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**FIRST AMENDMENT OF SECOND RESTATEMENT OF ARTICLES OF INCORPORATION FOR South Beach Marina, Inc. (a Florida Corporation)**

This First Amendment of Second Restatement of Articles of Incorporation for South Beach Marina, Inc. ("Amendment"), is effective as of June 14, 2011, which is the date of closing of that certain loan from Principal Life Insurance Company (together with its successors and assigns, the "Lender") to the corporation (the "Effective Date") and amends the Second Restatement of Articles of Incorporation for South Beach Marina, Inc. (a Florida Corporation) filed August 4, 1999 as document number P98000027985 with the Department of State of the State of Florida ("Existing Articles").

This Amendment is provided pursuant to and in accordance with Section 607.1006, Florida Statutes.

- 1. The name of the corporation is "South Beach Marina, Inc."
- 2. This Amendment is adopted as of the Effective Date.
- 3. The Amendment was adopted by the sole shareholder of the corporation.
- 4. The Existing Articles are amended as follows:
  - a. Article IV is amended and restated as follows:

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**IV.**

**A. Purposes:** The corporation is organized for the exclusive purposes of:

(1) Acquiring title to, owning, holding, selling, assigning, operating, leasing, mortgaging, pledging and otherwise dealing with that certain parcel of real property, together with the improvements thereon, located at 2 Townsend Street, San Francisco, California 94107 and commonly known as South Beach Marina Apartments (the "Property"), including, but not limited to, obtaining a loan (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time), from Lender, to be evidenced by a secured promissory note, whereby

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the corporation promises to repay the amount of such loan to Lender together with all accrued and unpaid interest thereon and all other obligations and liabilities due or to become due to Lender pursuant to the documents, instruments and agreements executed and delivered in connection with such loan (collectively, the "Loan Documents") and all other amounts, sums and expenses paid by or payable to Lender pursuant to the Loan Documents (collectively, the "Indebtedness").

(2) To exercise all corporate powers enumerated in the general corporation law of the state of Florida necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

(3) Notwithstanding anything to the contrary set forth in subparagraphs (1) and (2) above, until the indebtedness is paid in full, the corporation will continue to (a) be organized solely for the purpose of owning the Property, (b) not engage in any business unrelated to the ownership of the Property, (c) not have any assets other than the Property and those related to the Property.

(4) Remitting the entire amount of income from the Property (less expenses) to one or more organizations described in section 501(c) (25) (C) of the Internal Revenue Code of 1986, as amended, (the "Code"), which are shareholders of the corporation. It is intended that the corporation will qualify at all times as an organization exempt from federal income taxation under sections 501(a) and 501(c) (25) of the Code; therefore, notwithstanding any other provision in these Articles, the corporation shall never be authorized to engage in any activity except in furtherance of the purposes for which the corporation is organized.

B. Certain Prohibited Activities. Notwithstanding anything contained herein to the contrary, until the indebtedness is paid in full, the corporation: (a) will not amend this certificate of incorporation or the corporation's bylaws without first obtaining approval of the Lender; (ii) will not engage in, seek or consent to any dissolution, winding up, liquidation, consolidation or merger, and,

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except as otherwise expressly permitted by the Loan Documents, will not engage in, seek or consent to any asset sale or transfer of shareholder interests; (iii) without the unanimous consent of all of the directors, will not with respect to itself or, if applicable, to any other corporation, limited partnership, general partnership, limited liability company, or trust (each, an "Entity") in which it has a direct or indirect legal or beneficial ownership interest (a) file a bankruptcy, insolvency or reorganization petition or otherwise institute insolvency proceedings or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally; (b) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for such Entity or all or any portion of such Entity's properties; (c) make any assignment for the benefit of such Entity's creditors; or (d) take any action that might cause such Entity to become insolvent, (iv) will have no indebtedness other than the indebtedness and commercially reasonable unsecured trade payables in the ordinary course of business relating to the ownership and operation of the Property which are paid within sixty (60) days of the date incurred, (v) will not assume or guarantee or become obligated for the debts of any other person or Entity or hold out its credit as being available to satisfy the obligations of any other person or Entity, except for the indebtedness, (vi) will not pledge its assets for the benefit of any other person or Entity, and (vii) will not make loans to any person or Entity.

b. The following Article XIII is added to the Existing Articles as follows:

**XIII.**

Notwithstanding anything contained herein to the contrary, any indemnification of the corporation's directors and officers shall be fully subordinated to any obligations respecting the Property (including, without limitation, the mortgage [it being agreed that the term "mortgage" shall be construed to mean "mortgage" or "deed of trust" or "deed to secure debt" or "trust deed" as the context so requires] securing the indebtedness) and such indemnification shall not constitute a claim against the corporation in the event that cash flow in excess of amounts necessary to pay

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holders of such obligations is insufficient to pay such obligations.

c. The following Article XIV is added to the Existing Articles as follows:

XIV.

Notwithstanding anything contained herein to the contrary, in order to preserve and ensure its separate and distinct corporate identity, the corporation, until the indebtedness is paid in full (i) will not fail to correct any known misunderstanding regarding the separate identity of the corporation, (ii) will maintain its accounts, books and records separate from any other person or entity, (iii) will maintain its books, records, resolutions and agreements as official records, (iv) will not commingle its funds or assets with those of any other person or entity, (v) will hold its assets in its own name, (vi) will conduct its business in its name, (vii) will maintain its financial statements, accounting records and other Entity documents separate from any other person or entity, (viii) will pay its own liabilities out of its own funds and assets, (ix) will observe all corporate formalities, (x) will maintain an arms-length relationship with any person or entity directly or indirectly controlling, controlled by, or under common control with the corporation or any person or entity owning a material interest in the corporation, either directly or indirectly (collectively, the "Affiliates"), (xi) will not acquire obligations or securities of its beneficial owners or shareholders, (xii) will allocate fairly and reasonably shared expenses, including, without limitation, shared office space and uses separate stationery, invoices and checks, (xiii) will hold itself out and identify itself as a separate and distinct entity under its own name and not as a division or part of any other person or entity, (xiv) will not identify its shareholders or any Affiliates as a division or part of it, (xv) will not enter into or be a party to, any transaction with its shareholders or its Affiliates except in the ordinary course of its business and on terms which are intrinsically fair and are no less favorable to it than would be obtained in a comparable arms-length transaction with an unrelated third party, (xvi) will pay the salaries of any employees from its own funds, and (xvii) will maintain adequate capital in

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light of its contemplated business operations.

5. Except as expressly modified by this Amendment, the Existing Articles shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Chairman of the Board of Directors has executed this First Amendment of the Second Restatement of Articles of Incorporation on this 14<sup>th</sup> day of June, 2011.

  
Douglas W. Bennett,  
Chairman of the Board of Directors  
of South Beach Marina, Inc.

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