

**AMENDED AND RESTATED BYLAWS**

*of the*

**MEMORIAL BEND CIVIC ASSOCIATION, INC.**

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RP-2018-74005

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**AMENDED AND RESTATED BYLAWS**  
*of the*  
**MEMORIAL BEND CIVIC ASSOCIATION, INC.**

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STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

**Recitals**

1. Bylaws for Memorial Bend Civic Association, Inc. were previously adopted (the "Prior Bylaws").

2. The Board of Directors of Memorial Bend Civic Association, Inc. desires to amend and restate the Prior Bylaws of the Association in its entirety.

3. Section 22.102(c) of the Texas Business Organizations Code provides:

The board of directors may amend or repeal the bylaws, or adopt new bylaws, unless:

- (1) This chapter or the corporation's certificate of formation wholly or partly reserves the power exclusively to the corporation's members;
- (2) The management of the corporation is vested in the corporation's members; or
- (3) In amending, repealing, or adopting a bylaw, the members expressly provide that the board of directors may not amend or repeal the bylaw;

4. There is no such restriction or reservation in the Association's Articles of Incorporation or Bylaws nor is management of the corporation vested in the Association's members;

5. State law supersedes any language contained in the Association's Bylaws regarding the procedure to amend the Bylaws;

NOW, THEREFORE, the Board of Directors of the Association hereby amends and restates the Prior Bylaws in its entirety. Upon recording these Amended and Restated Bylaws of the Association (these "Bylaws"), these Bylaws will replace and supersede the Prior Bylaws and all amendments thereto.

## ARTICLE I. Name, Membership, and Definitions

### Section 1. Name.

The name of the Association is MEMORIAL BEND CIVIC ASSOCIATION, INC. (hereinafter referred to as the "Association").

### Section 2. Membership.

The Association has one (1) class of membership as set forth in the "Second Superseding Declaration of Covenants, Restrictions, and Conditions for Memorial Bend Subdivision Section One, Section Two, Section Three, Section Four and Section Five" (said instrument, as amended, hereinafter referred to as the "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

### Section 3. Definitions/Gender.

All other capitalized terms used in these Bylaws have the same meanings as that set forth in the Declaration, unless otherwise provided. Pronouns, wherever used in these Bylaws, include all persons regardless of gender.

## ARTICLE II. Association: Meetings, Quorum, Voting, Proxies

### Section 1. Place of Meetings.

Meetings of the Association must be held at the principal office of the Association or at such other suitable place as may be designated by the Board of Directors either in the subdivision or as convenient to the members as possible and practical.

### Section 2. Annual Meetings.

The annual meeting of the Association must be held in the month of January of each year, on a date and at a time and location designated by the Board of Directors. Provided, however, that in the event of inclement weather, non-availability of local facilities or other factors outside the Association's control, the annual meeting may be conducted no later than within the month of February provided that notice is given.

### Section 3. Special Meetings.

The President may call special meetings. In addition, it is the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by members representing at least ten percent (10%) of the total votes of the Association. The notice of any special meeting must set forth the date, time, and place of such meeting and the purpose thereof. No business may be transacted at a special meeting except as set forth in the notice.

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**Section 4. Notice of Meetings.**

It is the duty of the Secretary to send to the Owner of each Lot written notice of each annual or special meeting of the Association stating the purpose of the meeting, as well as the time and place where it is to be held. Such notice may be delivered personally, by mail, by facsimile and, to the extent expressly authorized by statute, by electronic message. If a member desires that notice be given at an address other than the Lot, the member must provide the alternative address for the purpose of receiving notice in writing to the Secretary of the Association. Notice by facsimile must be sent to the facsimile number provided to the Association in writing by that member. Notice must be served not less than ten (10) nor more than thirty (30) days before a meeting. For an election or vote of members not taken at a meeting, the Association must give notice of the election or vote to all members entitled to vote on any matter under consideration. The notice must be given not later than the twentieth (20<sup>th</sup>) day before the latest date on which a ballot may be submitted to be counted.

The Board of Directors may use any other means to deliver a notice of a meeting that may become available with advancements in technology, provided that notice by such means is authorized by statute. Notwithstanding anything contained herein to the contrary, the Association may use an alternative method to provide notice to members provided that the member to whom the notice is provided has affirmatively opted to allow the Association to use the alternative method of providing notice.

If mailed, the notice of a meeting is deemed to be delivered when deposited in the United States mail, first class postage pre-paid, addressed to the member. If faxed, the notice is deemed to be delivered as of the date and time shown on a written confirmation that the facsimile was successfully transmitted. If sent by electronic message, the notice is deemed to be delivered as provided by applicable statute.

**Section 5. Waiver of Notice.**

Waiver of notice of a meeting of the Association is deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, is deemed waiver by such member of notice of the time, date, and place thereof, unless such member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting is also deemed waiver of notice of all business transacted at such meeting unless objection to the calling or convening of the meeting is raised before the business (of which proper notice was not given) is put to a vote.

**Section 6. Adjournment of Meetings.**

If any meeting of the Association cannot be held because a quorum is not present, either in person or by proxy, the presiding officer may adjourn the meeting and reconvene at a time not less than five (5) days and not more than thirty (30) days from the time the original meeting was called. If a time and place for reconvening the meeting is fixed by those in attendance at the adjourned meeting, further notice of the time and place for reconvening the meeting is not required to be given to the members. If a time and place for reconvening the meeting is not fixed by those in attendance at such an adjourned meeting, or if for any reason a new date is fixed for

reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting must be given to members in the manner prescribed herein for a first called meeting. At such reconvened meeting, whether or not a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice provided that (i) at least five percent (5%) of the total votes of the members as of the date of the meeting is present in person and/or by proxy; and, (ii) any action taken must be approved by at least a majority of all of the members present, in person and/or by proxy, at such reconvened meeting, unless otherwise provided in these Bylaws or in the Declaration.

**Section 7. Voting.**

The voting rights of the members are set forth in the Declaration; provided that, all members have the right to vote in the election of Directors and on any matter concerning the rights or responsibilities of members. Members may vote in person or by proxy or, if implemented by the Association, by absentee ballot or by electronic ballot. Votes cast by members must be in writing signed by the member if the vote is cast (i) outside of a meeting, (ii) in an election to fill a position on the Board, (iii) on a proposed adoption or amendment of a dedicatory instrument, (iv) on a proposed increase in the amount of the annual assessment charge or proposed adoption of a special assessment, or (v) on the proposed removal of a Director.

**Section 8. Proxies.**

All proxies must be in writing and filed with the Secretary before the appointed time of each meeting. Every proxy is revocable and will automatically cease upon (i) conveyance by the member of the member's interest in a Lot; (ii) receipt of notice by the Secretary of the death or judicially declared incompetence of a member; (iii) receipt of written revocation; or, (iv) expiration of eleven (11) months from the day the proxy becomes effective. In the event a member executes more than one (1) proxy, the proxy with the most current date will be valid. Proxies not delivered prior to the start of any meeting are not valid and will not be counted.

**Section 9. Quorum.**

Except as otherwise provided in these Bylaws or in the Declaration, the presence in person or by proxy of at least ten percent (10%) of the total votes of the members as of the time of the meeting constitutes a quorum at all meetings of the Association.

**Section 10. Conduct of Meetings.**

The President will preside over all meetings of the Association and the Secretary, or another person designated by the Secretary, must keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

**Section 11. Action Without a Meeting.**

To the extent allowed by applicable law, any action which may be taken or is required to be taken at a meeting of the Association may be taken without a meeting if written consent is signed by members holding the number of votes necessary to approve the action at a meeting.

The written consent must (i) set forth the action to be taken and (ii) be executed by the required number of members as of the effective date set forth in the written consent. Any written consent adopted in accordance with this section has the same force and effect as a unanimous vote of the members.

### **ARTICLE III. Board of Directors: Number, Powers, Meetings**

#### **Section 1. Governing Body: Composition.**

The affairs of the Association will be governed by a Board of Directors. Each Director must be a member. Not more than one (1) representative of a particular corporation or other entity that is a member may serve on the Board at any given time. A member is not eligible to serve on the Board of Directors if the member has been convicted of a felony or crime involving moral turpitude within the last twenty (20) years and there is written, documented evidence of such a conviction from a database or other record maintained by a governmental law enforcement authority.

#### **Section 2. Number of Directors.**

The Board of Directors will be comprised of not less than seven (7) nor more than thirteen (13) persons. The number of positions on the Board of Directors may be increased or decreased by a majority vote of the members at a meeting called for that purpose at which a quorum is present. Provided that, the number of positions on the Board of Directors may not be less than three (3). Provided further that, a decrease in the number of positions on the Board may not shorten the term of an incumbent Director.

#### **Section 3. Candidates for Election to the Board.**

With respect to any position on the Board of Directors to be filled by a vote of the members, all members have the right to run for such position on the Board of Directors. Each year, at least sixty (60) days prior to the date of the annual meeting of the Association, the Association must send notice to all members of the number of positions on the Board to be filled by election at the upcoming annual meeting and the right of all members to run for a position on the Board. The notice must specify a date by which a member must submit his/her name as a candidate for election to the Board; the date may not be earlier than the tenth (10<sup>th</sup>) day after the date the Association sends the notice.

The notice required by this provision must be:

- a. mailed to each member; or
- b. provided by:
  - i. posting the notice in a conspicuous manner reasonably designed to provide notice to the members:
    - (1) in a place located on the Common Area or, with a member's consent, in a conspicuous manner on privately owned property within the subdivision; or



(2) on any Internet website maintained by the Association or other Internet media; and

- ii. sending by e-mail to each member who has registered an e-mail address with the Association.

The Association must be notified by the member who desires to run for a position on the Board, not by another member, to confirm the member's desire to run for election and to serve on the Board. All members who notify the Association by the stipulated deadline will be candidates whose names and biographical information must be included in the notice of annual meeting sent to all members and on the absentee or other ballot. A member who does not submit his/her name by the deadline set forth in the Association's notice may thereafter notify the Association of his/her desire to run for election to the Board and, in that event, the member will be a candidate for election to the Board. However, the Association is not obligated to send a supplemental notice to all members advising of the names and biographical information of any candidates who submit their names and biographical information after the deadline in the Association's notice. Provided that, if any notice is thereafter sent or published by the Association which includes a list of candidates for election to the Board, the list must include the names of all candidates. Nominations for election to the Board may be made by the nominating committee, provided that, no member may be prevented from becoming a candidate. A member may notify the Association of the member's desire to run for election to the Board of Directors at any time prior to the date that voting in the election ceases. Nomination for election to the Board is not permitted from the floor at the annual meeting unless the person to be nominated is present at the meeting in person and confirms his/her desire to be a candidate for election to the Board.

#### **Section 4. Election and Term of Office.**

At each annual meeting, the members will elect the number of Directors necessary to fill the positions on the Board that expire as of such annual meeting, each to serve a term of two (2) years. If the number of positions on the Board of Directors is increased, the terms of the additional positions will be staggered in a consistent manner.

#### **Section 5. Removal of Directors.**

Any Director elected by the members to serve on the Board may be removed from the Board, with cause, by the affirmative vote of a majority of the total number of votes of the members at a special meeting called for that purpose, or at an annual meeting. The provisions of Article II, Section 6, above, which reduce the quorum requirement for an adjourned meeting, are not applicable to an adjourned meeting originally called for the purpose of considering the removal of a Director. "Cause", as it relates to a basis for the removal of a Director, means a failure to comply with a material provision in the governing documents of the Association after notice and a demand for compliance from the Association; the determination of non-compliance with a material provision in the governing documents of the Association and the decision to send a notice and demand for compliance must be approved by not less than a majority of the remaining Directors.

Any Director may be removed by a vote of a majority of the remaining Directors as the result of the Director's failure, without just cause, to attend three (3) consecutive, regularly

scheduled meetings of the Board of Directors. "Just cause" means any event that, in the reasonable, good faith judgment of the Board, prevents a Director from attending a meeting and includes, without limitation, death or serious injury to a member of the Director's family or other person with whom the Director has a long-term relationship, a mental or physical ailment or impairment that prevents the Director from attending a meeting, and any mandatory business engagement related to the Director's livelihood and/or employment.

A Director whose removal is proposed must be given at least ten (10) days written notice of the call of the meeting and the purpose of the meeting; the Director whose removal is proposed must be given the opportunity to be heard at the meeting. Provided that, if the Board is presented with written documented evidence from a database or other record maintained by a governmental law enforcement authority that a Board member has been convicted of a felony or crime involving moral turpitude within the previous twenty (20) years, the Board member is immediately ineligible to serve on the Board and will, therefore, be immediately removed.

In the event of the removal of a Director, a successor for the removed Director must be elected by a majority vote of the members voting at the meeting at which the Director was removed. Vacancies on the Board caused by reasons other than removal by a vote of the members will be filled by the remaining Directors. A Director elected or appointed to fill a vacancy on the Board will serve the unexpired term of his predecessor.

#### **Section 6. Voting Procedure for Directors.**

The election of the Board of Directors will be conducted at the annual meeting of the Association. At such election, the members or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. Voting for Directors must be by written and signed ballots; provided that, in the event of an uncontested race, written and signed ballots are not required.

#### **Section 7. Recount of Votes.**

Any member may request a recount of the votes of an election. A request for a recount must be submitted not later than the fifteenth (15<sup>th</sup>) day after the date of the meeting of the members at which an election or vote was held or the date of the announcement of the results of the election or vote if no meeting was held. For purposes of this section, the term "submitted" means the date on which the recount request is deposited in the mail or delivered in person in accordance with the requirements of this section. A demand for a recount must be submitted in writing either:

- a. by verified mail to the Association's mailing address as reflected on the last recorded management certificate; or
- b. in person to the Association's management agent as reflected on the last recorded management certificate or to the address to which absentee ballots and proxy ballots were mailed.

The Association must estimate the cost for performing a recount by a person qualified to tabulate votes as set forth below and must send an invoice for the estimated cost to the member requesting a recount to the member's last known address according to the Association records not

later than the twentieth (20<sup>th</sup>) day after the date on which the Association received notice of the request for a recount. The member demanding a recount must pay such invoice in full on or before the thirtieth (30<sup>th</sup>) day after the date the invoice is sent to the member. If the member does not timely pay the invoice, the demand for recount is considered withdrawn and a recount is not required. If the actual costs are different than the estimate, the Association must send a final invoice to the member on or before the thirtieth (30<sup>th</sup>) business day after the date the results of the recount are provided. If the final invoice includes additional amounts owed by the member, any additional amounts not paid to the Association before the thirtieth (30<sup>th</sup>) business day after the date the invoice is sent to the member may be added to the member's annual assessment account as a charge secured by the Association's lien. If the estimated costs exceed the final invoice amount, the member is entitled to a refund. The Association must issue a refund to the member not later than the thirtieth (30<sup>th</sup>) business day after the date the invoice is sent to the member.

Only after payment is received, the Association must, at the expense of the member requesting the recount, retain the services of a qualified person to perform the recount. The Association must enter into a contract for the services of a person who is not a member of the Association or related to a member of the Board of Directors of the Association within the third degree by blood or marriage and is a:

- a. current or former county judge;
- b. current or former county elections administrator;
- c. current or former justice of the peace;
- d. current or former county voter registrar; or
- e. person agreed on by the Association and the member requesting the recount.

A recount must be performed on or before the thirtieth (30<sup>th</sup>) day after the date of receipt of the request and payment for the recount. If the recount changes the results of the election, the Association must reimburse the member for the cost of the recount not later than the thirtieth (30<sup>th</sup>) day after the date the results of the recount are provided. Any action taken by the Board in the period between the initial election vote tally and the completion of the recount is not affected by the recount.

#### **Section 8. Regular Meeting.**

Regular meetings of the Board of Directors may be held at such time, date, and place as determined from time to time by a majority of the Directors; the frequency of regular meetings will be as deemed necessary and appropriate by the Board of Directors. Notice of each regular meeting must be given to all members as required by law. The Board of Directors may participate in and hold a regular or special meeting by means of:

- (a) conference telephone or similar communication equipment by which all persons participating in the meeting can hear each other; or
- (b) another suitable electronic communications system, including video conferencing technology or the Internet, only if:
  - i. each Director entitled to participate in the meeting consents to the meeting being held by means of that system;

- ii. the system provides access to the meeting in a manner or using a method by which each Director participating in the meeting can communicate concurrently with each other participant;
- iii. all Directors may hear and be heard by every other Director;
- iv. except for any portion of the meeting conducted in executive session, all members in attendance at the meeting may hear all Directors and members are allowed to listen using any electronic or telephonic communication method used, or expected to be used, by a Director to participate; and
- v. the notice of the meeting includes instructions for members to access any communication method required to be accessible under subsection iv above.

Participation in a meeting by conference telephone or similar communication or video conferencing technology or the Internet constitutes presence in person at such meeting except where a Director participates in the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. Provided that, without prior notice to the members, the Board may take action only on routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that required immediate Board action. Any action taken without notice to the members must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special Board meeting. Provided further that, the Board may not take action without prior notice to the members on any matter prohibited by law to be taken without prior notice to the members.

#### **Section 9. Special Meeting.**

Special meetings of the Board of Directors may be held when called by the President of the Association or by any Director. The notice must specify the date, time, and place of the meeting and the nature of any special business to be considered. The notice may be given to each Director by any of the following methods: (i) by personal delivery; (ii) written notice by first class mail, postage prepaid; (iii) by facsimile, or (iv) if authorized by statute, by email. All such notices must be given or sent to the Director's address, email, or facsimile number as shown on the records of the Association. Notices sent by first class mail must be deposited into a United States mailbox, at least three (3) days before the time set for the meeting. Notices given by personal delivery, email, or facsimile must be delivered or given at least three (3) days before the time set for the meeting. The provisions in Article III, Section 10, below, relating to notice to the members are applicable to a special meeting of the Board of Directors.

#### **Section 10. Notice of Board Meetings.**

The Board of Directors must give members notice of Board meetings (regular and special), including the date, hour, place, and general subject of the Board meeting, a general description of any matter to be brought up for deliberation in closed executive session, and instructions for members to access any communication method utilized for the Board meeting. A notice of meeting must be:

- a. mailed to all members at least ten (10) days before the date of the meeting; or

- b. provided at least seventy-two (72) hours before meeting by:
  - i. being posted notice in a conspicuous location, either in a Common Property or on the Association's website, if one is established; and
  - ii. being emailed to all members who have registered their email addresses with the Association.

It is a member's duty to register and keep an updated email address with the Association.

**Section 11. Waiver of Notice.**

The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, will be as valid as though taken at a meeting duly held after regular call and notice, if (i) a quorum is present, and (ii) either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting will also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice thereof.

**Section 12. Quorum of Board of Directors.**

At all meetings of the Board of Directors, a majority of the Directors constitutes a quorum for the transaction of business, and the vote of a majority of the Directors present at a meeting at which a quorum is present constitutes the decision of the Board of Directors. A meeting at which a quorum is initially present may continue and business may be transacted, notwithstanding the withdrawal of Directors during the meeting, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, either in person or by proxy, the President may adjourn the meeting and reconvene at a time not less than five (5) days and not more than thirty (30) days from the time the original meeting was called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting must be given to the Directors in the manner prescribed for the original meeting. At such reconvened meeting, whether or not a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice, provided that any action taken must be approved, in writing, by at least a majority of the Directors required to constitute a quorum at the original meeting.

**Section 13. Compensation.**

No Director may receive any compensation from the Association for acting in such capacity. However, Directors may be reimbursed for out-of-pocket expenses incurred on Association business. Directors may receive compensation from the Association when taking action at the request of the Association other than in the capacity of Director.

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**Section 14. Conduct of Meetings.**

A chairperson will preside over all meetings of the Board of Directors and the Secretary must keep a minute book of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings (except proceedings and transactions which occur in closed executive session).

**Section 15. Open Meetings.**

All meetings of the Board of Directors must be open to all members, but members other than Directors may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board of Directors. Provided that, if a member unreasonably disrupts a meeting of the Board of Directors or repeatedly interrupts the discussion between Directors, the Board of Directors have the authority, after an initial warning, to cause that member to be removed from the meeting.

An open meeting may be held by electronic or telephonic means provided that (i) each Director may hear and be heard by every other Director, (ii) all members in attendance at the meeting may hear all Directors (except if adjourned to executive session), and (iii) all members are allowed to listen using any electronic or telephonic communication method used or expected to be used by a Director to participate.

**Section 16. Executive Session.**

The Board of Directors may adjourn a regular or special meeting and reconvene in a closed executive session to consider actions involving personnel, pending or threatened litigation, contract negotiations, enforcement actions, confidential communications with the Association's attorney, matters involving the invasion of privacy of individual members, and matters that are to remain confidential by request of the affected parties and agreement of the Board. Following an executive session, any decision made in executive session must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of individual members, violating any privilege, or disclosing any information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.

**Section 17. Action Without a Formal Meeting.**

The Board may take action outside of a meeting, including voting by electronic and telephonic means, without prior notice to members if each Director is given a reasonable opportunity to express the Director's opinion to all other Directors and to vote. Any action taken without notice to the members must be summarized orally, including estimation of expenditures approved by the action, and documented in the minutes of the next regular/special Board meeting.

The Board may not, unless done in an open meeting for which prior notice was given to members, consider or vote on any of the following issues:

- a. Fines;

- b. Damage assessments;
- c. Initiation of foreclosure actions;
- d. Initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
- e. Increases in annual assessments;
- f. Levying special assessments;
- g. Appeals from a denial of architectural approval;
- h. A suspension of a right of a particular member before the member has an opportunity to attend a Board meeting to present the member's position, including any defense, on the issue;
- i. Lending or borrowing money;
- j. The adoption or amendment of a dedicatory instrument;
- k. The approval of an annual budget or the approval of an amendment of an annual budget that increases the budget by more than ten percent (10%);
- l. The sale or purchase of real property;
- m. The filling of a vacancy on the Board;
- n. The construction of capital improvements other than the repair, replacement, or enhancement of existing capital improvements; or
- o. The election of an officer.

**Section 18. Powers.**

The Board of Directors is responsible for the affairs of the Association and has all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Certificate of Formation of the Association, or these Bylaws directed to be done and exercised exclusively by the members.

The President has the authority to act on behalf of the Board of Directors on all matters relating to the duties of any management agent or manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors has the power to, and is responsible for, the following (by way of explanation, but not limitation):

- a. Preparing and adopting an annual budget, which will be the basis of each member's annual assessment charge;
- b. Levying annual assessments, establishing the means and methods of collecting such annual assessments, and establishing the period of the installment payments, if any, of the annual assessments. Unless otherwise determined by the Board of Directors, the annual assessment will be collected annually in advance.

- c. Collecting the annual assessment, depositing the proceeds thereof in a bank depository, which it approves, and using the proceeds to administer the Association.
- d. Providing for the operation, care, upkeep, and maintenance of all of the Common Area.
- e. Designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Association, its property, and the Common Area and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties.
- f. Making and amending rules and regulations for the Association.
- g. Opening bank accounts on behalf of the Association and designating the signatories required.
- h. Making, or contracting for the making of, repairs, additions, and improvements to, or alterations of, the Common Area in accordance with the other provisions of the Declaration and these Bylaws, after damage or destruction by fire or other casualty.
- i. Enforcing, by legal means, the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings, which may be instituted on behalf of or against the members concerning the Association.
- j. Obtaining and carrying all insurance as provided in the Declaration, and paying the premium cost thereof.
- k. Paying the cost of all services rendered to the Association or its members and not directly chargeable to members.
- l. Keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred. All books and records must be kept in accordance with generally accepted accounting practices, and be available for review by members as required by Texas law.
- m. Providing, upon request, information to members, mortgagees and prospective purchasers of Lots concerning, by way of example and not in limitation, the status of the Association, the status of payment of annual assessment and related charges on a Lot and the status of compliance with the provisions of the Declaration, and charging a reasonable fee sufficient to cover the expense associated with providing such information.
- n. Charging a reasonable fee sufficient to cover the expense associated with changing the records of the Association upon the transfer of title to a Lot.
- o. Adopting policies and procedures deemed necessary and appropriate for the administration of the Association and the conduct of the Directors and officers of the Association, the employees of the Association, if any, and persons serving on behalf of the Association in volunteer capacities.
- p. Enforcing rules and regulations for the Association.



**Section 19. Management Agent.**

- a. The Board of Directors may employ for the Association a professional management agent or agents, or manager, at a compensation rate established by the Board of Directors, to perform such duties and services, as the Board of Directors may authorize.
- b. If a management agent or manager is hired, the following management standards of performance will be followed, unless the Board, by resolution, determines otherwise:
  - i. Two (2) or more persons must be responsible for handling cash, or its equivalent, in order to maintain adequate financial control procedures;
  - ii. Cash accounts of the Association may not be commingled with any other accounts;
  - iii. No remuneration may be accepted by the management agent or manager from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise;
  - iv. Any financial or other interest which the management agent or manager may have in any firm providing goods or services to the Association must be disclosed promptly to the Board of Directors; and
  - v. A quarterly or more frequent financial report, as may be determined by the Board, must be prepared for the Association containing:
    - (1) an income statement reflecting all income and expense activity for the preceding three (3) months;
    - (2) an account activity statement reflecting all receipt and disbursement activity for the preceding three (3) months;
    - (3) a budget comparison report reflecting the status of all income and expense accounts in an "actual" versus "projected" budget format;
    - (4) a balance sheet reflecting account balances as of the end of the previous three (3) months (this balance sheet must include an aged receivables report or other report deemed appropriate by the Treasurer);
    - (5) a balance sheet as of the last day of the Association's fiscal year and an operating statement for said fiscal year which must be distributed within ninety (90) days after the close of any fiscal year to the Board;
    - (6) a budget report reflecting any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves of ten percent (10%) of a major budget category (as distinct from a specific line item in an expanded chart of accounts); and
    - (7) a delinquency report listing all members who have been delinquent during the preceding three (3) month period in paying the annual assessment charge and who remain delinquent at the time of report, and describing the status of any action to collect such annual assessment charge and/or special assessments which remain delinquent.

## **ARTICLE IV. Officers**

### **Section 1. Officers.**

The officers of the Association will be the President, Vice-President, Secretary and Treasurer. The Board of Directors may select, appoint and/or remove such other officers, as it deems appropriate, such officers to have the authority and to perform the duties prescribed from time to time by the Board of Directors.

### **Section 2. Election Term of Office and Vacancies.**

The officers of the Association will be elected annually from within and by the Board of Directors at the first meeting of the Board of Directors held after the annual meeting of the members. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

### **Section 3. Removal.**

Any officer may be removed by a majority vote of the Board of Directors, at a duly called meeting of the Board, at which a quorum is present, whenever in its judgment the best interests of the Association will be served thereby.

### **Section 4. Powers and Duties.**

The officers of the Association each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board of Directors. The Chief Executive Officer of the Association is the President. The Treasurer has primary responsibility for the preparation of the budget, and, with the approval of the Board of Directors, may delegate all or part of the preparation and notification duties to a finance committee, or a management agent.

### **Section 5. Resignation.**

Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation will be effective on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation is not necessary to make it effective.

### **Section 6. Agreements, Contracts, Deeds, Leases, Etc.**

All agreements, contracts, deeds, leases, and other instruments of the Association must be executed by at least one (1) officer or by such other person or persons as may be designated by resolution of the Board of Directors.

**Section 7. Checks.**

All checks must be signed by at least two (2) officers or Directors or by such other person or persons as to be designated by the Board of Directors. The Board of Directors may authorize that checks for less than \$500.00 only require the signature of one (1) officer or Director.

**Section 8. Compensation.**

No officer may receive any compensation from the Association for acting in such capacity.

**ARTICLE V. Committees**

Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Such committees will perform such duties and have such powers as may be provided in the resolution creating same. Each committee must be composed and operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

**ARTICLE VI. Miscellaneous**

**Section 1. Fiscal Year.**

The fiscal year of the Association is the calendar year.

**Section 2. Parliamentary Rules.**

Robert's Rules of Order (current edition) govern the conduct of Association proceedings when not in conflict with Texas law, the Articles of Incorporation, the Declaration, or these Bylaws.

**Section 3. Conflicts.**

If there are conflicts or inconsistencies among the provisions of Texas law, the Declaration, the Articles of Incorporation, these Bylaws, and/or any Rules and Regulations of the Association, the provisions of Texas law, the Declaration, the Articles of Incorporation, the Bylaws, and the Rules and Regulations of the Association (in that order) prevail.

**Section 4. Books and Records.**

Books and records of the Association must be retained by the Association in accordance with the Association's records retention policy. Each member or member's designated representative has a right to either inspect the requested books and records before obtaining copies or to have the Association forward copies of the requested books and records in accordance with the Association's recorded open records policy. Provided that, this provision does not require the Association to release or allow inspection of books and records that are not required by law to be released or inspected, as set forth in the Association's recorded open records policy. Every Director has the absolute right at any reasonable time to inspect all books, records, and

documents of the Association. The right of inspection by a Director includes the right to make copies of documents at the reasonable expense of the Association; provided that, the Association is not obligated to bear the expense of providing more than one (1) copy of any document to a Director.

**Section 5. Audit.**

A committee determined by the Board of Directors will audit the financial records of the Association annually. An audit of the accounts of the Association may be performed by a qualified, independent certified public accountant as frequently as deemed necessary by the Board of Directors. Each audit must be in accordance with generally accepted auditing standards to obtain reasonable assurance that the Association's financial statements are free of material misstatements, to assess accounting principles used, and to evaluate the overall financial statement presentation. A more comprehensive audit may be performed in any given year as deemed necessary or appropriate by the Board.

**Section 6. Indemnification.**

The Association must indemnify a director, officer or committee member who was, is or is threatened to be named as a defendant or respondent in a proceeding to the extent indemnification is consistent with the Texas Business Organizations Code, as it now exists or may hereafter be amended.

**Section 7. Amendment.**

These Bylaws may be amended by the affirmative vote of a majority of the Board of Directors subject to the notice requirements provided by law or in these Bylaws.

*[Signature Page to Follow]*

RP-2018-74005

CERTIFICATION

I, the undersigned, being the Secretary of the Association, do hereby certify that at a meeting of the Board of Directors of the Association duly called and held on the 22<sup>nd</sup> day of January, 2018, with all of the Directors being present and remaining throughout, and being duly authorized to transact business, the foregoing "Amended and Restated Bylaws of Memorial Bend Civic Association, Inc." was unanimously approved by the Board of Directors.

IN WITNESS WHEREOF, I have hereunto subscribed my name on the date shown below but made effective as of the date approved by the Board of Directors, as specified above.

MEMORIAL BEND CIVIC ASSOCIATION, INC.

Date: February 13, 2018

By: Susan L. Thompson

Printed Name: Susan L Thompson

Its: Secretary

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

BEFORE ME, the undersigned notary public, on this 13<sup>th</sup> day of February, 2018 personally appeared Susan Thompson Secretary of Memorial Bend Civic Association, Inc., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purpose and in the capacity therein expressed.

Kathryn Ament  
Notary Public in and for the State of Texas



RP-2018-74005