

OFF. REC. 946 PG 676

This instrument was prepared by:
J. LAMAR HAZEN, JR.
241 Nokomis Avenue
Venice, Florida 33595

HAMILTON BUILDERS, INC.

AND

BELLA COSTA, INC.

NINETY-NINE YEAR LEASE

THIS LEASE AGREEMENT, entered into by and between HAMILTON BUILDERS, INC., a Florida corporation of Venice, Florida, hereinafter called the "Lessor," and BELLA COSTA, INC., a non-profit condominium corporation, organized under the laws of the State of Florida, Venice, Florida, hereinafter called the "Lessee,"

WITNESSETH:

Lessor contemplates the construction of three (3) condominiums. The condominiums are to be known as: BELLA COSTA #1, a Condominium; BELLA COSTA #2, a Condominium; and BELLA COSTA #3, a Condominium.

It is contemplated that the Lessee will be the managing corporation for the three condominiums.

Therefore, the Lessor does lease, let, rent and demise and by these presents does lease, let, rent and demise unto said Lessee the following described property:

1. DESCRIPTION. See attached description.
2. TERM. To have and to hold together with the appurtenances for a term of years commencing on the 1st day of October, 1971, and ending on the 30th day of September, 2070.
3. LEASE CONSIDERATION. Lessee shall pay and does hereby agree to pay Lessor at such place or places as Lessor may designate from time to time in writing, a lease payment for the use of the described premises as follows: An annual rental of Twenty Eight Thousand Eight Hundred and 00/100 Dollars (\$28,800).
 - 3.1 The first payment to become due at the time of the delivery of the first warranty deed from Lessor, as Grantor, to a third party on one of the condominium units in BELLA COSTA #1.
 - 3.2 The first payment to be prorated to the first day of the following quarter and thereafter payments to be due on or before the 1st day of the next quarter for the balance of the term of the lease.
 - 3.3 The Lessee will pay rental based on those condominium units in BELLA COSTA #1 actually sold on the basis of \$480 per annum for each of the condominium units; payments to commence upon delivery of the warranty deed. (For example: when a warranty deed is delivered on the first unit, a quarterly payment will be prorated to the first day of the following quarter when a full quarterly payment will be due). As more deeds are delivered for units, the annual rental will go up \$480 per annum for each deed delivered. Where a deed is delivered prior to the 1st day of a quarter, the rent commencing as a result of said delivery shall be prorated to the 1st day of the next quarter.

3.4 Rental is subject to increase in accordance with the provisions of Paragraph 23 below.

4. USE OF THE PREMISES. It is understood and agreed between the parties hereto that said premises during the continuance of this lease may be used and occupied only for the benefit of the members of BELLA COSTA, INC., their families and guests, pursuant to rules and regulations to be promulgated by the Lessee or its successors in interest and authority.

5. CARE OF THE PREMISES. Lessee shall not allow to be performed any acts or allow to be carried on any practices which may injure the improvements on the above described premises.

6. UTILITY SERVICES. Lessee agrees that Lessor has no obligation to provide any utilities to the leased premises, but rather Lessee agrees that the Lessee or its successors or assigns will pay for and provide the necessary and desired utilities.

7. MAINTENANCE OF PREMISES. Lessee agrees that Lessee has the obligation to maintain the leased premises in good order, condition and repair and that Lessor has no obligation whatsoever to maintain the leased premises or any of the improvements thereon. Lessee agrees to permit no waste, damage or injury to said premises. At the expiration of the Lease created hereunder, Lessee shall surrender the premises in good condition, reasonable wear and tear excepted. Lessee agrees that the electrical systems, water systems, fixtures and equipment within and upon the leased premises shall be under full control of the Lessee, or its successors and assigns, and that all operation, upkeep, repairs and replacements of such items shall be done by and at Lessee's expense.

8. COVENANTS TO HOLD HARMLESS AND INDEMNIFY. Lessor shall be and is hereby held harmless by Lessee from any liability for damages to any person or any property in or upon the lease premises and the sidewalks adjoining same, including the person and property of the Lessee, Lessee's members and Lessee's employees and all persons upon the leased premises at Lessee's invitation, expressed or implied.

8.1 It is understood and agreed that all property kept, stored or maintained in or upon the leased premises shall be so kept, stored or maintained at the risk of Lessee only.

8.2 Lessee shall not suffer or give cause for the filing of any lien against the leased premises; and the existence of such lien of any nature against the leased premises for thirty (30) days shall be a material breach of this lease.

8.3 Lessee agrees to indemnify the Lessor for any liability which the Lessor may incur under the provisions of this Section 8.

9. INSURANCE. Lessee shall, during the entire term hereof, cause to be kept in full force and effect a policy of public liability insurance covering the leased premises and the recreational activities of the Lessee in which both Lessor and Lessee shall be named as parties covered thereby, and in which the limits of liability shall be not less than \$500,000 for any single accident.

9.1 Lessee shall cause to be furnished to Lessor a certificate of insurance, or other acceptable evidence that such insurance is in force, and evidence that the premiums have been paid by Lessee within ten (10) days prior to the due date of same.

10. ASSIGNMENT. Lessee shall not assign its interest herein without the written consent of the Lessor.

10.1 In the event BELLA COSTA #1 is terminated prior to the expiration of the lease, the individual unit owners in BELLA COSTA #1 at the time of the termination shall each be responsible for an equal share of the payments to be made under the terms of this lease to the Lessor; and the Lessor shall acquire the right to proceed individually against such individuals in the event they have defaulted under the terms of the lease, including the right to file a lien in the Public Records of Sarasota County, Florida, against the defaulting individuals' undivided interest in the property and the right to foreclose the lien in the same manner as provided by the Florida Statutes for the foreclosure of a mortgage.

10.2 The Lessor shall be entitled to recover from a defaulting individual a portion of the payments due under the terms of the lease from the individual, together with interest from the date of default at the highest rate allowed by law at the time the payment was due, together with any cost and attorney fees incurred by the Lessor as a result of such default.

11. NON-PAYMENT OF RENT. If any rent by Lessee to Lessor shall be and remain unpaid for more than fifteen (15) days after same is due and payable, or if Lessee shall violate or default any of the covenants, agreements, stipulations or conditions herein and such violating or default shall continue for a period of thirty (30) days after written notice of such violation or default, then it shall be optional for Lessor to declare this lease forfeited and the said term ended, and to re-enter said premises, with or without process of law, using such force as may be necessary to remove Lessee and its chattels therefrom, and Lessor shall not be liable for damages by reason of such re-entry or forfeiture; but notwithstanding such re-entry by Lessor, the liability of the Lessee for the payments due under the terms of the lease shall not be relinquished or extinguished for the balance of the term of this lease. It is further understood that Lessee will pay in addition to the fees and other sums agreed to be paid hereunder, such additional sums as the Court may adjudge reasonable as attorneys' fee in any suit or action instituted by Lessor to enforce the provisions of this lease or the collection of the rent due Lessor hereunder.

11.1 If the Lessee pays part but not all of the payments due under the terms of the lease and said failure to pay all of the payment is due entirely to the failure of one or more of the unit owners in BELLA COSTA, INC. to pay his or their proportionate share of the payments due under the terms of the lease, the Lessee shall have 30 days from the time the payment was due in which to file a lien in the Public Records of Sarasota County, Florida, pursuant to the provisions of the Declaration of Condominium and the Florida Condominium Statutes against the delinquent owners' condominium unit, and shall have an additional 30 days in which to collect the lien or to proceed to foreclose the lien in accordance with the provisions of the Declaration of Condominium; and the Lessor shall be entitled to receive from such collection or foreclosure all of the sums due to the Lessor, together with interest at the highest rate allowed by law from the time of the default.

11.2 The Lessor, at its option, upon ten days written notice to the Lessee, may elect to file a lien against the delinquent owner in the name of the Lessee and to proceed to foreclose the lien in the name of the Lessee, in which event the Lessor shall not only be entitled to interest but attorneys' fees and court costs.

11.3 In the event the Lessee receives assessments for the payment of the rent from the individual unit owners and fails to make such lease payments to the Lessor, the Lessee shall be deemed a trustee holding such sums in trust for the Lessor; and the Lessor shall have the right to bring an action against the Lessee, as trustee, for the sums of money so held and to recover from the Lessee interest from the date of default at the highest rate allowed by the laws of

the State of Florida, along with attorney fees and all court costs and expenses incurred by the Lessor's results at the default.

12. EMINENT DOMAIN. If the whole or any part of the leased premises shall be taken by any public authority under the power of eminent domain, then this lease shall cease on the part so taken from the day possession of that part shall be taken for any public purpose, and the rent shall be paid up to that day.

12.1 The rent thereafter shall be reduced in an amount in proportion to the value that the condemned portion bears to the total value of the land as determined by the Lessor's appraiser at the time of the taking.

12.2 If such portion of the leased premises is so taken as to completely destroy the usefulness of the premises for the purposes for which the premises are here leased, then from that day the Lessee shall have the right either to terminate this lease by written notice given by the Lessee to Lessor within 30 days after such day, or to continue the possession of the remainder of the leased premises under all of the terms herein provided.

12.3 All damages awarded for such taking shall belong to and be the property of Lessor, whether such damages shall be awarded as compensation for diminution in the value to the lease or to the fee of the leased premises.

13. HOLDING OVER. In the event Lessee remains in possession of the leased premises after expiration of this lease without the execution of a new lease, it shall be deemed to be occupying said premises as a Lessee from month to month, subject to all the conditions, provisions and obligations of this lease.

14. WAIVER. One or more waivers of any covenant or condition by Lessor shall not be construed as a waiver of subsequent breach of the same covenant or condition, and the consent or approval by Lessor to or of any act by Lessee requiring Lessor's consent or approval shall not deem to waive or render unnecessary Lessor's consent or approval to or of any subsequent similar act by Lessee.

15. TEMPORARY REDUCTION IN RENTAL. If any lending institution acquires a condominium unit in BELLA COSTA #1 as a result of having had a first mortgage on same, whether it be by mortgage foreclosure or acceptance of a deed in satisfaction of the mortgage, the rental due from the Lessee shall be reduced in an amount equivalent to the pro rata share of the rent due from the lending institution by virtue of their ownership of the condominium unit, provided that the lending institution's assessment is reduced by their pro rata share of the rental, and further provided that said condominium unit is not occupied or leased. Upon occupancy, sale or lease of said condominium unit, the rental payment shall be immediately restored to the former amount.

16. NOTICES. Whenever under this lease a provision is made for notice of any kind, such notice shall be in writing.

16.1 It shall be deemed sufficient notice and service thereof if such notice to Lessee is addressed to Lessee at the last known post office address of Lessee, its successors or assigns, and sent by registered mail with postage prepaid, and such notice to Lessor shall be in writing, addressed to the last known post office address of Lessor and sent by registered mail with postage prepaid.

17. CONSTRUCTION. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rent,

nor any other provision contained herein, nor any acts of the parties hereto other than the relationship of Lessor and Lessee. Whenever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and the neuter genders, if such be appropriate.

18. NON-LIABILITY. Lessor shall not be responsible or liable to Lessee for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining premises or any part of the premises adjacent to or connect with the premises hereby leased, or of the acts or omissions of any of the other lessees of undivided interest in the above described premises.

19. CONSENT NOT UNREASONABLY WITHHELD. Lessor agrees that whenever under the terms of this lease the Lessee is required to secure the written consent of Lessor, such written consent shall not be unreasonably withheld.

20. ACCEPTANCE OF PREMISES. It is agreed that by use of the subject premises as Lessee, the Lessee formally accepts the same and acknowledges that the Lessor has complied with all requirements imposed upon it under the terms of this lease with respect to the condition of the subject premises at the time the Lessee commences occupancy of the same.

21. TAXES. Lessee agrees that as part of the consideration for this lease, it will pay any and all real estate taxes and assessments levied upon the land and improvements of the above described premises during the term of this lease, and in the event Lessee shall fail to pay and cause discharge of the same when due, the Lessor must pay the same and such amount paid, including any penalties or interest, shall be added to the rental due hereunder and payable by Lessee upon the next rental payment due.

22. IMPROVEMENTS AND ALTERATIONS. Lessee further covenants that it is leasing hereunder an interest in premises already, or in the process of being improved and, therefore, Lessor does not contemplate the placing of improvements on or making of alterations to the demised premises during the term of this lease other than those which it is presently constructing. However, should the Lessee participate in the placing of any improvements or alterations on the above described premises, then it agrees that such additions to said premises shall be made in accordance with all applicable laws and shall remain for the benefit of the Lessor. And the Lessee further agrees, in the event of the making of such improvements or alterations, to indemnify and save harmless the Lessor from all expense, liens, claims or damages to either persons or property on the above described premises arising out of or resulting from the undertaking or making of said alteration or additions.

23. DETERMINATION AND ADJUSTMENT OF RENTAL PAYMENTS. The parties hereby covenant and agree that rental payments provided in this lease shall be adjusted on October 1, 1976, and on the first day of October every fifth year thereafter throughout the term of the lease. The adjustment to the rent to be made, therefore, shall be determined by multiplying the annual rental provided for in the lease by a fraction, the numerator of which shall be the index figure indicated for the month of September, 1976, as shall be shown by the Consumer's Price Index - The United States City Average All Items and Commodity Groups, issued by the Bureau of Labor Statistics of the United States Department of Labor, and the denominator of which shall be the Basic Standard Index Figure of such Price Index for the month of September, 1971. The product of such multiplication shall be the amount of the monthly rental payments to be made thereunder for the succeeding five year period until the next computation provided for thereunder shall be made.

It is understood that the above described Index is now being published monthly by the Bureau of Labor Statistics of the United States Department of Labor. Should it be published at other intervals, the new Index, hereinabove provided for, shall be arrived at from the Index or Indexes published by said Bureau most closely approximating the month of the year immediately preceding the adjustment date. Should said Bureau of Labor Statistics change the manner of computing such Index, the Bureau shall be requested to furnish a conversion factor designed to adjust the new Index to the one previously in use, and adjustment to the new Index shall be made on the basis of such conversion factor. Should the publication of such Index be discontinued by said Bureau of Labor Statistics, then such other Index as may be published by such Bureau most nearly approaching said discontinued Index shall be used in making the adjustment herein provided for. Should said Bureau discontinue the publication of an Index approximating the Index herein contemplated, then such Index as may be published by another United States Government Agency as most nearly approximating the Index herein first above referred to shall govern and be substituted as the Index to be used, subject to the application of an appropriate conversion factor to be furnished by the Governmental Agency publishing the adopted Index. If such Governmental Agency will not furnish such conversion factor, then the parties shall agree upon a conversion factor or a new Index, and in the event agreement cannot be reached as to such conversion factor, or such new Index, then the parties hereto agree to submit to arbitrators chosen in the usual manner, the selection of a new Index approximating as nearly as can be the Index hereinabove first contemplated, which new Index may be one published by a Governmental Agency or one published by a private agency and generally accepted and approved as an Index reflecting the contemplated fluctuation in the purchasing power of the United States dollar. The Index selected by such arbitrators in either of the above events shall be binding upon the parties hereto. In the event of any controversy arising as to the proper adjustment for the rental payments as herein provided, the Lessee shall continue paying the rental to the Lessor under the last preceding rental adjustment, as herein provided, until such time as said controversy has been settled, at which time an adjustment will be made retroactive to the beginning of the adjustment period in which the controversy arose. This paragraph shall be expanded to include the contingency of discontinuation of such Index by the Bureau of Labor Statistics. In no event and under no computation or in anywise shall the monthly rental to be paid by the Lessee to the Lessor under the provisions of this lease or any sublease be less than the amount provided for as the actual annual rent in the initial lease or sublease.

24. **LIEN.** In the event that the condominium is terminated under the provisions of Florida Statutes or under the provisions of Section 29 of the Declaration of Condominium, the Lessors shall acquire a lien on the undivided interest of each owner in the property described in Exhibit "A" attached to the Declaration of Condominium or any amendments thereof for any sum due to the Lessor under the terms of this lease. Such liens shall also include reasonable attorney fees incurred by the Lessor incident to the collection of such sums or the enforcement of such lien and the lien shall continue until paid. Such lien may be foreclosed by suit brought in the name of the Lessor in a like manner as a foreclosure of mortgage on real property. It is the intention of the Lessor that such liens shall apply only to the undivided interest of the owner who is in default under the terms of this lease.

25. It is not intended that this lease shall be incorporated as part of any Declaration of Condominium. When attached to a Declaration of Condominium, regardless of what the wording of the Declaration of Condominium may indicate, this lease is merely being attached as an exhibit, and it is not necessary to comply with

the provisions of the Declaration of Condominium in regard to Amendments in order for this lease to be amended.

26. CONDITIONS. This agreement shall be binding upon and enure to the benefit of the heirs, successors, assigns and personal representatives of the parties.

27. EASEMENTS TO THE CITY OF VENICE. The use of the property is subject to the rights of the City of Venice pursuant to easements and agreements recorded in the Public Records of Sarasota County, Florida.

28. EASEMENT FOR FUTURE DEVELOPMENT. The Lessor reserves an easement on, above, and below the property described in this lease for his use in connection with the development of the property to the east of the property described in this lease; such easement shall give him the right to temporarily deny the use of certain portions of the property to the Lessee and its members, and the right to temporarily remove portions of the improvements on the leased property, provided that as soon as the Lessor's need for the easement is completed any improvements removed or disturbed shall be restored, at the Lessor's expense, in their original condition.

Executed this 1st day of September, 19 71.

WITNESSES:

HAMILTON BUILDERS, INC.

T. Thomas Hays
Virginia C. Conder

By Robert J. Hamilton
Robert J. Hamilton
As President

BELLA COSTA, INC.

T. Thomas Hays
Virginia C. Conder

By Sarah M. Wilcox
Sarah M. Wilcox
As Vice President

STATE OF FLORIDA
COUNTY OF SARASOTA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared ROBERT J. HAMILTON, as President of HAMILTON BUILDERS, INC., a corporation organized under the laws of the State of Florida, to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same as such corporate officer and affixed thereto the seal of said corporation and that said instrument is the act and deed of said corporation.

WITNESS my hand and official seal in the County and State aforesaid this 1st day of September, 19 71.

Virginia C. Conder
Notary Public

My Commission Expires:

Notary Public, State of Florida at Large
My Commission Expires Sept. 24, 1973

STATE OF FLORIDA
COUNTY OF SARASOTA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared SARAH M. WILCOX, as Vice President of BELLA COSTA, INC., a corporation organized under the laws of the State of Florida, to me known to be the person described in and who executed the foregoing instrument and she acknowledged before me that she executed the same as such corporate officer and affixed thereto the seal of said corporation and that said instrument is the act and deed of said corporation.

WITNESS my hand and official seal in the County and State aforesaid this 14 day of September, 1991.

Virginia R. Combs
Notary Public

My Commission Expires:

Notary Public, State of Florida at Large
My Commission Expires Sept. 24, 1973

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LEGAL DESCRIPTION
FROM
HAMILTON BUILDERS, INC.
TO
BELLA COSTA, INC.

Dated: September 1, 1971

From the Southwest corner of Lot 5, BAY SHORE SECTION OF VENICE, as recorded in Plat Book 4, Page 82, Public Records of Sarasota County, Florida; thence S 51°17'00" E, along the Southwesterly boundary of said Lot 5, 91.92 feet for a Point of Beginning; thence N 01°12'00" W, 37.62 feet; thence N 88°48'00" E, 20.00 feet; thence N 01°12'00" W, 22.33 feet; thence N 88°48'00" E, 20.00 feet; thence N 01°12'00" W, 70.00 feet; thence S 88°48'00" W, 20.00 feet; thence N 01°12'00" W, 81.00 feet; thence N 88°48'00" E, 20.00 feet; thence N 01°12'00" W, 14.31 feet; thence N 88°48'00" E, 15.80 feet; thence N 32°51'17" E, 20.00 feet; thence S 57°08'43" E, 171.00 feet; thence S 32°51'17" W, 79.03 feet; thence S 01°12'00" E, 73.56 feet; thence S 88°48'00" W, 99.00 feet; thence S 01°12'00" E, 45.00 feet; thence S 88°48'00" W, 20.00 feet to the Northeasterly R/W line of Santa Maria Street; thence N 51°17'00" W, along said R/W line, 59.33 feet to the Point of Beginning.