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DECLARATION OF CONDOMINIUM  
FOR  
THE MARINA AT VILLAGES OF VILANO

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DECLARATION OF CONDOMINIUM  
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DECLARATION OF CONDOMINIUM  
FOR  
THE MARINA AT VILLAGES OF VILANO

THIS DECLARATION OF CONDOMINIUM made and executed this 9<sup>th</sup> day of FEBRUARY, 1996, by VILANO VENTURE, INC., as owner of the real property hereinafter described and developer of the improvements thereon (hereinafter called the ("Developer")), for itself, its successors, heirs, grantees, assignees and/or their transferees.

WHEREAS, said Developer, as owner, makes the following declaration:

1. PURPOSE.

The purpose of this Declaration is to submit the lands described in this instrument and improvements thereon to the condominium form of ownership and use and the Developer does hereby submit the lands described in this instrument and improvements on such lands to the condominium form of ownership and use.

1.1 The name by which this condominium is to be identified is The Marina at Villages of Vilano.

1.2 The address of this condominium is 3655 Coastal Highway, St. Augustine, Florida 32084.

1.3 The lands owned by the Developer, which by this instrument are submitted to the condominium form of ownership, are those certain lands lying in St. Johns County, Florida, as described in Exhibit "A" attached hereto and made a part hereof, which shall hereinafter be referred to as "the Land". The Land shall be subject to conditions, restrictions, limitations, easements and reservations of record.

1.4 All provisions of this Declaration shall be

construed to be perpetual covenants running with the Land and every part thereof and interest therein, and every parcel owner and claimant of the Land, or any part thereof or interest therein, his heirs, personal representatives, successors and assigns, shall be bound by all of the provisions of said Declaration, unless same shall be terminated as provided herein. Both the burdens imposed and the benefits of this Declaration shall run with each Marina Parcel as herein defined.

## 2. DEFINITIONS.

The terms used in this Declaration and in the Articles of Incorporation, the By-Laws, and Rules and Regulations of the Marina at Villages of Vilano Association, Inc., shall have meaning as follows.

2.1 "Assessment" means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against a Boat Slip Owner.

2.2 "Association" means the corporate entity responsible for the operation of the Marina.

2.3 "Board of Administration" means the board of directors or other representative body responsible for administration of the Association.

2.4 "Boat Slip" or "Boat Slips" means the part of the Marina Property which is subject to exclusive ownership.

2.5 "By-Laws" means the By-laws of the Association existing from time to time.

2.6 "Channels" means the navigational access channels contained on the lands described in the Modified Sovereign Submerged Lands Easement attached as Exhibit "P" and the navigational access channels located on the property described in Exhibit "A" as shown on the site plan attached

as Exhibit "B."

2.7 "Common Area" means all property from time to time owned by the Association for the common use and enjoyment of Owners of Boat Slips in the Marina.

2.8 "Common Elements" includes within its meaning the following:

2.8.1 That portion of the Marina which is not included within the Boat Slips, including the Common Area.

2.8.2 Easements through Boat Slips for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to Boat Slips and the Common Elements.

2.8.3 The property and installation required for the furnishing of utilities and other services to more than one (1) Boat Slip or to the Common Elements.

2.8.4 Easements for maintenance of Common Elements.

2.9 "Common Expenses" means all expenses and assessments properly incurred by the Association for the operation of the Marina.

2.10 "Common Surplus" means the excess of all receipts of the Association collected on behalf of the marina, including, but not limited to, assessments, rents, profits, and revenues on account of the Common Elements, over Common Expenses.

2.11 "Condominium" or "the Condominium" means the Marina at Villages of Vilano.

2.12 "Marina Parcel" means a Boat Slip together

with the undivided share in the Common Elements which is appurtenant to the Boat Slip.

2.13 "Marina" means the property described in Exhibit "A" and paragraph 1.3 of this Declaration, the Channels described in Exhibit "P" and paragraph 2.17 of this Declaration, all lands, leaseholds, and personal property that are subjected to condominium ownership, whether or not contiguous, all improvements thereon, and all easements and rights appurtenant thereto intended for use in connection with the Marina.

2.14 "Declaration" or "Declaration of Condominium" means the instrument or instruments by which the Marina is created as they are from time to time amended.

2.15 "Developer" means the entity which creates the Marina or offers Marina Parcels for sale or lease in the normal course of business, but does not include an Owner or lessee of a Boat Slip who has acquired his Boat Slip for his owner occupancy. The Developer of this Marina is Vilano Venture, Inc.

2.16 "Institutional Mortgagee" is the owner and holder of a mortgage encumbering a Marina Parcel, which owner and holder of said mortgage shall be either a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, federal or state agency, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Developer.

2.17 "Limited Common Elements" means those Common Elements, if any, which are reserved for the use of a certain Boat Slip or Boat Slips to the exclusion of other Boat Slips, as specified in the Declaration.

2.18 "Marina Basin" means that certain body of

water and submerged land within the property described in Exhibit "A," as shown on the site plan attached as Exhibit "B".

2.19 "Operation" or "Operation of the Marina" includes the administration and management of the Marina.

2.20 "Owner" or "Boat Slip Owner" means the owner of a Marina Parcel and members of his immediate family.

2.21 "Rules and Regulations" means the rules and regulations adopted by the Board of Administration pursuant to its Articles of Incorporation and By-Laws, as may be promulgated and amended from time to time.

2.22 "Utility Services" shall include, but not be limited to, electric power, hot and cold water, and other services required by governmental authorities.

2.23 "Vessel" means any watercraft brought into the Marina by an Owner, his tenants, guests, or invitees, but shall not include jet ski, skiff, or tender.

### 3. DEVELOPMENT PLANS.

#### 3.1 Improvements.

The Marina shall consist of a total of thirty-three (33) Boat Slips, each of which shall be a unit of the Marina condominium. The Boat Slips shall be identified as shown on Exhibit "C".

#### 3.2 Survey and Site Plan.

A survey and site plan of the Lands comprising the Marina identifying and locating the Boat Slips, Common Elements, and improvements thereon are attached hereto as Exhibit "B". The survey and site plan meet the minimum technical standards set forth by the Board of Professional Land Surveyors.

### 3.3 Legal Description of Boat Slips.

The development plans of the Marina, which contain a survey, site plan, the accompanying legends and notes, and the identifying numbers, locations, and dimensions of the Boat Slips, are attached hereto as Exhibits "B" and "C" and by reference made a part hereof. The legal description of each Marina Parcel shall consist of the identifying number of such Boat Slip as shown on Exhibit "C". Every Deed, Lease, Mortgage or other instrument shall legally describe a Marina Parcel by its identifying number as provided on the attached Exhibit "C" and each and every description shall be deemed good and sufficient for all purposes.

### 3.4 Modification

Notwithstanding anything to the contrary contained in the Declaration, the Developer reserves the right to change the number, configuration, size and arrangement of all Boat Slips. Such changes shall not require the approval of the members. If the Developer shall make any such changes in Boat Slips, they shall be reflected by an amendment to this Declaration with a survey attached reflecting such authorized alterations of the Boat Slips, and said amendment need only be executed and acknowledged by the Developer and any holder of Institutional Mortgages encumbering the said altered Boat Slips. If more than one Boat Slip is affected by such alteration, the Developer shall not apportion between the Boat Slips the share in the Common Elements, Common Expenses, and Common Surplus, and such shares of Common Elements, Common Expenses, and Common Surplus shall remain unchanged in the amendment of this Declaration unless all Owners approve the amendment changing the shares.



**4. BOAT SLIP BOUNDARIES, COMMON ELEMENTS, AND LIMITED  
COMMON ELEMENTS.**

**4.1 Boat Slip Boundaries.**

The boundaries of each Boat Slip shall be as follows:

**4.1.1 Upper and Lower Boundaries.**

The upper and lower boundaries of the Boat Slips shall be the following boundaries extended to an intersection with the perimetrical boundaries:

4.1.1(a) Upper Boundary shall be a horizontal plane one hundred feet above the surface of the waters of the Marina Basin.

4.1.1(b) Lower Boundary shall be the surface of the submerged land of the Marina Basin.

4.1.2 Perimetrical Boundaries. The perimetrical boundaries of the Boat Slips shall be the vertical plane of the unfinished inner surface of the finger pier, sidewalk pier, or floating pier abutting the Boat Slip, as extended into the Marina Basin for the length and width of the Boat Slip as indicated on the site plan attached as Exhibit "B".

**4.1.3 Boundaries - Further Defined.**

The boundaries of the Boat Slips shall not include:

4.1.3(a) The finger piers, floating piers, or sidewalk piers;

4.1.3(b) Any mooring posts or supporting pilings; and

4.1.3(c) Any pipes, ducts, wires,

conduits, or other utilities for the furnishing of utility services to other Boat Slips or for the Common Elements.

#### 4.2 Common Elements.

The Common Elements of the Marina consist of all of the real property, improvements, and facilities of the Marina other than the Boat Slips and the Limited Common Elements as the same are defined in this Declaration. The Common Elements shall also include all personal property held and maintained by the Association for the joint use and enjoyment of all the Owners of Boat Slips.

#### 4.3 Limited Common Elements.

The finger piers immediately adjacent to a Boat Slip and any utility services lines attached thereto shall be Limited Common Elements reserved for the common use of the Boat Slips appurtenant to that finger pier, to the exclusion of other Boat Slips. There shall pass with a Boat Slip, as an appurtenance thereto, the right to use the finger pier adjacent to that Boat Slip in common with the Owner of the Boat Slip on the opposite side of that finger pier.

### 5. OWNERSHIP.

#### 5.1 Type of Ownership and Taxation.

Ownership of each Marina Parcel may be in fee simple or in any other estate in real property recognized by law and subject to this Declaration. The boat slip and appurtenant share in the Common Areas will be subject to St. Johns County ad valorem taxes.

#### 5.2 Association Membership.

The Owners of record of Boat Slips shall be members of the Association as more fully set forth in Section 12 of this Declaration and may also be members of the Master

Association as provided by the Declaration of Covenants and Restrictions for Villages of Vilano, as amended ("the Master Declaration.")

### 5.3 Owner's Rights.

The Owner of a Boat Slip is entitled to the exclusive possession of his Boat Slip. The space within any of the Boat Slips shall not be further subdivided. Owners shall be entitled to use the Common Elements and Limited Common Elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of Owners of other Boat Slips. There shall be a joint use of the Common Elements, and a joint mutual easement for that purpose is hereby created. Each Boat Slip Owner shall take title to his Marina Parcel subject to the non-exclusive easements specified in Section 11 and to a non-exclusive easement reserved by the Developer over and across the Common Elements for ingress and egress, drainage, and installation of utilities.

### 5.4 Register of Owners

The Association shall at all times maintain a register setting forth the names of all Owners of Boat Slips and all holders, insurers, and guarantors of mortgages on Boat Slips who have notified the Association in writing of their names and addresses.

### 5.5 Time Share Prohibited.

There are no time share estates created by this Declaration nor will any be created in this Marina.

## 6. RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS.

The fee title to each Marina Parcel shall include both the Boat Slip and an undivided interest in the Common

Elements; said undivided interest in the Common Elements is deemed to be conveyed or encumbered with its entire respective Boat Slip, even though the description in the instrument of conveyance may refer only to the fee title to the Boat Slip or a portion of the space within a Boat Slip. The share in the Common Elements appurtenant to a Boat Slip cannot be conveyed or encumbered except together with the Boat Slip. Any attempt to separate or any action to partition the fee title to a Boat Slip from the undivided interest in the Common Elements appurtenant to such Boat Slip shall be null and void.

**7. PERCENTAGE OF OWNERSHIP OF COMMON ELEMENTS.**

Each Boat Slip Owner in the Marina shall own an undivided one-thirty-third (1/33rd) share in the Common Elements of the Marina Condominium.

**8. MAINTENANCE, ALTERATIONS AND IMPROVEMENTS.**

Responsibility for the maintenance of the Condominium Property and restrictions upon its alterations and improvements shall be as follows:

**8.1 Maintenance**

**8.1.1 By the Association**

The Association shall maintain, repair, and replace at the Association's expense all Common Elements and Limited Common Elements; however, an Owner shall indemnify the Association for such expense where the repair or replacement is necessitated by the negligent or willful act of the Owner, his tenants, guests, licensees, or invitees. The Association shall be responsible for dredging of the Marina Basin and Channels. The necessity, scope, and sufficiency of any maintenance, repair, replacement, or dredging shall be solely within the discretion the Board of

**8.1.2 By the Boat Slip Owner.**

The Boat Slip Owner shall, at all times and at his own expense, maintain his Boat Slip and Vessel in a neat, attractive, and safe condition. The Boat Slip Owner shall promptly perform all maintenance and repair work on the Boat Slip or his Vessel which, if not performed, could result in loss or damage to the Marina or any part thereof and shall be expressly responsible for the damages and liability resulting from his failure to do so. The Owner shall promptly report to the Association any defect or need for repairs for which the Association is responsible.

**8.2 Alterations and Improvements.**

Except where such rights are elsewhere reserved to the Developer, neither a Boat Slip Owner nor the Association shall make any structural or aesthetic additions or alterations to, or do anything that would jeopardize the safety or soundness of, any part of the Marina, or impair any easement, without obtaining the written approval of the Owners of all Boat Slips, the Board of Administration, and, unless all of the Boat Slips held by Developer for sale in the normal course of business have been sold and closed, the Developer. A Boat Slip Owner may not paint or otherwise decorate or change the appearance of any portion of the Marina.

After the completion of the improvements included in the Common Elements contemplated by this Declaration, there shall be no alteration or further improvement of the real property constituting the Common Elements other than routine items of maintenance without prior approval in writing by a majority of the members of the Association and, if the Developer holds one or more Boat Slips for sale in the

ordinary course of business, the Developer. Any such alteration or improvement shall not interfere with the rights of any Boat Slip Owner without his consent. The cost of any such alteration or improvement shall be assessed as a Common Expense.

### 8.3 Personal Property.

Any personal property acquired by the Association may be sold, mortgaged, or otherwise disposed of by the Association.

### 8.4 Enforcement of Maintenance.

The Association shall have the irrevocable right of access to each Boat Slip during reasonable hours when necessary for the maintenance, repair, or replacement of any Common Elements or of any Common Elements or of any portion of a Boat Slip to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the Common Elements or to a Boat Slip or Boat Slips. The Developer or the Association may require the temporary removal of any or all Vessels from the Marina for maintenance, repairs, or dredging of the Marina Basin or Channels.

In the event the Owner of a Boat Slip fails to maintain a Boat Slip as required by this Declaration or makes any structural addition or alteration without the required written consent, the Association or an Owner with an interest in any Boat Slip shall have the right to proceed in a court of equity to seek compliance with the provisions hereof. The Association shall also have the right to charge the Owner the necessary sums to put the improvements within the Boat Slip in good condition and repair or to remove any unauthorized structural addition or alteration.

In the event a Boat Slip Owner violates any of the

provisions of this section, the Association shall have the right to take any and all such steps as may be necessary to remedy such violation including, but not limited to, entering the subject Boat Slip with or without the consent of the Boat Slip Owner and repairing or maintaining any item requiring same. Such Boat Slip Owner shall be responsible for all expenses incurred in remedying a violation of this section.

#### **8.5 Casualty Loss.**

Where loss, damage, or destruction is sustained by casualty to any part of the Marina, whether interior or exterior, whether inside a Boat Slip or not, whether a fixture or equipment attached to the Common Elements or attached to and completely located inside a Boat Slip, and such loss, damage or destruction is insured for such casualty under the terms of the Association's casualty insurance policy or policies, but the insurance proceeds payable on account of such loss, damage, or destruction are insufficient for restoration, repair, or reconstruction, all the Boat Slip Owners shall be specially assessed to make up the deficiency, irrespective of a determination as to whether the loss, damage, or destruction is to a part of the building or to fixtures or equipment which it is a Boat Slip Owner's responsibility to repair.

#### **8.6 Maintenance Contracts.**

The Board of Administration may enter into a contract with any firm, person, or corporation for the maintenance and repair any portion of the Marina and may join other condominium associations in any such contracts.

#### **9. USE OF MARINA.**

The use of the Marina shall be in accordance with the following provisions:

**9.1 Occupancy of Boat Slips.****9.1.1 Persons Entitled to Use Boat Slip.**

Each of the Boat Slips shall be used only by the Owner or the Owner's tenant in accordance with Section 9.2. No person may live aboard any Vessel. A person shall be considered to be living aboard a vessel if he or she inhabits the vessel for two or more consecutive days or for a total of seven days within a 30-day period.

**9.1.2 Permitted Vessels.**

Only one recreational Vessel may be moored in a Boat Slip. Other watercraft such as skiffs, jet skis, or tenders may also be moored in a Boat Slip provided that all watercraft and the Vessel fit completely within the boundaries of the Boat Slip. All Vessels must be fully operable, seaworthy, and equipped with all safety equipment and licensed and registered as may be required by any local, state, or federal law or regulation; although an Owner may be excused from compliance with this from time to time for a period of time not to exceed fifteen days in duration when his Vessel is being repaired. The use of Vessels, other recreational watercraft, and Boat Slips must be in compliance with this Declaration and the Rules and Regulations. The Board shall have the right to prohibit any Vessel from a Boat Slip or the Marina for aesthetic reasons.

**9.2 Rental.**

The Boat Slip may be rented, provided the occupancy is only by one (1) tenant for a minimum of 4 months. The tenant shall have all use rights in the Condominium Property



and those Common Elements otherwise readily available for use generally by Boat Slip Owners and the Boat Slip Owner shall not have such rights except as a guest, unless such rights are waived in writing by the tenant. The Master Association may assess a reasonable fee against the tenant for use of the Master Association's facilities if the Owner of the rented Boat Slip enjoys use rights in the Master Association by virtue of his residential ownership in Villages of Vilano or ownership of another Boat Slip. The Association shall have the right to adopt rules to prohibit dual usage of Marina and Common Elements by a Boat Slip Owner and his tenant. No lease of a Boat Slip shall release or discharge the Owner thereof of compliance with this section or any of his other duties as a Boat Slip Owner. Time sharing of Boat Slips is prohibited. Ownership of a Boat Slip on a monthly or weekly time sharing program is prohibited. Subleasing of Boat Slips is prohibited. All leases shall be in the form attached as Exhibit "O" and shall be subject to this Declaration, the Master Declaration, the Articles of Incorporation, By-Laws, and the Rules and Regulations. Owners shall provide the Association with a copy of all leases.

### 9.3 Conduct.

The Board shall have the right to regulate all activities within the Marina, including without limitation the operation of Vessels within the Marina, to insure that the enjoyment of the Marina and adjoining Marina Homes Condominium by Boat Slip and condominium owners is not impaired. No nuisances or any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Marina by its residents shall be allowed to be committed or maintained within the Marina. Boat maintenance or repair activities requiring removal of the Vessel from the water or removal of major portions of the Vessel (including the engine) shall be

prohibited except as necessary in an emergency to prevent sinking of the Vessel. Minor repairs and boat maintenance that will not cause or contribute to the release of water pollutants in violation of Section 9.11 or any applicable law may be performed by Owners or qualified marine mechanics. No immoral, improper, or offensive use shall be made of the Marina or any part thereof, and all laws, zoning ordinances, and regulations of all governmental authorities having jurisdiction of the Marina shall be observed.

#### 9.4 Rules and Regulations.

Reasonable rules and regulations concerning the use of the Marina may be made and amended from time to time by the Association in the manner provided by its Articles of Incorporation and By-Laws. Copies of such Rules and Regulations and amendments thereto shall be furnished by the Association to all Boat Slip Owners, who shall abide by same.

#### 9.5 Commercial Activities.

No commercial activities of any kind may be carried out within the Marina, and no commercial vehicles or Vessels shall be kept within the Marina by any Owner. This subsection shall not apply to the Developer.

#### 9.6 Mooring.

Each Boat Slip Owner is responsible for properly mooring his Vessel in accordance with the practices of good seamanship and the Rules and Regulations. Installation of boat lifts for dry storage of Vessels is prohibited.

#### 9.7 Compliance with Weather Advisories.

Each Boat Slip Owner shall follow any and all safety precautions that may be issued by the Association, the National Weather Service, the National Hurricane Center, the U. S. Coast Guard, or any other governmental agency. Each

Owner shall be responsible for preparing his Boat Slip and securing or removing his Vessel in the event of a storm. All Boat Slip Owners must file with the Association the name, address, and telephone number of a firm or individual who will be responsible for securing or removing his Vessel if it becomes necessary for an Owner to take action under this section and the Owner is absent or unavailable.

#### 9.8 Developer's Use of Marina.

Until the Developer has closed the sales of all of the Boat Slips, neither the Boat Slip Owners, the Association, nor any person or entity shall interfere with the sales of Boat Slips or Developer's use of the Marina. The Developer may make such use of the unsold Boat Slips and Common Areas as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, showing of the Marina, and the display of signs.

#### 9.9 Rights of Entry.

##### 9.9.1 For Inspection.

The Association shall have the right to enter any Vessel in the Marina to determine its seaworthiness and compliance with this Declaration and the Rules and Regulations, provided such entry shall be at reasonable times and with reasonable advance notice. The Association shall have the right, but not the obligation, to remove any Vessel that does not comply with this Declaration or the Rules and Regulations.

##### 9.9.2 In Emergencies.

In case of an emergency originating in or threatening any Boat Slip or Vessel, regardless of whether or not the Owner is present at the time of such emergency, the Association shall have an immediate right, but not the obligation, to enter any Boat Slip or

Vessel for the purpose of remedying or abating the cause of such emergency. To facilitate entry in the event of any such emergency, the Association may require Owners to provide the Association with a key to all Vessels and other watercraft brought into the Marina.

**9.9.3 For Maintenance of Common Property.**

Whenever it is necessary to enter any Boat Slip to perform any maintenance or repair to any portion of the Marina, the Owner of each Boat Slip shall permit an agent of the Association to enter such Boat Slip for such purposes, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

**9.10 Refuse.**

All trash shall be properly disposed of in accordance with the Rules and Regulations. No refuse of any kind shall be dumped or deposited into the Marina Basin. The cleaning of fish or other marine life shall be permitted only in areas designated by the Board and in accordance with the Rules and Regulations.

**9.11 Hazardous Waste.**

No hazardous or toxic materials (as such may be defined under any applicable law) may be stored, used, transported, or disposed of within the Marina, and any bilge water pumped into the Marina Basin must be free of such materials. Discharge or release of oil or grease associated with engine and hydraulic repairs and discharge or release of paints or solvents associated with hull scraping, cleaning, and painting is specifically prohibited. The Association shall have the right, but not the obligation, to remove any hazardous or toxic materials from the Marina or any Vessel.

Each Owner shall indemnify and hold harmless the Association and the Developer from and against and liability, damages, or claims arising from a violation of this section. Nothing in this section shall prohibit the proper use of petroleum products for the operation of a Vessel or other watercraft.

**9.12 Sanitary Equipment.**

All Vessels must be equipped with such sanitary equipment, in operable condition, as may be required by any applicable law, ordinance, or regulation. All toilets on vessels occupying Boat Slips shall be U.S. Coast Guard-approved Type II marine sanitation devices.

**9.13 Swimming.**

Swimming and diving are prohibited in the Marina.

**9.14 Public Authorities.**

The Association or the Developer may permit reasonable use of any portion of the Marina by any local, state, or federal authorities.

**9.15 Channels.**

Use of the Channels shall be subject to, and all Boat Slip Owners, their tenants, and invitees shall comply with the Modified Sovereign Submerged Lands Easement attached as Exhibit "P."

**10. RECREATIONAL FACILITIES.**

The recreational facilities serving the Marina consist of an indoor swimming pool, a community facilities room, a sauna, a hot tub, a weight room, a locker room, two (2) tennis courts, two (2) racquetball courts, a boat ramp, an outdoor pool, a pedestrian walkover, a recreational vehicle parking area, and a beach cabana, all as shown on Exhibit "D", and a boat ramp as shown on Exhibit "B". The facilities

are owned by the Master Homeowners' Association. Every member of the Master Association, as defined in the Declaration of Covenants and Restrictions for Villages of Vilano, shall have the right to utilize in common with other members these recreational facilities in accordance with the Declaration of Covenants and Restrictions for Villages of Vilano and any and all rules and regulations promulgated by the Board of Directors of such Association.

11. EASEMENTS.

Each of the following easements is a covenant running with the Land and, notwithstanding any of the other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with their proper and united use and purpose, and shall survive the termination of the Marina and the exclusion of any Lands from the Marina:

11.1 Utilities.

A non-exclusive easement is hereby granted in favor of all owners, the Association, and the Developer and its designees as may be required for utility services, including electricity, telephone, water, communications, security, and cable television, in order to adequately serve the Condominium Property; provided, however, easements through a Boat Slip shall be only according to the plans and specifications for the Marina or as the Marina is actually constructed unless approved, in writing, by the Boat Slip Owner.

11.2 Ingress and Egress.

A non-exclusive easement is hereby granted in favor of all Boat Slip Owners, their tenants, guests, and invitees, the Association, and the Developer and its designees for Vessel ingress and egress across and through the Marina Basin

and Channels to and from the Boat Slips and the waters of the Intracoastal Waterway, and for pedestrian traffic over, through, and across sidewalks, piers, paths, lanes and walks, and for vehicular traffic over and across all parking areas and drives providing access to streets and other public ways of St. Johns County as the same may from time to time exist.

#### 11.3 In Common Elements.

A non-exclusive easement is hereby granted over the Common Elements in favor of all of the Owners of Boat Slips in the Marina for their use and the use of their guests for all proper and normal purposes, and for the furnishing of services and facilities for the enjoyment of said Owners. Such easement shall be perpetual and non-exclusive.

#### 11.4 For Unintentional and Non-Negligent Encroachment.

In the event that any Boat Slip or Vessel shall encroach upon any of the Common Elements or another Boat Slip, or in the event any of the Common Elements shall encroach upon any Boat Slip or Vessel, for any reason not caused by purposeful or negligent act of the Boat Slip Owner or his agent, including without limitation encroachments caused by the wake of another Vessel, tidal movement, storms, or other acts of God, then an easement appurtenant to such Boat Slip or Common Element shall exist for the continuance of such encroachment for so long as such encroachment shall naturally exist.

#### 11.5 Air Space.

An exclusive easement is hereby granted to each Boat Slip Owner for use of the air space occupied by a Boat Slip as it exists at any particular time and as the Boat Slip may lawfully be altered.

A non-exclusive easement is hereby granted to Developer and the Association and their successors, agents and designees across and through the waters and submerged lands of the Marina for the purpose of dredging and maintaining the Marina Basin and Channels.

## 12. ASSOCIATION.

In order to provide for the proficient and effective administration of this Marina by the Owners of Boat Slips, a non-profit corporation known and designated as THE MARINA AT VILLAGES OF VILANO ASSOCIATION, INC., has been organized under the laws of the State of Florida. This corporation shall operate and manage this Marina and undertake and perform all acts and duties incident thereto in accordance with the terms, provisions, and conditions of this Declaration and the Association's By-Laws and Rules and Regulations as promulgated by the Association from time to time.

### 12.1 Articles of Incorporation.

A copy of the Articles of Incorporation of the Association is attached hereto as Exhibit "F".

### 12.2 By-Laws.

The By-Laws of the Association, shall be the By-Laws of the Condominium a copy of which is attached hereto as Exhibit "G."

### 12.3 Limitation Upon Liability of Association.

The Association shall not be liable to Boat Slip Owners for injury or damage caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other Owners or



persons, or caused by the exercise or non-exercise of any of the Association's rights under this Declaration. The Association shall not be liable to any Owner for any injury or damage resulting from operating, moving, or mooring an Owner's Vessel at the Owner's request or as may be authorized or required by this Declaration or the Rules and Regulations, and each Owner shall indemnify and hold the Association harmless against and from such injury or damage.

#### 12.4 Restraint Upon Assignment of Shares in Assets.

The shares of members in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to a Boat Slip.

#### 12.5 Membership.

The Developer and all record Owners of all Boat Slips in this Marina shall be members of the Marina at Villages of Vilano Association, Inc., and no other persons or entities shall be entitled to membership except for the Developer. There shall be one (1) membership for each Boat Slip and, if there is more than one (1) record Owner per Boat Slip, then such membership shall be divided among such Owners in the same manner and proportion as their ownership in the Boat Slip. Membership shall be established by acquisition of Ownership of fee title to, or fee interest in, a Marina Parcel, whether by conveyance, devise, judicial decree, or otherwise, subject to the provisions of this Declaration, and by the recordation in the public records of St. Johns County, Florida, of the deed or other instrument establishing the acquisition and designating the parcel affected thereby and by the delivery to the Association of a true copy of such recorded deed or other instrument. The new Owner designated in such deed or other instrument shall thereupon become a

member of the Association and the membership of the prior Owner as to the parcel designated shall be terminated.

#### 12.6 Voting.

On all matters as to which the membership shall be entitled to vote, there shall be only one (1) vote for each Boat Slip. Where a Boat Slip is owned by the Association, no vote shall be allowed for such Boat Slip. Where a Boat Slip is owned by a corporation, partnership or other legal entity or by more than one (1) person, all the Owners thereof shall be collectively entitled to the vote assigned to such Boat Slip and such Owners shall, in writing, designate an individual who shall be entitled to cast the vote on behalf of the Owners of such Boat Slip until such authorization is changed in writing. The term "Owner" as used herein shall be deemed to include the Developer.

#### 12.7 Board of Administration.

##### 12.7.1 Qualifications.

All of the affairs, policies, regulations, and property of the Association shall be controlled and governed by the Board of Administration which shall be elected annually by the members entitled to vote as provided in the By-Laws. Each Director shall be the Owner of a Boat Slip (or a partial Owner of a Boat Slip where such Boat Slip is owned by more than (1) individual, or if a Boat Slip is owned by a corporation, including the Developer, any duly elected officer or officers of such corporation).

##### 12.7.2 Election.

The Owners shall place members on the Board of Administration in accordance with the following schedule:

## 12.7.2(a)

When Boat Slip Owners other than the Developer own fifteen percent (15%) or more of the Boat Slips, the Boat Slip Owners shall be entitled to elect not less than one-third (1/3) of the members of the Board of Administration.

## 12.7.2(b)

Boat Slip Owners other than the Developer shall be entitled to elect not less than a majority of the members of the Board of Administration on the earlier of:

(i) Three (3) years after fifty percent (50%) of the Boat Slips that will be operated ultimately by the Association have been conveyed to purchasers; or

(ii) Three (3) months after ninety percent (90%) of the Boat Slips that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business; or

(iii) When all of the Boat Slips that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business;

(iv) When some of the Boat Slips

have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or

(v) Seven years after recordation of this Declaration of Condominium.

12.7.2(c)

The Developer is entitled to elect at least one member of the Board of Administration as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the Boat Slips in the Marina.

13. INSURANCE.

The insurance which shall be carried upon the Marina and the property of the Boat Slip Owners shall be governed by the following provisions:

13.1 Authority to Purchase.

The Association shall be authorized to purchase insurance policies on the Marina for the benefit of the Association and the Boat Slip Owners and their mortgagees, as their interests may appear, and provision shall be made for the issuance of certificates or mortgagee endorsements to the mortgagees of Boat Slip Owners.

13.2 Insurance Trustee.

The Association may name as an insured, on behalf of the Association, the Association's authorized representative (the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform other functions as are necessary to accomplish this purpose.

Each Boat Slip Owner, by acceptance of a deed conveying a Boat Slip in the Marina, hereby appoints the Association or any insurance trustee designated by the Association as attorney-in-fact for the purpose of purchasing and maintaining such insurance, collecting and disposing of the proceeds thereof, negotiating losses and executing releases of liability, executing all documentation, and the performance of all other acts necessary to accomplish such purpose.

### 13.3 Coverage.

#### 13.3.1 Casualty.

All buildings and improvements upon the Land, including Boat Slips and all personal property of the Association are to be insured in an amount equal to the maximum insurable replacement value, excluding land value, as determined annually by the Board of Administration, and all such insurance must be obtained, if possible, from the same company. Such coverage shall, at a minimum, provide protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement and against such other risks as from time to time shall be customarily covered with respect to marinas similar in construction, location and use, including, but not limited to, vandalism and malicious mischief and all perils normally covered by the "all-risk" endorsement.

#### 13.3.2 Public Liability.

The Association shall maintain comprehensive general liability insurance coverage covering all of the Common Elements, commercial space owned or leased by the Association, if any, and public ways of the Marina. Coverage limits shall be at least \$1,000,000.00 for bodily injury, including deaths of persons and property

damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts of the Association. Such policies shall provide that they may not be cancelled or substantially modified by any party without at least ten (10) days' prior written notice to the Association and to each holder of a first mortgage on any Boat Slip in the Marina which is listed as a scheduled holder of a first mortgage in the insurance policy.

#### 13.3.3 Workers' Compensation.

As shall be required to meet the requirements of law.

#### 13.3.4 Association Insurance.

The Association shall maintain such other insurance as the Board of Administration, in its discretion, may determine from time to time to be in the best interest of the Association and the Boat Slip Owners, including Directors' Liability Insurance or other insurance that an Institutional Mortgagee may reasonably require.

#### 13.4 Premiums.

Premiums for insurance policies purchased by the Association shall be paid by the Association and shall be deemed a Common Expense.

#### 13.5 Proceeds.

All insurance policies purchased by the Association

shall be for the benefit of the Association and Boat Slip Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the Association or to the Insurance Trustee designated by the Association as provided herein.

**13.5.1 Common Elements.**

Proceeds on account of Common Elements shall be held in as many undivided shares as there are Boat Slips in each building, the shares of each Boat Slip Owner being the same as his share in the Common Elements, as same are hereinabove stated.

**13.5.2 Boat Slips.**

Proceeds on account of Boat Slips shall be held in the following undivided shares:

**13.5.2(a) Partial Destruction.**

When the building is to be restored, for the Owners of damaged Boat Slips in proportion to the cost of repairing the damage suffered by each Boat Slip Owner.

**13.5.2(b) Total Destruction.**

When the building is not to be restored, for the Owners of all Boat Slips in the damaged building in proportion to their share of the Common Elements appurtenant to their Boat Slip.

**13.6 Association as Agent.**

The Association is hereby irrevocably appointed agent for each Boat Slip Owner to adjust all claims arising under insurance policies purchased by the Association.

**13.7 Boat Slip Owner's Obligations.**

Each Boat Slip Owner shall, at his expense, purchase and maintain public liability insurance on his Boat Slip and Vessel in such amounts as may be specified by the Association from time to time. Such insurance shall name the Association and the Developer as additional insureds.

All such insurance policies issued to individual Boat Slip Owners shall provide that the coverage afforded by such policies is in excess over the amount recoverable under any other policy covering the same loss without rights of subrogation against the Association or Developer.

**13.8 Escrow for Insurance Premiums.**

Any Institutional First Mortgagee holding a mortgage upon a Boat Slip in the Marina shall have the right to cause the Association to create and maintain an escrow account for the purpose of assuring the availability of funds with which to pay premium or premiums due from time to time on casualty insurance policy or policies which the Association is required to keep in existence, it being understood that the Association shall deposit in an escrow depository satisfactory to such Institutional First Mortgagee or Institutional First Mortgagees a monthly sum equal to one-twelfth (1/12th) of the annual amount of such insurance expense, and to contribute such other sum as may be required therefor, so that there shall be on deposit in said escrow account, at least one (1) month prior to the due date for payment of such premium or premiums, a sum which will be sufficient to make full payment therefor.

Should the Association fail to pay such premiums when due, or should the Association fail to comply with other insurance requirements imposed by the Institutional Mortgagee who first held a first mortgage encumbering a Condominium Parcel, then said Institutional Mortgagee shall have the



right at its option to order and advance such sums as are required to maintain or procure such insurance, and to the extent of the monies so advanced, plus interest thereon at the highest legal rate. Said Mortgagee shall be subrogated to the Assessments and lien rights of the Association as against individual Boat Slip Owners for the payment of such items of Common Expense.

If two (2) or more Institutional Mortgagees hold any mortgage or mortgages upon any Marina Parcel, or are the Owners of any Marina Parcel or Marina Parcels, the exercise of the rights above described or manner of exercising said rights shall vest in the Institutional Mortgagee owning and holding the first recorded mortgage encumbering a Marina Parcel, and the decision of such Institutional Mortgagee shall be controlling.

**14. CONDEMNATION AND TOTAL OR PARTIAL LOSS OR DESTRUCTION.**

The Association shall represent the Boat Slip Owners in the condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of the Common Elements, or part thereof, by the condemning authority. Each Boat Slip Owner hereby appoints the Association as attorney-in-fact for such purpose.

**14.1 Substantial Loss**

In the event any loss, damage, or destruction to the insured premises is substantial (as such term "substantial" is hereinafter defined), the Association shall appoint a trustee to act on behalf of the Boat Slip Owners in carrying out the above functions in lieu of the Association. In the event of a taking or acquisition of part of all of the Common Elements by a Marina authority, the award or proceeds of settlement shall be payable to the Association, or any trustee, to be held in trust for Boat Slip Owners and their

first mortgage holders as their interests may appear.

Substantial loss, damage, or destruction as the term is herein used shall mean any loss, damage, or destruction sustained to the insured improvements which would require an expenditure of sums in excess of fifty percent (50%) of the amount of coverage under the Association's casualty insurance policy or policies then existing in order to restore, repair, or reconstruct the loss, damage or destruction sustained.

If substantial loss, damage, or destruction shall be sustained to the Marina improvements, and at a special members' meeting called for such purpose the owners of a majority of the Boat Slips in the Marina vote and agree in writing that the damaged property will not be repaired or reconstructed, the Condominium shall be terminated; provided, however, such termination will not be effective without the written consent of all first mortgagees holding mortgages encumbering Boat Slips.

#### 14.2 Less than Substantial Loss

In the event any loss, damage or destruction to the insured premises is not substantial (as such term "substantial" is defined above), and such loss, damage, or destruction is replaced, repaired, or restored with the Association's funds, the first mortgagees which are named as payees upon the draft issued by the insurance carrier shall endorse the draft and deliver the same to the Association; provided, however, that any repair and restoration on account of physical damage shall restore the improvements to substantially the same condition as existed prior to the casualty.

In the event damage sustained to the improvements is less than substantial as defined above, the Board of Administration may determine that it is in the best interests

of the Association to pay the insurance proceeds into a construction fund to be administered by its Directors. The Board of Administration shall not be required to cause such insurance proceeds to be made available to the Association prior to completion of any necessary restoration, repairs, or reconstruction, unless arrangements are made by the Association to satisfactorily assure that such restoration, repairs, and reconstruction shall be completed. Such assurances may consist of, without limitation, obtaining a construction loan from other sources obtaining a binding contract with a contractor or contractors to perform the necessary restoration, repairs and reconstructions or the furnishing of performance and payment bonds.

Any restoration, repair or reconstruction made necessary through a casualty shall be commenced and completed as expeditiously as reasonably possible, and must be substantially in accordance with the plans and specifications for the construction of the original building. In no event shall any reconstruction or repair change the relative locations and approximate dimensions of the Common Elements and of any Boat Slip unless an appropriate amendment be made to this Declaration.

Where physical damage has been sustained to the Marina improvements and the insurance proceeds have not been paid into a construction loan fund as provided in this section, and where a restoration, repair, or reconstruction has not been commenced, an Institutional Mortgagee who has commenced foreclosure proceedings upon a mortgage encumbering a Boat Slip shall be entitled to receive that portion of the insurance proceeds apportioned to said Boat Slip in the same share as the share in the Common Elements appurtenant to said Boat Slip.

**14.3 Assessments.**

If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during the reconstruction and repair the funds for payment of the costs thereof are insufficient, the Boat Slip Owners who own the damaged Boat Slips may be charged for the cost of reconstruction and repair. In the case of damage to the Common Elements, all Boat Slip Owners may be assessed in sufficient amounts to provide funds to pay the estimated costs. Charges for damage to Boat Slips shall be in proportion to the cost of reconstruction and repair of each Boat Slip Owner's respective damaged Boat Slip. Assessments on account of damage to the Common Elements shall be in proportion to the Owner's share in the Common Elements.

**15. COMMON EXPENSES, COMMON SURPLUS, AND ASSESSMENTS.**

The making and collecting of assessments against Boat Slip Owners for Common Expenses shall be the obligation of the Board of Administration pursuant to the By-Laws and subject to the following provisions:

**15.1 Share of the Common Expenses and Common Surplus.**

The Common Expenses to be borne by each Boat Slip Owner shall be a proportionate share of the total expenses and costs of the Association. Each Boat Slip Owner shall be responsible for a portion of the Common Expenses and costs, and such share shall be in the percentage of the undivided share in the Common Elements appurtenant to said Boat Slip as set forth in Section 8 above.

Any Common Surplus of the Association shall be owned by each of the Boat Slip Owners in the same proportion as their percentage liability for Common Expenses.

**15.2 Determination.**

The Board of Administration shall propose annual budgets, including a Common Expense budget, in advance for each fiscal year. These budgets shall contain estimates of the cost of performing the functions of the Association. The Common Expense shall include, without limitation, the estimated amounts necessary for maintenance and operation of Common Elements and Limited Common Elements, the cost of compliance with governmental regulations, landscaping, streets and walkways, office expense, utility services, replacement reserves, casualty insurance, liability insurance, and administration salaries. The failure of the Board of Administration to include any item in the annual budget shall not preclude it from levying an additional Assessment in any calendar year for which the budget has been projected. In determining the Common Expenses, the Board of Administration may provide for an operating reserve not to exceed fifteen percent (15%) of the total projected Common Expenses for the year. A copy of the proposed initial annual budget for the Marina is attached as Exhibit "H".

After adoption of the budgets and determination of the annual Assessments per Boat Slip, as provided in the By-Laws, the Association shall assess such sums by promptly notifying all Owners by delivering or mailing notice thereof to the voting member representing each Boat Slip at such member's most recent address as shown by the books and records of the Association. One-twelfth (1/12) of the annual Assessments shall be due and payable in advance to the Association on the first day of each month.

**15.3 Developer**

The Developer shall be excused from the payment of its share of the Common Expenses and Assessments on Boat Slips it owns in the Condominium for the period of time

commencing with the date of the recording of the Declaration until the Boat Slip Owners other than the Developer elect the majority of the members of the Board of Administration in accordance with Section 12.7.2(b). During this period of time the Developer guarantees that the Assessments for Common Expenses of the Marina imposed upon all Boat Slips in the Marina shall not increase by more than fifteen percent (15%) per annum per Boat Slip and agrees to pay when due any amount of Common Expenses incurred during said period of time and not produced by the Assessments at the aforesaid guaranteed level receivable from other Boat Slip Owners.

#### 15.4 Special Assessments

Special Assessments may be made by the Board of Administration from time to time to meet other needs or requirements of the Association in the operation and management of the Condominium and to provide for emergencies, repairs, or replacement of the Common Elements or other portions of the Marina and infrequently recurring items of maintenance. However, any special Assessments which are not connected with an actual operating, managerial, or maintenance expense of the Marina shall not be levied without the prior approval of the members owning a majority of the Boat Slips in the Marina.

#### 15.5 Non-Waiver.

The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by abandonment of the Boat Slip for which the Assessment is made.

#### 15.6 Interest, Late Fees and Application of Payments.

The record Owner of each Boat Slip shall be personally liable, jointly and severally, to the Association

for payment of all Assessments, whether regular or special, and for all costs of collecting delinquent Assessments. Assessments and installments on such Assessments paid on or before thirty (30) days after the date when due shall not bear interest but all sums not paid on or before thirty (30) days after the date when due shall bear interest at the highest rate allowed by the laws of the State of Florida from the date when due until paid. In addition, a late fee not to exceed the greater of Twenty-Five Dollars (\$25.00) or five percent (5%) of the Assessment installment shall be charged and collected when any Assessment installment is not paid on or before fifteen (15) days after the date when due. All payments upon account shall be first applied to interest, late fees, costs and attorneys' fees incurred in collection, and then to the Assessment payment first due.

#### 15.7 Lien for Assessments.

The Association shall have a lien on each Marina Parcel for any unpaid Assessments and all interest due thereon and the costs of collecting such charges. Additionally, reasonable attorneys' fees at all levels of the proceedings incident to the collection of such Assessment or the enforcement of such lien shall be payable by the unit Owner and secured by such lien.

#### 15.6 Collection and Foreclosure.

The Board of Administration may take such action as it deems necessary to collect Assessments, including bringing an action for damages against the Boat Slip Owner or by enforcing and foreclosing its lien, and may settle and compromise same if in the best interests of the Association. The Association shall be entitled to bid at any sale held pursuant to a lawsuit to foreclose an Assessment lien and to apply as a cash credit against its bid all sums due the Association covered by the lien enforced. In case of a

foreclosure lawsuit, the Boat Slip Owner shall be required to pay a reasonable rental for the Marina Parcel during the period in which he is in default. The plaintiff in a foreclosure lawsuit shall be entitled to the appointment of a Receiver to collect such rents from the Boat Slip Owner or occupant.

**15.9 Liability of Mortgagee, Lienor or Purchaser for Assessment.**

A Boat Slip Owner, regardless of how title is acquired, including by purchaser at a foreclosure sale or by deed in lieu of foreclosure, is liable for all Assessments coming due while he is the owner of a Boat Slip. Additionally, a Boat Slip Owner is jointly and severally liable with the previous Owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous owner the amounts paid by the Owner.

**15.10 Assignment of Claim and Lien Rights.**

The Association shall have the right to assign its claim to and lien rights for the recovery of any unpaid Assessments to the Developer, any Boat Slip Owner or group of Boat Slip Owners, or any third party.

**15.11 Certificate of Unpaid Assessments.**

Any Boat Slip Owner and any holder of a mortgage on a Boat Slip shall have the right to require from the Association a certificate showing the amount of unpaid Assessments against that Boat Slip. Any person other than the Owner who relies upon such certificate shall be protected thereby



**16. COMPLIANCE AND DEFAULT.**

Each Boat Slip Owner shall be governed by and shall comply with the terms of this Declaration of Condominium, the Articles and By-Laws of the Marina at Villages of Vilano Association, Inc., the Rules and Regulations, and said documents as they may be amended from time to time. Failure of Boat Slip Owners to comply therewith shall entitle the Association or other Boat Slip Owners relief as set forth in this section or as provided by law.

**16.1 Remedies for Violations.**

In the event that a Boat Slip Owner or occupant violates or breaches any provisions of this Declaration, the Articles and By-Laws of the Association, or the Association's Rules and Regulations, the Association, the members thereof, an Institutional First Mortgagee, or any of them severally, shall have the right to proceed at law for damages or in equity to compel compliance with the terms of those documents to prevent the violation or breach of any of them, or for such relief as may be appropriate. This right shall be in addition to any other remedies set forth in this Declaration.

**16.2 Fines.**

The Association may levy reasonable fines for failure of Owner of a Boat Slip or its occupant, licensee, or invitee to comply with any provision of the Declaration, the Association's By-Laws, or the Rules and Regulations.

**16.3 Costs and Attorneys' Fees.**

In any proceeding arising because of a Boat Slip Owner's failure to comply with or violation of the terms of this Declaration, the By-Laws or the Rules and Regulations adopted pursuant thereto, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys'

fees, as may be awarded by the court at all levels of the proceedings.

#### 16.4 No Waiver of Rights.

The failure of the Association or any Boat Slip Owner to enforce a covenant, restriction, or other provision of this Declaration, the By-Laws or Articles of Incorporation of the Association, or any of the Rules and Regulations shall not constitute a waiver of the right to do so thereafter. No breach of any of the provisions contained herein shall defeat or adversely affect the lien of any first mortgage at any time made in good faith and for a valuable consideration upon said property, or any part thereof. Notwithstanding the foregoing, the rights and remedies herein granted to the Developer, the Association, and the Owner or Owners of any Boat Slip may be enforced against the Owner of the part of said property subject to such mortgage notwithstanding such mortgage. The purchaser at any sale upon foreclosure shall be bound by all of the provisions herein contained.

#### 17. AMENDMENT OF DECLARATION.

Except as elsewhere provided otherwise, this Declaration may be amended in the following manner:

##### 17.1 Notice.

Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered and, if required by Section 18, shall be sent to holders, insurers, or guarantors of first mortgages in accordance with that section.

##### 17.2 Resolution of Adoption.

A resolution adopting a proposed amendment may be proposed by either the Board of Administration or by the members of the Association. Directors and members not

present in person or by proxy at the meeting considering the amendment may express their approval, in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Except where elsewhere provided, such approvals must be by no less than sixty-six and two-thirds percent (66-2/3%) of the votes of the entire membership of the Board of Administration and by not less than sixty-six and two-thirds percent (66-2/3%) of the votes of the entire membership of the Association.

**17.3 Resolution of Adoption for Errors or Omissions Not Materially Adversely Affecting Property Rights of the Boat Slip Owners.**

A resolution adopting a proposed amendment may be proposed by either the Board of Administration or by members of the Association whenever it appears that there is an omission or error in this Declaration or any exhibit or amendment to this Declaration. Approval of such resolution must be by no less than fifty percent (50%) of the votes of the entire membership of the Board of Administration and by no less than fifty percent (50%) of the votes of the entire membership of the Association.

**17.3.1** Any amendment adopted pursuant to this section 17.3 shall not materially adversely affect the property rights of Boat Slip Owners.

**17.3.2** Until the Developer has sold and conveyed all of the Boat Slips held for sale by Developer in the normal course of business, any amendment adopted pursuant to this paragraph 17.3 must be approved by the Developer.

**17.4 Amendment by Developer.**

Notwithstanding anything to the contrary contained in the Declaration, the Developer expressly reserves the

right to amend the Declaration so as to correct any error in any legal descriptions contained herein. The Developer may amend this Declaration by filing an amended legal description or descriptions as an amendment to the Declaration among the public records of St. Johns County, Florida, which amendment or amendments shall expressly describe that legal description which is being corrected (by reference to the exhibit containing said legal description or otherwise), in addition to the corrected legal description. Such amendments need be executed and acknowledged only by the Developer and need not be approved by the Association, Boat Slip Owners, lienors, or mortgagees of Boat Slips whether or not elsewhere required for amendments.

**17.5 Unanimous Consent by Boat Slip Owners and Mortgagees.**

All Boat Slip Owners so affected and their Institutional Mortgagees must consent to any amendment which:

17.5.1 Changes any Boat Slip, its appurtenances, or an Owner's share in the Common Elements, or which increases the Owner's share of the Common Expenses except as hereinabove provided;

17.5.2 Changes the section in this Declaration entitled "Insurance", or the section entitled "Reconstruction or Repair After Casualty"; or

17.5.3 Operates to materially affect the rights or interests of any Institutional First Mortgage under its mortgage or this Declaration.

Such consent of the Boat Slip Owners and Institutional First Mortgagees may not be unreasonably withheld.

**17.6 Consent by Developer.**

Any amendment which affects any of the rights, privileges, powers, or options of the Developer shall require the approval of the Developer.

**17.7 Execution and Recording.**

A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when such certificate and a copy of the amendment are recorded among the Public Records of St. Johns County, Florida.

**17.8 Amendment of this Section.**

Notwithstanding anything to the contrary contained in this Declaration, this section concerning amendment cannot be amended without the consent of eighty percent (80%) of the Boat Slip Owners and all Institutional First Mortgages.

**18. NOTICE TO MORTGAGEES.**

The Association shall provide a holder, insurer, or guarantor of Institutional First Mortgage who has registered its name with the Association as provided in this Declaration, upon written request of such holder, insurer, or guarantor (such request to state the name and address of such holder, insurer, or guarantor and the Boat Slip number):

**18.1** Timely notice of any proposed amendment of the Marina documents affecting a change in:

**18.1.1** The boundaries of any Boat Slip or the exclusive easement rights appertaining thereto;

**18.1.2** The interest in the Common Elements or Limited Common Elements appertaining to any Boat Slip or

the liability for Common Expenses appertaining thereto,

18.1.3 The number of votes in the Association appertaining to any Boat Slip; or

18.1.4 The purposes to which any Boat Slip of the Common Elements are restricted;

18.2 Timely notice of any proposed termination of the Marina Condominium;

18.3 Timely notice of any condemnation loss or any casualty loss which affects a material portion of the Marina or which affects any Boat Slip on which there is an Institutional First Mortgage;

18.4 Timely notice of any delinquency in the payment of Assessments or charges owed by an Owner of a Boat Slip subject to the mortgage of such eligible holder, insurer, or guarantor, where such delinquency has continued for a period of 60 days;

18.5 Timely notice of any lapse, cancellation, or material modification of any insurance policy maintained by the Association;

18.6 At least one copy of the annual financial statement and report of the Association, prepared by a certified public accountant designated by the Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such financial statement and report to be furnished within ninety (90) days following the end of each calendar year; and

18.7 Timely notice of any proposed action that would require the consent of a specified percentage of Institutional First Mortgagees.

**19. DEVELOPER'S PRIVILEGES.****19.1 Use of Boat Slips.**

The Developer, at the time of filing of this Declaration, is the Owner of all of the real property comprising this Marina. Therefore, the Developer, until all of the Boat Slips held by Developer for sale in the normal course of business have been sold and closed, shall be irrevocably empowered, notwithstanding anything herein to the contrary, to sell, lease or rent Boat Slips to any person. The Developer shall have the right to transact within the Marina any business necessary to consummate the sale of Boat Slips and to maintain models, have signs, staff employees, maintain offices, use the Common Elements, show Boat Slips, and engage in any other activity necessary to accomplish the purposes set forth in this section. Any sales office, signs, fixtures or furnishings, or other tangible personal property belonging to the Developer shall not be considered Common Elements and shall remain the property of the Developer.

**19.2 Payment of Common Expenses.**

The Developer shall be excused from the payment of its share of the Common Expenses and Assessments on Boat Slips owned by the Developer during the period of time described in paragraph 15.3.

**19.3 Amendment.**

Notwithstanding anything to the contrary contained in this Declaration, the provisions of this section shall not be subject to any amendment, other than amendment by the Developer, until the Developer has sold all of the Boat Slips held for sale by Developer in the normal course of business.

**19.4 Easements Reserved.**

The Developer hereby reserves for itself and its

assigns a non-exclusive easement for Vessel, pedestrian, and vehicular ingress and egress and for installation of utilities over and across the Marina, including the walks, drives, streets and parking areas within the Marina, and a non-exclusive easement to drain surface water runoff into the existing pond and any future pond within the Marina. Such easements shall be for the benefit of the Condominium Property.

## 20. TERMINATION.

This Marina Condominium may only be terminated in the following manners:

### 20.1 Substantial Loss.

In the event that it is determined as provided in Section 14 that the Marina shall not be reconstructed because of substantial loss, the condominium form of ownership will be thereby terminated without the necessity of agreement or approval by the membership.

### 20.2 Agreement.

The condominium form of ownership may be terminated by the approval, in writing, by a vote of members of the Association owning seventy-five percent (75%) of the Boat Slips and by all Institutional First Mortgagees.

### 20.3 Certificate.

The termination of the condominium form of ownership in either of the foregoing manners shall be evidenced by a certificate of the Association, executed by the President and Secretary, certifying as to the facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of St. Johns County, Florida.



**20.4 Shares of Owners After Termination.**

After termination of the condominium form of ownership, the Owners shall own the Marina and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Boat Slip Owners. Such undivided shares of the Boat Slip Owners shall be the same as the undivided shares in the Common Elements appurtenant to the Owners' Boat Slips prior to termination.

**20.5 Sale of Property.**

Immediately after the required vote of consent to terminate, each and every Boat Slip Owner shall immediately convey by warranty deed to the Association all of said Boat Slip Owner's right, title and interest to each Boat Slip and to the Common Property, provided the Association's officers and employees handling funds have been adequately bonded. The Association or any member shall have the right to enforce such conveyance by specific performance. The Board of Administration shall then sell all of the property at public or private sale upon terms approved in writing by all of the Institutional First Mortgagees. Upon the sale of the property, the costs, fees, and charges for affecting such sale, the cost of liquidation, and costs incurred in connection with the management and operation of the Marina up to and including the time when distribution is made to the Boat Slip Owners shall be paid out of the proceeds of said sale. The remaining balance (the "net proceeds of sale") shall be distributed to the Boat Slip Owners as follows:

**20.5.1 Determination of Distributive Share.**

The Distributive Share of each Boat Slip Owner in the net proceeds of sale, subject to the provisions

of this section, shall be a fraction the numerator of which shall be one and the denominator of which shall be the total number of all Boat Slips on the date of termination.

#### 20.5.2 Payment of Liens.

Upon determination of each Boat Slip Owner's Distributive Share, the Association shall pay out of each Boat Slip Owner's Distributive Share all mortgages, assessments, and other liens encumbering said Boat Slip in accordance with their priority, and upon such payment all mortgagees, the Association, and lienors shall execute and record satisfactions or releases of their liens against said Boat Slip or Boat Slips, regardless of whether the same are paid in full.

#### 20.5.3 Payment to Boat Slip Owners.

Thereupon, the Directors shall proceed to liquidate and dissolve the Association and distribute the remaining portion of each Distributive Share, if any, to the Owner or Owners entitled thereto.

#### 20.5.4 Allocation of Shares.

If more than one person has an interest in a Boat Slip, the Association shall pay the remaining Distributive Share allocable to the said Boat Slip to the various Owners of such Boat Slip, excepting that if there is a dispute as to the validity, priority, or amount of mortgages or liens encumbering a Boat Slip, then payment shall be made to the Owner or Owners and the owners and holders of the mortgages encumbering said Boat Slip.

#### 20.6 Effect of Termination.

After the certificate described in Section 20.3 has

been recorded, all Owners have conveyed their interests in the Marina Parcels to the Association, and the Association has conveyed all of the property to a purchaser, the title to said property shall thereafter be free and clear of all restrictions, reservations, covenants, conditions, and easements set forth in this Declaration and the purchaser and subsequent grantees of any of said property shall receive title to said lands free and clear thereof.

#### 20.7 Amendments.

Notwithstanding anything to the contrary contained in this Declaration, this section concerning termination cannot be amended without the consent of four-fifths of all Boat Slip Owners and their Institutional First Mortgagees.

#### 21. RESPONSIBILITY OF BOAT SLIP OWNERS.

##### 21.1 Governing Law.

The Owner of each Boat Slip shall be governed by and shall comply with the provisions of this Declaration, the By-Laws and Articles of Incorporation of the Association, the Rules and Regulations, as they may be amended from time to time, and all applicable laws, rules, or ordinances of any local, state, or federal governmental agency.

##### 21.2 Attorneys' fees and costs.

In any action brought against an Owner by the Association for damages or injunctive relief due to such Boat Slip Owner's failure to comply with this Declaration or the Rules and Regulations, the Association shall also be entitled to recover its costs, reasonable attorneys' fees, and expenses incurred by it in connection with the prosecution of such action at all levels of the proceedings.

##### 21.3 Indemnification.

Each Owner shall indemnify and hold harmless the

Association and the Developer and their agents and employees from and against any loss or damage arising from the exercise or nonexercise of their rights under this Declaration; the Owner's failure to comply with this Declaration, including without limitation the failure to properly moor his Vessel; and the intentional or negligent acts of an Owner, his guests, tenants or invitees.

## 22. PURPOSE.

The provisions of this Declaration shall be liberally construed to effectuate its purposes of creating a uniform plan for the operation of a marina condominium.

## 23. CONSTRUCTION.

### 23.1 Severability and Invalidity.

The invalidity, in whole or in part, of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration and the Articles of Incorporation, the By-Laws, or the Rules and Regulations shall not affect the validity of the remaining portions which shall remain in full force and effect.

In the event any court shall hereafter determine that any provisions of this Declaration, as originally drafted or as amended, violates the rule against perpetuities or any other rule of law because of the duration of the period involved, the period specified in the Declaration shall not thereby become invalid but, instead, shall be reduced to the maximum period allowed under such rule of law, and for such purpose measuring lives shall be those of the incorporators of the Association.

### 23.2 Headings.

The headings herein are inserted only as a matter

of convenience and for reference, and in no way define, limit or describe the scope of this Declaration not the interest of any provisions herein.

23.3 Gender.

The use of the masculine gender in the Declaration shall be deemed to refer to the feminine or neuter gender, and the use of the singular or plural shall be taken to mean the other whenever the context may require.

IN WITNESS WHEREOF, the Developer, Vilano Venture, Inc., has caused this Declaration to be executed this 27<sup>th</sup> day of FEBRUARY, 1996.

Witness [Signature] VILANO VENTURE, INC.

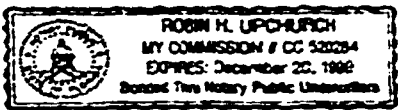
Name: [Signature] Name: JAMES D. DORRIS  
Its: V. Pres

Witness [Signature]  
Name: [Signature]

STATE OF FLORIDA  
COUNTY OF St. Johns

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of FEBRUARY, 1996, by JAMES D. DORRIS, the Vice President of Vilano Venture, Inc., a Florida corporation, on behalf of the corporation. He/she is personally known to me or has produced [Signature] as identification.

[Signature]  
Signature of Notary  
Name of Notary  
Commission Number  
My Commission Expires:



LEGAL DESCRIPTION

O.R. 1154 PG 1732

A PORTION OF SECTION 32, TOWNSHIP 6 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF BEGINNING COMMENCE AT THE NORTHWEST CORNER OF TRACT "K" AS SHOWN ON PLAT OF VILLAGES OF VILANO UNIT III AS RECORDED IN MAP BOOK 26, PAGES 62, 63, 64 & 65 OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE SOUTH 07°20'00" EAST, ALONG THE WEST LINE OF SAID TRACT "K" AND THE WEST LINE OF TRACT "O" AS SHOWN ON SAID PLAT, A DISTANCE OF 527.39 FEET TO THE SOUTHWEST CORNER OF SAID TRACT "O"; THENCE, NORTH 84°17'42" WEST ALONG THE WESTERLY PROLONGATION OF THE SOUTH LINE OF SAID PLAT, A DISTANCE OF 95.33 FEET; THENCE SOUTH 89°29'01" WEST, A DISTANCE OF 178 FEET MORE OR LESS TO THE WATERS OF THE NORTH RIVER (INTRACOASTAL WATERWAY); THENCE NORTHERLY ALONG SAID WATERS, A DISTANCE OF 415 FEET MORE OR LESS TO A POINT WHICH BEARS SOUTH 67°48'00" WEST FROM THE POINT OF BEGINNING SAID POINT BEING THE WESTERLY PROLONGATION OF THE NORTHERLY LINE OF THE AFOREMENTIONED TRACT "K"; THENCE NORTH 67°48'00" EAST, ALONG SAID LINE A DISTANCE OF 275 FEET MORE OR LESS TO THE POINT OF BEGINNING.

EXHIBIT

A

**MEAD: Legibility of writing.**



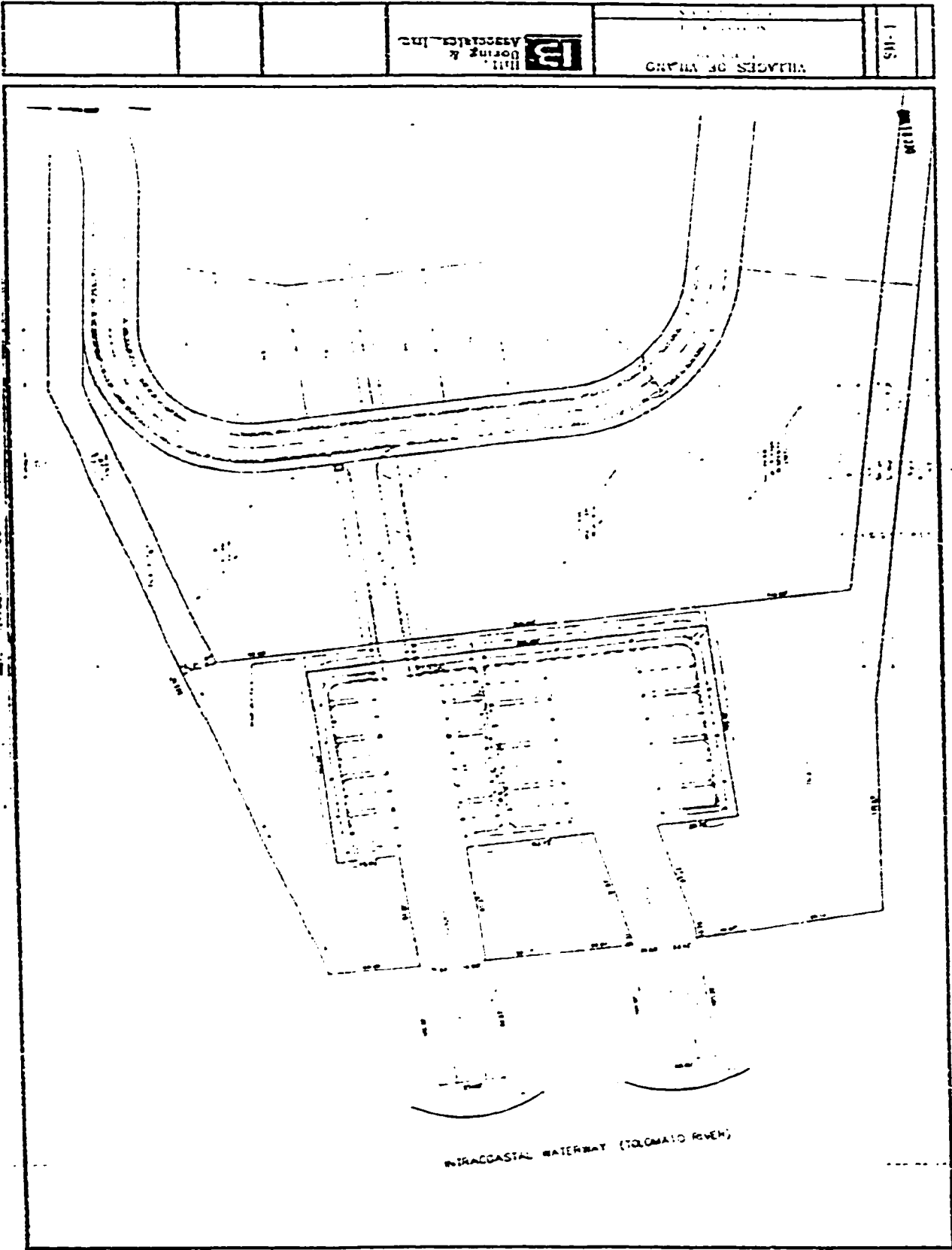
MDP OF

1. *Handwritten signature*  
 2. *Handwritten signature*  
 3. *Handwritten signature*  
 4. *Handwritten signature*

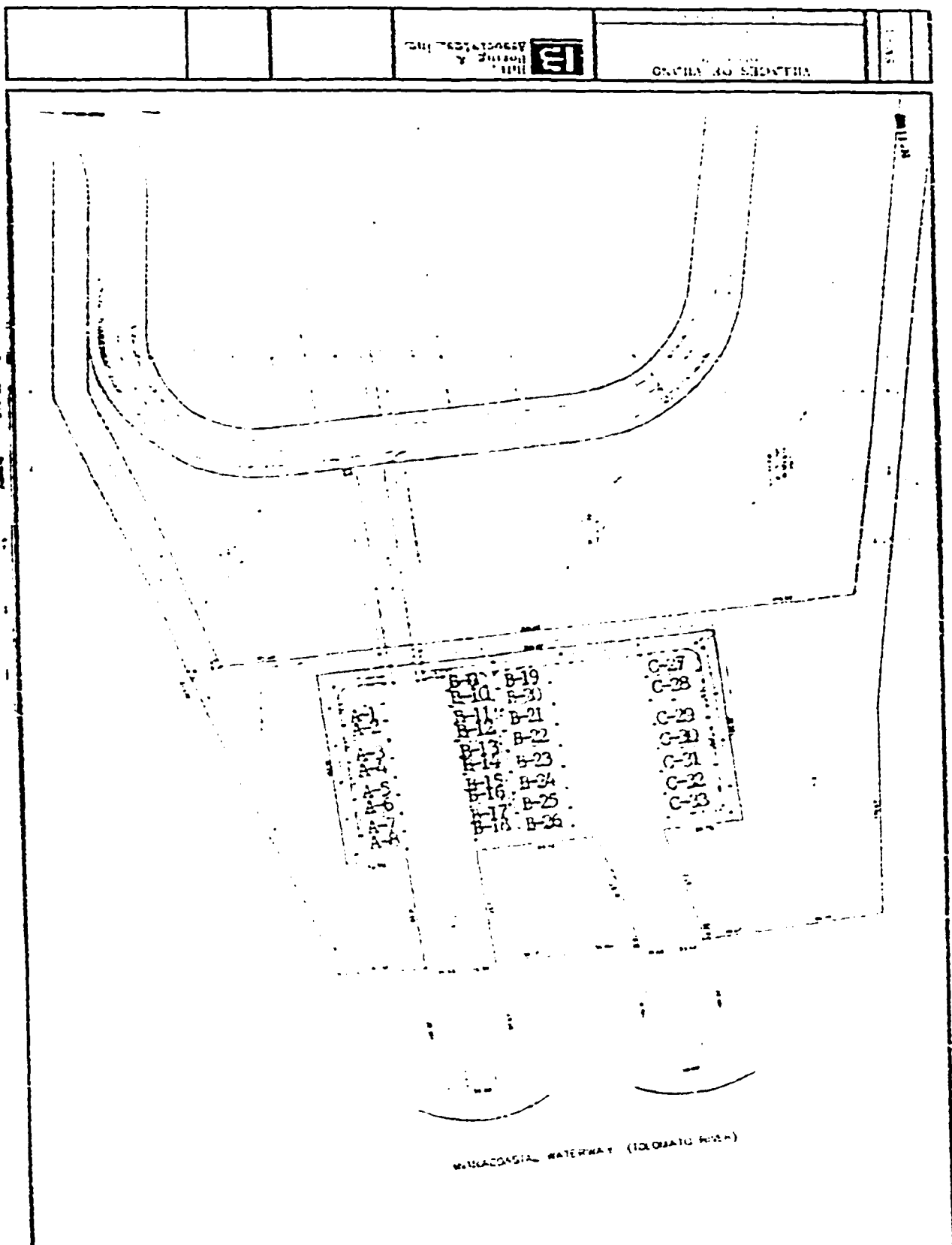
**CHARLES BABBITT & ASSOCIATES, INC.**

10

MEMO: Legibility of writing:  
typical or printing unsatisfactory in  
this document.





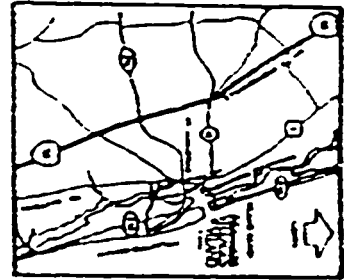


## IDENTIFICATION OF BOAT SLIPS

<u>SLIP NUMBER</u>	<u>SLIP SIZE</u>
A-1	35' x 13'6"
A-2	35' x 13'6"
A-3	35' x 13'6"
A-4	35' x 13'6"
A-5	35' x 13'6"
A-6	35' x 13'6"
A-7	35' x 13'6"
A-8	35' x 13'6"
B-9	30' x 12'
B-10	30' x 12'
B-11	30' x 12'
B-12	30' x 12'
B-13	30' x 12'
B-14	30' x 12'
B-15	30' x 12'
B-16	30' x 12'
B-17	30' x 12'
B-18	30' x 12'
B-19	45' x 16'
B-20	45' x 15'
B-21	45' x 16'
B-22	45' x 15'
B-23	45' x 16'
B-24	45' x 15'
B-25	45' x 16'
B-26	45' x 15'
C-27	45' x 18'
C-28	45' x 18'
C-29	45' x 18'
C-30	45' x 18'
C-31	45' x 17'
C-32	45' x 17'
C-33	45' x 18'

EXHIBIT

C



# VILLAGES OF VILANO ST. AUGUSTINE RECREATION CENTER

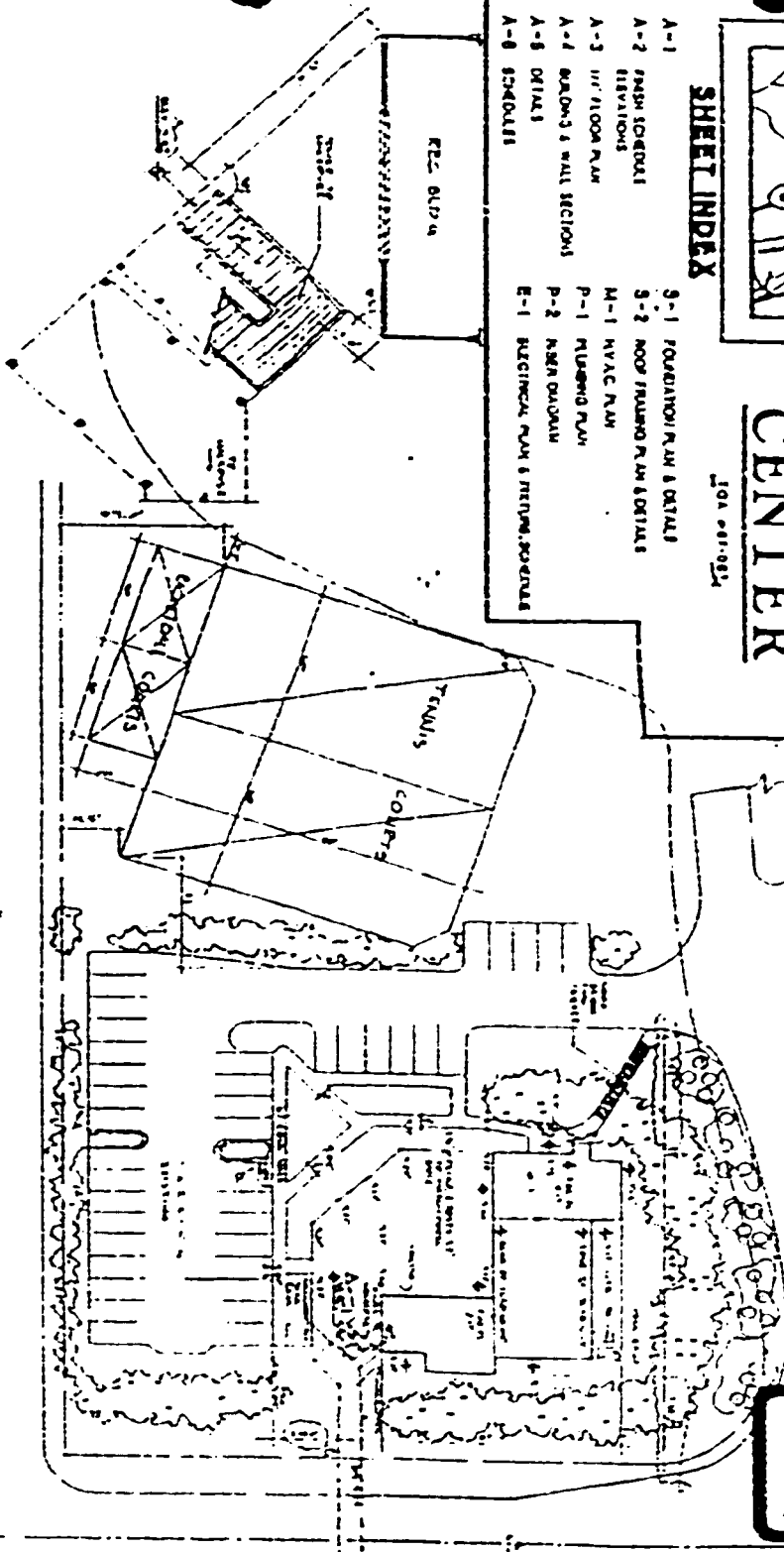
104-001-024

## SHEET INDEX

- |     |                              |     |  |
|-----|------------------------------|-----|--|
| A-1 | FOUNDATION PLAN & DETAILS    | S-1 | FOUNDATION PLAN & DETAILS              |
| A-2 | FLOOR SCHEDULE<br>ELEVATIONS | S-2 | ROOF FLOOR PLAN & DETAILS              |
| A-3 | 1st FLOOR PLAN               | M-1 | MVAC PLAN                              |
| A-4 | SECTION & WALL SECTIONS      | P-1 | PLUMBING PLAN                          |
| A-5 | DETAILS                      | P-2 | MECH. PLAN                             |
| A-6 | SCHEDULES                    | E-1 | ELECTRICAL PLAN & MECHANICAL SCHEDULES |

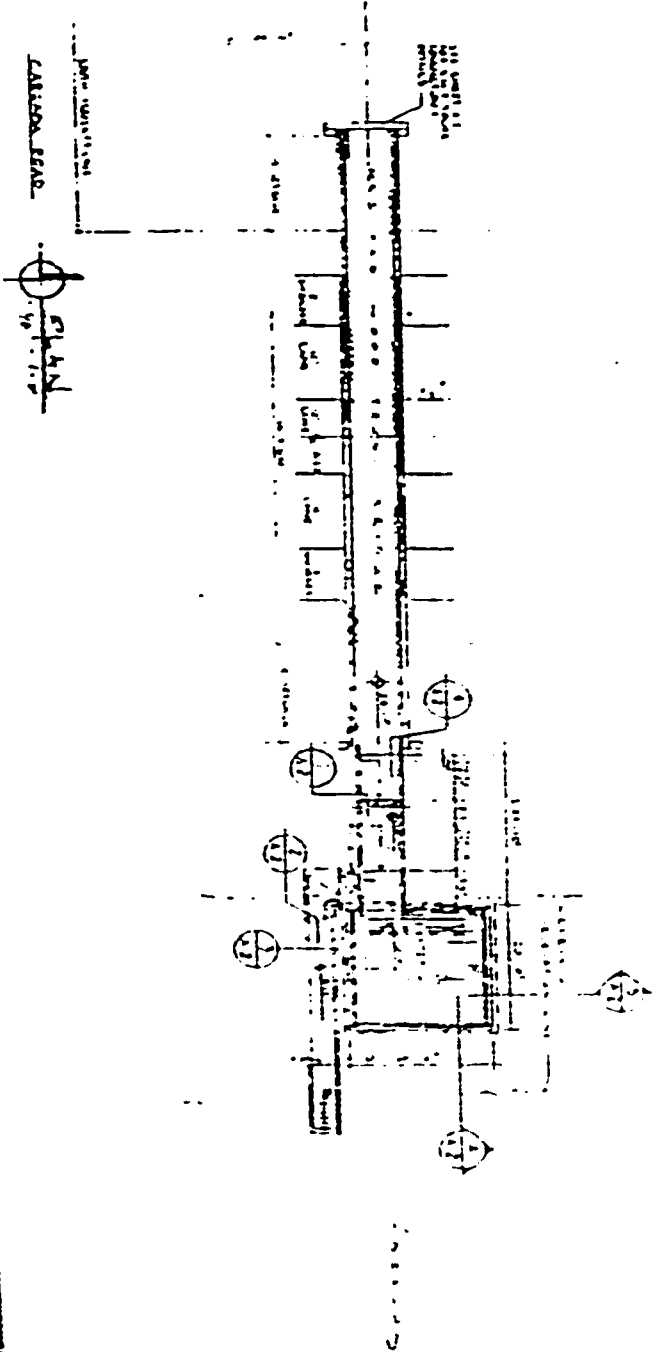
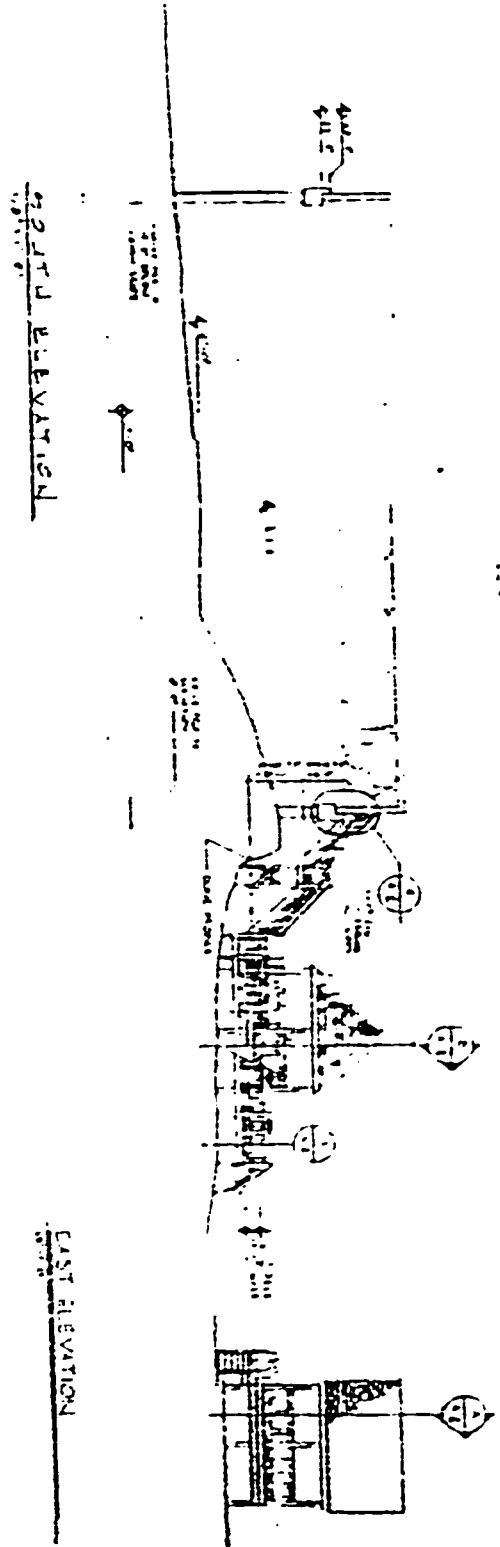
LOCATION OF TOWER & REC. BLDG.

104-001-024



EXHIBIT

MEMO: Legibility of writing.  
typing or printing unsatisfactory in  
this document.



<p>Architect</p> <p>Client</p> <p>Project</p> <p>Location</p> <p>Date</p>	<p>Architect</p> <p>Client</p> <p>Project</p> <p>Location</p> <p>Date</p>	<p>Architect</p> <p>Client</p> <p>Project</p> <p>Location</p> <p>Date</p>	<p>Architect</p> <p>Client</p> <p>Project</p> <p>Location</p> <p>Date</p>
<p>Architect</p> <p>Client</p> <p>Project</p> <p>Location</p> <p>Date</p>	<p>Architect</p> <p>Client</p> <p>Project</p> <p>Location</p> <p>Date</p>	<p>Architect</p> <p>Client</p> <p>Project</p> <p>Location</p> <p>Date</p>	<p>Architect</p> <p>Client</p> <p>Project</p> <p>Location</p> <p>Date</p>

ARTICLES OF INCORPORATION OF  
THE MARINA AT VILLAGES OF VILANO ASSOCIATION, INC.  
A CORPORATION NOT-FOR-PROFIT

5 JUL 66 PM 5:26  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

I, the undersigned natural person competent  
contract, associate myself for the purpose of forming a  
corporation not for profit under Chapter 617 of the Florida  
Statutes, and certify as follows:

I

NAME

The name of the corporation shall be THE MARINA AT  
VILLAGES OF VILANO ASSOCIATION, INC., a corporation not-for-  
profit.

II

PURPOSE

The purpose for which this corporation is organized  
is to provide for maintenance, preservation, regulation, and  
architectural control of the Boat Slips and Common Property  
within that certain parcel of real property described as:

A PORTION OF SECTION 32, TOWNSHIP 6 SOUTH, RANGE  
30 EAST, ST. JOHNS COUNTY, FLORIDA AND BEING MORE

EXHIBIT

5

PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF BEGINNING COMMENCE AT THE NORTHWEST CORNER OF TRACT "K" AS SHOWN ON PLAT OF VILLAGES OF VILANO UNIT III AS RECORDED IN MAP BOOK 26, PAGES 62, 63, 64 & 65 OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE SOUTH 07°20'00" EAST, ALONG THE WEST LINE OF SAID TRACT "K" AND THE WEST LINE OF TRACT "C" AS SHOWN ON SAID PLAT, A DISTANCE OF 527.39 FEET TO THE SOUTHWEST CORNER OF SAID TRACT "C"; THENCE, NORTH 84°17'42" WEST ALONG THE WESTERLY PROLONGATION OF THE SOUTH LINE OF SAID PLAT, A DISTANCE OF 95.33 FEET; THENCE SOUTH 89°29'01" WEST, A DISTANCE OF 173 FEET MORE OR LESS TO THE WATERS OF THE NORTH RIVER (INTRACCOASTAL WATERWAY); THENCE NORTHERLY ALONG SAID WATERS, A DISTANCE OF 415 FEET MORE OR LESS TO A POINT WHICH BEARS SOUTH 67°48'00" WEST FROM THE POINT OF BEGINNING SAID POINT BEING THE WESTERLY PROLONGATION OF THE NORTHERLY LINE OF THE AFOREMENTIONED TRACT "K"; THENCE NORTH 67°48'00" EAST, ALONG SAID LINE A DISTANCE OF 275 FEET MORE OR LESS TO THE POINT OF BEGINNING.

and to promote the health, safety and welfare of the owners of Boat Slips within the above-described Property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for such purpose.

### ARTICLE III

#### POWERS

1. In addition to the general powers afforded a corporation not-for-profit under the statutory laws of the State of Florida, the Association shall have all powers reasonably necessary to implement the purpose of this

2.

Association, including, but not limited to, the following:

a. to operate and manage a Marina building or buildings and the lands on which it is situated;

b. to make and collect assessments against members to defray the costs, expenses and losses of the Marina;

c. to use the proceeds of assessments in the exercise of its powers and duties;

d. to maintain, repair, replace and operate the Marina property, and take all steps necessary to comply with governmental regulations applicable to the Marina property;

e. to reconstruct improvements after casualty and to further improve the property;

f. to make and amend regulations respecting the use of the Marina properties;

g. to enforce by legal means the provisions of the Declaration of Covenants and Restrictions, these Articles, the By-Laws of the

Association and the Rules and Regulations for the use of the Marina property;

h. to contract for the management and maintenance of the Marina and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of records, enforcement of rules, and maintenance of the common elements;

i. to purchase insurance upon the property and insurance for the protection of the Association and its members as Boat Slip owners;

j. to acquire title to property or otherwise hold, convey, lease, and mortgage Association property for the use and benefit of its members.

k. to exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants and Restrictions for The Marina at Villages of Vilano,



hereinafter called the "Declaration", applicable to the Property, which shall be recorded in the public records of St. Johns County, Florida, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

l. to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

m. to borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

n. to dedicate, sell or transfer all or any part of the Common Property to any public agency, authority, or utility for such purposes and subject to such terms and conditions as may be agreed to by the members, provided that no such dedication or transfer shall be effective unless

an instrument has been signed by two-thirds (2/3) of the members, agreeing to such dedication, sale or transfer; and

o. to participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and Common Property

All funds and the title to all properties acquired by this Association and the proceeds thereof, shall be held in trust for the owners of the Marina Boat Slips in accordance with the provisions of the Declaration of Covenants and Restrictions, these Articles and the By-Laws.

All of the powers of this Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration of Covenants and Restrictions, together with its supporting documents, which govern the use of the lands to be operated and administered by this Association.

## IV

## MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Boat Slip which is subject by covenants of record to assessment by the Association, including contract sellers, but excluding persons or entities holding title merely as security for performance of an obligation, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association.

## V

## EXISTENCE

Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida. The corporation shall have perpetual existence.

## VI

## SUBSCRIBERS NAMES AND RESIDENCES

The name and residence of the subscriber to these Articles of Incorporation is:

7.

NameAddress

James D. Borris

3655 Coastal Highway  
St. Augustine, Florida  
32095

## ARTICLE VII

## OFFICERS

The affairs of the corporation are to be managed by a President, Vice President and Secretary/Treasurer who will be accountable to the Board of Directors. Officers will be elected annually in the manner set forth in the By-Laws.

The names of the officers who are to serve until the first election of officers are as follows:

NameOffice

James D. Borris

President

Arthur Wigchers, Jr.

Vice President

Sharyn Kenson

Secretary/Treasurer

## ARTICLE VIII

## DIRECTORS

The number of persons constituting the first Board of Directors is not less than three (3). The number of directors may be increased or decreased from time to time as

2.

provided by the By-laws, provided that there shall never be less than three (3) nor more than five (5). The names and addresses of the directors who are to serve until the first annual meeting of the members or until their successors are elected and qualified are:

<u>Name</u>	<u>Address</u>
James D. Borris	3655 Coastal Highway St. Augustine, Florida 32095
Arthur Wigchers, Jr.	3655 Coastal Highway St. Augustine, Florida 32095
Sharyn Renson	3655 Coastal Highway St. Augustine, Florida 32095

The election of Directors, their terms of office and removal, and the filling of vacancies on said Board shall be in accordance with the By-Laws of the Association.

No compensation shall be paid to Directors for their services as Directors. Compensation, however, may be paid to a Director in his or her capacity as an officer or employee or for other services rendered to the Association outside of his or her duties as a Director. In this case, compensation must be approved and advanced by the Board of Directors and the vote for said compensation. The Directors shall have the right to set and pay all salaries or

9 .

compensation to be paid to officers, employees, agents, or attorneys for services rendered to the corporation.

## IX

### DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

## X

### AMENDMENT TO THE ARTICLES OF INCORPORATION

Amendments to the Articles of Incorporation may be proposed by any member of the Association. These Articles may be amended at any annual meeting of the Association, or at any special meeting duly called and held for such purpose,

on the affirmative vote of two-thirds (2/3) of the members present at such meeting.

## X

### AMENDMENTS TO BYLAWS

The Bylaws of the Association may be made, altered, or rescinded at any annual meeting of the Association, or at any special meeting duly called for such purpose, on the affirmative vote of two-thirds (2/3) of the members present at such meeting, except that the initial Bylaws of the Association shall be made and adopted by the Board of Directors.

## XI

### INDEMNIFICATION

Every director and officer of the Association and every member of the Association serving the Association at its request shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees and appellate attorneys' fees, reasonably incurred by or imposed upon him or her in connection with any proceeding or any settlement of any proceeding to which he or she may be a party, or in which he or she may become involved by reason of

his or her being or having been a director or officer of the Association, or by reason of his or her serving or having served the Association at its request, whether or not he or she is a director or officer or is serving at the time the expenses or liabilities are incurred; provided, however, that in the event of a settlement before entry of judgment, and also when the person concerned is adjudged guilty of gross negligence or willful misconduct, indemnification shall apply only when the Board of Directors approves the settlement and/or reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not in lieu of any and all other rights to which that person may be entitled.

### XII

#### PRINCIPAL OFFICE, INITIAL REGISTERED OFFICE AND REGISTERED AGENT

The street address and mailing address of the principal office of the corporation and the initial registered office of the corporation is 3655 Coastal Highway, St. Augustine, Florida 32095, and the registered agent at



such address is James D. Borris.

James D. Borris  
JAMES/D. BORRIS  
Subscriber

STATE OF FLORIDA

COUNTY OF ST. JOHNS

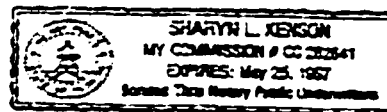
The foregoing instrument was acknowledged before me this 12th day of NOVEMBER, 1995, by James D. Borris, who is personally known to me.

Sharyn L. Kenson  
Signature of Notary

Name of Notary Typed, Printed or  
Stamped

Commission Number \_\_\_\_\_

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



ACCEPTANCE BY REGISTERED AGENT

I am familiar with and accept the duties and responsibilities as Registered Agent for the foregoing corporation.

  
JAMES D. BORRIS

RECEIVED  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA  
JAN 11 1996  
PH 5:26

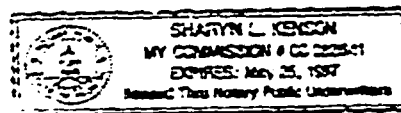
STATE OF FLORIDA

COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 13th day of NOVEMBER, 1995, by James D. Borris, who is personally known to me.

  
\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Name of Notary Typed, Printed or Stamped  
\_\_\_\_\_  
Commission Number  
\_\_\_\_\_  
My Commission Expires:



BY-LAWS OF  
THE MARINA AT VILLAGES OF VILANO ASSOCIATION, INC.

ARTICLE ONE

PLAN OF BOAT SLIP OWNERSHIP

Section One.            Boat Slip Ownership.        The Marina located at 3655 Coastal Highway, St. Augustine, Florida, known as THE MARINA AT VILLAGES OF VILANO is submitted to the condominium form of ownership by Declaration recorded simultaneously herewith in the St. Johns County, Public Records.

Section Two.            Applicability to Property.    The provisions of the By-Laws are applicable to the Marina, which term includes the land, the docks and Boat Slips, and all other improvements thereon, all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith.

Section Three.           Applicability to Persons.    All present and future owners, lessees, and mortgagees, their employees, and any other person who may use the facilities of the Marina in any manner, shall be subject to these By-Laws, the Declaration, relevant Boat Slip deeds, and rules and regulations pertaining to the use and operation of the Marina property.

Section Four.           Office.        The office of the Marina shall be located at 3655 Coastal Highway, St. Augustine, Florida.

## ARTICLE TWO

FORM OF ADMINISTRATIONSection One. The Association and Board of

Directors. The affairs of the Marina shall be administered and managed by an association of Boat Slip owners organized as a Florida corporation not-for-profit, having the name THE MARINA AT VILLAGES OF VILANO ASSOCIATION, INC., and hereinafter call the "Association". All power and authority of the Association shall be exercised through its Board of Directors ("the Board"), consisting of not less than three (3) members nor more than five (5) members. The initial Board of Directors shall consist of three (3) members.

Section Two. Composition of Board of

Administration. Members of the Board shall be designated by VILANO VENTURE, INC., a Florida corporation, hereinafter called "Developer", or elected by the Boat Slip owners as follows:

a. Until fifteen percent (15%) of the Boat Slips that will eventually be operated by the Association are owned by Boat Slip owners other than Developer, and thereafter until successors shall have been elected by Boat Slip owners, the Board shall consist of such officers and directors of Developer as Developer shall from time to time designate.

b. Then, in an election by Boat Slip owners as provided in these By-Laws, Boat Slip owners other than Developer shall elect one (1) member of the Board, and one member designated by Developer shall resign.

c. The Boat Slip Owners' representation on the Board specified above shall continue until an

election, as provided by these By-Laws, after the earliest of

1.) Three (3) years after fifty percent (50%) of the Boat Slips that will be operated ultimately by the Association have been conveyed to purchasers;

2.) Three (3) months after ninety percent (90%) of the Boat Slips that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business;

3.) When all of the Boat Slips that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business;

4.) When some of the Boat Slips have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or

5.) Seven years after recordation of the Declaration of Covenants and Restrictions.

At such election, and in all subsequent elections, the Boat Slip owners other than Developer shall elect the greater of (1) a majority of the members of the Board, or (2) that number of members corresponding to the aggregate voting power of Boat Slip owners other than

Developer.

d. Developer shall be entitled to elect at least one (1) member of the Board for so long as Developer holds five percent (5%) of the Boat Slips in the Marina for sale in the ordinary course of business.

Persons elected to the Board by Boat Slip Owners other than Developer shall be owners, co-owners, spouses of owners, or mortgagees of Boat Slips, or, in the case of corporate owners or mortgagees of Boat Slips, officers, directors, shareholders, or employees of such corporations.

Section Three.      Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Marina and may do all such acts and things as are not required by law, the Declaration, or these By-Laws directed to be exercised and performed by the Boat Slip owners. The powers and duties to be exercised by the Board of Directors shall include, but shall not be limited to the following:

a. Maintenance, repair, replacement, cleaning, and sanitation of the common elements;

b. Determination, assessment, and collection of funds for common expenses, and payment of such expenses;

c. Adoption, distribution, amendment, and enforcement of rules governing the use and operation of the Marina and the use of the common elements, subject to the right of a majority of Boat Slip owners to change any such rules;

d. Procurement and maintenance of insurance

as hereinafter provided;

e. Maintenance of accounting records, in accordance with law and generally accepted accounting principles, which records shall be made available for inspection by Boat Slip owners and mortgagees at all reasonable times;

f. Authorization and prosecution, in the name of the Association of any and all actions and proceeding deemed necessary or appropriate in furtherance of the interests of Boat Slip owners generally, including suits to foreclose liens for non-payment of assessments or to recover money judgments for unpaid assessments;

g. Entry into any and all contracts deemed necessary or appropriate in furtherance of the interest of Boat Slip owners generally;

h. Employment and dismissal of personnel deemed necessary or appropriate for the maintenance and operation of the property, the common elements, and the restricted common elements;

i. Establishment of bank accounts in the name of the Marina, and authorization of signatories therefor;

j. Purchasing, leasing or otherwise acquiring, in the name of the Board of Directors or its designee, corporate or otherwise, on behalf of all Boat Slip owners, Boat Slips offered for sale or lease or surrendered by their owners to the Board;

k. Purchasing Boat Slips at foreclosure or

other judicial sale in the name of the Board of Directors or its designee, corporate or otherwise, on behalf of all Boat Slip owners;

l. Selling, leasing, mortgaging, or otherwise dealing with Boat Slips acquired by, and sub-leasing Boat Slips leased by, the Board of Directors or its designee, corporate or otherwise, on behalf of all Boat Slip owners;

m. Organizing corporations to act as designees of the Board of Directors in acquiring title + leasing Boat Slips on behalf of all Boat Slip owners;

n. Contracting for repairs of, and additions and improvement to, the property, and for repairs to, and restoration of, the property in accordance with the provisions of these By-Laws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings; and

o. Acquiring title to property or otherwise holding, leasing, mortgaging, or disposing of property in the Association's name for the use and benefit of its members.

p. The taking of any action required under any applicable governmental regulation.

#### Section Four. Election and Terms of Office.

At the first meeting of Boat Slip Owners after the date on which Boat Slip owners other than Developer become entitled to elect at least a majority of the members of the Board of Directors, the terms of office of Board members shall be one



(1) year. Board members shall hold office until their successors have been elected and hold their first meeting.

Section Five.      Recall of Board Members. Any member of the Board of Directors may be removed from office with or without cause by vote or agreement in writing of a majority of all voting interests, and a successor may then and there be elected to fill the vacancy so created.

Section Six.      Organizational Meeting. The first meeting of each Board of Directors, at least a majority of the members of which have been elected by Boat Slip owners other than Developer, shall be held within thirty (30) days after the election of such Board, at such place as may be fixed by the Board. No notice shall be necessary to the newly elected Board of Directors to legally constitute such meeting, providing that a majority of the Board shall be present.

Section Seven.      Regular Meetings. Regular meetings of the Board of Directors may be held at such times and places as shall from time to time be determined by the Board; provided, however, at least one (1) such meeting shall be held during each calendar year. Notice of regular meetings of the Board of Directors shall be given to each Board member personally or by mail, telephone, or facsimile at least fourteen (14) days prior to the date set for such meeting.

Section Eight.      Special Meetings. Special meetings of the Board of Directors may be called by the President, and shall be called by the President or Secretary on the written request of at least two (2) Board members, on ten (10) days' notice to each Board member, given personally

or by mail, telephone or facsimile. Any such notice shall state the time, place and purpose of the meeting.

**Section Nine. Budget Meetings.**

a. **Regular Procedure.** The Board shall mail a meeting notice and copies of the proposed annual budget of common expenses to the Boat Slip owners not less than fourteen (14) days prior to the meeting at which the budget will be considered. The meeting shall be open to Boat Slip owners; however, Boat Slip Owners shall not be entitled to vote on the annual budget except as provided in Subsection b.

b. **Substitute Budget.** If an adopted budget requires assessments against the Boat Slip owners in any fiscal or calendar year which exceed 115 percent of the assessments for the preceding year, the Board, upon written application of ten percent of the members of the Association, shall call a special meeting of the Boat Slip owners within thirty (30) days upon not less than ten (10) days' written notice to each Boat Slip owner. At the special meeting, the Boat Slip Owners shall consider and enact a substitute budget. The adoption of the substitute budget shall require a vote of not less than a majority vote of all members. The Board may propose a budget to the Boat Slip Owners at a meeting of members or in writing, and if the budget or proposed budget is approved by the Boat Slip Owners at the meeting or by a majority of all the voting interests in writing, the budget shall be adopted. If a meeting of the Boat Slip Owners has been called and a quorum is not attained or a substitute budget is not adopted by the Boat Slip Owners, the budget adopted by the Board shall

go into effect as scheduled. In determining whether assessments exceed 115 percent of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the Marina Property, anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the Marina Property shall be excluded from the computation.

Section Ten. Waiver of Notice. Any Board member may at any time waive notice of any meeting of the Board, in writing, and any such written waiver shall be deemed equivalent to the giving of the notice required herein. Attendance of any Board meeting by a member shall constitute a waiver by him or her of notice of the time and place thereof.

Section Eleven. Notice of Board Meetings. Notice of all meetings of the Board of Administration, which shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Marina property at least 48 continuous hours preceding the meeting except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the board. Such emergency action shall be noticed and ratified at the next regular meeting of the Board. Written notice of any meeting at which nonemergency special assessments or amendment to rules regarding Boat Slip use will be considered shall be mailed or delivered to the Boat Slip owners and posted conspicuously on the Marina property not less than 14 days prior to the meeting. Notice of any meeting at which regular assessments against Boat Slip owners are to be considered for any reason shall specifically

contain a statement that assessments will be considered and the nature of any such assessments.

Section Twelve.      Quorum. At all meetings of the Board of Administration, a majority of the Board shall constitute a quorum for the transaction of business, and the acts of a majority of the members present at a meeting at which a quorum is present shall constitute the acts of the Board. If at any meetings of the Board of Directors there be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section Thirteen.      Minutes. Minutes shall be taken at all meetings of the Board of Directors. Copies of the minutes shall be available for inspection at the office of the Association by Boat Slip owners and Board members at all reasonable times.

Section Fourteen.      Attendance by Boat Slip Owners. Meetings of the Board and any committee thereof at which a quorum is present shall be open to all Boat Slip owners. Any Boat Slip owner may tape record or videotape meetings of the Board and may speak at such meetings with reference to all designated agenda items. The Board may adopt reasonable rules and regulations governing the frequency, duration, and manner of Boat Slip owner statements and governing the tape recording and videotaping of the meeting.

Section Fifteen.      Compensation. The members of the Board of Administration shall serve without compensation.

Section Sixteen. Action Without a Meeting

Any action required to be taken at a meeting of the Board of Directors or any action which may be taken by the Board of Directors, or a committee thereof, may be taken without a meeting if consent in writing, setting forth the action so to be taken, signed by all the directors or all members of the committee, as the case may be, is filed in the minutes of the Board or of the committee. Such consent shall have the same effect as an unanimous vote.

## ARTICLE THREE

OFFICERS

Section One. Designation. The principal officers of the Association shall be a President, Vice President and Secretary/ Treasurer, all of whom shall be elected by and from the Board of Directors.

Section Two. Election of Officers. The Officers of the Association shall be elected annually by the Board of Directors at its organizational meeting, and shall hold office at the pleasure of the Board.

Section Three. Removal of Officers. On the affirmative vote of a majority of the members of the Board, any officer may be removed, with or without cause, and his successor may be elected at any regular meeting of the Board or at any special meeting of the Board called for that purpose.

Section Four. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Board and of Boat Slip owners. He shall have all general powers and duties that are

incident to the office of president of a Florida corporation not-for-profit, including, without limitation, the power to appoint committees from among the owners from time to time as he may deem appropriate to assist in the conduct of the affairs of the Association.

Section Five.      Vice President.      The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as may from time to time be imposed upon him by the Board.

Section Six.      Secretary/Treasurer.      The Secretary/Treasurer shall keep the minutes of all meetings of the Board and of Boat Slip owners; shall have charge of such books and papers as the Board may determine; and shall have responsibility for the funds and securities of the Association, for keeping full and accurate accounts showing all receipts and disbursements, and for the preparation of all necessary financial statements. He shall be responsible for the deposit of all moneys and other valuable effects in the name of the Board or managing agent in such depositories as may from time to time be designated by the Board, and shall, in general, perform all duties incident of the office of Secretary/Treasurer of a Florida corporation not-for-profit.

Section 7.      Compensation.      The officers shall serve without compensation.

ARTICLE FOUR

O.R. 1154 PG 1765

BOAT SLIP OWNERS

Section One.      Annual meetings.      Within seventy-five (75) days after the date on which Boat Slip owners other than Developer are entitled to elect a member or members of the Board, the Board shall call and give notice of the first annual meeting of Boat Slip owners, which meeting shall be held not less than sixty (60) days after the date of the notice. At such meeting the election described in Article Two, Section Two shall occur. Thereafter annual meetings of the Boat Slip owners shall be held on the first Monday of \_\_\_\_\_ of each succeeding year. At each such subsequent meeting the Boat Slip owners shall elect a number of members to the Board sufficient to fill all vacancies and to replace or re-elect members whose terms have expires; however, if there is only one candidate for any election, no election is required.

Section Two.      Election Procedure.      The regular election shall occur on the date of the annual meeting. Members of the Board shall be elected by written ballot or voting machine. In no event shall proxies be used. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of the members of the Board.

Section Three.      Special Meetings.      The President may, and, if directed by resolution of the Board of Administration or by petition signed and presented to the Secretary/Treasurer by Boat Slip owners owning a total of a least two-thirds (2/3) of the common interest, shall call a special meeting of Boat Slip owners. The notice of any

special meeting shall state the time and place of the meeting, and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent, either in person or by proxy, of Boat Slip owners owning at least two-thirds (2/3) of the common interest.

Section Four.      Place of Meetings. Meetings of Boat Slip owners shall be held at the principal office of the Association, or at such other suitable place convenient to the owners as may be designated by the Board.

Section Five.      Notice of meetings. The Secretary/Treasurer shall mail written notice of each annual or special meeting. Such written notice, which includes an agenda, shall be mailed or delivered to each Boat Slip owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the Marina property at least 14 continuous days preceding the annual meeting. Boat Slip owners may waive notice of specific meetings.

Section Six.      Quorum. At all meetings of Boat Slip owners at which a quorum is required, a majority of Boat Slip owners shall constitute a quorum for transaction of business. If a quorum is present at a meeting, the acts of a majority, in both common interest and in number of Boat Slips held of those Boat Slip owners present, shall bind all Boat Slip owners for all purposes other than those for which a higher percentage is required by law, by the Declaration, or by these By-Laws. If, at any meeting of Boat Slip owners at which a quorum is required, less than a quorum is present, a majority of those present may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called. At any such subsequent meeting



at which a quorum is present, any business that might have been transacted at the meeting as originally called may be transacted without further notice. As used in these By-Laws, the term "majority" of Boat Slip owners" means those owners holding fifty-one percent (51%) in the aggregate in both common interest and number of Boat Slips.

Section Seven.      Order of Business. The order of business at all meetings of Boat Slip owners shall be as follows:

- a. Roll call.
- b. Proof of notice of meeting or waiver of notice.
- c. Reading of minutes of preceding meeting.
- d. Reports of officers.
- e. Reports of Board of Directors.
- f. Reports of committees.
- g. Election of inspectors of election (when appropriate).
- h. Election of members of Board of Directors (when required).
- i. Unfinished business.
- j. New business.

Section Eight.      Voting. The owner or owners of each Boat Slip, or some person appointed by such owner or owners to act a proxy on his or their behalf on such matters at which voting by proxy is permitted, shall be entitled to

cast the vote appurtenant to each such Boat Slip at all meetings of Boat Slip owners.

Section Nine. Proxies. Boat Slip owners may vote by general and limited Proxies. Limited and general proxies may not be used for votes taken to amend the Articles of Incorporation, By-laws, or Declaration.

General proxies may be used for other matters, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. No proxy, limited or general, may be used in the election of board members or to fill vacancies on the Board. Notwithstanding the provisions of this section, Boat Slip owners may vote in person at Boat Slip owner meetings.

The appointment of any proxy shall be made in writing filed with the Secretary/Treasurer, and shall be revocable at any time by notice in writing to the Secretary/Treasurer. No one person may hold more than two (2) proxies. A proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy is revocable at the pleasure of the Boat Slip owner executing it.

Section Ten. Minutes. Minutes shall be taken at all meetings of Boat Slip owners. Copies of the minutes shall be available for inspection at the office of the Association by Boat Slip owners and members of the Board of Directors at all reasonable times.

Section Eleven. Boat Slip Owner participation. Boat Slip owners shall have the right to participate in

meetings of Boat Slip owners with reference to all designated agenda items and may tape record or videotape any meeting of the Boat Slip owners. The Association may adopt reasonable rules governing the frequency, duration, and manner of Boat Slip owner participation in Boat Slip owner meetings and governing tape recording or videotaping of Boat Slip owner meetings.

Section Twelve. Approval by Boat Slip Owners. Any approval by Boat Slip owners required by the Declaration of Covenants and Restrictions or these Bylaws shall be made at a duly noticed meeting of Boat Slip owners and shall be subject to all requirements of the Declaration and these Bylaws, provided that any action required by statute, the Declaration, Bylaws, or Articles of Incorporation to be taken at any annual or special meeting of the members may be taken without prior notice and without a vote if a consent in writing setting forth the action so taken shall be signed by a minimum number of members that would be necessary to authorize or take such an action under the applicable statute or provision of the Declaration, Bylaws, or Articles of Incorporation.

## ARTICLE FIVE

### OPERATION OF PROPERTY

Section One. Determination of the Common Expenses. Each year the Board of Directors shall prepare a detailed proposed budget of Common Expenses for the Association. This budget shall show the amounts budgeted by accounts and expense classifications and shall include projections of Common Expenses, common revenues (from sources, if any, other than assessments of Boat Slip owners), the amount of common charges required to meet the excess of

the former over the latter, and an allocation and assessment of such common charges against Boat Slip Owners proportionate to each Boat Slip Owner's interest in the common elements as provided in the Declaration. The final annual budget of Common Expenses shall be adopted by the Board after consideration at a meeting held pursuant to Article Two, Section Nine.

As used in these By-Laws, the term "common expenses" or "common charges" shall mean expenses or charges for which Boat Slip owners are proportionately liable, and shall include, but shall not be limited to the following:

a. All expenses of administration, maintenance, repair and replacement of the common elements, including without limitation the cost of compliance with any governmental regulations.

b. Insurance premiums on all policies of insurance obtained by the Board of Directors for the benefit of the Association and its members.

c. Working capital reserve.

d. General operating reserve.

e. Repair and replacement reserve.

f. Reserve for deficits accrued in prior years.

g. Reserve for acquisition or lease of Boat Slips, the owners of which have elected to sell or lease the same, or that may become available at foreclosure or other judicial sale.

h. Utility rates for water and gas, and related sewer rents.

i. Utility rates for electricity serving the common elements, other than leased portions thereof, which shall be separately metered.

j. All other amounts that the owners may agree upon or that the Board of Administration may deem necessary or appropriate for the operation, administration, and maintenance of the Marina and to comply with any applicable governmental statute, ordinance, or regulation.

k. All other amounts designated common expenses by the Declaration, by these By-Laws, or by law.

The budget shall also include reserve accounts for capital expenditures and deferred maintenance. These reserve accounts shall include but are not limited to, dredging of the Marina basin and channels, painting, and pavement resurfacing and any other item for which the deferred maintenance expense a replacement cost exceeds \$10,000. The Association may adjust replacement reserve assessments annually to take into account any extension of the useful life of a reserve item caused by deferred maintenance.

Notwithstanding the foregoing, prior to turnover of control of the Association by the Developer, the Developer may vote to waive the reserves.

Reserve funds and the interest accruing thereon shall remain in the reserve account or accounts and shall be used only for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the voting interests voting in person or by limited proxy at a duly called meeting of the Association. Prior to turnover of control of the Association by the

Developer to Boat Slip owners other than Developer, the Association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the Association.

Section Two.            Collection of Assessments. The Board of Directors shall, by suitable written notice, assess common expenses against Boat Slip owners monthly, on the first day of each month, each such assessment covering the next succeeding month. If any such installment remains unpaid for more than thirty (30) days for the date due, the Board of Administration shall take prompt action to collect it.

Section Three.        Common Surplus. If in any taxable year the net receipts of the Association from assessments and all other sources except casualty insurance proceeds and other non-recurring items exceeds the sum of (a) total common expenses for which payment has been made or liability incurred within the taxable year, and (b) reasonable reserves for common expenses and other liabilities in the next succeeding taxable year as may be determined by the Board of Administration, such excess shall be retained and applied to lessen the assessments for the next year, the amount of such reduction for each Boat Slip owner being in proportion to his undivided interest in the common elements.

Section Four.        Liability for Assessments. All Boat Slip owners are obligated to pay the common expenses assessed by the Board of Directors at the times set forth in these By-Laws. No Boat Slip owner may exempt himself from liability for any assessment for common expenses by waiver or

use or enjoyment of any of the common elements or by abandonment of his Boat Slip.

Section Five.            Default in Payment of Common Expenses. In the event a Boat Slip owner shall fail, for thirty (30) days following the due date thereof, to pay to the Board of Directors the common expenses assessed against his Boat Slip, such Boat Slip owner shall be deemed in default, and shall be obligated to pay interest at the highest rate allowed by law on such common expenses from the due date thereof, together with all administrative late fees and expenses, including reasonable attorneys' fees, incurred by the Board of Directors in any proceeding brought to collect the same, or to foreclose a lien for nonpayment thereof.

Section Six.            Foreclosure of Liens for Unpaid Common Expenses. The Board of Directors may bring an action to foreclose any lien for unpaid common charges in the manner that a mortgage of real property is foreclosed or it may bring an action to recover a money judgment for the unpaid assessment without waiving any claim of lien.

Section Seven.        Use of Boat Slips; Rules and Regulations. The use of Boat Slips and the common elements shall be subject to reasonable restrictions set forth in the Declaration and the Rules and Regulations promulgated and amended from time to time by the Board of Directors with the approval of a majority of Boat Slip owners. Copies of all such rules and regulations shall be furnished to each Boat Slip owner prior to their effective date.

## ARTICLE SIX

RECORDS

Records; certification. The Board of Directors shall keep detailed records of all actions of such Board, including financial records and books of account of the Association, kept in accordance with generally accepted accounting principles. Such records shall include a chronological record of all receipts and disbursements. A separate account shall also be kept for each Boat Slip containing, among other things, the amount of each assessment against such Boat Slip, the date when due, amounts paid thereon, and the balance remaining due. The Board of Directors shall also prepare a quarterly written report summarizing receipts and disbursements of the Association, copies of which shall be made available to all Boat Slip owners. Additionally, an annual report of receipts and disbursements of the Marina, certified by an independent certified public accountant, shall be rendered by the Board of Directors to all Boat Slip owners and mortgagees requesting the same promptly after the end of each fiscal year.

## ARTICLE SEVEN

MISCELLANEOUS

Section One. Notices. All notices required or permitted to be sent to the Board of Directors shall be sent by registered or certified mail to the office of the Board, or to such other address as such owner may have designated, in writing, to the Board of Directors. All notices to Boat Slip mortgagees shall be sent by registered or certified mail to their respective addresses as maintained by the Secretary in the book entitled "Mortgagees of Boat



Slips". All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

Section Two.      Waiver.      No restriction, condition, obligation or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations and failures to enforce that may occur.

Section Three.      Invalidity.      If any provision or provisions of these By-Laws is, or are, declared invalid, such invalidity shall in no way impair or affect the validity, enforceability, or effect of the remaining provisions of these By-Laws.

Section Four.      Captions.      Captions are inserted in these By-Laws for convenience and reference only, and shall not be taken in any way to limit or describe the scope of these By-Laws or any provision hereof.

Section Five.      Conduct of Meetings.      Roberts' Rules of Order (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Declaration, Articles of Incorporation, or these By-Laws.

Section Six.      Priorities in Case of Conflict.      In the event of conflict between or among the provisions of any of the following, the order of priorities shall be from highest priority to lowest:

- a.    The Declaration of Covenants and Restrictions
- b.    The Articles of Incorporation
- c.    The By-Laws

## d. The Rules and Regulations

## ARTICLE EIGHT

AMENDMENT

Section One.      Amendments. These By-Laws may be amended or supplemented by the vote of Boat Slip owners entitled to exercise sixty-six and two-thirds percent (66 2/3%) or more of the total voting power of the Association at a meeting of Boat Slip owners duly called and held for such purpose. No amendment shall be made that is in conflict with the Declaration, nor shall any amendment alter, abridge or amend the rights of the Developer or mortgagees of Boat Slips without their consent. Any such amendment or supplement shall be filed or recorded in the office in which the Declaration and a copy of these By-Laws are recorded.

IN WITNESS WHEREOF, We, being all of the Directors of The Marina at Villages of Vilano, Inc., have hereunto set our hands this 13<sup>th</sup> day of NOVEMBER, 1995.

James D. Borris PRES.  
James D. Borris  
Arthur Wigchers, Jr.  
Arthur Wigchers, Jr.  
Sharyn Kenson  
Sharyn Kenson

STATE OF FLORIDA

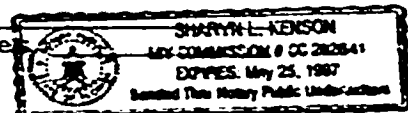
COUNTY OF ST. JOHNS

13th The foregoing instrument was acknowledged before me this day of NOVEMBER, 1995, by James D. Borris, who is personally known to me or who produced \_\_\_\_\_ as identification.

Sharyn L. Kenson  
Signature of Notary

Name of Notary Typed, Printed or Stamped

Commission Number \_\_\_\_\_  
My Commission Expires \_\_\_\_\_



STATE OF WISCONSIN

COUNTY OF MILWAUKEE

22nd The foregoing instrument was acknowledged before me this day of November, 1995, by Arthur Wigchers, Jr., who is personally known to me or who produced \_\_\_\_\_ as identification.

Karen J. Decker  
Signature of Notary

Name of Notary Typed, Printed or Stamped

Commission Number \_\_\_\_\_  
My Commission Expires: 10-5-97

STATE OF FLORIDA

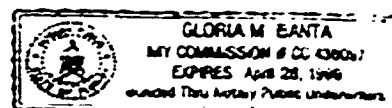
COUNTY OF ST. JOHNS

27th The foregoing instrument was acknowledged before me this day of November, 1995, by Sharyn Kenson, who is personally known to me or who produced \_\_\_\_\_ as identification.

Gloria M. Banta  
Signature of Notary

Name of Notary Typed, Printed or Stamped

Commission Number \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



D.R. 1154 PG 1778

MARINA AT VILLAGES OF VILANO  
PROPOSED BUDGET

	PER SLIP		ALL SLIP	
	MONTHLY	ANNUALLY	MONTHLY	ANNUALLY
<b>I ADMINISTRATION</b>				
A. Existing Administration Payroll	\$ 7.57	\$ 90.91	\$250.00	\$ 3,000.00
B. Office Supplies	1.26	15.15	41.67	500.00
C. Legal Fees	1.13	13.64	37.50	450.00
<b>II MAINTENANCE &amp; REPAIRS</b>				
A. Existing Maintenance Payroll	10.10	121.21	333.33	4,000.00
B. Maintenance and Repairs	12.50	150.00	412.50	4,950.00
C. Marine Pumpout Station/Trash Removal	2.53	30.36	83.33	1,000.00
D. Signs Replacement and Maintenance	.13	1.52	4.17	50.00
E. Fire Extinguishers	.13	1.52	4.17	50.00
<b>III UTILITIES</b>				
A. Water	3.79	45.45	125.00	1,500.00
B. Electrical/Common Area	2.53	30.36	83.33	1,000.00
<b>IV INSURANCE</b>				
	12.63	151.52	416.67	5,000.00
<b>V RESERVES</b>				
A. DRAIN (Bulkhead, R-Prap, Other)	1.26	15.15	41.67	500.00
B. Docks and Piling	2.53	30.36	83.33	1,000.00
C. Future Dredging	2.53	30.36	83.33	1,000.00
<b>TOTALS:</b>	<b>\$ 60.51</b>	<b>\$ 727.27</b>	<b>\$ 2,000.00</b>	<b>\$ 24,500.00</b>

EXHIBIT

I

CONSENT OF MORTGAGEE

Fleet Bank of Massachusetts, N.A., the Owner and Holder of a first mortgage upon the real property described in the foregoing Declaration of Condominium of THE MARINA AT VILLAGES OF VILANO, a Condominium, which mortgage is dated March 10, 1994, and recorded in Official Records Book 1042, Page 1489, of the public records of St. Johns County, Florida, hereby agrees to the filing of said Declaration of Condominium of THE MARINA AT VILLAGES OF VILANO, a Condominium, as covenants running with the land and to the subordination of the lien of its said mortgage to the terms of the aforesaid Declaration of Condominium of THE MARINA AT VILLAGES OF VILANO.

Dated this 11<sup>th</sup> day of JANUARY, 1996.

Signed, sealed and delivered  
in the presence of:

FLEET BANK OF MASSACHUSETTS,  
N.A.

[Signature]  
Witness ELBERT W. WILSON  
(type or print name)

By: Paul J. Nasser  
Its Vice President  
75 State Street  
Boston, MA 02109

[Signature]  
Witness DONALD D. WILSON  
(type or print name)

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF Suffolk

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of January, 1996, by Paul J. Nasser, the Vice President of Fleet Bank of Massachusetts, on behalf of the corporation. He is personally known to me ~~as~~ as ~~his~~ as identification.

[Signature]  
Signature of Notary

Name of Notary

My Commission Expires: 12/31/96

KATHLEEN SHALEN  
NOTARY PUBLIC

EXHIBIT

1

GS2-50438-1  
1/5/96 4:43 PM

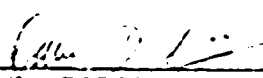
AFFIDAVIT

Before me, the undersigned authority, personally appeared JAMES D. BORRIS, who, having first been duly sworn, deposes and says:

1. He is the vice president of Vilano Venture, Inc., has personal knowledge of the facts contained in this affidavit, and is competent to testify as to these facts.

2. Vilano Venture, Inc., is the fee simple owner of the real property described in Exhibit "A" to the Declaration of Covenants and Restrictions for the Marina at Villages of Vilano which Vilano Venture, Inc., which it intends to submit to the condominium form of ownership. The condominium shall be identified as THE MARINA AT VILLAGES OF VILANO, a Marina.

FURTHER AFFIANT SAITH NOT.

  
\_\_\_\_\_  
JAMES D. BORRIS

1

EXHIBIT

M

STATE OF WISCONSIN  
COUNTY OF DAVISON

The foregoing instrument was acknowledged before me this  
20 day of January, 1995, by JAMES D. BORRIS, who  
did/did not take an oath and who is personally known to me or  
who produced \_\_\_\_\_ as  
identification.

James D. Boris  
Notary Public  
Commission Number \_\_\_\_\_  
My Commission Expires: 12/31/97

This Instrument Prepared By:  
Cher King  
Submerged Lands Section  
Bureau of Land Management Services  
3900 Commonwealth Boulevard  
Mail Station No. 125  
Tallahassee, Florida 32399

O.R. 1154 PG 1782

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
OF THE STATE OF FLORIDA

MODIFIED SOVEREIGN SUBMERGED LANDS EASEMENT

NO. 00030(3844-55)  
BOT FILE NO. 551029049

THIS MODIFIED EASEMENT is hereby granted by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Grantor.

WITNESSETH: That for the faithful and timely performance of and compliance with the terms and conditions stated herein, the Grantor does hereby grant to Vilano Venture, Inc., hereinafter referred to as the Grantee, a nonexclusive modified easement on, under and across the sovereign lands described as follows:

A parcel of sovereign submerged land in Section 32, Township 06 South, Range 30 East, in the Tolomato River, St. Johns County, as is more particularly described and shown on Attachment A, dated November 21, 1988.

TO HAVE THE USE OF the hereinabove described premises for a period of ten years from May 22, 1990, the effective date of this modified easement. The terms and conditions of and for which this easement is granted are as follows:

1. The Grantee has paid to the Grantor as a one-time negotiated payment for the term of this easement the sum of \$4,600. Additionally, the Grantee has paid the Grantor \$2,500 for the severance of 1,000 cubic yards of submerged land.
2. The above described parcel of land shall be used solely for two navigational channels in conjunction with a proposed marina basin located on privately-owned lands and Grantee shall not engage in any activity except as described in the Division of Environmental Resource Permitting, Permit No. 552524609 dated May 8, 1995, attached hereto as Attachment B. and made a part hereof.
3. The rights hereby granted shall be subject to any and all prior rights of the United States and any and all prior grants by the Grantor in and to the submerged lands situated within the limits of this modified easement.
4. Grantee shall not damage the easement lands or unduly interfere with public or private rights therein.
5. This modified easement is nonexclusive, and the Grantor, or its duly authorized agent, shall retain the right to enter the property or to engage in management activities not inconsistent with the use herein provided for and shall retain the right to grant compatible uses of the property to third parties during the term of this modified easement.
6. Grantor, or its duly authorized agent, shall have the right at any time to inspect the works and operations of the Grantee in any matter pertaining to this modified easement.

150: > Let - Vilano Venture, Inc.  
3655 Coastal Hwy  
St. Aug. Fl. 32095  
Attn: Sharyn Kenson

EXHIBIT

P



7. The Grantee shall investigate all claims of every nature at its expense, and shall indemnify, defend and save and hold harmless the Grantor and the State of Florida from all claims, actions, lawsuits and demands arising out of this modified easement.

8. Grantee waives venue as to any litigation arising from matters relating to this modified easement and any such litigation between Grantor and Grantee shall be initiated and maintained only in Leon County, Florida.

9. This modified easement shall not be assigned or otherwise transferred without prior written consent of the Grantor or its duly authorized agent. Any assignment or other transfer without prior written consent of the Grantor shall be null and void and without legal effect.

10. The Grantee, by acceptance of this modified easement, binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Grantee, its successors and assigns. In the event the Grantee fails or refuses to comply with the provisions and conditions herein set forth or in the event the Grantee violates any of the provisions and conditions herein, this modified easement may be terminated by the Grantor upon 30 days written notice to Grantee. If terminated, all of the above-described parcel of land shall revert to the Grantor. All costs, including attorneys' fees, incurred by the Grantor to enforce the provisions of this modified easement shall be paid by the Grantee. All notices required to be given to Grantee by this modified easement or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

Vilano Venture, Inc.  
c/o Ms. Martha Chumler, Esquire  
Post Office Box 190  
Tallahassee, Florida 32302

The Grantee agrees to notify the Grantor by certified mail of any changes to this address at least ten (10) days before the change is effective.

11. The Grantee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this modified easement which result from the grant of this modified easement or the activities of Grantee hereunder.

12. Renewal of this modified easement is at the sole option of the Grantor. Such renewal shall be subject to the terms, conditions and provisions of current management standards, easement fees, and applicable laws, rules and regulations in effect at that time. In the event that Grantee is in full compliance with the terms of this modified easement, the Grantee may apply in writing for a renewal. Such application for renewal must be received by Grantor no later than six months prior to the expiration date of this modified easement. The term of any renewal granted by the Grantor shall commence on the last day of the previous easement term. If the Grantee fails to apply for a renewal, or in the event the Grantor does not grant a renewal, the Grantee shall vacate the easement premises and remove all structures and equipment occupying and erected thereon at its expense.

13. If the Grantee does not remove said structures and equipment occupying and erected upon the premises after expiration or cancellation of this modified easement, such structures and equipment will be deemed forfeited to the Grantor, and the Grantor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Grantee at the address specified in Item 10 or at such address on record as provided to the Grantor by the Grantee. However, such remedy shall be in addition to all other remedies available to Grantor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.

14. No failure, or successive failures, on the part of the Grantor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Grantor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

15. The Grantee, at its own expense, shall record this modified easement and any subsequent approved renewal and/or modified easements in the official records of the county within which the easement site is located within fourteen (14) days after receipt of a fully executed copy of this easement, and shall provide the Grantor with a copy of the recorded modified easement indicating the book and page at which the modified easement is recorded.

16. This modified easement is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this modified easement must be in writing and must be accepted, acknowledged and executed by the Grantee and Grantor.

17. Prior to commencement of construction and/or activities authorized herein, the Grantee shall obtain the U.S. Army Corps of Engineers (COE) permit if it is required by the COE. Any modifications to the construction and/or activities authorized herein that may be required by the COE shall require consideration by and the prior written approval of the Grantor prior to the commencement of construction and/or any activities on sovereign, submerged lands.

18. No additional structures and/or activities including dredging, relocation/realignment or major repairs or renovations to authorized structures, shall be erected or conducted on or over sovereignty, submerged lands without prior written consent from the Grantor, with the exception of emergency repairs. Unless specifically authorized in writing by the Grantor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Grantee to administrative fines under Chapter 18-14, Florida Administrative Code. If emergency repairs should have to be undertaken in the interests of public health, safety or welfare, the Grantee shall notify the Grantor of such repairs as quickly as is practicable; provided, however, that such emergency activities shall not exceed the activities authorized by this agreement.

O.R. 1131 PG 0631

O.R. 1154 PG 1785

WITNESSES:

Audrey L. Yates  
Original Signature

Audrey L. Yates  
Typed/Printed Name of Witness

Hallie Suber  
Original Signature

HALLIE SUBER  
Typed/Printed Name of Witness

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 15th day of September, 1995, by Daniel T. Crabb, Bureau Chief, who is personally known to me.

APPROVED AS TO FORM AND LEGALITY:

SAM L. Yarin 9/11/95  
DEP Attorney

BOARD OF TRUSTEES OF THE INTERNAL  
IMPROVEMENT TRUST FUND OF THE STATE OF  
FLORIDA

BY Daniel T. Crabb  
(SEAL)

Daniel T. Crabb, Chief, Bureau of  
Land Management Services, Division  
of State Lands, Agent for the Board  
of Trustees of the Internal Improvement  
Trust Fund

"GRANTOR"

Patricia Toloday  
Notary Public, State of Florida

Patricia Toloday  
Printed, Typed or Stamped Name

My Commission Expires: OFFICIAL NOTARY SEAL  
PATRICIA TOLODAY  
NOTARY PUBLIC STATE OF FLORIDA  
COMMISSION NO. CC191699  
MY COMMISSION EXPIRES APR 18 1996  
Commission/Serial No.

WITNESSES:

KAY E. Loomis  
Original Signature

KAY E. LOOMIS  
Typed/Printed Name of Witness

Myrtle Ramaditar  
Original Signature

MYRTLE RAMADITAR  
Typed/Printed Name of Witness

STATE OF WISCONSIN  
COUNTY OF MILWAUKEE

The foregoing instrument was acknowledged before me this 14th day of AUGUST, 1995, by Arthur W. X. Wiggers as President of Vilano Venture, Inc., a Florida corporation, for and on behalf of the corporation. He is personally known to me or who has produced \_\_\_\_\_, as identification.

My Commission Expires:

10-5-97

Commission/Serial No. -

Page 4 of 22 Pages  
Modified Easement No. 00030(3944-55)

Vilano Venture, Inc. (SEAL)  
Grantee

BY Arthur W. Wiggers  
Original Signature of Executing Authority

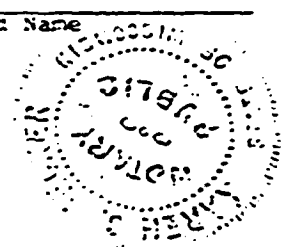
Arthur W. Wiggers  
Typed/Printed Name of Executing Authority

President  
Title of Executing Authority

"GRANTEE"

Karen S. Becker  
Notary Public, State of WISCONSIN

KAREN S. BECKER  
Printed, Typed or Stamped Name

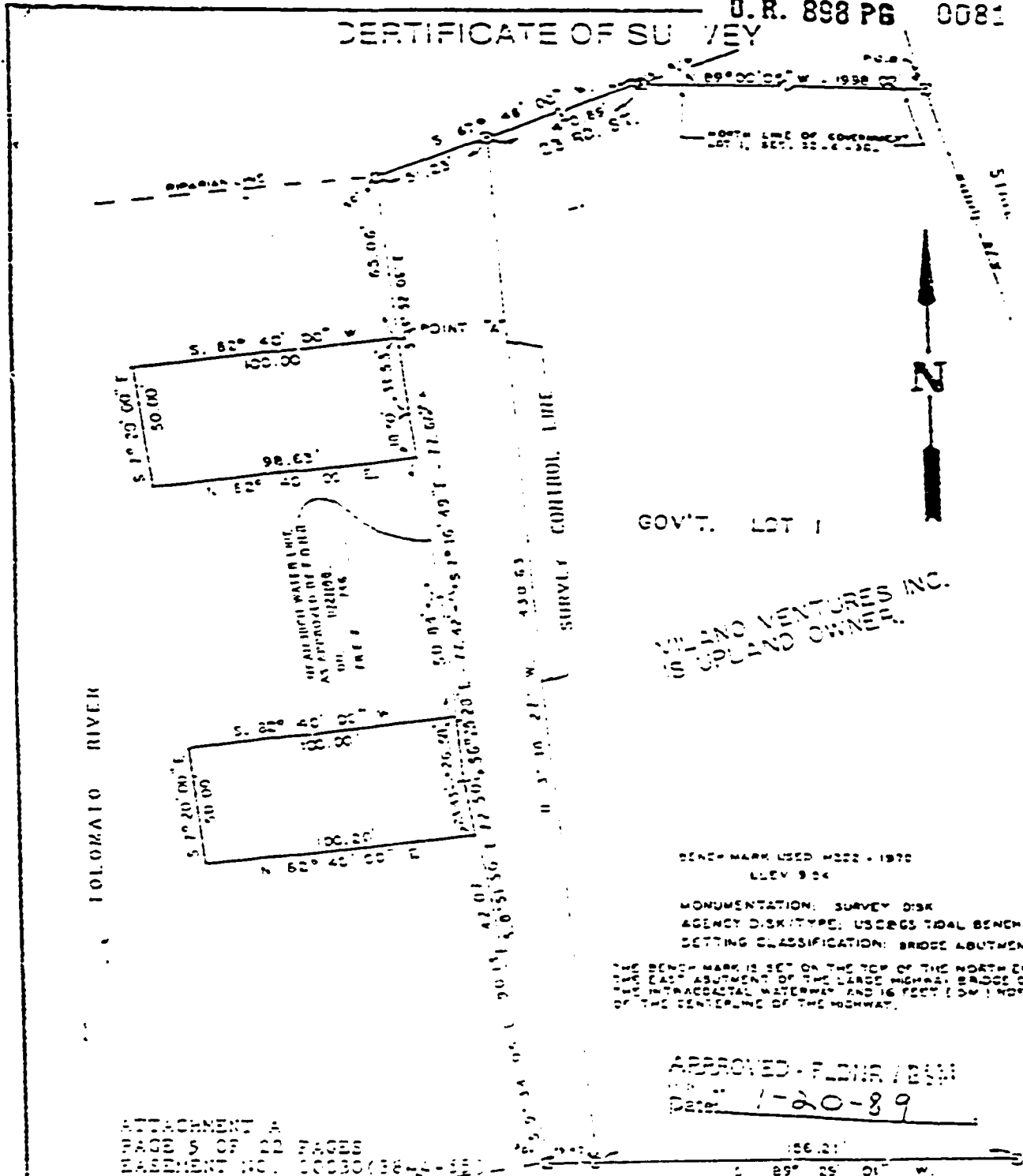


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this document.

O.R. 1154 PG 1766  
O.R. 1131 PG 0632

O.R. 898 PG 0081

# CERTIFICATE OF SURVEY



GOV'T. LOT 1

WILAND VENTURES INC.  
IS LAND OWNER.

BENCH MARK USED: 1970  
ELEV. 9.04

MONUMENTATION: SURVEY DISK  
AGENCY DISK TYPE: USCGS TIDAL BENCH  
SETTING CLASSIFICATION: BRIDGE ABUTMENT

THE BENCH MARK IS SET ON THE TOP OF THE NORTH EN  
ABUTMENT OF THE LARGE HIGHWAY BRIDGE ON  
THE INTRACASTAL WATERWAY AND 16 FEET 10 IN NORTH  
OF THE CENTERLINE OF THE HIGHWAY.

APPROVED - FLDNR / BSM  
Date: 1-20-89

ATTACHMENT A  
PAGE 5 OF 22 PAGES  
BASEMENT NO. 100300364-100

PREPARED FOR: WILAND VENTURE INC.		CERTIFIED TO: WILAND VENTURE INC.			
COMMUNITY NO. 125147	PARCEL NO. 044	SURVEY 0	FIELD NO. A-7	SURV ELEVATION 22.80	EFFECTIVE DATE 5/16/85
● Found Iron Rod ○ Found Iron Rod 4958 □ Found Iron Rod with Cap. Mark	● Found Concrete Monument ○ Found Concrete Monument 4958 □ Found Iron Rod with Cap. Mark	● Found Iron Rod ○ Found Iron Rod 4958 □ Found Iron Rod with Cap. Mark	● Found Iron Rod ○ Found Iron Rod 4958 □ Found Iron Rod with Cap. Mark	● Found Iron Rod ○ Found Iron Rod 4958 □ Found Iron Rod with Cap. Mark	● Found Iron Rod ○ Found Iron Rod 4958 □ Found Iron Rod with Cap. Mark
LANDS SHOWN HEREON WERE NOT PREPARED FOR DEEDS, EASEMENTS OR RIGHTS OF WAY OF RECORD ALL THE IMPROVEMENTS AS SHOWN HEREON ARE LOCATED BY THIS SURVEY AND WORK COMPLETED BASIS OF BEARING: THE NORTH LINE OF GOV'T. LOT 1 SEC 22 T4P 24S R 30E ST. JOHN CO. FLA. BEARING: 29° 00' 00" E					
CERTIFICATION: WE HEREBY CERTIFY THAT THE HEREIN DESCRIBED LAND SURVEY & SKETCH ARE TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF; THAT THE HEREIN WAS PREPARED UNDER OUR DIRECTION AND SUPERVISION; AND THAT THE HEREIN CONFORMS TO THE APPLICABLE REQUIREMENTS OF CHAPTER 47, PART 1, RULE 21, F.S. & C.			DATED THIS 21 <sup>ST</sup> DAY OF JULY 1985 <i>[Signature]</i> BRIAN A. WILCOX, FLS FL REG NO. 4436		
Quillen Mills Brody, Inc.		Consulting Engineers Land Planners Surveyors 3175 U.S. 1 SOUTH (954) 757-8800		DATE: 5/16/85 SCALE: 1" = 50' F.B. PG. 1 JOB NO. 84-048-21 DRAWN BY: MS	

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this document.

O.R. 1154 PG 1767  
O.R. 1131 PG 0633

O.R. 898 PG 0062

## CERTIFICATE OF SURVEY

That part of Government Lot 1, Section 32, Township 6 South,  
Range 30 East, St. Johns County, Florida described as follows:

Commencing at the intersection of the westerly right-of-way  
line of State Road Number A-1-A, a 66 foot wide right-of-  
way; and the north line of said Government Lot 1; thence  
North 89 degrees 00 minutes 00 seconds West, assumed bearing  
along said north line, 1998.02 feet to the intersection with  
the northerly right-of-way line of 23rd Street; thence South  
67 degrees 48 minutes 00 seconds West, along said northerly  
right-of-way line 470.19 feet to a point on a survey control  
line; thence continuing South 67 degrees 45 minutes 00 seconds  
West, along said northerly right-of-way line and its westerly  
extension, 51.13 feet to the Mean High Water Line of the  
Tolomato River; thence South 7 degrees 52 minutes 06 seconds  
East, along said Mean High Water Line, 15.06 feet to a point  
hereinafter referred to as Point "A"; thence continue South 4  
degrees 12 minutes 00 seconds East, along said Mean High  
Water Line 31.13 feet; thence South 7 degrees 10 minutes 49  
seconds East, along said Mean High Water Line 77.67 feet;  
thence South 0 degrees 25 minutes 28 seconds East along said  
Mean High Water Line 60.84 feet to the point of beginning of  
the land to be described; thence South 32 degrees 40 minutes  
00 seconds West, 100.00 feet; thence South 7 degrees 20 minutes  
00 seconds East, 50.00 feet; thence North 32 degrees 40  
minutes 10 seconds East, 100.00 feet to the intersection with  
said Mean High Water Line; thence North 0 degrees 51 minutes  
50 seconds West, along said Mean High Water Line, 23.43 feet;  
thence North 0 degrees 20 minutes 20 seconds West, along said  
Mean High Water Line 20.00 feet to the point of beginning.  
ALSO:

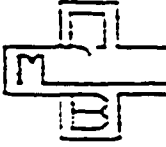
Beginning at a point of reference mentioned Point "A"; thence South 30  
degrees 40 minutes 00 seconds West, 100.00 feet; thence South  
7 degrees 20 minutes 00 seconds East, 50.00 feet; thence North  
32 degrees 40 minutes 10 seconds East, 50.00 feet to the  
intersection with said Mean High Water Line; thence North 7  
degrees 10 minutes 49 seconds West, along said Mean High  
Water Line, 13.00 feet; thence North 7 degrees 02 minutes 06  
seconds East, along said Mean High Water Line, 31.53 feet to  
the point of beginning.

Containing 9,845 square feet or 0.228 acres more or less.

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this document.

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ATTACHMENT A  
PAGE 6 OF 21 PAGES  
EASEMENT NO. 0003013844-55.

PREPARED FOR		VILANO VENTURE, INC.		CERTIFIED TO		VILANO VENTURE, INC.	
COMMUNITY NO.	PANEL NO.	SURVEY	FRAMING	FIELD ELEVATION	EFFECTIVE DATE		
12547	044	0	A-1	22.80	5/16/85		
● Found Iron Rod	● Found Concrete Monument	● Found Nail and Disc					
○ Set Iron Rod PLS #1228	○ Set Concrete Monument PLS #1228	○ Set Nail and Disc PLS #1228					
Replaced Iron Rod with Conc. Mark		Replaced Concrete Monument					
LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR DEEDS, EASEMENTS OR RIGHTS OF WAY OF RECORD.							
ALL THE IMPROVEMENTS AS SHOWN HEREON WERE LOCATED BY THIS SURVEY FIELDWORK COMPLETED							
BASIS OF BEARING THE NORTH LINE OF GOVT LOT 1, SEC 32, T6S, R30E, S1/4, BEARS S. 89° 00' 00" E.							
CERTIFICATION: WE HEREBY CERTIFY that the herein described LAND SURVEY & SKETCH are true and correct to the best of our knowledge and belief; that the herein was prepared under our direction and supervision; and that the herein conforms to the applicable requirements of Chapter 472, F.S. and Rule 61A, F.A.C.				DATED THIS 21st DAY OF May, 1985			
 <b>Quillen Mills Brody</b> Consulting Engineers Land Planners Surveyors 375 U.S. 1 SOUTH 3741 787-8800				DATE OF SURVEY		TYPE OF SURVEY	
				SCALE: N/A		DATE: 5/16/85	
				JOB NO. 84-046-2		LEGAL	
				DRAWN BY: WDC			

# CONSTITUTION OF VILAND

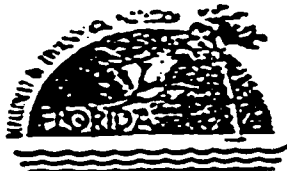
# FINAL PLAN

ATTACHMENT  
PAGE NO. 10 PAGES  
PAGE NO. 0000000000

SECRET

SECRET

SECRET



Department of  
Environmental Protection

O.R. 1131 PG 0635

O.R. 1154 PG 1789

Lawton Chiles  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Virginia E. Wetherell  
Secretary

**PERMITTEE:**

Vilano Venture, Inc.  
c/o Ms. Martha H. Chumbler, Esq.  
Post Office Drawer 190  
Tallahassee, Florida 32302

Permit Number 552524609

Date of Issue: May 8, 1995

Expiration Date: May 8, 2000

County: St. Johns

Project: Wetland Resource,  
5 years

This permit is issued under the provisions of Chapters 373 and 403, Florida Statutes, Public Law 92-500, Title 62, and Rule 62-312, Florida Administrative Code. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents attached hereto or on file with the department and made a part hereof and specifically described as follows:

**PROJECT DESCRIPTION:**

To construct a 1.36 ac. marina basin and a 34 wet slip docking facility as part of a private residential development by: excavating approximately 21,000 cu. yds. of material from 0.46 ac. of uplands and 0.90 ac. of saltmarsh wetlands; dredging approximately 2,000 cu. yds. of material from subtidal area in the Tolamato River to create two 55 ft. wide entrance channels into the marina basin; constructing 34 wet slips and a boat ramp; and, as mitigation, preserving 1.69 ac. of saltmarsh wetlands and uplands on the project site and preserving approximately 38 ac. of saltmarsh wetlands adjacent to Guana River State Park. The permit is issued in conjunction with a variance, File No. VE-55-669, from the prohibition against dredging and filling in waters which are approved for shellfish harvesting described in Rule 62-312.060(7), Florida Administrative Code (F.A.C.).

**PROJECT LOCATION:**

The project site is located on the east side of the Tolamato River, west of State Road A1A, approximately 2 miles north of St. Augustine Inlet, Section 32, Township 6 South, Range 30 East, within the landward extent of Tolamato River, Class II waters.

**GENERAL CONDITIONS:**

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.727, or 403.859 through 403.861, F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.

2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.

Protect, Conserve and Manage Florida's Environmental and Natural Resources

Printed on Recycled Paper

Attachment B

Page 8 of 22 Pages

Modified Easement No. 00030(3844-55)

Permittee: Vilano Venture, Inc.  
 Permit No: 552524609  
 Page 2

3. As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.

4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.

6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, are required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:

- (a) Have access to and copy any records that must be kept under conditions of the permit;
- (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
- (c) Sample or monitor any substances or parameters at any location reasonable necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.



Permittee: Vilano Venture, Inc.  
Permit No: 552524609  
Page 3

8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:

- a. A description of and cause of noncompliance; and
- b. The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Section 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 17-302.500, shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard.

11. This permit is transferable only upon Department approval in accordance with Rule 17-4.120 and 17-730.300 F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.

12. This permit or a copy thereof shall be kept at the work site of the permitted activity.

13. This permit also constitutes Certification of Compliance with State Water Quality Standards (Section 401, PL 92-500).

14. The permittee shall comply with the following:

- a. Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records

Attachment 5  
Page 10 of 22 Pages  
Modified Easement No. 00030(3644-55)

Permittee: Vilano Venture, Inc.  
Permit No: 552524609  
Page 4

O.R. 1154 PG 1792  
O.R. 1131 PG 0838

will be extended automatically unless otherwise stipulated by the Department.

- b. The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.
- c. Records of monitoring information shall include:
1. the date, exact place, and time of sampling or measurements;
  2. the person responsible for performing the sampling or measurements;
  3. the dates analyses were performed;
  4. the person responsible for performing the analyses;
  5. the analytical techniques or methods used; and
  6. the results of such analyses.

15. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

**SPECIFIC CONDITIONS:**

1. The permittee is hereby advised that Florida law states: "No person shall commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or the Department of Environmental Protection under Chapter 253, until such person has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use." Pursuant to Florida Administrative Code Rule 16Q-14, if such work is done without consent, or if a person otherwise damages state land or products of state land, the Board of Trustees may levy administrative fines of up to \$10,000 per offense.

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2. If historical or archaeological artifacts, such as Indian canoes, are discovered at any time within the project site the permittee shall immediately notify the district office and the Bureau of Historic Preservation, Division of Historical Resources, R. A. Gray Building, 500 S. Bronough St., Tallahassee, Florida 32399-0250.
3. At least 48 hours prior to commencement of work authorized by this permit, the permittee shall notify the Department of Environmental Protection, Bureau of Submerged Lands and Environmental Resources in Tallahassee, and the Northeast District office in Jacksonville, in writing of this commencement.
4. The permittee shall schedule a pre-construction conference to review the specific conditions and monitoring requirements of this permit with the permittee's consultants, contractors, and construction crews prior to the commencement of any work authorized by this permit. The permittee shall provide a minimum 72-hour advance written notification to the Bureau of Submerged Lands and Environmental Resource Management, 2600 Blairstone Road, Tallahassee, Florida, 32399-2400 and to the Northeast District Office, Suite B200, Baymeadows Way, Jacksonville, Florida 32256-7577, of the date, time, and location of the pre-construction conference.
5. Semi-annual narrative progress reports shall be submitted to the Bureau of Submerged Lands and Environmental Resource Management and to the Northeast District Office indicating the status of the project. The cover page shall indicate the permit number, project name and the permittee name. The report shall include the following information:
  - a. Date permitted activity was begun; if work has not begun on-site, please so indicate.
  - b. Brief description and extent of work (dredge, fill, construction) completed since the previous report or since permit was issued. Indicate on copies of the permit drawings those areas where work has been completed. Also indicate any areas in which the actual impacts were less than the scope of the permitted work.
  - c. Brief description and extent of work (dredge, fill, construction) anticipated in the next six months. Indicate on copies of the permit drawings those areas where it is anticipated that work will be done.
  - d. This report shall include on the first page, just below the title, the certification of the following statement by the individual who supervised preparation of the report: "This report represents a true and accurate description of the activities conducted during the six month period covered by this report."

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The first semi-annual progress report is due six months from the date of permit issuance.

6. Within 90 days of permit issuance, and prior to the commencement of any work authorized by this permit, the permittee shall submit to the Bureau of Submerged Lands and Environmental Resources, with a copy to the Northeast District Office in Jacksonville, an executed conservation easement over approximately 1.69 acres of uplands and wetlands on the project site as shown on Permit Drawing No. 4B and approximately 36 acres adjacent to Guana River State Park as shown on Permit Drawing No. 5B. A copy of the model document to be used in preparation of the easements is appended to the permit as "Exhibit B". The easements shall include a legal description and sketch of the preservation area which have been certified by a professional land surveyor. Following final execution of the easements by the Department, the easements shall be recorded in the public records of St. Johns County. Clerk-of-court certified copies of the recorded easements shall be submitted to the Department within 30 days of the date of recording. A transmittal sheet labeled "this information is provided in fulfillment of the requirements of Specific Condition No. 6 of Permit No. 552524609" shall be attached to the above-referenced information when submitted to the Department.

7. The marina basin and the access channels shall be excavated in accordance with the "Dredged Material Disposal Plan" prepared by Coastal Technology Corporation, appended to the permit as "Exhibit A". A temporary plug, as depicted on the Permit Drawing No. 36 prepared by Coastal Technology Corporation, shall be installed in the existing stormwater pond prior to beginning the excavation of the marina basin. The access channels shall not be excavated until the marina basin has been excavated to the design depth, riprap and dock construction have been completed, and turbidity in the excavated marina basin is less than 19 nephelometric turbidity units (NTUs) above background levels.

Prior to initiating dewatering activities necessary to complete the excavation of the marina basin, and prior to beginning the dredging of the access channels, floating turbidity screens with weighted skirts that extend uniformly to within 1 ft. of the bottom shall be placed around the dewatering discharge pipe or the areas to be dredged, beginning on the river bank north of the discharge pipe or access channels, extending around the discharge pipe or the perimeter of the area to be dredged, and terminating on the river bank south of the discharge pipe or access channels. The screens shall be maintained and shall remain in place for the duration of the project construction to ensure that turbidity levels outside the construction area do not exceed 15 NTUs above background levels.

The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working

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order so that turbidity in waters outside of the turbidity screens is not elevated beyond 29 NTUs above natural background. Turbidity shall be monitored as described in the monitoring portion of this permit.

The following measures shall be taken by the permittee whenever turbidity levels within waters of the State surrounding the project site exceed State water quality standards established pursuant to Rule 62-302, F.A.C.:

- a. Immediately cease all work contributing to the water quality violation;
  - b. Modify the work procedures causing the violation, and repair any non-functioning turbidity containment devices;
  - c. Notify the Bureau of Submerged Lands and Environmental Resource Management at (904) 468-0130 and the DEP Northeast District Office (904) 448-4300 within 24 hrs. of the time the violation is first detected.
8. Clean rip rap boulders, 12 in. diameter or larger, free from sediments, debris, rebar, or other toxic and deleterious substances shall be placed as shown on the permit drawings in the marina basin and entrance channels. Rip rap, as defined in Rule 62-312.020(15), F.A.C. consists of unconsolidated boulders, rocks, or clean concrete rubble with no exposed reinforcing rods or similar protrusions.
9. Boat maintenance or repair activities requiring removal of a vessel from the water, or removal of any major portions of the vessel, including the engine, for purposes of routine repair or maintenance on site, shall be prohibited for the life of the facility, except where removal is necessitated by emergency conditions which have resulted in or can result in the sinking of a vessel. Specifically prohibited shall be any discharges or release of oils or greases associated with engine and hydraulic repairs, and related metal based bottom paints associated with hull scraping, cleaning, and painting. Minor repairs and boat maintenance that will not cause or contribute to the release of water pollutants, and which are performed by owners or qualified marine mechanics, shall be allowed.
10. Fueling and fish-cleaning facilities shall be prohibited for the life of the docking facility.
11. No liveaboards shall be allowed to dock at the marina for the life of the facility. A liveaboard shall be defined as a vessel docked at the facility that is inhabited by person or persons for any two consecutive days or a total of seven days within a 30 day period.

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12. Prior to the use of either the boat ramp or slips at the marina, permanent upland restroom facilities shall be constructed and fully operational within 200 yards of the marina basin. The restroom facilities shall be maintained for the life of the marina. The permittee shall provide the Bureau of Submerged Lands and Environmental Resources and the Northeast District Office with a plan view drawing which identifies the location of the restroom facilities. A transmittal sheet labeled "This information is provided in fulfillment of the requirement of Specific Condition No. 12 of Permit No. 552524609" shall be attached to the above-referenced information when submitted to the Department.

13. All toilets on boats occupying wet slips at the marina shall be U.S. Coast Guard approved Type III marine sanitation devices (MSDs). This requirement shall be included in any lease or occupancy agreement allowing boaters to utilize slips in the marina, and shall be in effect for the life of the marina.

14. Prior to use of either the boat ramp or slips at the marina, sewage pump-out facilities shall be properly installed and functional at the project site. The sewage pump-out facilities shall be maintained in working order for the life of the docking facility. The permittee shall provide the Bureau of Submerged Lands and Environmental Resources and the Northeast District Office in Jacksonville with a plan view drawing which identifies the location of the sewage pump-out facilities and additional information regarding the capacity of the sewage pump-out facilities and the method of treatment for wastewater collected at the marina. A transmittal sheet labeled "This information is provided in fulfillment of the requirement of Specific Condition No. 14 of Permit No. 552524609" shall be attached to the above-referenced information when submitted to the Department.

15. The permittee shall adhere to the following conditions to provide protection for manatees during the construction and operation of the facility:

- a. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel are responsible for observing water-related activities for the presence of manatees, and shall implement appropriate precautions to ensure protection of the manatees.
- b. The permittee shall ensure that all construction personnel are advised that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act. The permittee and/or contractor may be held responsible for any manatee harmed, harassed, or killed as a result of construction activities.

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- c. Prior to commencement of construction, the prime contractor involved in the construction activities shall construct and display at least two temporary signs (placards) concerning manatees. For all vessels, a temporary sign (at least 8 1/2" X 11") reading "Manatee Habitat/Idle Speed in Construction Area" will be placed in a prominent location visible to employees operating the vessels. In the absence of a vessel, a temporary sign (at least 2' X 2') reading "Warning: Manatee Habitat" will be posted in a location prominently visible to land based, water-related construction crews.
- A second temporary sign (at least 8 1/2" X 11") reading "Warning, Manatee Habitat: Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment. Any collision with and/or injury to a manatee shall be reported immediately to the Florida Marine Patrol at 1-800-DIAL-FMP" will be located prominently adjacent to the displayed issued construction permit. Temporary notices are to be removed by the permittee upon completion of construction.
- d. The permittee shall ensure that turbidity barriers are properly secured so that manatees cannot become entangled, and are monitored at least daily to avoid manatee entrapment. Barriers must not block manatee entry to or exit from essential habitat.
- e. The permittee shall ensure that all vessels associated with the project operate at "idle speed/no wake" at all times while in the construction area and while in water where the draft of the vessel provides less than a four foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- f. If manatees are seen within 100 yards of the active daily construction/dredging operation all appropriate precautions shall be implemented to ensure protection of the manatee. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee. Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment.
- g. Any collision with and/or injury to a manatee shall be reported immediately to the Florida Marine Patrol (1-800-DIAL-FMP) and to the Office of Protected Species Management (904, 922-4230).
- h. The permittee shall maintain a log detailing sightings, collisions, or injuries to manatees should they occur during the contract period. A report summarizing incidents and sightings shall be submitted to the Florida

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Department of Environmental Protection, Office of Protected Species Management, Mail Station 245, 1900 Commonwealth Boulevard, Tallahassee, Florida 32399 and to the U.S. Fish and Wildlife Service Office, 3100 University Boulevard, Jacksonville, Florida 32216. This report must be submitted annually or following the completion of the project if the contract period is less than a year.

- i. Permanent manatee information and/or awareness sign(s) will be installed to increase the awareness of boaters using docking facilities of the presence of manatees and of the need to minimize the threat of boats to these animals. Prior to the docking facility beginning operations, the permittee shall send a project site plan to the FDEP Marine Mammals Section of the OPSM at the above address. FDEP will then specify on the site plan permanent locations for the "Caution Manatee Area" and "Information Display" signs.
- j. The permanent "Caution Manatee Area" and "Information Display" signs shall be 4 ft. by 3 ft., 125 gauge 6075 aluminum, covered with white, engineer grade, reflecting sheeting; black screened lettering and design; and orange engineer grade, reflective circle tape and sign border. These signs shall conform to the Florida Uniform Waterway Marking System in accordance with Section 327.40-1, F.S. The installations of these signs shall be made in accordance with the FDEP specifications for such signs. Sign installation specifications and a permanent manatee awareness sign criteria sheet may be attached or will be forwarded when the sign plan has been reviewed and the permanent sign locations are designated by FDEP.
- k. The permittee shall ensure that a permanent "Information Display" (consisting of two signs: "Manatee Basics For Boaters" and "West Indian Manatee Fact Sheet") is installed prior to the docking facility beginning operations to increase the awareness of vessel operators using the facility of the presence of manatees and of the need to minimize the threat presented by boaters to these animals. A list of suppliers of the "Information Display" signs will be forwarded with the permanent sign locations designation. The "Information Display" signs shall remain the responsibility of the permittee and shall be maintained for the life of the docking facility in a manner acceptable to FDEP.
- l. Verification that the permanent signs have been installed at the designated locations shall be provided to the Department's OPSM at the above address before the docking facility begins operations.

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16. Within 120 days of permit issuance, the permittee shall enter into a binding long-term agreement with the Department, the language of which is appended to this permit as "Exhibit C". This agreement shall evidence the obligation of the permittee to comply with Specific Condition Nos. 9-14 and 151-1 for the life of the facility, notwithstanding the fact that this permit will expire in 5 years. The agreement shall be submitted to the Bureau of Submerged Lands and Environmental Resource Management for final review and execution. The fully executed agreement shall be recorded by the permittee in the public records of Duval County, and proof of its recording shall be submitted to the Bureau of Submerged Lands and Environmental Resource Management within 60 days of recording.

**MONITORING REQUIRED:**

**1. TURBIDITY MONITORING - NTUS**

**Frequency:** Every two hours during dewatering and discharge of effluent to the Tolomato River and dredging of entrance channels. The first sample shall be collected 15 minutes after dewatering or dredging has begun and subsequent samples shall be collected every two hours thereafter during the discharge of dewatering effluent or dredging of the entrance channels.

**Location:**

**Background:** In the Tolomato River, 30 m. west of the river bank and 150 m. upcurrent of the project site, outside any turbidity generated by this project, at mid-depth.

**Compliance:** In the Tolomato River, 10 m. downcurrent and outside of the turbidity containment devices, within any visible turbidity plume, at mid-depth.

All monitoring data shall be submitted within one week of analysis with documents containing the following information: (1) permit number; (2) dates of sampling and analysis; (3) a statement describing the methods used in collection, handling, storage and analysis of the samples; (4) a map indicating the sampling locations; (5) a statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data; and (6) documentation that the laboratory performing the sampling and analyses has an approved quality control and assurance plan on file with the DEP.

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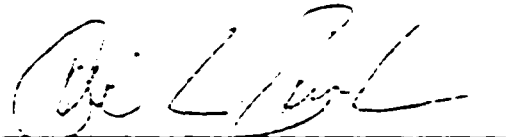
Monitoring reports shall also include the following information for each sample that is taken:

- (1) time of day samples taken;
- (2) depth of the water body;
- (3) depth of sample;
- (4) antecedent weather conditions.

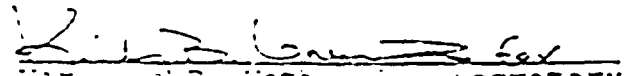
The compliance locations given above shall be considered the limits of the temporary mixing zone for turbidity allowed during construction. If monitoring reveals turbidity levels at the compliance site greater than or equal to 25 NTUs of background turbidity levels, dredging, dewatering, and construction activities shall cease immediately and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. Any such occurrence shall also be immediately reported to the DEP Northeast District Office in Jacksonville.

Monitoring reports shall be submitted to the Bureau of Submerged Lands and Environmental Resource Management in Tallahassee and to the DEP Northeast District Office in Jacksonville. Failure to submit reports in a timely manner constitutes grounds for revocation of the permit. When submitting this information to the DEP, please clearly include, at the top of each page or as a cover page to the submittal: "This information being provided in fulfillment of the monitoring requirements in Permit No. 162524609".

Recommended by

  
Eric L. Blair

STATE OF FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

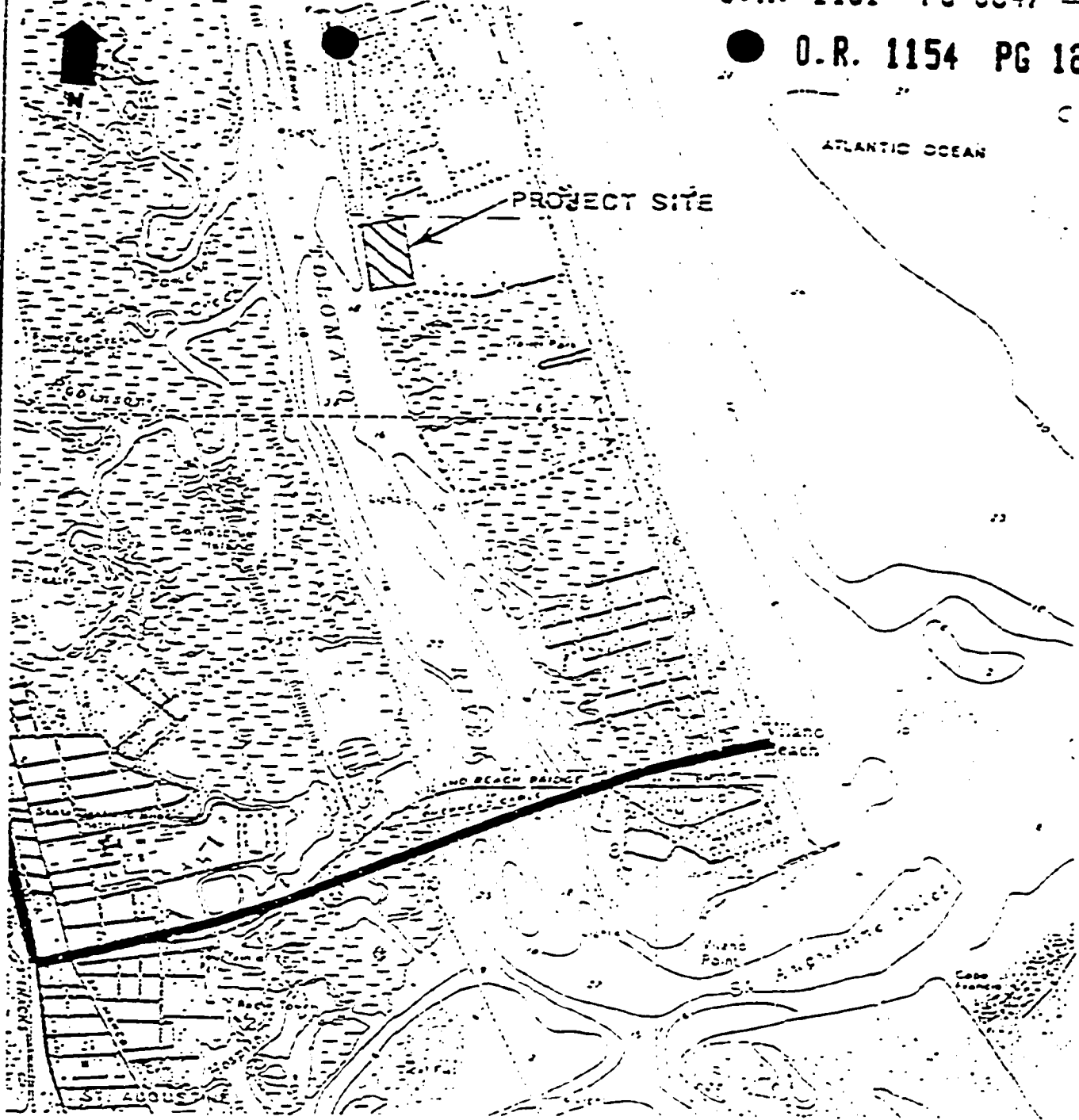
  
Virginia D. McNeel, Secretary

\_\_\_\_\_ pages attached.

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ATLANTIC OCEAN

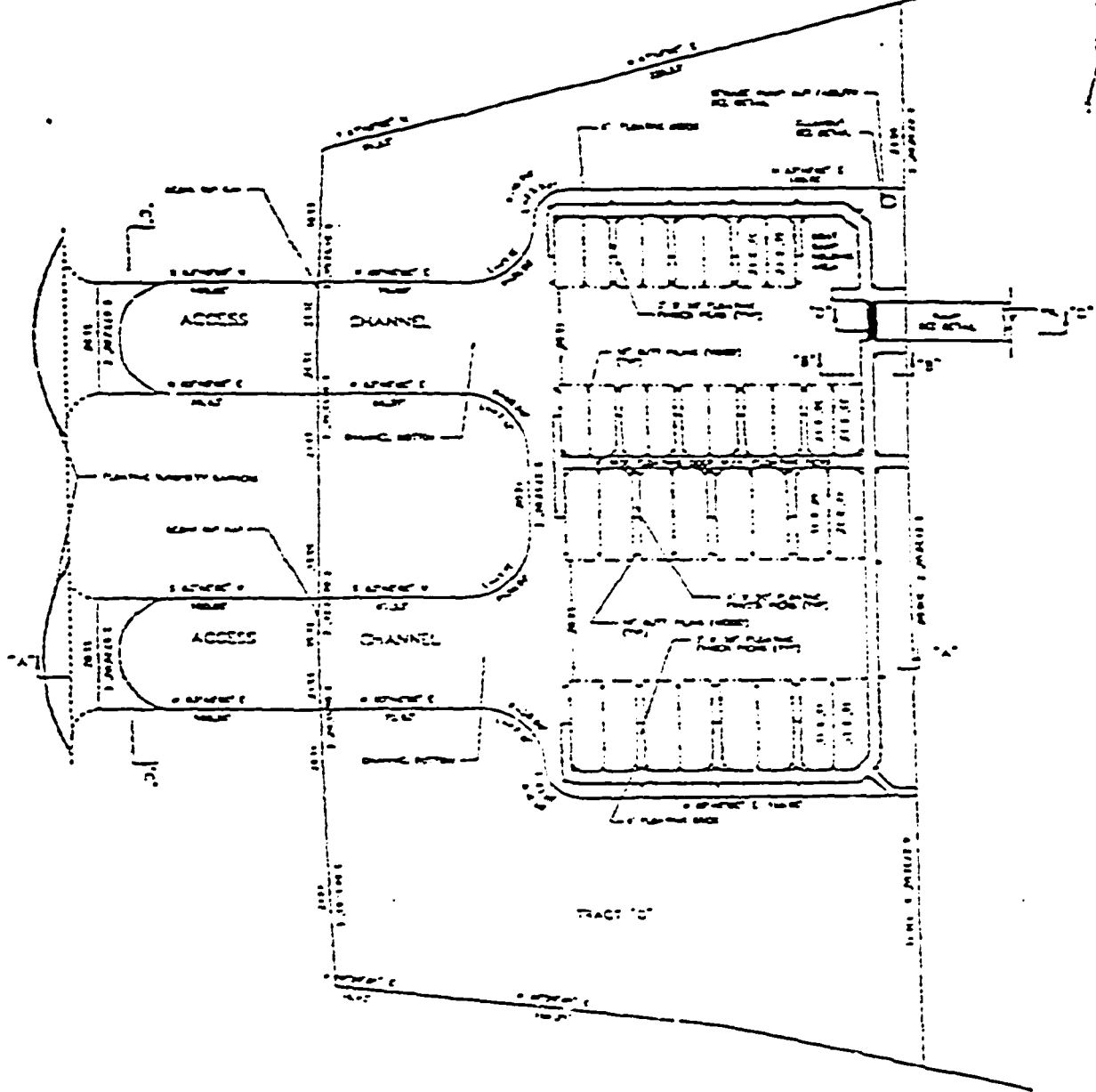
PROJECT SITE



SOURCE:  
USGS ST. AUGUSTINE QUADRANGLE  
SCALE 1:24000

LOCATION MAP		
VILLAGES OF VILANO		
Scale	June 14, 1954	Approved by
Drawn by	JA	
OAR INCORPORATED		CP 1241
4494 South de Boulevard		
Suite 200		
Jacksonville, Florida 32216		100000

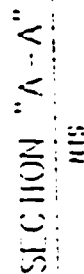
INTRACOASTAL WATERWAY (TOLUATO RIVER)



SOURCE: HILL, BORING AND ASSOCIATES

MARINA SITE PLAN		
VILLAGES OF VILANO		
Scale		Drawn by JA
Date June 14, 1994	Approved By	
CZR INCORPORATED		CP 134
4494 Southside Boulevard		
Suite 200		
Jacksonville, Florida 32216		FIGURE 6

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CP 1311

SOURCE: ILL. MORRIS AND ASSOCIATES