

Stipulation and Agreement of Settlement  
Including Approval of Revised Site Plan and Uses  
for Property Owned by 123 Sterling LLC

Dated: March 12, 2007



AGREEMENT dated this 12th day of March, 2007, between 123 Sterling, LLC, a New York State limited liability company with offices located at 219 Miro Place, Port Washington, NY 11050; Sterling Basin Neighborhood Association, a membership organization, with an office address of with an office address of c/o Susan Heaney, PO Box 874, Greenport, NY 11944; Bob Stahman, with an address of 130 Sterling Ave., Greenport, NY 11944 ; and George Limperis, with an address of 264 Liberty St., San Francisco, CA 94114; the Village of Greenport, with an address of 236 Third Street, Greenport, New York; the Zoning Board of Appeals of the Village of Greenport, with an office located at 236 Third Street; and the Village Planning Board of the Village of Greenport, 236 Third Street, Greenport, New York 11944, as follows:

WHEREAS, 123 Sterling LLC ("123 Sterling"), owns 1.72 acres of land, which is located along the south side of Sterling Avenue in the Village of Greenport, identified on the Suffolk County Tax Map as parcels numbered 1001-003-05-016.4 & 016.5 (hereinafter referred to as "the property"); and

WHEREAS, since October 28, 1971, tax lot 016.5 has been zoned Waterfront Commercial ("WC") and tax lot 016.4 has been zoned WC in part and R-2 Residential ("R-2") in part; and

WHEREAS, that section of lot 016.4 which is zoned R-2 is included within the Village of Greenport Historic District; and

WHEREAS, in 2003, 123 Sterling applied to the Village of Greenport Planning Board

to enter into this stipulation on behalf of SBNA and its members, including George Limperis and Bob Stahman, and that the members of SBNA duly authorized such action; and

WHEREAS, the parties intend that this agreement have no effect on any rights of way or easements benefiting George Limperis or his property, and;

WHEREAS the parties intend that this agreement have no effect on any easement or right of way of the Village of Greenport may have across the subject property, including but not limited to the easement or right of way for the Village sewer lift station, and that the easement or right of way for the sewer lift shall station stay in full force and effect, and ;

WHEREAS the subject property is unique among waterfront commercial sites in the Village because it is bisected by the WC Waterfront Commercial and R-2 residential district boundary line, and;

NOW, THEREFORE, after due consideration, SBNA and 123 Sterling stipulate and agree as follows, and the Planning Board, ZBA, and Village Board of Trustees stipulate and find as follows:

A. STIPULATION AND AGREEMENT:

1. Without relinquishing any rights 123 Sterling may have under the Original Plans, 123 Sterling agrees to use its best efforts to pursue the development of the property according to the Modified Plans so long as the Village's and any other governmental approvals of such plans are not challenged in any administrative or judicial proceedings and/or found invalid by any agency or court of law. Nothing herein shall be construed as requiring 123 Sterling to challenge any decisions made by such agencies, to commence litigation, or to defend any challenges to governmental approvals brought by third parties, but 123 Sterling shall be entitled, in its sole discretion, to do so. 123 Sterling agrees that the Modified Plans are to be submitted for approval

to the Village Boards in connection with the review of this agreement. If all approvals are received from the Village and not challenged or invalidated, 123 Sterling agrees to use its best efforts to obtain any remaining approvals to effectuate the Modified Plans. Provided that all approvals are received, 123 Sterling agrees to develop the property according to the Modified Plans in lieu of the Original Plans. 123 Sterling reserves the right to pursue development of the property according to the Original Plans and existing approvals in the event that any governmental agency rejects the Modified Plans, or in the event that any necessary approvals for the Modified Plans are not given, or in the event that any such approvals are challenged and/or invalidated. In the event that 123 Sterling develops the property in accordance with the Modified Plans as set forth herein, 123 Sterling reserves the right at any time to seek any modifications to said plans through the ordinary channels for obtaining such modifications at that time. In the event that 123 Sterling obtains all approvals for the Modified Plans and no such approvals are challenged or invalidated, 123 Sterling reserves the right to abandon the Modified Plans, except that, in the event 123 Sterling abandons the Modified Plans but thereafter seeks to develop the property, 123 Sterling shall apply for approvals of the new development plans *de novo*, through the ordinary channels for obtaining such approvals.

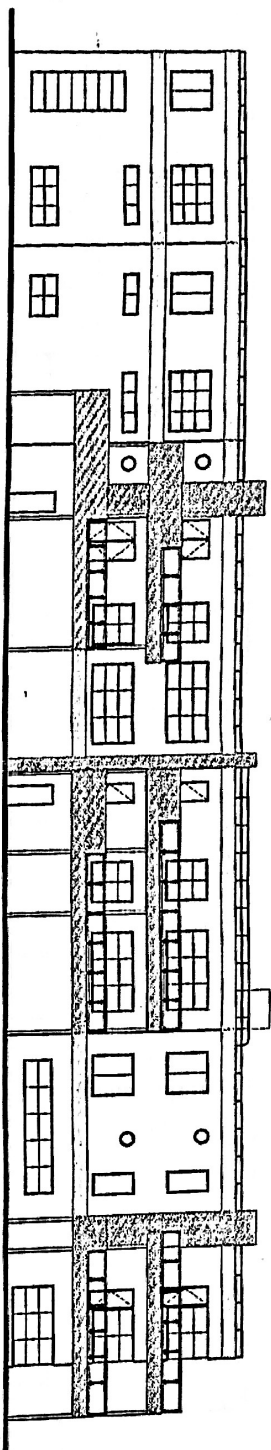
2. Without relinquishing its or its members' rights to the pending appeals challenging the Original Plans, SBNA agrees that the Modified Plans are acceptable to SBNA and its members, and that SBNA and its members support the Modified Plans. SBNA, its members, and its counsel will not challenge or assist in any challenge to the Modified Plans or any approvals given in connection with this stipulation, or any future approvals (such as a building permit or certificate of occupancy) that are consistent with the Modified Plans. SBNA reserves the right to oppose or challenge any future changes that may be made to the Modified

Plan or to changes in operations or uses at the site, including before any regulatory authorities considering such changes. SBNA further reserves the right to pursue its appeals challenging the Planning Board and ZBA decisions approving the Original Plans, except that, to the extent that 123 Sterling pursues and develops its property in accordance with the Modified Plans, SBNA agrees that any challenges to the Original Plans shall not affect the Modified Plans. SBNA reserves the right to perfect the pending appeals in the event that any approvals granted to the Modified Plans are challenged, or that 123 Sterling seeks to implement the Original Plans. SBNA further reserves such rights as may be extant to challenge or oppose the Original Plans in the event that 123 Sterling seeks to implement the Original Plans.

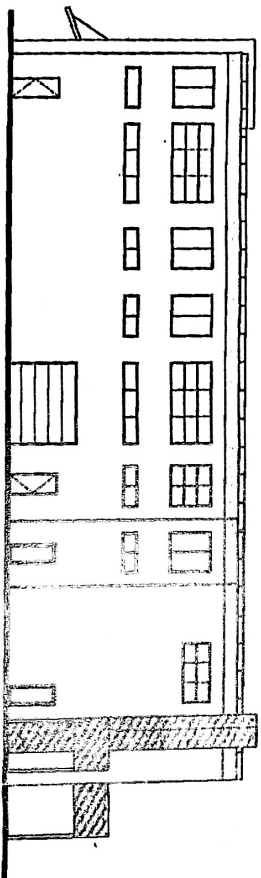
3. 123 Sterling and SBNA agree that the promises they herein make to each other shall be enforceable at law or equity, except that SBNA expressly acknowledges that it shall have no right to file a notice of pendency against 123 Sterling's property in connection with any legal action to enforce the promises herein. This agreement shall be binding upon and inure to the benefit of SBNA, its officers, and its members, and 123 Sterling, its successors and assigns, but in no event may this agreement be recorded and in no event shall this agreement be construed as conferring rights upon other parties. 123 Sterling agrees to notify SBNA's counsel within three days of receipt of notice of filing of a legal challenge to any of the approvals sought for the Modified Plans. By entering into this stipulation, 123 Sterling and both the Planning Board and Zoning Board of Appeals of the Village of Greenport herewith consent to any application(s) SBNA elects to make to enlarge the time to perfect the pending appeals in the cases under Suffolk County Index Numbers 05-10801 and 06-09063

4. Without relinquishing any rights that the Village of Greenport, the Planning Board or the Zoning Board of Appeals may have with respect to any prior actions or approvals of





SOUTH ELEVATION  
SCALE: 1" = 20'-0"



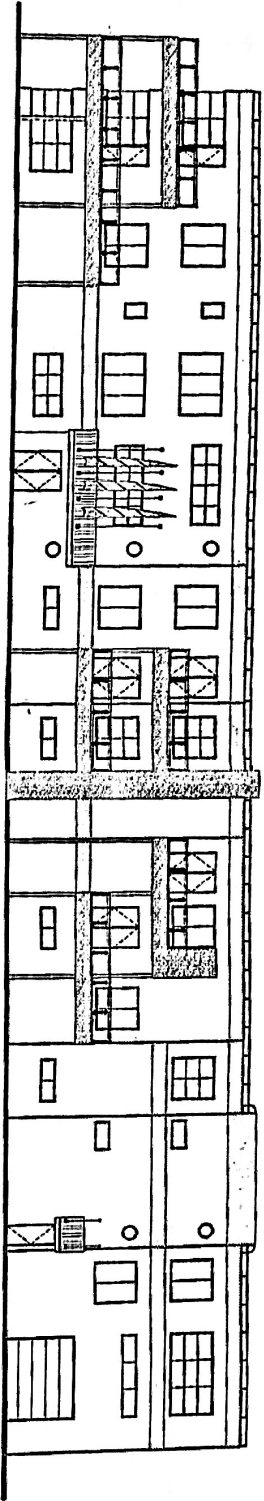
WEST ELEVATION  
SCALE: 1" = 20'-0"

ROSE / KOSMYNKA / RASKIN  
GREENPORT MARINA  
GREENPORT, N.Y.

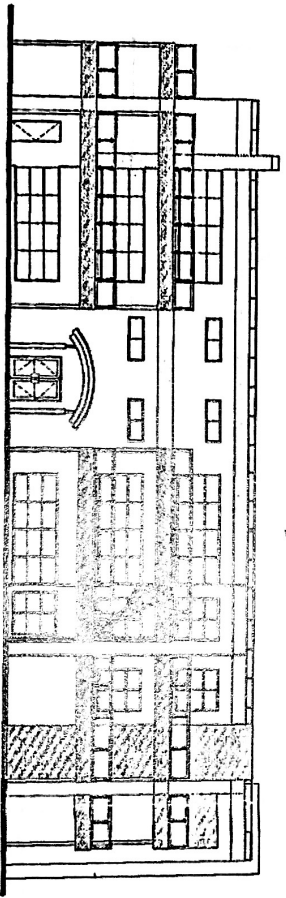
gary d. cannella  
associates  
architects - planners  
55 hudsonriver avenue bohemia, ny 11716  
phone: (631) 863-9100 fax: (631) 863-9102

03.2004 1-31-07





NORTH ELEVATION  
SCALE: 1" = 20'-0"



EAST ELEVATION  
SCALE: 1" = 20'-0"

ROSE / KOSMYNKA / RASKIN  
GREENPORT MARINA  
GREENPORT, N.Y.

**gary d. cannella**  
associates  
architects - planners  
55 Middlebocker Avenue Bohemia, N.Y. 11716  
Phone: (516) 563-4310 Fax: (516) 593-8102

03.204 1-31-07

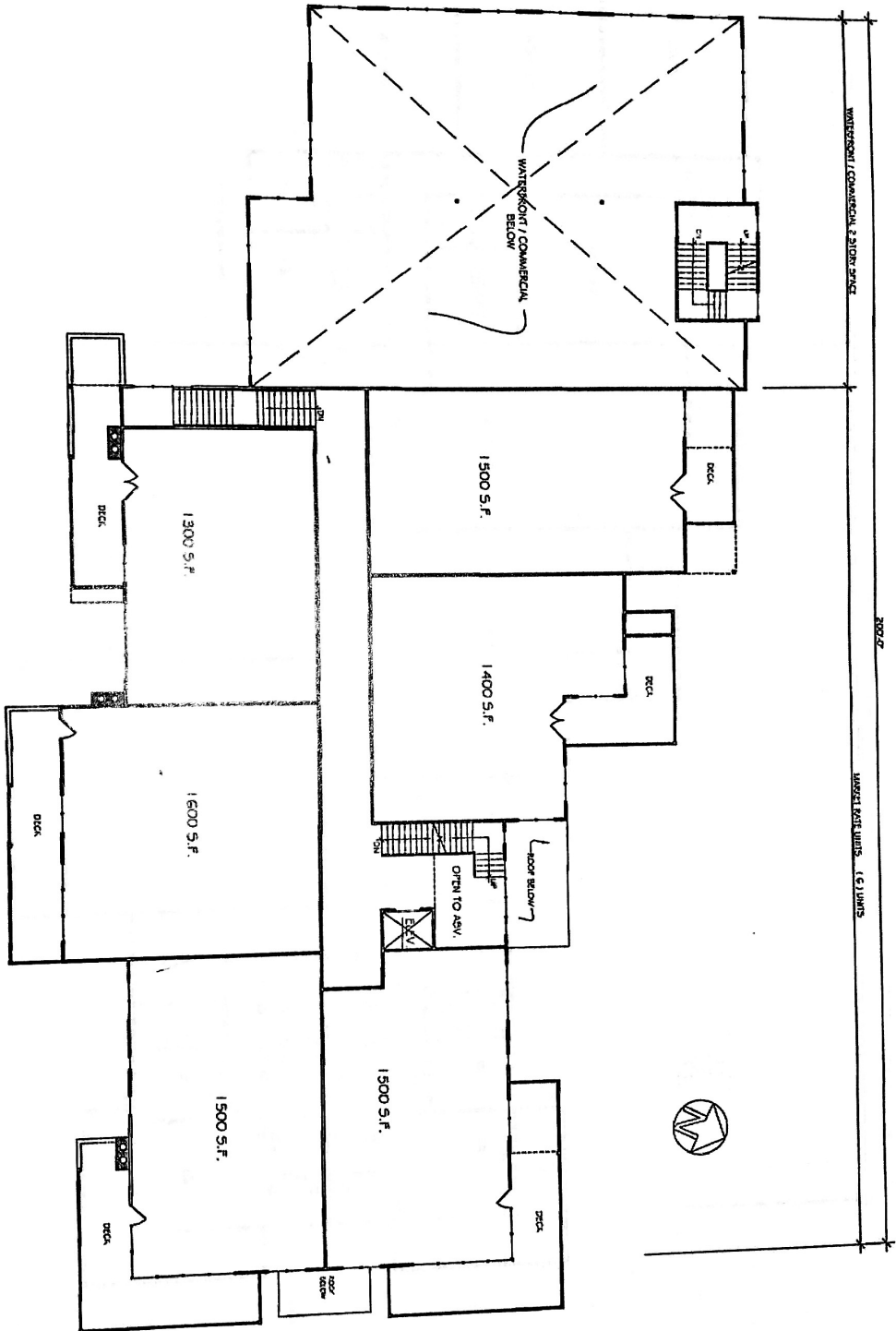






**SECOND FLOOR PLAN**

SCALE: 1" = 20'-0"



**ROSE / KOSMYNKA / RASKIN**  
**GREENPORT MARINA**  
 GREENPORT, N.Y.

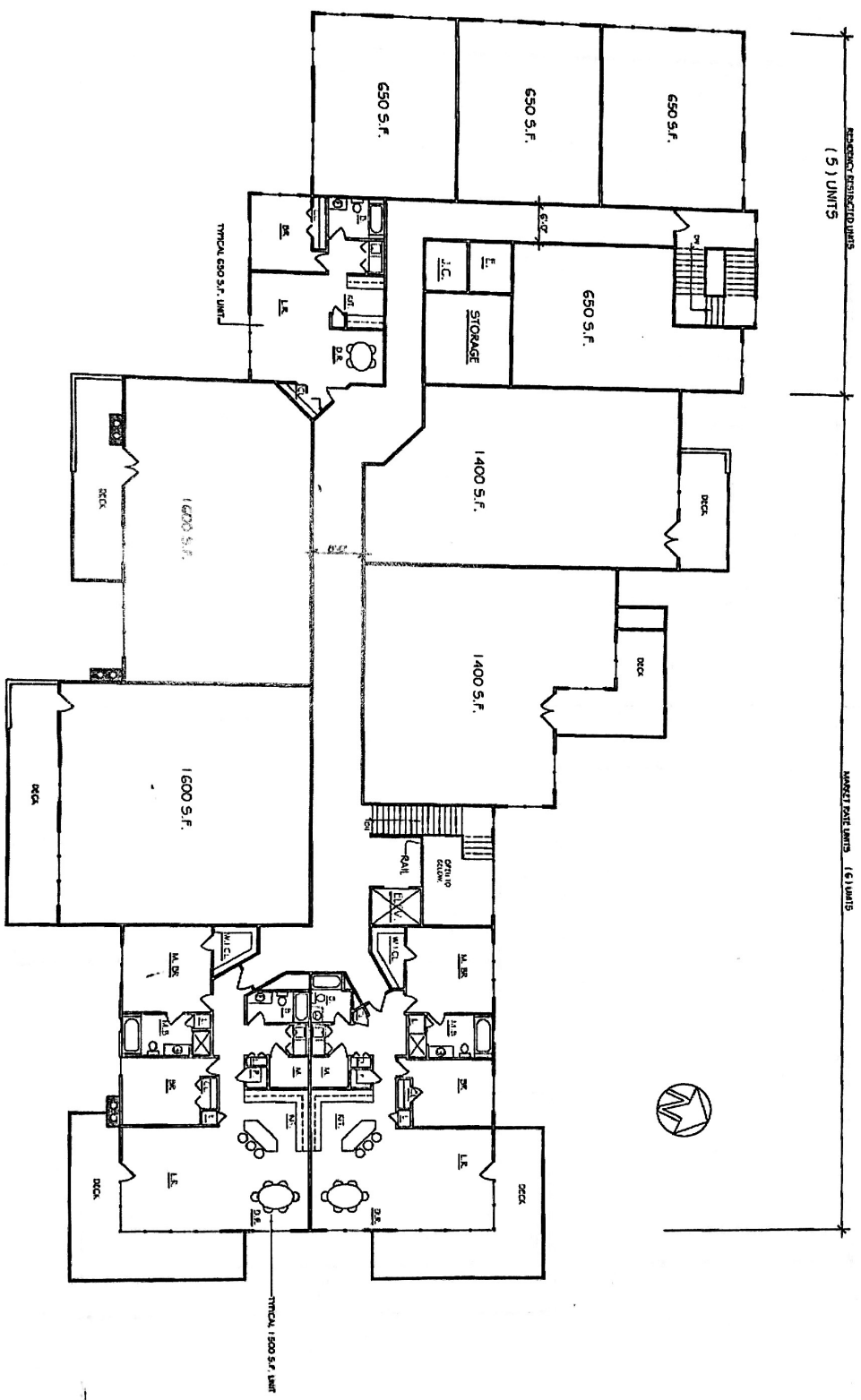
**gary d. cannella**  
**associates - planners**  
 architects - planners  
 55 Luedtkebocker Avenue, Bohemia, N.Y. 11716  
 phone: (631) 863-4100 fax: (631) 863-5102





**THIRD FLOOR PLAN**

SCALE: 1" = 20'-0"



(5) UNITS

RESIDENT UNITS

(5) UNITS

MARKET RATE UNITS



ROSE / KOSMYNKA / RASKIN  
**GREENPORT MARINA**  
 GREENPORT, N.Y.

**gary d. cannella**  
 associates - planners  
 architects

48 Hackettbocker Avenue  
 Bohemia, NY 11716  
 Phone: (516) 853-5100 Fax: (516) 853-5102





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## Description of Uses 123 Sterling Avenue, Greenport, NY

February 7, 2007

1. A 3 story, approximately 15,000 square foot footprint building with a footprint similar to that shown on the Site Plan (rev. 2/6/07) and the Gary D. Canella sketch plans (5 pgs) attached will be built.
2. The building will have waterfront commercial operations on the 1st floor.
3. The 2nd floor will have 6 market rate residential condominium units of about 1500 sf each.
4. The 3rd floor will have:
  - a. 6 market rate residential condominium units of about 1500 sf each.
  - b. 5 Affordable Housing Residency Restricted (AHRR) residential units of approximately 600-650 sf each. The ownership and occupancy of the ARR units shall be restricted as follows:
    - (i) The units can only be sold to people who have had the Village of Greenport or the Greenport School district as their primary residence for no less than two years or who have worked in the Greenport School district or Village of Greenport for no less than two years and are so certified by the Village of Greenport's Housing Authority.
    - (ii) The units will have to be owner occupied as the owner's primary residence.
    - (iii) Initially sold for no more that \$175,000 to people who qualify under Village of Greenport Affordable Housing Residency Restrictions as described herein and more particularly to be drawn by the Village with the developers input.
    - (iv) By covenants that prevent the merging of the units into other AHRR unit or any other unit.
    - (v) There will be a limit on the number of people who may occupy the units as to be drawn by the Village with the input of the developers to prevent overcrowding and uses not in accordance with the intent of these units.
    - (vi) Subsequent sales of these units will be at market rates but the residency and no merging restrictions shall be deeded restrictions.
    - (vii) In the event the original owner of a unit sells the unit within two years of the Closing of Title a "flip tax" equal to 25% of the difference between the new purchase price of the AHRR unit and the purchase price paid for the unit initially but in no event less than 10% of the purchase paid by the seller shall be paid by the seller. This provision shall survive the deed and closing of title. Such flip tax shall be shared 50/50 between the developer/sponsor and the Village Housing Authority.
    - (viii) Any and all flip tax money going to the Housing Authority shall be used by the Housing authority to further its mission.
5. The property will have a Work/Storage building as shown on the sketch site plan.
6. The balance of the property shall be devoted to parking, open work /storage space and other uses that are consistent with the waterfront commercial and residential activities on the site. No

- multi tiered boat racks are included in this plan and 123 Sterling LLC understands that if it ever wanted to install same they would have to make a new application to the Village.
7. In the event the occupants of the 1st floor do not need to tie up vessels directly to the bulkheads of the property fronting on Rackett's Basin, 123 Sterling LLC and its successors and assigns reserve the right to build, install and operate the docks, floats and slips shown on the Site Plan previously approved by the Village and the NYS DEC.
  8. The condominium plan will be written in such a way as to allow the developers/sponsors (123, its successors or assigns) to own the first floor, the common space mentioned in 6 above and the Work/Storage building mentioned in 5 above and allocate such space to the W/C tenants of the first floor and/or the residential owners on a basis that the sponsors determine.

123 Sterling Avenue Greenport, NY 11944 - Phone: 516-883-1022 Fax: 516-883-1023

Web address: [www.123sterling.com](http://www.123sterling.com), Contact e-Mail: [123sterlinggreenport@gmail.com](mailto:123sterlinggreenport@gmail.com)

Web Site Design and Maintenance: [CJSWebWorks.com](http://CJSWebWorks.com)  
e-mail: [info@ciswebworks.com](mailto:info@ciswebworks.com) - OR to contact this site's webmaster email: Email the Webmaster  
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