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SECRETARY OF STATE
STATE OF IDAHO

ARTICLES OF INCORPORATION OF THE WILLOW BAY YACHT CLUB, INC.

The undersigned, in order to form a nonprofit corporation under the provisions of Idaho Nonprofit Corporation Act, Title 30, Chapter 3, Idaho Code, submits the following articles of incorporation to the Idaho Secretary of State.

ARTICLE I.

NAME OF CORPORATION, OFFICE, REGISTERED AGENT

- 1.1 **Corporate Name.** The name of the corporation shall be The Willow Bay Yacht Club, Inc. (hereinafter "Club").
- 1.2 **Corporate Office.** The Club shall maintain a Club office in Bonner County, Idaho. The initial office of the Club shall be located at 212 N. First Ave., Sandpoint ID 83864.
- 1.3 **Registered Agent.** The Club, acting through its Board of Directors (hereinafter "Board"), shall designate a registered agent. The initial registered agent shall be WILLIAM M. BERG, whose address (registered office) is 708 Superior Street, Sandpoint ID 83864.

ARTICLE II.

PURPOSE AND POWERS OF CLUB, TAX STATUS

- 2.1 **Purpose.** The Club is organized for the purposes of pleasure and recreation to wit: (a) yachting, boating and related water activities; (b) providing safe and convenient moorage for its members; (c) sponsoring sporting and social activities; (d) maintaining a clubhouse facility and swimming beach area; (e) educating its members on boating safety; (f) protecting and advancing the environmental quality of Pend Oreille Lake and its tributaries; and (g) engaging in any other lawful activity permitted by a nonprofit corporation.
- 2.2 **Tax Status.** The Club shall operate as nonprofit organization pursuant to §501(c)(7) of the Internal Revenue Code. No part of the organization's net earnings shall inure to the benefit of any private shareholder.
- 2.3 **General Authority.** The Club shall have and shall exercise all other rights and powers necessary and convenient to carry out its purpose including, without limitation, those general powers set forth in the Idaho Nonprofit Corporation Act.

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- 2.4 **Duties.** The Club through its Board, shall have the authority to: (a) enforce these Articles, the Bylaws and the Club Rules and Regulations; (b) make improvements to the Property; (c) levy and collect assessments from the Members; (d) enter into contracts as may be necessary or desirable to carry out the purposes of the Club; (e) establish procedures and policies necessary or deemed desirable for Club operation; and (f) establish committees to carry out Club purposes.
- 2.5 **Bylaws.** The Club shall adopt and maintain Bylaws.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

- 3.1 **Membership Association.** The Club shall be a membership organization, owned and operated by its Members.
- 3.2 **Membership Classes.** The Club shall have the following membership classes:
- 3.2.1 **Resident Membership.** A Resident Membership is a membership held by the record owner of a lot in the subdivision known as "The Crossing" and legally described in an official plat, recorded as instrument number 721139, in Book 8 of Plats, at page 124, and amendments thereto (Lot Owner). A Lot Owner is limited to one (1) Resident Membership per lot. Additional memberships held by a Lot Owner shall be classed as a Nonresident Memberships.
- 3.2.2 **Nonresident Membership.** A Nonresident Membership is a membership other than a Resident Membership. The Club shall establish, and may modify from time to time, the number of Nonresident Memberships.
- 3.2.3 **Additional Membership Classes.** The Club may establish additional membership classes pursuant to the Bylaws.
- 3.3 **Voting Rights.** Each Member shall have (1) vote. Where co-owners (spouses) hold a single membership, the co-owners shall designate in writing, with the Secretary, who among them shall cast the Member's vote. A designation shall remain of record until revoked. Fractional votes are not permitted. All co-owners may attend and otherwise participate in Club meetings. The Club may limit or define the scope of co-ownership.
- 3.4 **Actions Reserved to the Members.** The following actions are reserved to the Members, voting at a duly noticed meeting of the Club:
- 3.4.1 **Elect and Remove Directors.** The Members shall have the exclusive authority to determine the number of Directors and to elect and remove Directors. Directors shall be elected at the Annual Meeting, or as soon thereafter as practicable.
- 3.4.2 **Removing a Director.** Members may remove a Director for any reason, or no reason, by a sixty percent (60%) majority vote at a duly called meeting of the Members.

- 3.4.3 Approve Budget.** Upon presentation by the Board of a recommended budget, the Members shall adopt a final annual budget and any supplemental budgets of the Club. The Members may amend any budget presented by the Board. The Club shall not make expenditures, except emergency expenditures, absent an approved budget.
- 3.4.4 Approve Rules and Regulations.** Upon presentation by the Board at a duly called meeting of the Members, the Members shall consider and approve Club Rules and Regulations, and amendments thereof. The Members may not enact a Rule or Regulation, or amendment thereof, except upon prior consideration by the Board and upon submission or resubmission to the Members by resolution of the Board.
- 3.4.5 Capital Expenditures.** Capital expenditures in excess of twenty-five thousand dollars (\$25,000.00) shall be approved by the Members voting at a duly called membership meeting wherein the Members have had notice of the proposed capital expenditure. The Members may reduce the threshold amount requiring Member approval by amendment of the Bylaws.
- 3.4.6 Encumbrance.** The Club shall not encumber its assets in excess of twenty-five thousand dollars (\$25,000.00) without the express approval of the Members voting at a duly called membership meeting wherein the Members have had notice of the proposed encumbrance. The Members may reduce the threshold amount requiring Member approval by amendment of the Bylaws.
- 3.4.7 Conveying Property.** The Club shall not sell, exchange, convey or otherwise transfer all, or substantially all of its property without the express approval of seventy-five percent (75%) of the Members voting at a duly called membership meeting wherein the Members have had notice of the proposed transfer.
- 3.4.8 Membership Classes and Criteria.** The power to establish classes of memberships and membership criteria shall reside in the Members. However, the Members may not reduce or eliminate the rights and priority given Resident Members hereunder.
- 3.4.9 Resolve a Deadlock of the Board.** If the Board refers a matter to the Members because of a deadlock on the Board or otherwise, the Members shall have the right and duty to resolve the matter by majority vote.
- 3.4.10 Amend the Bylaws and Articles of Incorporation.** Upon resolution of the Board, the Members shall have the exclusive right to amend the Bylaws and Articles of Incorporation.
- 3.5 Majority Vote.** Except as otherwise set forth herein, a majority of votes of the Members, at a duly called meeting of the Members, shall be the action of the Club. A majority means fifty percent (50%) of the votes, plus 1 vote.

- 3.6 **Proxy Voting.** A Member may give his or her proxy to another Member. Such proxy shall entitle the holder to vote for the Member. The proxy may limit the holder's voting rights. The proxy shall be (a) in writing; (b) signed by the giver; (c) defining the particular meeting or time period in which the proxy may be exercised; (d) stating whether the proxy is limited or unlimited and, if limited, the nature of the limitations; and (e) be received by the Secretary prior to the membership meeting.
- 3.7 **Quorum.** A quorum shall consist of no less than twenty percent (20%) of the voting power of the Club in attendance at the start of a membership meeting. Once a quorum has been established it shall be deemed to continue until adjournment. The term "voting power" means the total number of votes eligible to be cast by all classes of membership combined.
- 3.9 **Limitation of Action.** Except as otherwise set forth in this Article III, the Members shall take no action except upon resolution of the Board presented to the Members at a duly called meeting of the Members.
- 3.10 **Special Rights in Crossing Development, Inc.** Notwithstanding provisions to the contrary herein, Crossing Development, Inc., an Idaho corporation (CDI), or its successor, as the founder of the Yacht Club, shall have the exclusive right to appoint and remove the Directors for five (5) years commencing upon the adoption of these Articles, and such Directors need not be Members. However, CDI shall not have the right to appoint or remove the Director appointed by Willow Bay Holdings, LLC, or its successor, pursuant to Article 6.2.3.

ARTICLE IV. TRANSFER OF MEMBERSHIP

- 4.1 **Transfer of Resident Membership.** The Club shall not restrict the transfer of a Resident Membership to a successor Lot Owner. A transfer of a Resident Membership shall transfer the membership certificate's priority number. The Club may impose a reasonable transfer fee. Transfer of Resident Membership
- 4.2 **Transfer of Nonresident Membership.** A Nonresident Membership may not be transferred by the Member. The Club may issue Nonresident Memberships subject to its rules and regulations.

ARTICLE V. MOORAGE, FACILITIES AND PRIORITY RIGHTS

- 5.1 **Allocation of Moorage.** Members shall not have an ownership right in moorage. The right to apply to the Club for moorage shall be an attribute of Club membership and moorage users shall pay a separate fee in an amount determined by the Board. Moorage shall be allocated to the Members from time to time, subject to a schedule of membership priorities.
- 5.2 **Membership Priorities.** The Secretary shall establish and the Club shall scrupulously honor a schedule of membership priorities.

- 5.2.1 **Resident Members.** Resident Members shall have priority over all other membership classes. Among Resident Members, priority shall be given to those holding the lowest membership certificate number.
- 5.2.2 **Nonresident Members.** Priority among Nonresident Members shall be given to those holding the lowest membership certificate number.
- 5.2 **Priority Rights for Moorage and Facilities.** The Club shall apply the above stated priority rights in allocating the private or exclusive use of moorage and the Clubhouse, subject to reasonable assignment and reservation requirements, and special fees and charges. The Club may apply the above stated priority rights in allocating the use of other facilities, watercraft, and equipment.
- 5.3 **Special Priority Rights in The Crossing HOA, Inc.** The Crossing HOA, Inc. shall be granted reasonable use of the Clubhouse at no cost for its meetings and activities.

ARTICLE VI. BOARD OF DIRECTORS

- 6.1 **Management Vested in the Board of Directors.** The Board, acting through its officers, employees and agents, shall (a) govern the Club; (b) manage the Club's property, equipment and facilities; (c) recommend an annual budget to the Members; (d) establish and collect assessments; (e) recommend and enforce the Rules and Regulations; and (f) take any other lawful action to advance the interests of the Club. The Board may, but is not required to seek the approval of the Members before taking an action other than those actions reserved to the Members in Article 3.4. The Board shall present an annual budget to the Members at least 14 days prior to an annual or special meeting of the Members.
- 6.2 **Number, Term and Qualification.** The Board shall consist of five (5) Directors, as set forth below:
- 6.2.1 **Resident Directors.** Three (3) Directors shall be Resident Members, who shall serve staggered three (3) year terms.
- 6.2.2 **Nonresident Director.** One (1) Director shall be a Nonresident Member, who shall serve a one (1) year term. If no Nonresident Member is willing to serve as a Director, this directorship shall be filled by a Resident Member.
- 6.2.3 **Special Director.** One (1) Director shall be appointed by Willow Bay Holdings, LLC, or its successor in interest to Willow Bay Marina. If Willow Bay Holdings, LLC fails to make an appointment, such directorship shall remain vacant.
- 6.3 **Election.** Directors shall be elected at the Annual Meeting or, if impracticable, at a time specified by the Board.

- 6.4 **Filling Vacancy.** The Board shall appoint a Member to serve for the balance of the term of a Director who resigns, is removed, or is unable to serve due to death, incapacity, or ineligibility.
- 6.5 **Initial Directors.** The initial Directors shall be:
- James W. Sullivan, 16114 E. Indiana Ave., Ste 205, Spokane Valley WA 99216
- Brett T. Sullivan, 16114 E. Indiana Ave., Ste 205, Spokane Valley WA 99216
- Todd Sullivan, 212 N. First Ave., Sandpoint ID 83864
- 6.6 **Officers.** The Board shall annually elect its officers. There shall be a President, Vice President, Secretary and Treasurer. One person may serve as both Secretary and Treasurer. Officers shall be elected by a majority of Directors voting at a duly called meeting of the Directors. An officer may be removed from office at any time, for any reason, by a majority of the elected Directors. Such removal shall be evidenced by a resolution, enacted by a majority of the remaining Directors, and delivered to the Secretary and the officer being removed. The officer's authority shall terminate upon delivery of said resolution to the Secretary.
- 6.7 **Action of the Board.** The action of the Board shall be the action of the Club.

ARTICLE VII. ASSESSMENTS

- 7.1 **Purpose of Assessments.** The Club shall levy assessments on its Members. The assessments levied by the Club shall be used exclusively for the purpose of carrying out the general duties and powers of the Club, including but not limited to operation, maintenance, repair, reconstruction, restoration, replacement, or alteration of the Club's property. The Club may establish a capital replacement reserved fund.
- 7.2 **General Assessment.** All Members shall be assessed equally for the general operation and activities of the Club.
- 7.3 **Moorage Fee.** Members who maintain seasonal moorage on the Club's docks shall pay a moorage fee. The moorage fee shall be assessed in proportion to the size of the Member's moorage. The amount of the moorage fee shall encompass moorage maintenance, operation and dock replacement costs.
- 7.4 **Service Fees.** The Club may assess its Members individually for special services, boat storage and private facility usage.
- 7.5 **Special Assessments.** The Club, acting through its Board, may levy a special assessment from time to time when the current assessment is deemed insufficient for the Club to carry out its obligations under these Articles of Incorporation.

ARTICLE VIII. AMENDMENTS

These Articles may be amended upon the consent of seventy-five percent (75%) of the Members voting at a duly called meeting of the Members. The Members shall only act upon a resolution adopted by the Board, setting out the proposed amendment, and delivered to the Members no less than fourteen (14) days in advance of the meeting. The Members shall have the right to amend the resolution from the floor. The amendment shall be effective upon filing with the Idaho Secretary of State.

ARTICLE IX. DISSOLUTION

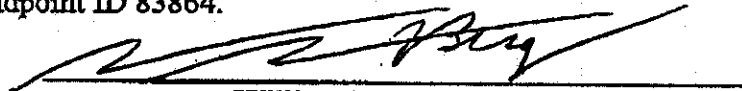
- 9.1 **Requirements for Dissolution.** The Club may be dissolved upon the consent of seventy-five percent (75%) of the Members, each member signing and acknowledging by law a resolution of dissolution.
- 9.2 **Distribution of Assets.** Upon dissolution, the assets of the Club shall be distributed to a successor nonprofit corporation engaged in the operation of the Club's facilities, or to an entity classified under §501(c) of the Internal Revenue Code, or as determined and directed by a competent court.
- 9.3 **Statutory Provisions.** Dissolution shall otherwise be accomplished in compliance with Section 30-3-110 et. seq., Idaho Code.

ARTICLE X. MISCELLANEOUS

- 10.1 **Indemnification.** The Club shall indemnify and hold harmless its directors, officers, and employees from personal liability for monetary damages for breach of fiduciary duty in accordance with the powers granted in Section 30-3-88, Idaho Code.
- 10.2 **Nondiscrimination Policy.** The Club shall not discriminate on the basis of race, color, creed, religion, national origin, sexual orientation, veteran status, disability, age or sex.
- 10.3 **Severance.** Any provision prohibited by law or unenforceable shall not affect the remaining provisions of these Articles.

ARTICLE XI. INCORPORATOR

The incorporator is WILLIAM M. BERG whose address is 708 Superior Street, Ste B, Sandpoint ID 83864.



William M. Berg
Incorporator