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BPIA AND DEVELOPER AGREEMENT

THIS AGREEMENT is made and entered into on this 8th day of December, 1988, by and between BAY POINT YACHT & COUNTRY CLUB, a Florida joint venture partnership ("Developer"), whose address is 100 Delwood Beach Road, Panama City Beach, Bay County, Florida 32407, and the BAY POINT IMPROVEMENT ASSOCIATION, INC., a Florida corporation not-for-profit ("BPIA"), whose address is Bay Point Box 358, Panama City Beach, Bay County, Florida 32407,

R E C I T A L S :

A. Developer is the present developer of Bay Point Yacht & Country Club Resort which consists of club facilities, golf courses, tennis facilities, marina, single-family residential projects, condominium projects, Bay Point's Marriott's Resort, and undeveloped land (the "Resort"), the Resort being located in Bay County, Florida.

B. BPIA is the master homeowners association which represents, as of this date, approximately one thousand (1,000) home and unit owners in the Resort, and which has goals, as are more specifically set forth in its Articles of Incorporation and By-Laws, but which include the security, enhancement of the quality of life, and the protection of the property value of its members.

C. The parties recognize and understand that the role of the Developer in the Resort is changing, as portions of the

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Resort are now more appropriately the primary responsibility of the BPIA rather than the Developer, while unsold and undeveloped portions of the Resort continue to be appropriately the responsibility of the Developer rather than the BPIA.

D. The parties recognize and understand that the role of the BPIA is changing, in that it has become a significant influence in the administration of the developed portions of the Resort, and an entity to be consulted with in respect to the future development of other portions of the Resort.

E. The parties acknowledge and understand that the Resort is subject of a Development of Regional Impact Order ("DRI Order"), promulgated pursuant to Chapter 380, Florida Statutes, and the parties desire to set forth their commitments with respect to the DRI Order.

F. Taking into consideration all of the understandings of the parties as set forth hereinabove in these recitals, the parties desire, at this point, to make certain contractual commitments, one to the other, and to delineate certain areas of responsibility as between the two parties.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed between the parties hereto as follows:

- 1. With respect to the following specific developments within the Resort (the "Properties"), the Developer hereby assigns and transfers to BPIA all of the Developer's rights,

powers, privileges, and authorities granted to the Developer by the Covenants and Restrictions which encumber the Properties, subject, however, to the limitations set forth hereinafter:

(a) The Properties to which this paragraph applies are specifically as follows:

- (1) Bay Point Unit One, the Plat.
- (2) Bay Point Unit One-A, the Plat.
- (3) Weakfish Way Lots, numbered 1 through 8.
- (4) Studio Villas One, a Condominium.
- (5) Studio Villas Two, a Condominium.
- (6) Studio Villas Three, a Condominium.
- (7) Golf Villas One, a Condominium.
- (8) Golf Villas Two, a Condominium.
- (9) Golf Villas Three, a Condominium.
- (10) Turtlegrass, a Condominium.
- (11) Lagoon Towers, a Condominium.

(b) The sole limitation upon the Developer's grant and assignment as set forth in this paragraph, to which the BPIA agrees, is that the Developer shall be a non-voting, ex-officio member of the Architectural Review Committee, or such other entity as may be constituted from time to time by BPIA to carry out the responsibilities and obligations set forth in paragraphs 5 and 6 of the Covenants and Restrictions encumbering Bay Point Unit One, those Covenants and Restrictions being

recorded at Book 340, Page 292, et seq., Official Records of Bay County, Florida.

2. BPIA hereby accepts the assignment and transfer of all of the rights, powers, privileges, and authorities assigned and transferred under paragraph 1 hereby, to include but not be limited to the enforcement of the Covenants and Restrictions encumbering the Properties, and agrees to exercise them in the same manner permitted or required under the specific paragraphs of the applicable Covenants and Restrictions conferring such rights, powers, privileges, and authorities.

3. As to subsequent identifiable projects developed by the Developer within the Resort (the "Project"), at such time as the Developer has closed the sale to third parties of at least ninety percent (90%) of the parcels or units in each Project, the Developer hereby commits that it shall assign and transfer all of the Developer's rights, powers, privileges, and authorities to BPIA as to that Project, and shall execute appropriate documents evidencing such assignment and transfer; provided, however, only Projects which are one hundred percent (100%) residential in nature, including but not limited to condominiums, single-family residence, multi-family, patio homes, as such residential Projects are generally depicted on Map H, Exhibit "A" hereto (Map H being a part of the DRI Order), shall be subject of the assignment and transfer of Developer's rights as provided for herein, and BPIA shall only be obligated to accept Projects which are 100% residential and which are developed according to the

terms and conditions of the DRI Order. BPIA agrees that upon such assignment and transfer, as to each Project, it shall accept the assignment and transfer of the Developer's rights, powers, privileges, and authorities, subject, however, to the limitations set forth in paragraph 1.(b) above, and only if such Projects have been developed consistent with the terms and conditions of the DRI Order. The covenants and restrictions described in paragraph 4.(a)(2) shall be drafted by the Developer to contain provisions similar to those provisions presently in covenants and restrictions encumbering, e.g., Legend Lakes, a subdivision, Marina Club Village, a Condominium, relating to required membership of unit owners in the BPIA and units in the Project being subject to normal and usual member assessment by BPIA.

4. With respect to certain land currently under development, or to be developed within the Resort ("Undeveloped Land"):

- (a) (1) The Developer shall not be obligated to apply the same or similar covenants and restrictions to the Undeveloped Land as the Developer has applied to the Properties.
- (2) The Developer shall not be obligated to require, through the imposition of covenants and restrictions, that the purchasers of the Undeveloped Land become members of the BPIA, unless the character and use of the Undeveloped Land, as developed, is

residential, which shall include single-family homes, townhomes, patio homes, or residential condominiums, in which event, the Developer shall require, through the imposition of covenants and restrictions, that purchasers thereof become members of the BPIA.

- (b) (1) The Developer shall not be required to pay BPIA dues, or general or special assessments, upon the lots or parcels which are a part of the Undeveloped Land, unless and until each such lot or parcel in the Undeveloped Land is sold to a third party, and is developed according to character and use as described in paragraph 4.(a)(2) above, at which time the third-party purchaser shall become obligated to become a member of the BPIA and pay dues and assessments.
- (2) The requirement set forth in 4(b)(1) above shall not be affected by the fact that a project developed by the Developer in the Undeveloped Land may be, prior to the sale of any lot or parcel, encumbered by covenants and restrictions, which require BPIA membership.

5. The Developer and the BPIA hereby reaffirm certain obligations with respect to the existing roadways within the Resort:

- (a) That the BPIA is the titled owner to certain of the roadways within the Resort, subject to the rights of ingress and egress reserved to the Developer, its successors, assigns, guests, invitees, and club members. As to any existing roadways within the Resort as of this date, which are not titled in the BPIA, the Developer hereby agrees to deed such roadways to BPIA, within sixty (60) days of date of this Agreement, upon the same terms and conditions as the roadways have previously been deeded to BPIA, and according to terms provided in sub-paragraph (g) below.
- (b) BPIA acknowledges its sole responsibility to maintain all of the roadways in the Resort to which it now holds title or title to which it shall accept by affirmative decision in the future. BPIA shall not, after date of this Agreement, be required to accept title to and maintenance responsibilities for any roadways in the Resort unless such roadways are constructed to minimum specifications such as are attached as Exhibit "B" hereto.

- (c) The Developer hereby agrees that it shall, prior to December 31, 1988, complete the paving of, or have entered into a firm and binding contract for the paving of, that portion of the roadway known as Bay Point Road, from its intersection with the right-of-way of Delwood Beach Road through the intersection and stop sign adjacent to Studio Villas One.
- (d) The Developer agrees that it shall convey all of its right, title, and interest, and the BPIA agrees that it shall accept all of the right, title, and interest of the Developer, in and to the security gate located at the Delwood Beach Road entrance to the Resort (the "Delwood Security Gate"), the transfer to be completed within sixty (60) days from date of this Agreement. The Delwood Security Gate shall include the guardhouse, fixtures and equipment, gates and machinery associated therewith, as are specifically identified in Exhibit "C" attached hereto and made a part hereof. BPIA agrees that upon the transfer, it shall undertake the operation of the Delwood Security Gate in a manner which is consistent with the security policies adopted by the BPIA and the Developer from time to time, and that the BPIA shall be responsible for

all expenses and costs associated with the operation of the Delwood Security Gate, to include maintenance and replacement of the guardhouse, fixtures, gate, and machinery as necessary.

- (e) The Developer agrees that it shall continue its operation of the security gate located at the Jan Cooley Drive entrance to the Resort (the "Jan Cooley Security Gate") and that such operation shall be in a manner consistent with the security policies adopted by BPIA and the Developer from time to time, and that the Developer shall be responsible for the funding of the operation of the Jan Cooley Security Gate.
- (f) The Developer shall remain responsible for the payment of any ad valorem and personal property taxes for 1988 arising from the ownership of the real and personal property transferred or to be transferred by the operation of this Agreement.
- (g) (1) Both parties acknowledge and agree that safety on all roadways within the Resort (the "Roadways") is of paramount importance, and, accordingly, the Developer agrees that all users of the Roadways shall comply with traffic management rules adopted by BPIA (the "Rules"), including the users using the Roadways by virtue of the Developer's

reserved rights set forth in the Special Warranty Deed recorded in Book 984, Page 989, Official Records of Bay County, Florida.

- (2) The Developer agrees to execute and record a Supplemental Special Warranty Deed by 12/31/88 which shall acknowledge that the rights reserved by the Developer in the aforesaid Special Warranty Deed shall be exercised by the Developer, and by those using the Roadways by virtue of a grant or license or privilege from the Developer, in compliance with the Rules; and that anyone's privilege to use the Roadways may be suspended, restricted or forfeited by BPIA due to noncompliance with the Rules.
- (3) The Developer agrees that any grant by it of any license or privilege to use the Roadways is and shall be subject to the Rules, and that the aforesaid Supplemental Special Warranty Deed shall contain such a recital.
- (4) The Rules, as they may be amended from time to time, shall, for the five (5) year period beginning with date of this Agreement, be subject to the Developer's right to object to the provisions of any Rule; in the event of such an objection in writing by the

Developer, BPIA and the Developer shall endeavor to resolve the objection; in the event they are unable to do so, they shall submit the matters to arbitration by a panel of three (3) arbitrators, one of which shall be chosen by BPIA and one of which shall be chosen by the Developer and the third shall be chosen by the first two; the arbitrators' decision by a majority of the panel shall be binding upon all parties.

- (h) The Developer shall make an annual contribution towards the maintenance of that portion of Bay Point Road which extends from the intersection of Bay Point Road and Weakfish Way to the intersection of Bay Point Road with the property line of property owned by Bay Point Hotel Associates ("Bay Point Roadway"). The term "maintenance" as used herein shall include the maintenance of the Bay Point Roadway itself, islands therein, lighting, patrolling, security, and cleaning, beautifying, landscaping and care of the right-of-way, except for those portions of the right-of-way which are maintained by various condominium associations and/or private homeowners, and as may be necessary from time to time, repairing and repaving. The amount of

Developer's annual contribution for the Bay Point Roadway shall be fixed as of April 1 every year, beginning with April 1, 1989, and shall be calculated as follows: The percentage of the BPIA annual budget attributable to the maintenance of the Bay Point Roadway shall be multiplied by a percentage which is a fraction, the numerator which shall be the number of Bay Point Yacht & Country Club members who are not property owners or are not otherwise subject to being assessed by the BPIA and the denominator of which shall be the number of members of Bay Point Yacht & Country Club who are property owners. As an example, if, in a given year, the Developer certifies 1,000 members of Bay Point Yacht & Country Club, of which 500 are property owners and subject to BPIA assessment, the Developer would be responsible for the payment of 50% of the budgeted expenses for maintenance of the Bay Point Roadway. The Developer shall certify the numbers to be used in the fraction each year, at least ten (10) days prior to the 1st day of April. The Developer's annual payment, calculated annually as provided in this sub-paragraph (h), shall be due and payable in twelve (12) equal monthly installments beginning April 30 of each year.

6. Each of the parties hereto acknowledges that, with regard to the DRI Order, BPIA is a party whose interests are or maybe affected by the present terms of the Order and by any proposed amendment to those terms. The Developer agrees to keep BPIA advised of any amendments to the DRI Order. As to the DRI Order, each of the parties hereby acknowledges that it and its constituent members and agents shall abide by the terms of the DRI Order, as it may be amended from time to time. Each of the parties acknowledges and agrees that if a party shall act in contravention of the DRI Order, that it subjects itself to certain liabilities and penalties which may be imposed by statute, administrative regulation, or ordinance, and in such event, each of the parties agrees that it shall accept its own responsibility for such liabilities or penalties as they may be imposed.

7. The Developer recognizes the necessity of it carrying on its business so as not to materially interfere with the business of the BPIA, and the BPIA recognizes the necessity of it carrying on its business so as not to materially interfere with the business of the Developer. Each of the parties hereto commits that they shall use their best efforts to carry on each of the parties' respective businesses, in such a manner so as not to materially interfere with the business of the other, in such a manner which is consistent with the guidelines, terms, and conditions of the DRI Order, and to the extent possible, in such a manner as is consistent with the best interests of the Resort

and the goals of the other party; provided, however, that BPIA's commitments undertaken herein are undertaken to the extent that they are consistent with and not in conflict with BPIA's duties and responsibilities and powers as set forth in its Articles and By-Laws and Rules.

8. This Agreement shall be binding upon and enure to the benefit of the assigns and successors in interest of the parties hereto.

9. Developer agrees to save and hold harmless and indemnify BPIA of and from any and all suits, demands, judgments, claims, or actions which may be made or brought against BPIA arising from or on account of the Developer's ownership of any properties transferred under the terms of this Agreement, or to be transferred under the terms of this Agreement, or arising from or on account of the Developer's actions or omissions relating to any rights, duties or obligations hereby transferred to BPIA and allegedly occurring during the time prior to such transfer; provided, however, the Developer's indemnity provided for in this paragraph shall not extend to any of the following which arose prior to the date of this Agreement:

- (a) litigation or claims arising from or pertaining to any covenants and restrictions which were enforced primarily by BPIA, including, but not limited to traffic enforcement;
- (b) any pending claims or pending litigation to which BPIA is a party.

The Developer does not agree hereby to indemnify BPIA for the negligence or intentional acts of BPIA, its agents, servants, employees or contractors.

10. Developer agrees to execute and deliver to BPIA, prior to the February 1989 BPIA Annual Meeting, an Amended Special Warranty Deed ("Amended Deed") relating to the "Bay Point Firehouse Property", which deed shall contain the description included upon survey attached as Exhibit "D" hereto and made a part hereof. The Amended Deed shall contain restrictive language which restricts the use of the property subject of the Amended Deed to community purposes, excluding commercial, and which requires that the Grantee - BPIA - maintain the property in a condition which is aesthetically consistent with other properties of the Grantor within Bay Point Resort.

IN WITNESS WHEREOF, the parties hereto have caused their respective authorized representatives to execute this Agreement on the first date written above.

Signed, sealed & delivered in the presence of:

J. Robert H. Hendley
Susan Hendley

J. Robert H. Hendley
Susan Hendley

DEVELOPER

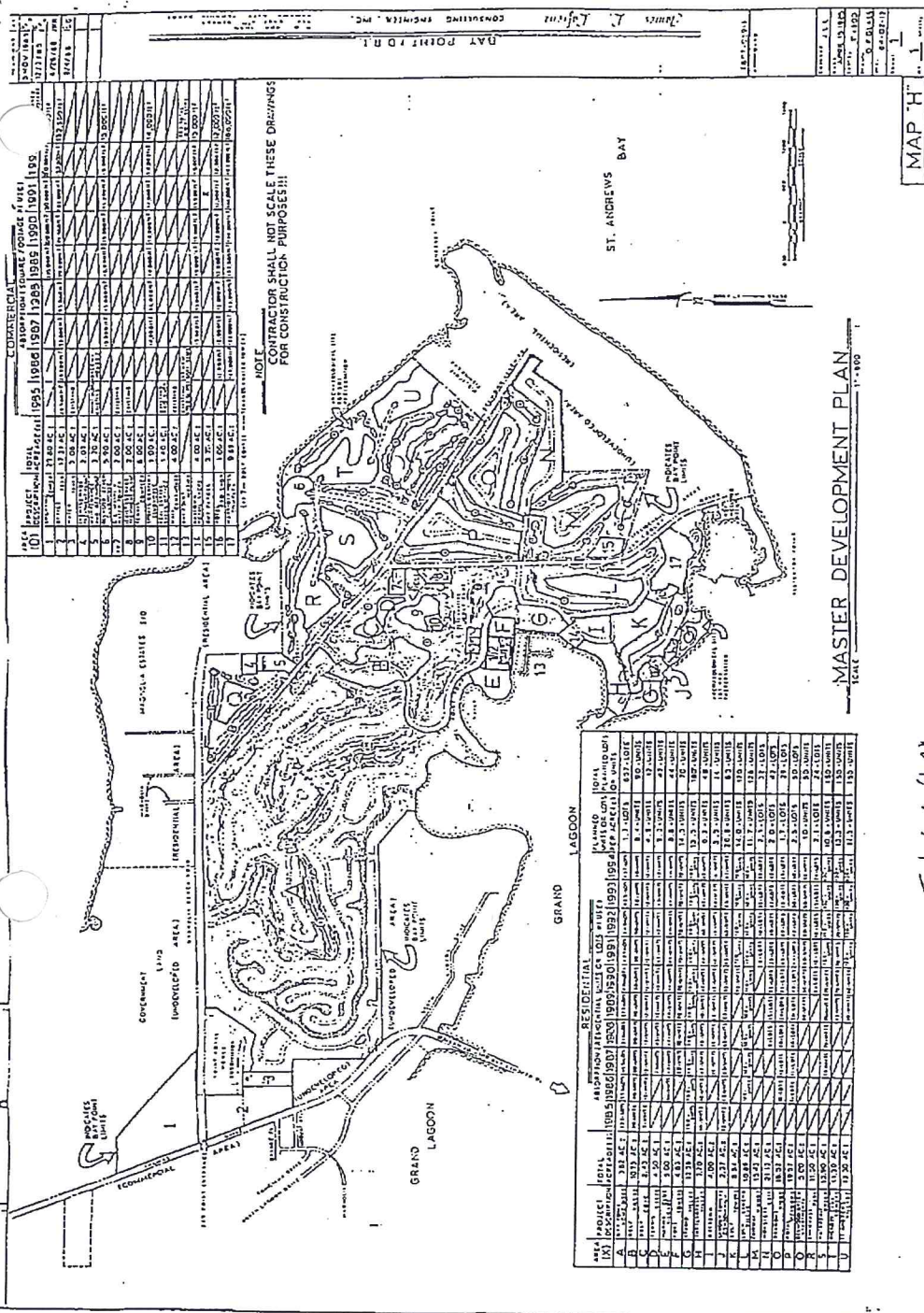
BAY POINT YACHT & COUNTRY CLUB

By William F. Spann
William F. Spann, Managing Partner

BPIA

BAY POINT IMPROVEMENT ASSOCIATION, INC.

By Arthur R. Prutlow
Its President



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NOTE
CONTRACTOR SHALL NOT SCALE THESE DRAWINGS FOR CONSTRUCTION PURPOSES!!!

MASTER DEVELOPMENT PLAN
SCALE 1:1000

File 1 + 01A