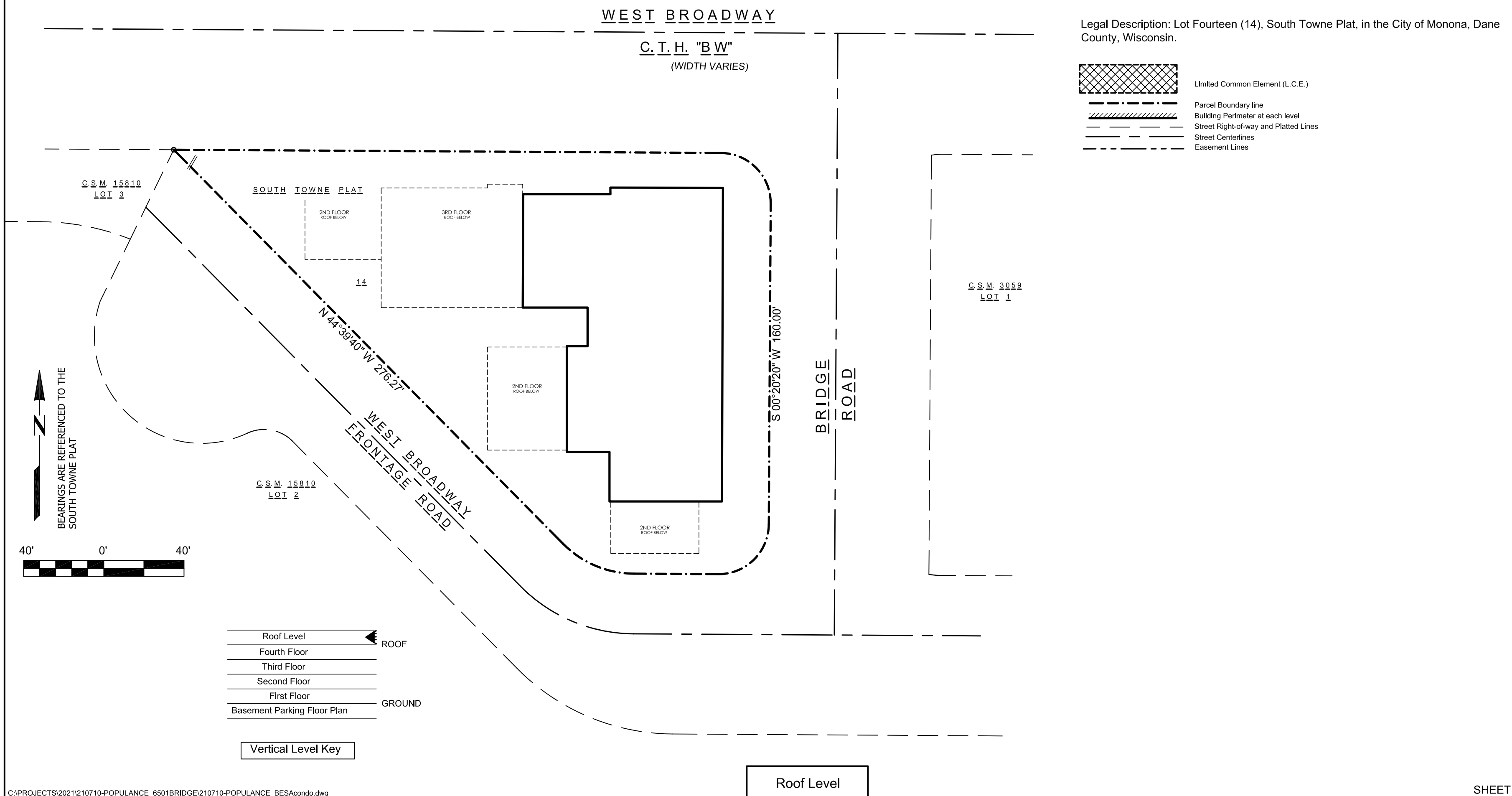
The diagram is oriented vertically with "GROUND" at the bottom and "ROOF" at the top.

## Vertical Level Key

### Fourth Floor

Located In:

Lot Fourteen (14), South Towne Plat, in the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 29, T7N, R10E, in the City of Monona, Dane County, Wisconsin.



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**BYLAWS**

**OF**

**BESA UNIT OWNERS ASSOCIATION, INC.**

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BYLAWS OF  
BESA UNIT OWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND ADDRESS

1.01 Name; Purpose. The name of the corporation shall be Besa Unit Owners Association, Inc. (the "Association"). The Association is incorporated as a nonstock, nonprofit corporation under the provisions of the Wisconsin Nonstock Corporation Law, Chapter 181 of the Wisconsin Statutes.

1.02 Address. The principal office of the Association shall be determined. This address shall also be the mailing address of the Association.

1.03 Binding Effect. These Bylaws (the "Bylaws") shall be binding upon the Unit Owners, their heirs, successors and assigns and shall govern the use, occupancy, operation and administration of the Condominium.

1.04 Capitalized Terms. Capitalized terms not defined in these Bylaws shall have the definitions given to such terms in the Declaration of Condominium for Besa Condominium, executed by Besa Monona, LLC (the "Declarant") and recorded in the office of the Dane County Register of Deeds (the "Declaration").

ARTICLE II

MEMBERSHIP

2.01 Membership. The membership of the Association shall at all times consist exclusively of all of the Unit Owners of the Condominium. Land contract vendees and not land contract vendors shall be members of the Association. Persons who hold an interest in a Unit merely as security for the performance of an obligation (including Mortgagees) are not members of the Association.

2.02 Commencement and Termination. Membership shall immediately commence upon acquisition of an ownership interest in a Unit of the Condominium and shall immediately terminate upon conveyance of such ownership interest. If a

Unit Owner's ownership interest passes to its personal representative or to a trustee upon the Unit Owner's death, such personal representative or trustee shall be a member of the Association.

2.03 Withdrawal or Expulsion. No Unit Owner may voluntarily withdraw or be expelled from membership in the Association.

2.04 Membership Certificates. Membership certificates shall not be issued.

2.05 Membership List. The Association shall maintain a current membership list listing all Unit Owners of each Unit, the current mailing address for each Unit Owner to which notice of meetings of the Association shall be sent, all Mortgagees of the Unit, if any, and, in the case of multiple owners of a Unit, the Unit Owner, if any, designated to cast any or all of the votes pertaining to such Unit in accordance with the Declaration. Each Unit Owner shall promptly provide written notice to the Association of any transfer of its Unit as provided in Section 2.06 and of any change in such Unit Owner's name or current mailing address. No Unit Owner may vote at meetings of the Association until the name and current mailing address of such Unit Owner has been provided to and received by the secretary of the Association. Any Unit Owner that mortgages its Unit or any interest therein or enters into a land contract with respect to its Unit shall notify the secretary of the name and mailing address of its Mortgagee and shall also notify the secretary when such mortgage has been released or such land contract has been fulfilled, and the secretary shall make appropriate changes to the membership list effective as of the date of the mortgage, release, land contract or fulfillment, as the case may be.

2.06 Transfer of Membership. Each membership shall be appurtenant to the Unit upon which it is based and shall be transferred automatically upon conveyance with the transfer of a Unit. As soon as possible following the transfer of a Unit, the new Unit Owners shall give written notice to the secretary of the Association of such transfer identifying the Unit and setting forth the names and mailing addresses of the new Unit Owners, the date of the transfer, the names and addresses of each Mortgagee, if any, and in the case of a Unit owned by multiple Unit Owners, the name of the person designated to vote, if any. The Association shall make appropriate changes to the membership list described in Section 2.05 effective as of the date of transfer.

2.07 Effect of Condominium Lien. No Unit Owner may vote on any matter submitted to a vote of the Unit Owners if the Association has recorded a statement of

condominium lien on the Unit owned by such Unit Owner and the amount necessary to release the lien has not been paid at the time of the voting.

2.08 Quorum. Unit Owners holding fiftyone percent (51%) of the total votes of the Association as set forth in the Declaration, present in person or represented by proxy, shall constitute a quorum at all meetings of the Unit Owners for the transaction of business.

2.09 Vote Required to Transact Business. When a quorum is present in person or represented by proxy at any meeting, a majority of the votes cast shall decide any question brought before the meeting unless the question requires a different vote by express provision in the Declaration, Articles of Incorporation of the Association (the "Articles"), Wisconsin Condominium Ownership Act, Wisconsin Nonstock Corporation Law or these Bylaws, in which case such express provision shall apply.

2.10 Proxies. All proxies shall be in writing, signed by the Unit Owner giving such proxy, and filed with the secretary of the Association before or at the time of the meeting. No proxy shall be valid after one hundred eighty (180) days from its date of issuance, unless granted to a Mortgagee or tenant of a Unit.

2.11 Voting Designations of Multiple Unit Owners. No designation of a single Unit Owner to cast any vote appertaining to any Unit owned by multiple Unit Owners shall be effective until written notice of such designation signed by all Unit Owners of such Unit has been received by the secretary of the Association prior to the casting of such vote. If any Unit Owner is so designated, then except as provided in the Declaration, only that Unit Owner shall be entitled to cast such vote in person or by proxy. A voting designation may be limited in time or may be changed by notice in writing to the secretary of the Association signed by all Unit Owners of such Unit. If no designation has been made, then any of the multiple Unit Owners present at the meeting in person or by proxy shall be entitled to cast the entire vote for the Unit, provided that if more than one multiple Unit Owner is so present, each multiple Unit Owner shall be entitled only to vote its proportionate share of the vote appurtenant to the Unit.

## ARTICLE III

### MEETINGS OF MEMBERS

3.01 Place. All meetings of the Unit Owners shall be held at a place in Dane County, Wisconsin, that shall be stated in the notice of the meeting.

3.02 Annual Meetings. The first annual meeting of the Unit Owners shall be held on the second Monday of the first December after the Declarant has ceased to control the Association as provided in Section 6.02 of the Declaration. Thereafter, regular annual meetings of the Unit Owners shall be held on the second Monday of December of each succeeding year.

3.03 Special Meetings. Special meetings of the Unit Owners may be called at any time by the president of the Association and shall be called upon the written request of Unit Owners holding at least twentyfive percent (25%) of the votes. Business transacted at special meetings shall be limited to the objects stated in the notice of such meeting.

3.04 Notice of Meetings. No annual or special meeting of the Unit Owners may be held except upon at least ten (10) days' (but not more than 60 days') written notice delivered or mailed to each Unit Owner at the address shown on the Association's current membership list. Such notice shall specify the place, day and hour of the meetings and, in the case of a special meeting, the purpose of the meeting. Prior notice of a meeting is not required to any Unit Owner that signs a waiver of notice of such meeting.

3.05 Adjourned Meetings. If a quorum shall not be present in person or represented by proxy at any meeting, the Unit Owners present shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented by proxy. At such adjourned meeting at which a quorum shall be present or represented by proxy, any business may be transacted which might have been transacted at the meeting originally called.

3.06 Duties of Officers at Meetings. The president of the Association shall preside at all meetings of the Unit Owners, and in his or her absence, the vice president shall preside. The secretary shall take the minutes of the meeting and keep such minutes in the Association's minute book. Votes at all meetings shall be counted by the secretary.

3.07 Order of Business. The order of business at all meetings of the Unit Owners shall be as follows:

- (a) Calling the meeting to order.
- (b) Calling the roll of Unit Owners and certifying the proxies.
- (c) Proof of notice of meeting or waiver of notice.
- (d) Reading and disposal of any unapproved minutes.
- (e) Reports of officers.
- (f) Reports of committees (if appropriate).
- (g) Election of directors (if appropriate).
- (h) Unfinished business.
- (i) New business.
- (j) Adjournment.

3.08 Action Without a Meeting by Written Consent. Any action required or permitted by any provision of the Wisconsin Condominium Ownership Act, the Wisconsin Nonstock Corporation Law, the Declaration, the Articles or these Bylaws to be taken by the vote of the Unit Owners may be taken without a meeting if a written consent, setting forth the action so taken, is signed and dated by all Unit Owners that would have been entitled to vote upon the action at such meeting and that hold a number of votes equal to the greater of: (a) the number of votes that would be required to approve the matter at a meeting attended by one hundred percent (100%) of the Unit Owners entitled to vote or (b) fifty-one percent (51%) of the total number of votes in the Association.

3.09 Action Without a Meeting by Written Ballot. Any action required or permitted by any provision of the Wisconsin Condominium Ownership Act, the Wisconsin Nonstock Corporation Law, the Declaration, the Articles or these Bylaws to be taken by the vote of the Unit Owners may be taken without a meeting if the Association delivers a written ballot to every Unit Owner entitled to vote on the matter. The written ballot shall set forth each proposed action, shall provide an opportunity to vote for or against each proposed action, and shall be accompanied by a notice stating the number of responses needed to meet the quorum requirements, the percentage of approvals necessary to approve each matter other than election of directors and the time by which the ballot must be received by the secretary of the Association in order to be counted. Approval of any action by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required at a meeting authorizing the action, and the number of approvals equals or

exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. Once received by the secretary of the Association, a written ballot may not be revoked.

## ARTICLE IV

### BOARD OF DIRECTORS

4.01 Number and Membership in Association. The affairs of the Association shall be managed initially by a board of directors (the "Board of Directors") composed of three directors selected by the Declarant. ***At such time as the Declarant has conveyed twentyfive percent (25%) of the Percentage Interest to purchasers, the number of directors on the Board of Directors shall be increased to four (4).*** At such time as the Declarant has conveyed fifty percent (50%) of the Percentage Interests to purchasers, the number of directors on the Board of Directors shall be decreased to three (3). Upon the earlier of (a) the tenth anniversary of the date the Declaration is recorded, or (b) thirty days after the date Declarant has conveyed seventy-five percent (75%) of the Percentage Interests to purchasers, the number of directors on the Board of Directors shall be increased to five (5). No more than one director at any given time may be a person who is not also a Unit Owner; provided, however, that during the period of Declarant control as provided in Section 6.02 of the Declaration, any person named by the Declarant to the Board of Directors shall be deemed to be a "Unit Owner" for purposes of this requirement only and provided further, that in the case of a Unit that is owned by an entity rather than an individual, any person who is an officer, member, partner, director, employee or designee of such entity shall be deemed to be a "Unit Owner" for purposes of this requirement only.

4.02 Term of Office. The initial Board of Directors shall serve until the Declarant has conveyed twentyfive percent (25%) of the Percentage Interests to purchasers. Within thirty (30) days after the conveyance of twentyfive percent (25%) of the Percentage Interests to purchasers, the Unit Owners other than the Declarant shall elect one director to serve on the Board of Directors. The Declarant shall elect the remaining three directors. Such Board of Directors shall serve until the Declarant has conveyed fifty percent (50%) of the Percentage Interests to purchasers. Within thirty (30) days after the conveyance of fifty percent (50%) of the Percentage Interests to purchasers, the Unit Owners other than the Declarant shall elect one director to serve on the Board of Directors. The Declarant shall elect the

remaining two directors. Such Board of Directors shall serve until the next election upon expiration of the period of Declarant control as provided in Section 6.02 of the Declaration. Not later than thirty (30) days after the expiration of the period of Declarant control, a special meeting of the Unit Owners shall be called, and the Unit Owners shall elect all five (5) directors to serve on the Board of Directors. Such directors shall take office upon such election and shall serve until the first annual meeting of the Unit Owners as provided in Section 3.02. Thereafter, each director shall take office at the annual meeting and shall serve for a term of one (1) year or until his or her successor shall be elected.

4.03 Election of Directors. One (1) month prior to each annual meeting of the Unit Owners, the secretary of the Association shall mail to all Unit Owners a notice setting a deadline for nomination of persons to serve as directors on the Board of Directors. All nominations shall be mailed to the secretary. Unit Owners must obtain the prior consent of any person they nominate and may nominate themselves. Only Unit Owners entitled to vote upon the election of any director may nominate a person to serve as a director. If the number of nominees equals the number of directors to be elected, the nominees shall automatically become the new directors to take office at the annual meeting. If the number of nominees is fewer than the number of directors to be elected, the secretary shall solicit further nominees by mail. If the number of nominees exceeds the number of directors to be elected, the secretary shall conduct an election by written ballot in accordance with Section 3.09 with all written ballots due prior to the deadline set by the secretary. Each Unit shall have the number of votes provided in the Declaration. The persons receiving the largest number of votes shall be elected as directors and shall take office at the annual meeting.

4.04 Vacancy and Replacement. If the office of any director becomes vacant because of death, resignation, disqualification or removal from office, such vacancy shall be filled by vote of a majority of the remaining directors at a special meeting of the Board of Directors held for that purpose promptly after the occurrence of such vacancy, even though the directors present may constitute less than a quorum, and each person so elected shall be a member of the Board of Directors for the remainder of the term of the director who left office or until a successor is elected in accordance with these Bylaws. Notwithstanding the foregoing, during the period of Declarant control as described in Section 6.02 of the Declaration, only the Declarant shall have the right to replace any director elected by Declarant.

4.05 Removal. Prior to the expiration of the period of Declarant control as described in Section 6.02 of the Declaration, only the Declarant shall have the right

to remove a director from the Board of Directors. Thereafter, any director may be removed from the Board of Directors, with or without cause, by a majority vote of the Unit Owners.

4.06 Compensation. No director shall receive any compensation for his or her services as a director of the Association other than reimbursement for reasonable outofpocket expenses incurred in the performance of directors' duties.

## ARTICLE V

### MEETINGS OF THE BOARD OF DIRECTORS

5.01 Regular Meetings. Until the expiration of Declarant control as described in Section 6.02 of the Declaration, the regular meeting of the Board of Directors shall be held annually on the second Monday of December at the time and place designated in the notice of such meeting. Thereafter, regular meetings of the Board of Directors shall be held annually without notice following the annual meeting of the Unit Owners at the same place as the Unit Owners' meeting or at such place as the Board of Directors may vote to hold the meeting.

5.02 Special Meetings. Special meetings of the Board of Directors may be called at any time by the president and shall be called by the president or secretary at the request of any director on the Board of Directors. Business transacted at all special meetings shall be limited to the objects stated in the notice of such meeting.

5.03 Notice of Special Meetings. No special meeting of the Board of Directors may be held except upon at least three (3) days' prior written notice delivered or mailed by the secretary to each member of the Board of Directors. Such notice shall specify the place, day and hour of the meeting of the Board of Directors and the purpose of the meeting. Attendance by any director at any meeting of the Board of Directors shall be deemed a waiver of such notice.

5.04 Quorum. A majority of the Board shall constitute a quorum for the transaction of business. Except as otherwise expressly provided in the Wisconsin Condominium Ownership Act, the Wisconsin Nonstock Corporation Law, the Declaration, the Articles or these Bylaws, every act of a majority of directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quorum is not present at the meeting, the directors then present may adjourn the meeting until such time as a quorum is present, and at such later meeting at which a

quorum is present, may transact any business which might have been transacted at the meeting originally called.

5.05 Order of Business. The order of business at all meetings of the Board of Directors shall be as follows:

- (a) Calling the meeting to order.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading and disposal of any unapproved minutes.
- (d) Reports of officers.
- (e) Reports of committees (if appropriate).
- (f) Election of officers (if appropriate).
- (g) Unfinished business.
- (h) New business.
- (i) Adjournment.

5.06 Action Without a Meeting by Written Consent. Any action required or permitted by the Articles or these Bylaws to be taken by the Board of Directors may be taken without a meeting if a written consent, setting forth the action so taken, is signed by two-thirds (2/3) of the directors then in office.

## ARTICLE VI

### POWERS AND DUTIES OF BOARD OF DIRECTORS

6.01 Powers and Duties. All of the powers and duties of the Association under the Declaration, the Articles, these Bylaws, the Wisconsin Condominium Ownership Act and the Wisconsin Nonstock Corporation Law shall be exercised by the Board of Directors except those powers and duties specifically given to or required of any committees of the Association or the Unit Owners. The powers and duties of the Board of Directors include, without limitation, the power or duty to:

- (a) Adopt budgets for revenues, expenditures and reserves.
- (b) Levy and collect General Assessments and Special Assessments and disburse funds in payment of the Association's expenses.

- (c) Manage, maintain, repair, replace, improve, operate and regulate the Common Elements, Limited Common Elements, and any property owned or leased by the Association.
- (d) Grant easements, licenses and rights-of-way through or over the Common Elements.
- (e) Hire and supervise any property manager or agent, security manager or agent, other manager or agent, employee, attorney, accountant or any other independent contractor whose services the Board of Directors determines are necessary or appropriate.
- (f) Sue on behalf of all Unit Owners.
- (g) Make contracts and incur liabilities.
- (h) Purchase, take, receive, rent or otherwise acquire and hold any interest in real or personal property, including any Unit of the Condominium.
- (i) Sell, convey, mortgage, encumber, lease, exchange, transfer or otherwise dispose of any interest in real or personal property, including any Unit of the Condominium.
- (j) Receive any income derived from payments, fees or charges for the use, rental or operation of the Common Elements and any property owned or leased by the Association.
- (k) Adopt, amend and repeal rules and regulations governing the operation, maintenance and use of any portion of the Condominium and the personal conduct of any person upon or with regard to Condominium property, including the imposition of charges for the use of Common Elements and penalties for infractions of the rules and regulations of the Association. Such rules and regulations may also be adopted, amended and repealed by the Unit Owners having sixtyseven percent (67%) or more of the votes of the Association. Notwithstanding anything in these Bylaws to the contrary, (i) rules and regulations which are adopted, amended or repealed by the Unit Owners may not thereafter be amended, repealed or readopted by the Board of Directors; and (ii) the Declarant and its successors and assigns shall not be subject to or bound by any rule, regulation or amendment to a rule or

regulation that is adopted without the written consent of the Declarant and its successors and assigns to the specific rule, regulation or amendment.

(l) Insure the Condominium property and property owned or leased by the Association against loss by fire and other casualty and the Association and Unit Owners against public liability as provided in the Declaration and purchase such other insurance as the Board of Directors may deem advisable.

(m) Keep all of the books and records and prepare accurate reports of all transactions of the Association.

(n) Appoint committees to carry out any tasks which the Board of Directors deems necessary or appropriate.

(o) Designate depositories and establish accounts for the funds of the Association and determine which officers or agents shall be authorized to withdraw and transfer funds deposited in such accounts.

(p) Maintain such reserve funds for the operation, maintenance, repair and replacement of Common Elements, Limited Common Elements and any property owned or leased by the Association, for contingencies and for making up any deficit in the Common Expenses for any prior year as the Board of Directors may deem proper or as may be required by law.

(q) Delegate any or part of the powers and duties of the Board of Directors or Association officers to committees of the Association or to a manager or managing agent.

6.02 Manager. The Board of Directors may hire a manager or managing agent at a compensation rate established by the board to perform such duties and services as the Board of Directors shall authorize, including, without limitation, the duties enumerated in Sections 6.01 and 7.07.

## ARTICLE VII

### OFFICERS AND THEIR DUTIES

7.01 Officers. The principal officers of the Association shall be the president, vice president, secretary and treasurer, all of whom shall be elected by the

Board of Directors. All officers shall be Unit Owners, provided, however, that during the period of Declarant control as provided in Section 6.02 of the Declaration, any person named by the Declarant to the Board of Directors or as an officer shall be deemed to be a "Unit Owner" for purposes of this requirement only and provided further, that in the case of a Unit that is owned by an entity rather than an individual, any person who is an officer, member, partner, director, employee or designee of such entity shall be deemed to be a "Unit Owner" for purposes of this requirement only. The same individual may simultaneously hold more than one office in the Association.

7.02 Election of Officers. The first election of officers shall take place at the first meeting of the initial Board of Directors. Thereafter, the officers shall be elected annually by the Board of Directors at its regular meeting.

7.03 Term. Each officer of the Association shall hold office for a term of one (1) year or until his or her successor shall be elected.

7.04 Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for a period specified by the Board of Directors which shall not exceed three (3) years, have such authority and perform such duties as the Board of Directors may from time to time determine.

7.05 Resignation and Removal. Any officer may be removed from office by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby. Any officer may at any time resign by giving written notice to the president or the secretary. Such resignation shall take effect on the date of receipt of such notice by the president or the secretary or at any later time specified in the notice. Unless otherwise specified in the notice, the acceptance of the resignation described in the notice shall not be necessary for its effectiveness.

7.06 Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to fill such vacancy shall serve for the remainder of the term of the officer replaced.

7.07 Duties. Unless otherwise indicated by the Board of Directors or delegated to a manager or managing agent pursuant to Article VI, the duties of the officers are as follows:

(a) President. The president shall preside at all meetings of the members of the Association and of the Board of Directors; oversee the implementation of the Board of Directors' orders and resolutions; sign all leases, mortgages, deeds, contracts, checks, promissory notes and other written instruments on behalf of the Association; generally manage the business of the Association; supervise and direct all other officers of the Association; and perform such other duties incident to the office of president as may be required under the Wisconsin Condominium Ownership Act, the Wisconsin Nonstock Corporation Law, the Declaration, the Articles or these Bylaws, or by the Board of Directors.

(b) Vice President. The vice president shall act in the place of the president in the event of the president's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board of Directors.

(c) Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Unit Owners; serve notices of the meetings of the Board of Directors and of the Unit Owners; keep all books and records of the Association other than books of account, including the membership list described in Section 2.05; and perform such other duties incident to the office of secretary as may be required under the Wisconsin Condominium Ownership Act, the Wisconsin Nonstock Corporation Law, the Declaration, the Articles or these Bylaws, or by the Board of Directors.

(d) Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and disburse such funds as directed by the president or by the Board of Directors; keep complete and accurate books of account; prepare the annual report of the business transacted by the Association each year; and prepare a proposed annual operating budget each year for consideration of the Board of Directors or Unit Owners.

7.08 Compensation. No officer shall receive any compensation for his or her services as an officer of the Association, other than reimbursement for reasonable outofpocket expenses incurred in the performance of officers' duties.

7.09 Fidelity Bonds. The Board of Directors may require that any officers, agents or employees of the Association handling or responsible for Association funds

shall furnish adequate fidelity bonds. The premiums of such bonds shall be paid by the Association.

## ARTICLE VIII

### BOOKS AND RECORDS

8.01 Inspection. The books, records, minutes, papers and membership list of the Association shall at all times, during reasonable business hours, be subject to inspection by any Unit Owner. The Declaration, the Articles and the Bylaws shall be available for inspection by any Unit Owner, Mortgagee or prospective purchaser of a Unit at the principal office of the Association, where copies may be purchased at reasonable cost.

8.02 Audits. The accounts and records of the Association shall be audited at least once every other year by an audit committee selected by the Board of Directors. The committee shall retain such professional auditors and other independent examiners as it deems appropriate. The cost of such audit shall be a Common Expense.

## ARTICLE IX

### BUDGET, ASSESSMENT AND ANNUAL REPORT

9.01 Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the last day of December.

9.02 Budget. Throughout the period of Declarant control as described in Section 6.02 of the Declaration, the Board of Directors shall adopt an annual operating budget for the Association at the annual meeting of the Board of Directors, provided, however, that the first annual operating budget for the Association shall be adopted by the Board of Directors prior to the first sale of a Unit by the Declarant. After the expiration of the period of Declarant control as described in Section 6.02 of the Declaration, the Unit Owners holding at least fiftyone percent (51%) of the votes present in person or represented by proxy at their annual meeting shall adopt the annual operating budget for the Association at such annual meeting. The budget shall be effective for the period beginning January 1 through December 31 of the succeeding year.

9.03 Levying and Payment of General Assessments. Based on the duly adopted annual operating budget, the Board of Directors shall levy General Assessments against the Unit Owners in proportion to the percentage interest in the Common Elements appurtenant to each Unit as determined under Section 5.01 of the Declaration. On or before the last day of December of each year, the secretary shall mail or deliver a copy of the annual operating budget and a statement of assessment for the next twelve (12) months to each Unit Owner. General Assessments shall be payable to the Association in twelve (12) equal installments which shall be due monthly in advance on the first day of each month. Such installments shall be mailed or delivered to the principal office of the Association and shall be deemed paid on the date of mailing or on the date of delivery, as the case may be.

9.04 Special Assessments. Special Assessments may from time to time be levied against Unit Owners by the Board of Directors for any of the purposes enumerated in the Declaration and shall be due and payable in the manner and upon the date or dates designated by the Board of Directors.

9.05 Association Remedies Upon Nonpayment of Assessments. Any General Assessment or Special Assessment not paid within ten (10) days of the date on which it is due shall bear interest from the day following such due date at the rate of eighteen percent (18%) per year or the highest rate permitted by law, whichever is less. The Association may seek to collect any assessments not paid when due by filing statements of condominium lien against the Units on which they are assessed, by enforcing and foreclosing such liens or by bringing an action for money damages against the Unit Owners personally obligated to pay the delinquent assessments. A suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving any lien securing the same. No Unit Owner may waive or otherwise escape liability for the assessments provided herein by nonuse of the Common Elements or abandonment of its Unit.

9.06 Annual Report. Each January, the Board of Directors shall, by formal action, approve a full and clear annual report of all business transacted by the Association during the previous fiscal year, including a report of the Common Expenses, surpluses and assessments collected from each Unit Owner during the year. Copies of the annual report for the previous year shall be mailed or delivered to each Unit Owner at the address in the Association's membership list prior to the third Thursday in February.

## ARTICLE X

### USE

Each Unit shall be used only for purposes permitted under the Declaration, the Articles, these Bylaws, and any rules and regulations of the Association.

## ARTICLE XI

### ENFORCEMENT OF CONDOMINIUM DOCUMENTS

It shall be the responsibility of each Unit Owner to see that the occupants and tenants of the Unit owned by such Unit Owner, and the employees, agents, representatives, invitees and guests of such Unit Owner, occupants and tenants, abide by the provisions of the Declaration, Bylaws, Condominium Ownership Act, all rules and regulations of the Association, and any decisions made by the Association, the Board of Directors or any committees of the Association that are authorized by any of the foregoing. Unit Owners should report infractions to the Board of Directors in writing, and the Board of Directors shall reply to the reporting Unit Owner within thirty (30) days concerning the action taken. In the event of a violation of any provision of the Declaration, the Bylaws, the Condominium Ownership Act, any rule or regulation of the Association, or any authorized decision of the Association, the Board of Directors or any committee of the Association, the Board of Directors shall notify the alleged offender. If the violation is not corrected within a reasonable time, the Association may take such action as it deems appropriate, including legal action against the offending Unit Owner or the Unit Owners of the Unit in which such offender is a tenant, occupant, employee, agent, representative, invitee or guest, to correct the violation. In any such action brought against any Unit Owner in which the Association is the prevailing party, the Unit Owner defendant in such action shall pay the Association's costs and actual attorneys' fees. In the event the Association fails to take appropriate enforcement action within thirty (30) days of the Association's receipt of the report of the infraction, any Unit Owner may take appropriate legal action to enforce the provisions of the Declaration, the Bylaws, the Condominium Ownership Act, the rules and regulations of the Association, and any authorized decision of the Association, the Board of Directors, or any committee of the Association.

## ARTICLE XII

### LIABILITY AND INDEMNITY

#### 12.01 General Scope and Definitions.

(a) The rights of directors and officers of the Association provided in this Article shall extend to the fullest extent permitted by the Wisconsin Nonstock Corporation Law and other applicable laws as in effect from time to time.

(b) For purposes of this Article, "director or officer" means a natural person (i) who is or was a director or officer of the Association or (ii) who, while a director or officer of the Association, is or was serving at the Association's request as a director, officer, partner, trustee, member of any governing or decisionmaking committee, employee or agent of another corporation or foreign corporation, partnership, limited liability company, joint venture, trust or other enterprise or (iii) who, while a director or officer of the Association, is or was serving an employee benefit plan because his or her duties to the Association also imposed duties on, or otherwise involved services by, the person to the plan or to participants in or beneficiaries of the plan or (iv) who is or was a member of the Architectural Review Committee. Unless the context requires otherwise, "director or officer" shall also mean the estate and personal representative of a director or officer.

(c) For purposes of this Article, "proceeding" means any threatened, pending or completed civil, criminal, administrative or investigative action, suit, arbitration or other proceeding, whether formal or informal, which involves foreign, federal, state or local law (including federal or state securities laws) and which is brought by or in the right of the Association or by any other person.

(d) For purposes of this Article, "expenses" means fees, costs, charges, disbursements, attorneys' fees and any other expenses incurred in connection with a proceeding, including a proceeding in which a director or officer asserts his or her rights under this Article, and, if the context requires, liabilities, including the obligation to pay a judgment, settlement, penalty, assessment, forfeiture or fine, including any excise tax assessed with respect to an employee benefit plan.

## 12.02 Mandatory Indemnification.

(a) To the extent that a director or officer has been successful on the merits or otherwise in the defense of any proceeding (including, without limitation, the settlement, dismissal, abandonment or withdrawal of any action where he or she does not pay or assume any material liability), or in connection with any claim, issue or matter therein, he or she shall be indemnified by the Association against expenses actually and reasonably incurred by him or her in connection therewith to the extent that he or she was a party to the proceeding because he or she is or was a director or officer of the Association.

(b) In cases not included under Section 12.02(a), the Association shall indemnify any director or officer against expenses actually and reasonably incurred by the director or officer in a proceeding to which the director or officer was a party because he or she is or was a director or officer, unless liability was incurred because the director or officer breached or failed to perform a duty he or she owed to the Association and the breach or failure to perform constituted any of the following: (i) a willful failure to deal fairly with the Association or its members in connection with a matter in which the director or officer had a material conflict of interest; (ii) a violation of criminal law, unless the director or officer had reasonable cause to believe his or her conduct was lawful or no reasonable cause to believe his or her conduct was unlawful; (iii) a transaction from which the director or officer derived an improper personal profit or benefit; or (iv) willful misconduct. The termination of a proceeding by judgment, order, settlement or conviction, or upon a plea of no contest or an equivalent plea, does not, by itself, create a presumption that indemnification of the director or officer is not required under this subsection.

(c) Indemnification under this Section is not required to the extent that the director or officer has previously received indemnification or allowance of expenses from any person, including the Association, in connection with the same proceeding.

(d) To the extent indemnification is required under this Article XI, the Association has purchased or is required under Section 12.10 to purchase insurance on behalf of the indemnified person and the insurance policy includes a provision obligating the insurer to defend such person, the Association shall be obligated to extend such defense. To the extent possible under such insurance policy, the defense

shall be extended with counsel reasonably acceptable to the indemnified person. The Association shall keep the indemnified person advised of the status of the claim and the defense thereof and shall consider in good faith the recommendations made by the indemnified person with respect thereto.

12.03 Determination of Right to Indemnification. Unless otherwise provided by written agreement between the director or officer and the Association, the director or officer seeking indemnification under Section 12.02 shall make a written request for indemnification which shall designate one of the following means for determining his or her right to indemnification: (a) by a majority vote of a quorum of the Board of Directors or a committee of directors consisting of directors not at the time parties to the same or related proceedings; (b) by independent legal counsel selected by a quorum of the Board of Directors or its committee in the manner prescribed in Section 12.03(a) or, if unable to obtain such a quorum or committee, by a majority vote of the full Board of Directors, including directors who are parties to the same or related proceedings; (c) by arbitration; or (d) by an affirmative vote of a majority of the Unit Owners entitled to vote; provided, however, that Unit Owners who are at the time parties to the same or related proceedings, whether as plaintiffs or defendants or in any other capacity, may not vote in making the determination. Any determination under this Section shall be made pursuant to procedures consistent with the Wisconsin Nonstock Corporation Law unless otherwise agreed by the Association and the person seeking indemnification. Such determination shall be completed, and eligible expenses, if any, shall be paid to the person requesting indemnification hereunder within sixty (60) days of the Association's receipt of the written request required hereunder.

12.04 Allowance of Expenses as Incurred. Within thirty (30) days after a written request by a director or officer who is a party to a proceeding because he or she is or was a director or officer, the Association shall pay or reimburse his or her reasonable expenses as incurred if the director or officer provides the Association with all of the following: (a) a written affirmation of his or her good faith belief that he or she has not breached or failed to perform his or her duties to the Association; and (b) a written undertaking, executed personally or on his or her behalf, to repay the allowance and, if required by the Association, to pay reasonable interest on the allowance to the extent that it is ultimately determined under Section 12.03 that indemnification under Section 12.02 is not required and indemnification is otherwise not ordered by a court. The undertaking under this Section shall be an unlimited general obligation of the director or officer and may be accepted without reference to his or her ability to repay the allowance. The undertaking may be secured or unsecured.

#### 12.05 Partial Indemnification.

(a) If it is determined pursuant to Section 12.03 that a director or officer is entitled to indemnification as to some claims, issues or matters in connection with any proceeding, but not as to other claims, issues or matters, the person or persons making such determination shall reasonably determine and indemnify the director or officer for those expenses which are the result of claims, issues or matters that are a proper subject for indemnification hereunder in light of all of the circumstances.

(b) If it is determined pursuant to Section 12.03 that certain expenses (other than liabilities) incurred by a director or officer are for any reason unreasonable in amount in light of all the circumstances, the person or persons making such determination shall authorize the indemnification of the director or officer for only such amounts as he or she or they shall deem reasonable.

12.06 Indemnification of Employees and Agents. The Board of Directors, may, in its sole discretion, provide indemnification and/or defense and/or allowance of expenses in advance of a final determination of any proceeding to an employee or agent of the Association who is not a director or officer in connection with any proceeding in which the employee or agent was a defendant because of his or her actions as an employee or agent of the Association; provided, however, that prior to such indemnification, defense or allowance of expenses, the Board of Directors shall first determine that the employee or agent acted in good faith and in a manner he or she reasonably believed to be in, and not opposed to, the best interests of Association.

#### 12.07 Limited Liability of Directors and Officers.

(a) Except as provided in Sections 12.07(b) and 12.07(c), a director or officer is not liable to the Association, its members or creditors, or any person for damages, settlements, fees, fines, penalties or other monetary liabilities arising from a breach of, or failure to perform, any duty resulting solely from his or her status as a director or officer, unless the person asserting liability proves that the breach or failure to perform constitutes any of the acts of misconduct listed in Section 12.02(b).

(b) Except as provided in Section 12.07(c), this Section 12.07 does not apply to any of the following: (i) a civil or criminal proceeding brought by or on behalf of any governmental unit, authority or agency; (ii) a proceeding brought by any person for a violation of state or federal

law where the proceeding is brought pursuant to an express private right of action created by state or federal statute; or (iii) the liability of a director under Wisconsin Statutes Sections 181.0832 and 181.0833.

(c) Sections 12.07(b)(i) and (ii) do not apply to a proceeding brought by a governmental unit, authority or agency in its capacity as a private party or contractor.

12.08 Severability of Provisions. The provisions of this Article 12.08 and the several rights to indemnification, advancement of expenses and limitation of liability created hereby are independent and severable and, in the event that any such provision or right shall be held by a court of competent jurisdiction in which a proceeding relating to such provisions or rights is brought to be against public policy or otherwise to be unenforceable, the other provisions of this Article 12.08 shall remain enforceable and in full effect.

12.09 Nonexclusivity of Rights. The rights to indemnification, defense and advancement of expenses provided for in this Article shall not be deemed exclusive of any other rights to which those seeking indemnification, defense or advancement of expenses may be entitled under any agreement authorized by the Board of Directors, any of the Bylaws, any vote of the members or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office. Notwithstanding the foregoing, the Association may not indemnify a director or officer, or permit a director or officer to retain any allowance of expenses, pursuant to any such additional rights unless it is determined by or on behalf of the Association that the director or officer did not breach or fail to perform a duty he or she owes to the Association which constitutes conduct under Section 12.02(b). A director or officer who is a party to the same or related proceeding for which indemnification, defense or an allowance of expenses is sought may not participate in a determination under this Section.

12.10 Purchase of Insurance. The Association shall use its reasonable best efforts to purchase and maintain insurance on behalf of any person who is or was a director or officer of the Association, to the extent that such director or officer is insurable and such insurance coverage can be secured by the Association at rates, and in amounts and subject to such terms and conditions as shall be determined in good faith to be reasonable and appropriate by the Board of Directors of the Association, and whose determination shall be conclusive (provided, however, that such insurance shall contain a provision obligating the insurer to defend the director or officer, if such provision is available at reasonable

rates), against liability asserted against or incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify or defend him or her against such liability under the provisions of this Article.

12.11 Benefit. The rights to indemnification, defense and advancement of expenses provided by, or granted pursuant to, this Article shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors and administrators of such a person.

12.12 Amendment. No amendment or repeal of this Article shall be effective to reduce the obligations of the Association under this Article with respect to any proceeding based upon occurrences which take place prior to such amendment or repeal.

## ARTICLE XIII

### GENERAL PROVISIONS

13.01 Seal. The Association shall not have a corporate seal.

13.02 Interpretation. These Bylaws are subject to all provisions of the Declaration, the Articles, the Wisconsin Condominium Ownership Act and the Wisconsin Nonstock Corporation Law. In the event any provision of these Bylaws shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be given effect. Any invalid provision or portion thereof shall be interpreted as having been amended to comply with the provisions of the Wisconsin Condominium Ownership Act and/or the Wisconsin Nonstock Corporation Law in effect on the date of the adoption of these Bylaws. Nothing in these Bylaws shall be deemed or construed to authorize the Association to conduct or engage in any active business for profit on behalf of any or all of the Unit Owners.

13.03 Notices. Except as otherwise may be provided in the Wisconsin Condominium Ownership Act or Wisconsin Nonstock Corporation Law, notices to any Unit Owner that are to be delivered or mailed pursuant to these Bylaws shall be deemed to have been given (a) in the case of delivered notices, on the date when the notice is delivered to the address on file with the secretary of the Association, or (b) in the case of mailed notices, on the date when the notice, addressed to the address on file with the secretary of the Association, is deposited in the United States mail with sufficient postage to effect delivery.

## ARTICLE XIV

### AMENDMENT

These Bylaws may be amended only with the assent of at least sixtyseven percent (67%) of the votes of the Unit Owners; provided, however, as long as the Declarant owns any Unit, no amendment shall be effective without the written consent of the Declarant. Any first Mortgagee or its insurer or guarantor shall, upon written request to the Association, be entitled to timely written advance notice of any proposed amendment to these Bylaws.

## **RULES AND REGULATIONS OF THE ASSOCIATION**

The following rules and regulations are adopted by BESA UNIT OWNERS ASSOCIATION, INC. (the "Association") for the purpose of assuring that the Condominium is operated in an efficient and orderly manner so as to create a pleasant living environment.

### **ARTICLE I**

#### **GENERAL**

1.01 Applicability to All Residents. All rules and regulations shall apply to and shall be complied with by all Unit Owners, residents within Units and their guests, families, invitees and tenants.

1.02 Definitions. All capitalized terms not defined herein shall have the definitions assigned to such terms by the Declaration of Condominium for Barracuda Condominium (the "Declaration").

1.03 Keys and Locks. The Association shall have the right to retain a passkey to each Unit at all times for the event of emergencies. No Unit Owner shall alter any lock, or install a new lock on any door of the Condominium without the prior written consent of the Association. If such consent is given, the Unit Owner shall provide the Association with an additional key for use by the Association pursuant to its rights to access the Units.

1.04 Winter Heating. Whether occupied or vacant, all Units shall be heated to at least 60° Fahrenheit during the winter months.

### **ARTICLE II**

#### **APPEARANCE**

2.01 Signs. Commercial and Live/Work Unit Owners are allowed One (1) exterior sign complying with and approved by, the local Authority having jurisdiction for size, illumination, location, and permitting. Other signs of any kind shall not be displayed to the public view on any Unit without the written consent of the Association except for political signs and, if Declarant owns at least one Unit, the Declarant. The Declarant reserves the right to erect signs, gates or other entryway features at all entrances to the Condominium and to erect appropriate signs for the sale of Units.

2.02 Protrusions. No awning, machines, air conditioning units, wiring for electrical or telephone installation or other similar protrusions shall be allowed on the exterior of the Condominium without the prior written consent of the Association.

2.03 Antennae. To the extent this restriction is permitted by applicable law, no exterior antennas, windmills or satellite dishes shall be erected on any Unit or on any Common Elements without the prior written approval of the Association.

2.04 Laundry. No laundry is to be hung on the decks, patios or in windows for any reason.

2.05 Limited Common Elements. All decks and patios which are open to public view shall be kept in a neat and orderly condition. No personal property shall be stored thereon except for hard piped natural gas grills and for patio and deck furniture. Unit Owners may display holiday decorations and political signs.

### ARTICLE III

#### USE RESTRICTIONS

3.01 Animals. Unit Owners shall be allowed to keep up to: (i) two (2) cats or one (1) dog per Unit; or (ii) one (1) dog and one (1) cat per Unit; or (iii) subject to a combined weight limit of one hundred (100) pounds, two (2) dogs per unit. Animals shall be carried or kept on a leash at all times when not in the Units. In addition to cats and dogs, small animals that are kept in a cage or tank may also be permitted with Association approval. All animals shall not unreasonably disturb other Condominium residents and shall not be left unattended in any portion of the Common Elements. All animals must be registered with the Association and owners of animals shall be pecuniarily liable for damage caused by their animals. Kennels shall be kept inside their respective owner's Unit. Unit Owners are responsible for the immediate clean-up of their animals regardless of the circumstances.

3.02 Damage to Common Elements. Damages to the Common Elements caused by a resident or visitors of a resident or an agent of a resident shall be the responsibility of the Unit Owner or the person causing such damage.

3.03 Maintenance of Unit. All Unit Owners shall promptly perform or shall have promptly performed all maintenance and repair work within their own Unit which would adversely affect any portion of the Condominium. Each Unit Owner shall be responsible for all damages and liabilities that any failure to maintain or repair may engender.

3.04 Maintenance of Common Elements. Unit Owners shall be prohibited from discarding any materials from the windows, balconies or doors of the Units and shall be prohibited from discarding any materials into the Common Elements.

3.05 Nuisances. No offensive or unlawful activity shall occur in the Condominium. No offensive or unlawful use shall be made of the Condominium. All Unit Owners at their own expense shall comply with all city, state and federal laws applicable to their Unit. No Unit shall be used or maintained as a dumping ground for garbage.

3.06 Storage. The Association shall not be liable for any loss or damage to property placed in any Unit or Common Elements. No materials, prohibited by law or local ordinance may be stored in any of these areas.

3.07 Salting. Unit Owners are hereby prohibited from using salt on the access walks or driveways of the Condominium and shall be liable for the costs of repairing all damage caused by the use of salt.

3.08 Commercial Units. Commercial and Live/Work Unit Owners shall not use or permit the use of their Units in violation of any local ordinances or zoning restrictions.

## ARTICLE IV

### VEHICLE RESTRICTIONS

4.01 Obstructions. Driveways shall not be used for any purpose other than the ingress and egress to and from Units.

4.02 Parking. Unit Owners shall not park, nor shall they permit their families, guests, invitees or tenants to park upon or to block access to, the parking areas of other Unit Owners. Improperly parked vehicles shall be subject to removal at vehicle owner's expense. Unit Owners shall not leave their vehicles idling in any garages.

4.03 Service and Recreational Vehicles. Parking of service and recreational vehicles, including but not limited to trailers, boats, campers, vans or other vehicles shall be prohibited unless such vehicles are kept in the Unit Owner's parking area. These provisions shall not prohibit temporary parking of such vehicles for the purpose of loading and unloading. A temporary waiver of these prohibitions may be obtained at the discretion of the Association.

4.04 Vehicle Repairs. No vehicle maintenance or repairs shall be allowed anywhere outside of the Unit.

4.05 Bikes/Recreational Equipment. Unit Owners shall keep bikes and other recreational equipment in their Unit and not stored in the Common Elements except bikes may be stored in those areas designated as bike storage areas on the floorplans.

4.06 Garage Door. The garage door to the underground parking area shall remain closed at all times except when in use for ingress or egress purposes.

## ARTICLE V

### AMENDMENTS

This document may be amended as provided in Section 6.01(k) of the Bylaws.

## ARTICLE VI

### FINES

In addition to all other remedies available to the Association or to other Unit Owners under the Declaration, the Bylaws or applicable law, the Association shall have the right, following delivery of notice of violation and expiration of any cure period required under the Declaration, to impose against any Unit Owner in violation of the Declaration, the Bylaws or these Rules and Regulations, to impose a fine against such Unit Owner according to the following schedule:

- (a) For the first offense in a given calendar year: **\$100.00**
- (b) For the second offense in any given calendar year: **\$200.00**
- (c) For the third offense in any given calendar year: **\$500.00**

Fines are to be paid immediately to the Association. Any fine not paid within ten (10) days after billing therefor by the Association shall accrue a late charge in the amount of \$25.00 for every month the fine is not paid. The Association shall have the right, following imposition of any fine, to collect the same as a Special Assessment against the Unit Owner's Unit.