

**ADOPTION OF AMENDED AND RESTATED BY-LAWS OF
MAGNOLIA CREEK HOMEOWNERS' ASSOCIATION, INC.**

November 28, 2005

WHEREAS, Magnolia Creek Homeowners' Association, Inc, a Texas non-profit corporation (the "Association") has adopted By-Laws of the Association (the "Bylaws"), and

WHEREAS, the Association is charged with enforcing the covenants, conditions and restrictions set forth in the Supplemental Declaration of Covenants, Conditions, and Restrictions for Magnolia Creek dated December 18, 2002, and recorded in the Real Property Records of Galveston County, Texas, under Clerk's File No 2001000280 (as amended and supplemented, the "Declaration"), and

WHEREAS, Article VII, Section F of the Bylaws provides that the Bylaws may be amended by the affirmative vote or written consent, or any combination thereof, of Neighborhood Representatives (as defined in the Declaration and herein called "Representative") representing seventy-five percent (75%) of the total Class "A" votes in the Association and the consent of the Class "B" member in the Association, so long as such membership exists, and

WHEREAS, the undersigned Representative represents at least seventy-five percent (75%) of the total Class "A" votes in the Association; and

WHEREAS, Mag Creek Partners, LP, a Texas limited partnership ("Mag Creek") is the Class "B" member of the Association and desires to consent to amending the Bylaws as set forth in the Amended and Restated By-Laws of Magnolia Creek Homeowners' Association, Inc., a copy of which is attached hereto as Exhibit "A" (the "Amended and Restated Bylaws")

NOW, THEREFORE, in consideration of the recitals set forth above, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, being Representatives representing at least seventy-five percent (75%) of the total Class "A" votes in the Association and being the Class "B" member in the Association, do hereby give their written consent to amend and restate the Bylaws as set forth in the Amended and Restated Bylaws

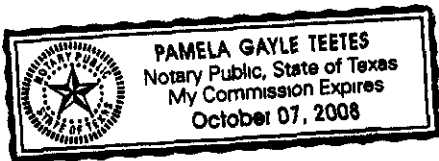
Effective as of the date first set forth hereinabove to evidence the certification set forth hereinabove

MAGNOLIA CREEK HOMEOWNERS' ASSOCIATION, INC., a Texas non-profit corporation

By [Signature]
BRANDON EXVICIOUS, Representative

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on April 27, 2006, by Brandon Exvicious, Representative of MAGNOLIA CREEK HOMEOWNERS' ASSOCIATION, INC, a Texas non-profit corporation, for and on behalf of said corporation



[Signature]
Notary Public, State of Texas

ACCEPTED AND AGREED TO

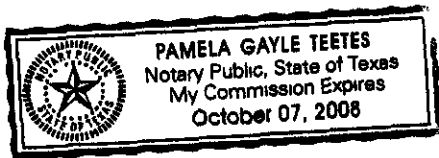
MAG CREEK PARTNERS, LP, a Texas limited partnership

By Mag Creek GP, LLC, General Partner

By [Signature]
Name Michael K. Love
Title President

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 27 day of April, 2006, by Michael K. Love, the President of MAG CREEK GP, LLC, General Partner of MAG CREEK PARTNERS, LP, a Texas limited partnership, on behalf of said entities



[Signature]
Notary Public

AFTER RECORDING, RETURN TO.

Mark K Knop
HOOVER SLOVACEK, L L P
5847 San Felipe, Suite 2200
Houston, Texas 77057
File No 122381-03

EXHIBIT "A"

AMENDED AND RESTATED BY-LAWS

OF

MAGNOLIA CREEK HOMEOWNERS' ASSOCIATION, INC.

Article I

Name, Principal Office, and Definitions

A. **Name**. The Name of the Association shall be Magnolia Creek Homeowners' Association, Inc. (hereinafter sometimes referred to as the "Association")

B. **Principal Office**. The principal office of the Association shall be located in Galveston County, Texas.

C. **Definitions**. The words used in these By-Laws which are not defined herein shall have the same meanings as set forth in that certain Supplemental Declaration of Covenants Conditions and Restrictions for Magnolia Creek dated December 18, 2000 and filed under Galveston County Clerk's File 2001000280 in the Official Records of Galveston County, Texas (said Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration")

Article II

Association: Membership, Meetings, Quorum, Voting, Proxies

A. **Membership** The Association shall initially have two (2) classes of membership, Class "A" and Class "B", as more fully set forth in the Declaration and specifically incorporated herein by reference

B. **Place of Meetings**. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place as may be designated by the Board of Directors

C. **Annual Meetings** The first annual meeting of the Members of the Association shall be held at a time to be designated by the Board of Directors. Subsequent regular annual meetings shall be set by the Board. Until the expiration of the Declarant Control Period, (herein defined) the annual meeting of the Member shall be of a purely informal and informational nature and not for purposes of electing directors. Upon transfer of control of the Board of Directors to Owners other than Declarant, the annual meeting of the Members shall, among other things, be used for the purpose of electing directors and conducting other official business of the Association. The Declarant and any other Class "B" Members shall have the right to attend all meetings of the Members for the purpose of casting the votes of the Class "B" Members as long as there is a Class "B" membership in the Association

D **Special Meetings.** The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of (i) a majority of a quorum of the Board of Directors, or (ii) upon a petition signed by Members representing at least ten percent (10%) of the total Class "A" votes of the Association, or (iii) the Declarant. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof.

E **Notice of Meetings.** Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting. Such notice must contain a description of the topics or issues to be discussed. In the case of a special meeting or when required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his or her address as it appears on the records of the Association, with postage thereon prepaid.

F **Waiver of Notice.** Waiver of notice of a meeting shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting, either before or after such meeting. Attendance at a meeting by a Member shall be 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 shall also be deemed waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

G. **Adjournment of Meetings.** If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by alternate, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business that might have been transacted at the meeting originally called may be transacted. 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 shall be given to Members in the manner prescribed for regular meetings.

H. **Voting.** The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein. Votes for Lots and Tracts owned by the Members shall be cast by the Member or his duly authorized proxy.

I **Majority.** As used in these By-Laws, the term "majority" shall mean those votes, owners, or other groups as the context may indicate totaling more than fifty percent (50%) of the total eligible number.

J **Quorum** Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by proxy of Members representing ten percent (10%) of the total eligible votes in the Association shall constitute a quorum at all meetings of the Association. If the required quorum is not present, additional meetings may be called by the Secretary of the Association subject to the same notice requirements and the required quorum at each subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. Notice of the time and place of such subsequent meeting may be made by the Secretary of the Association, by announcement at the meeting and no other notice shall be required.

K. **Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Association. Every proxy shall be revocable and shall automatically cease upon cessation of membership or restriction of the Member's voting rights.

L **Conduct of Meetings** The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting and all transactions occurring at the meeting.

M. **Action Without a Meeting.** Any action required by law to be taken at a meeting of the Association or any action that may be taken at a meeting of the Association, may be taken without a meeting if written consent setting forth the action so taken is signed by all of the Members entitled to vote with respect to the subject matter thereof, and any such consent shall have the same force and effect as a unanimous vote of the Members.

Article III

Board of Directors: Number, Powers, Meetings

A **Composition and Selection**

Section 1. **Governing Body: Composition.** The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) vote. After Class "B" Membership ceases to exist, all directors must be Members. In the case of a Member that is a corporation or partnership, the person designated in writing to the Secretary of the Association as the representative of such corporation or partnership shall be eligible to serve as a director.

Section 2 **Number of Directors.** The number of directors in the Association shall be not less than three (3) nor more than five (5). The initial Board shall consist of three (3) members as identified in the Articles of Incorporation.

Section 3 **Election of Directors.** The initial directors shall be appointed by the Declarant and the Declarant shall retain the right to appoint and remove members of the Board of Directors until the earlier of (a) ninety (90) days after Declarant no longer owns any Lot, or (b) such date as the Declarant has surrendered its authority to appoint and remove directors (the "Declarant Control Period"). Thereafter, a meeting of the Association shall be called for the

express purpose of electing a new Board of Directors. At such meeting and if the Board of Directors consists of 3 persons, the Members shall elect one (1) director for a term ending at the annual meeting of the Association to take place the first calendar year thereafter; one (1) director for a term ending at the annual meeting of the Association to take place the second calendar year thereafter, and one (1) director for a term ending at the annual meeting of the Association to take place the third calendar year thereafter. If, however, the Board of Directors consists of 5 persons, then at such meeting, the Members shall elect one (1) director for a term ending at the annual meeting of the Association to take place the first calendar year thereafter; two (2) directors for a term ending at the annual meeting of the Association to take place the second calendar year thereafter; and two (2) directors for a term ending at the annual meeting of the Association to take place the third calendar year thereafter. At each annual meeting thereafter, the Members shall elect one (1) or more directors (as the case may be) for a term of three (3) years to fill each expiring term.

Section 4. **Nomination of Directors.** After the Declarant Control Period, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and three (3) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the Members to serve a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine but in no event less than the number of positions to be filled. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Section 5 **Removal of Directors and Vacancies** During the Declarant Control Period, a Director may only be removed by Declarant. Any director may be removed, with or without cause, by the vote of Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall then and there be elected by the Members to fill the vacancy for the remainder of the term of such director.

Any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of any assessment or other charge due the Association for more than thirty (30) days may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term. In the event of the death, disability, or resignation of a director, a vacancy may be declared by the Board, and it may appoint a successor.

B **Meetings.**

Section 1 **Organizational Meetings.** The first meeting of the Board of Directors following each annual meeting of the Membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 2. **Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to the directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

Section 3 **Special Meeting.** Special Meetings of the Board of Directors shall be held when called by written notice signed by the President of the Association or by any three (3) directors. The notice shall specify the time and place of the meeting. The Notice shall be given to each director by one of the following methods: (a) by personal delivery, (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) by telegram, charges prepaid. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices sent by first-class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or telegram shall be delivered, telephoned, or given to the telegraph company at least seventy-two (72) hours before the time set for the meeting.

Section 4 **Waiver of Notice** The transaction of any meeting of the Board of Directors, however called and notices or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) 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 shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 5 **Quorum of Board of Directors.** At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice.

Section 6. **Compensation** No director shall receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Class "A" votes of the Association at a regular or special meeting of the Association; provided, however, that a director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors.

Section 7. **Conduct of Meetings** The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

Section 8. **Open Meetings** Subject to the provisions of Section B (9) of this Article, all meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board of Directors and reconvene in executive session, excluding Members, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc

Section 9 **Action Without a Formal Meeting** Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote

C. Powers and Duties

Section 1 **Powers** The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs

The Board of Directors shall delegate to one or more of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, that might arise between meetings of the Board of Directors

In addition to the duties imposed by these By-Laws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to establish policies relating to, and shall be responsible for performing or causing to be performed, the following, in way of explanation, but not limitation:

- (a) preparing and adopting of annual budgets,
- (b) making assessments, establishing the means and methods of collection of such assessments, and establishing the payment schedule for Special Assessments and any Neighborhood Assessments, if other than annual,
- (c) providing for the operation, care, upkeep and maintenance of all Common Areas and Limited Common Areas,
- (d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, operation, repair, and replacement of its property and the Common Areas and Limited Common Areas, if any, and, where

appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository that it shall approve, and using the proceeds to operate the Association, provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules and regulations,

(g) opening of 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 Areas and Limited Common Areas, if any, in accordance with the other provisions of the Declaration and these By-Laws after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules and regulations adopted by the Association and bringing any proceedings that may be instituted on behalf of or against the Owners concerning the Association,

(j) obtaining and carrying insurance against casualties and liabilities and paying the premium cost thereof;

(k) paying the costs of all services rendered to the Association or its Members and not chargeable directly to specific Owners,

(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,

(m) maintaining a membership register reflecting, in alphabetical order, the names, property addresses and mailing addresses of all Members;

(n) making available to any prospective purchaser, any Owner, any first mortgagee, and the holders, insurers, and guarantors of a first mortgage on any property, current copies of the Declaration, the Articles of incorporation the By-Laws, rules governing such property and all other books, records, and financial statements of the Association, and

(o) permitting utility suppliers to use portions of the Common Areas and Limited Common Areas, if any, reasonably necessary to the ongoing development or operation of the property.

Section 2. **Management** The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-Laws, other than the powers set forth in subparagraphs (b), (f), (g) and (i) of Section C(1) of this Article. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

Section 3. **Accounts and Reports** The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

- (a) Accrual accounting, as defined by generally accepted accounting principles, shall be employed.
- (b) Accounting and controls should conform to generally accepted accounting principles
- (c) Cash accounts of the Association shall not be commingled with any other accounts
- (d) No remuneration shall be accepted by the managing agent 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, anything of value received shall benefit the Association,
- (e) Any financial or other interest that the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors.
- (f) Commencing at the end of the month in which the first Lot, Building or Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:
 - (i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;
 - (ii) a statement reflecting all cash receipts and disbursements for the preceding period,
 - (iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
 - (iv) a balance sheet as of the last day of the preceding period, and
 - (v) a delinquency report listing all Owners who are delinquent in paying

assessments at the time of the report and describing the status of any action to collect such assessments that remain delinquent.

(g) An annual report consisting of at least the following shall be distributed to all Members within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet, (2) an operating (income) statement, and (3) a statement of changes in financial position for the fiscal year. The annual report referred to above shall be prepared on an audited or reviewed basis, as determined by the Board, by an independent public accountant.

Section 4. **Borrowing** The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair or restoration of the Common Areas and Limited Common Areas, if any, without the approval of the Members of the Association. The Board shall also have the power to borrow money for other purposes, provided, the Board shall obtain approval in the same manner provided in Article XIII, Section D of the Declaration for Special Assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities and the total amount of such borrowing exceeds or would exceed fifteen percent (15%) of the budgeted gross expenses of the Association for that fiscal year.

Section 5 **Rights of the Association**. With respect to the Common Areas and Limited Common Areas, if any, and in accordance with the Articles of Incorporation and the Declaration, the Association shall have the right to contract with any person or entity for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or other property owner or resident associations, both within and without the property. Such agreements shall require the consent of a majority of the total number of directors of the Association.

The Association shall not be bound, either directly or indirectly, by any contract, lease, or other agreement (including any management contract) executed during the existence of Class "B" Membership unless such contract, lease or other agreement contains a right of termination exercisable by either party without penalty at any time, with or without cause, upon nor more than ninety (90) days' notice to the other party.

Section 6 **Enforcement** The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property of the violating Owner, and to suspend an Owner's right to vote or any person's right to use the Common Areas and Limited Common Areas, if any, for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations duly adopted by the Association, provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Lot or Tract. In addition, the Association shall be entitled to suspend any services provided by the Association to a Lot or Tract. In addition, the Association shall be entitled to suspend services provided by the Association to a Lot or Tract in the event that the Owner of such Lot or Tract is more than thirty (30) days delinquent in paying any assessment due to the Association. In the event that an occupant, guest or invitee of a Lot or Tract Owner violates the Declaration, By-Laws, or a rule or regulation and a fine is imposed, the fine shall first be assessed against the

occupant, provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter

Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Declaration, these By-Laws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred

Article IV

Officers

A. **Officers.** The officers of the Association shall be a President, Vice President, Secretary, and Treasurer, to be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

B. **Election, Term of Office and Vacancies** The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each 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.

C. **Removal.** Any officer may be removed, with or without cause, by a majority vote of the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

D. **Powers and Duties.** The officers of the Association shall 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 specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to finance committee, management agent, or both

E. **Resignation** Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect 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 shall not be necessary to make it effective

F. **Agreements, Contracts Deeds, Leases, Checks, Etc.** All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or such other person or persons as may be designated by resolution of the Board of Directors

Article V

Committees

A **General.** The Board of Directors is hereby authorized to establish committees 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. Each committee established by the Board shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee and such rules as are adopted by the Board of Directors

Article VI

Miscellaneous

A. **Fiscal Year.** The fiscal year of the Association shall be set by resolution of the Board of Directors. In the absence of a resolution, the fiscal year shall be the calendar year.

B. **Parliamentary Rules.** Except as maybe modified by Board resolution; Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Texas law, the Articles of Incorporation, the Declaration, or these By-Laws

C **Conflicts** If there are conflicts between the provisions of Texas law, the Articles of Incorporation, the Declaration, and/or these By-Laws, then the provisions of Texas law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail

D **Books and Records.**

1 **Inspection by Members and Mortgagees** The Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the rules and regulations of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any holder, insurer or guarantor of a first mortgage on a Lot, Tract, or Unit, Member of the Association, or by the duly appointed representative of any of the foregoing at any reasonable time during normal business hours at the office of the Association or at such other place within the Property as the Board shall prescribe

2. **Rules for Inspection.** The Board shall establish reasonable rules with respect to

- (i) notice to be given to the custodian of records;
 - (ii) hours and days of the week when such an inspection may be made,
- and
- (iii) payment of the cost of reproducing copies of documents requested

3. **Inspection by Directors** Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical property owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and a copy of relevant documents at the expense of the Association

E. **Notices** Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first-class postage prepaid:

(a) if to a Member, at the address that the Member or Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot, Tract, or Unit of such Member, or

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section

F. **Amendment.** During the existence of "B" Membership, the Declarant may unilaterally amend these By-Laws at any time and from time to time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots, Homesites or Building Sites, (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots, Homesites or Building Sites; (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots, Homesites or Building Sites, or (e) to correct any clerical errors or omissions; provided, however, any such amendment shall not adversely affect the title to any Lot, Homesites or Building Site unless the Owner shall consent thereto in writing

Except as otherwise specifically provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing seventy-five percent (75%) of the total Class "A" votes in the Association, and the consent of the Class "B" Member, so long as such membership exists Notwithstanding the

above, the percentage of votes or other approval necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

If an Owner consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Owner has the authority to so consent and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS OF REAL PROPERTY

Mary Ann Daigle

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MAYCUM \$76.00
Mary Ann Daigle, COUNTY CLERK
GALVESTON, TEXAS