

BY-LAWS

OF

**BENTSEN PALM
DEVELOPMENT
ASSOCIATION, INC.**

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Article I
NAME, PRINCIPAL OFFICE, AND DEFINITIONS:

1.1. Name. The name of the Association shall be BENTSEN PALM Development Association, Inc. ("Association").

1.2. Principal Office. The initial principal office of the Association shall be located in Hidalgo County, 14901 N. Ware Road, Edinburg, TX 78541. The Association may have such other offices as the Board may determine or as the affairs of the Association may require.

1.3. Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for Bentsen Palm Development filed in the Official Records of Real Property of Hidalgo County, Texas ("Declaration"), unless the context indicates otherwise.

Article II
ASSOCIATION:

A. Composition.

2.1. Membership. The Association shall have two classes of membership, Class "A" and Class "B," as set forth in the Declaration. The provisions of the Declaration pertaining to membership, including the arbitration and other dispute resolution provisions contained in Article XIV are incorporated herein by this reference.

B. Members Meetings.

2.2. Place of Members' Meetings. Meetings of the Members of the Association shall be held within the Properties or at such other suitable place within Hidalgo County, State of Texas as may be designated by the Board.

2.3. Annual Meetings. The first annual meeting of the Association's Members, whether a regular or special meeting, shall be held within one year after the sale of the first Lot to a Home Owner. Subsequent regular annual meetings shall be set by the Board so as to occur at least 30 days but not more than 120 days before the close of the Association's calendar year on a date and at a time set by the Board.

2.4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Members holding at least 10% of the voting power of the Association.

2.5. Notice of Meetings. Written notice stating the place, day, and hour of any meeting of the Association shall be delivered, either personally, by U.S. mail, or by electronic mail, or other similar communication devices to each Member entitled to vote at such meeting, not less than 10 nor more than 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. Notice may also be delivered by including a prominent announcement of the place, day and hour of the meeting of the Association in the Association's newsletter, so long as the newsletter

is delivered either personally, by U.S. mail or by electronic mail or similar communication device to each Member entitled to vote at such meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No other 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 prepaid. If sent by electronic mail, the notice of the meeting shall be deemed delivered when sent from the Association's computer system to the electronic address of the Member as it appears on the records of the Association.

2.6. Waiver of Notice. Waiver of notice of a meeting of the Members shall be 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 shall be deemed to be a 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 also shall be deemed to be a waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. 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 may adjourn the meeting to a date not less than 5 nor more than 30 days from the time the original meeting was called. At the reconvened meeting, any business may be transacted which might have been transacted at the meeting originally called provided that Members representing at least 25% of the total voting power of the Association are present. 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.

2.8. Voting. Members shall have such voting rights as set forth in the Declaration, which are incorporated herein by this reference. Members may vote at a meeting by voice vote, ballot, by mail, or pursuant to other policies as determined by the Board; provided, however, meetings shall be held when required by the Declaration or By-Laws. All Membership votes shall be subject to the quorum requirements of Section 2.11.

2.9 Proxies. Members may vote in person or by proxy. Each proxy shall be in writing, dated, signed and filed with the Secretary prior to the commencement of the meeting for which it is to be effective. Proxies may be delivered to the Secretary by personal delivery, U.S. mail or telecopy to any Board member or the professional management agent, if any. Unless otherwise provided in the proxy, a proxy shall cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. No proxy shall be valid more than 11 months after its execution unless otherwise provided in the proxy. Every proxy shall be revocable and shall automatically cease upon conveyance of the Member's Lot.

2.10. Majority. As used in these By-Laws, the term "majority" shall mean those votes, Owners, or other group, as the context may indicate, totaling more than 50% of the total eligible number.

2.11. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence of Members holding 25% of the voting power in the Association shall constitute a quorum at all Members meetings of the Association and, so long as the Class "B" membership exists, unless specifically waived by the Class "B" Member, shall constitute a quorum at all meetings of the Association. Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough to leave less than a quorum, provided that at least 15% of the Members originally in attendance remain, and provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.12. 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, as well as a record of all transactions occurring at the meeting.

2.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by Members representing at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. All such consents shall be signed within 60 days after receipt of the earliest dated consent, dated and delivered to the Association at its principal place of business in the State of Texas. Such consents shall be filed with the minutes of the Association.

2.14. Remote Meetings. If approved in advance of the meeting by the Board, a meeting of the Members may be held by means of a remote electronic communications system, including videoconferencing technology or the Internet, only if:

- (1) each person entitled to participate in the meeting consents to the meeting being held by means of that system; and
- (2) the system provides access to the meeting in a manner or using a method by which each person participating in the meeting can communicate concurrently with each other participant.

Article III **BOARD OF DIRECTORS:**

A. Composition.

3.1. Governing Body; Composition. A Board of Directors shall govern the affairs of the Association. Each director shall have one equal vote. Except with respect to directors appointed by the Class "B" Member, the directors shall be Members or residents of Dwelling Units; provided, however, no more than one representative from a Lot may serve on the Board at the same time. All directors shall complete, prior to being elected to the Board, such training and committee or other service requirements as established by the

Board.

In the case of a Member that is not a natural person, any officer, director, partner or trust officer of such Member shall be presumed to be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member. No Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Class "B" Member.

3.2. Number of Directors. The number of directors in the Association shall be not less than three nor more than seven, as provided in Section 3.5. The initial Board shall consist of three directors as identified in the Certificate.

3.3. Directors During Class "B" Control Period. Subject to the provisions of Section 3.5, the directors shall be appointed by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member until the first to occur of the following:

- (a) when 95% of the total number of Lots proposed by the Declarant's master plan (the "Master Plan") for the Properties described in Exhibit A of the Declaration, as amended have certificates of occupancy issued thereon and have been conveyed to Home Owners;
- (b) December 31, 2026; or
- (c) when, in its discretion, the Class "B" Member so determines.

3.4. Nominating Committee. A Nominating Committee shall be appointed by the Board no later than six months before the first annual meeting of the Association at which the Members are anticipated to elect a number of the Board of Directors and shall serve until the Board elected at the Association meeting holds its first meeting. The Nominating Committee shall nominate its slate of candidates for the Board no later than 30 days before the meeting at which the election shall be held.

The Nominating Committee shall make as many nominations on each slate for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled from each slate as provided in Section 3.5. The Nominating Committee shall nominate one slate for the directors to be elected at large by all Members. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

3.5. Election and Term of Office. Notwithstanding any other provision of these By-Laws:

(a) Within 30 days after the time that Home Owners own 50% of the Lots proposed by the Master Plan as it may be amended, or whenever the Class "B" Member earlier determines, the Board shall be increased to five directors. The Association shall hold an election at which the Class "A" Members shall be entitled to elect two of the five directors, who shall serve as at-large directors and shall serve a term of two years or until the happening of the event described in subsection (b) below, whichever is earlier. If such directors' terms expire prior to the happening of the event described in subsection (b) below, successors shall be elected for a like term. The remaining three directors shall be appointees of the Class "B" Member and shall serve at the pleasure of the Class "B" Member.

(b) Within 120 days after the termination of the Class "B" Control Period, the Board shall be

increased to seven directors. The Association shall hold an election at which all directors shall be elected as follows: the directors shall be elected by both Class "A" Members and the Class "B" Member exercising one vote for each Lot it owns.

Members shall be entitled to cast one vote per Lot with respect to each vacancy to be filled. There shall be no cumulative voting. The candidate(s) receiving the most votes shall be elected. For the first election held pursuant to this subsection (b), the majority of the directors shall be elected for a term of two years and the remaining directors shall be elected for a term of one year, with each term to expire at the next annual meeting after the two-year or one-year period, as applicable. Those elected candidates receiving the most votes shall serve the two-year terms. Successor directors shall be elected at annual meetings to serve for two-year terms. The directors elected by the Members shall hold office until their respective successors have been elected. Directors may serve no more than two consecutive full or partial terms. A director serving two consecutive full or partial terms may not serve as director again until at least one year has lapsed after the expiration of his or her most recent term.

3.6. Removal of Directors and Vacancies. Any director elected solely by the Members 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, but shall not be subject to removal solely by the Class "B" Member. Any director whose removal is sought shall be given notice prior to any meeting called and noticed for that purpose. Upon removal of a director, a successor shall be elected by the Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected solely by the Members who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent in the payment of any assessment, fee or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting of the Board 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 elected by the Members, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members entitled to fill such directorship may elect a successor for the remainder of the term. In the event of the death, disability or resignation of a director appointed or elected by the Declarant or the Class "B" Member, the Declarant or the Class "B" Member, as appropriate, may appoint a successor director to fill the vacancy.

B. Meetings.

3.7. Organizational Meetings. The Board shall hold its first meeting at the time and place determined by the initial Board of Directors, but no later than 30 days after the first annual meeting of the Members. After the Members are entitled to elect a number of the Board of Directors, the newly constituted Board shall meet within thirty (30) days after the annual election of directors.

3.8. Regular Meetings. Regular meetings of the Board may be held at such time and place as the Board shall determine, but at least one such meeting shall be held each quarter. Notice of the time and

place of the meeting shall be posted in a prominent place within the Properties and communicated to directors not fewer than four 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.

3.9. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President or by any two directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) 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) facsimile, computer, e-mail, fiber optics or any such other communication device. All such notices shall be given at the director's telephone, fax, or e-mail number or sent to the director's address as shown on the records of the Association. Notices of special meetings of the Board shall be posted in a prominent place within the Properties. Notices sent by first class mail shall be deposited into a United States mailbox at least seven business days before the time set for the meeting. Notices given by personal delivery, telephone, facsimile or other device shall be delivered, telephoned, or transmitted at least 72 hours before the time set for the meeting.

3.10. Waiver of Notice. The transactions of any meeting of the Board, however called and noticed 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 also shall be deemed given to or waived by any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11. Quorum of Board of Directors. At all meetings of the Board, 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, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, 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, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business, which might have been transacted at the meeting originally called, may be transacted without further notice.

3.12. Compensation. No director shall receive any compensation from the Association for acting as such; provided however, any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested director.

3.13. Conduct of Meetings. The President shall preside over all regular and special meetings of the Board, and the Secretary shall keep a minute book of meetings of the Board, recording all resolutions

adopted by the Board and all transactions and proceedings occurring at such meetings.

3.14. Open Meetings. Subject to the provisions of Sections 3.15 and 3.16, all meetings of the Board shall be open to all Members, but a Member other than a director 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 and reconvene in executive session, excluding Members, to discuss matters of a sensitive nature, such as pending or threatened litigation and personnel matters.

3.15. 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 a 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. Written consent or consents shall be filed with the minutes of the proceedings of the Board.

3.16. Telephonic Participation and Remote Communications.

(a) One or more directors may participate in and vote during any regular or special meeting of the Board by telephone conference call, fiber optics, or similar communication equipment by means of which all Persons participating in the meeting can hear each other at the same time, and those directors so participating shall be present at such meeting. Any such meeting at which a quorum participates shall constitute a meeting of the Board.

(b) The Board may hold a meeting by means of a remote electronic communications system, including videoconferencing technology or the Internet, only if:

(1) each person entitled to participate in the meeting consents to the meeting being held by means of that system; and

(2) the system provides access to the meeting in a manner or using a method by which each person participating in the meeting can communicate concurrently with each other participant.

C. Powers and Duties.

3.17. Powers. The Board shall have all of the powers and duties necessary and appropriate for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these By-Laws, the Certificate, and as provided by law. The Board may do or cause to be done all acts and things as are not by the Declaration, Certificate, these By-Laws, or Texas law directed to be done and exercised exclusively by the membership generally.

3.18. Duties. The duties of the Board shall include, without limitation:

(a) Preparation and adoption of annual budgets and establishing each Owner's share of the Common Expenses;

- (b) levying and collecting assessments from the Owners to fund the Common Expenses;
- (c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;
- (d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association 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) depositing all funds received on behalf of the Association in a bank depository which the Board shall approve and using such funds 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, including Use Restrictions, and establishing penalties for infractions thereof;
- (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 Area in accordance with the Declaration and these By-Laws;
- (i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules adopted by the Board and bringing any proceedings, which may be instituted on behalf of or against the Owners concerning the Association;
- (j) obtaining and carrying property, liability and commercial crime insurance, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (k) paying all taxes and/or assessments, which are or could become a lien on the Common Area or a portion thereof;
- (l) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;
- (m) keeping books with detailed accounts of the receipts and expenditures of the Association;
- (n) making available to any prospective purchaser of a Lot, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Declaration, the Certificate, the By-Laws, Management Certificate, rules and all other books, records, and financial statements of the Association;
- (o) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties;

(p) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is permitted or required by Texas law, the Certificate, and these By-Laws; and

(q) assisting in the resolution of disputes between Owners and others without litigation, as set forth in the Declaration.

3.19. Right of Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy or program of the Association, the Board, and any committee which, in the judgment of the Class "B" Member, would tend to impair rights of the Declarant or its designees under the Declaration or these By-Laws, or interfere with development, construction or marketing of any portion of the Properties, or any real property described in Exhibit "B" of the Declaration, or diminish the level of services being provided by the Association. This right to disapprove is in addition to, and not in lieu of, any right to approve or disapprove specific actions of the Association, the Board or any committee as may be granted to the Class "B" Member or the Declarant in the Declaration or these By-Laws.

(a) The Class "B" Member shall be given written notice of all meetings of the Association, the Board or any committee thereof and of all proposed actions of the Association, the Board or any committee thereof to be approved at such meetings or by written consent in lieu of a meeting. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address if registered with the Secretary of the Association, as it may change from time to time, which notice complies with the requirements for Board meetings set forth in these By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting.

(b) The Class "B" Member shall be given the opportunity at each such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee.

(c) No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met and the time period set forth in subsection (d) below has expired.

(d) The Class "B" Member, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within 30 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 30 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions, but shall not extend to the requiring of any action or counteraction on behalf of any committee, the Board, or the Association unless such action or counteraction countermands an action, policy or program that was not properly noticed and implemented in accordance with these By-Laws. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.20. Management. The Association may, but shall not be required to, employ a professional management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager. The Board may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.21. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(a) modified accrual accounting, as defined by generally accepted accounting principles, shall be employed; provided however, that any "shortage" shall be calculated on a cash basis of accounting as provided in Section 9.5 of the Declaration;

(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; any such thing of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board; and

(f) the following financial and related information shall be regularly prepared by the Board and copies made available to all Members of the Association at the expense of the Association:

(i) The Board shall cause a reserve budget and a Common Expense budget (collectively referred to as the "Budget") for the Association, to be prepared for each calendar year of the Association. The Board shall post written notice in a prominent place within the Properties that the Budget is available at the business office of the Association or at one other suitable location within the Properties. If any Member requests a copy of the Budget, the Association shall provide one copy to the Member without charge within 7 days of such request.

(ii) The Board shall cause an annual report ("Financial Statement") to be prepared in accordance with generally accepted accounting principles within 120 days after close of the Association's calendar year. The Board shall post written notice in a prominent place within the Properties that the Financial Statement is available at the business office of the Association or at one other suitable location within the Properties. If any Member requests a copy of the Financial Statement, the Association shall provide one copy to the Member within 7 days of such request. The Financial Statement shall consist of:

(A) a balance sheet as of the end of the calendar year;

(B) an income and expense statement for the calendar year (this statement shall

include a schedule of assessments received and receivables identified by the numbers of the Lots and the names of the Owners assessed); and

(C) a statement of changes in financial position for the calendar year.

Such Financial Statement shall be prepared on a audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant.

(iii) The Board shall do the following at least quarterly:

(A) cause a current reconciliation of the Association's operating accounts to be made and review the same;

(B) cause a current reconciliation of the Association's reserve accounts to be made and review the same;

(C) review the current year's actual reserve revenues and expenses compared to the current year's Budget;

(D) review the most current account statements prepared by the financial institution where the Association has its operating and reserve accounts;

(E) review an income and expense statement for the Association's operating and reserve accounts; and

(F) review the delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent.

3.22. Borrowing. The Association, acting through its Board, shall have the power to borrow money for any legal purpose; provided, the Board shall obtain the approval by vote or written consent of Members holding at least a majority of the total Board if the proposed borrowing is for the purpose of making discretionary capital improvements or purchasing additional capital assets and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 10% of the budgeted gross expenses of the Association for that calendar year. During the Class "B" Control Period, no Mortgage lien shall be placed on any portion of the Common Area without the affirmative vote or written consent of at least a majority of the Members other than the Declarant.

3.23. Rights of the Association. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, neighborhood associations and other owners or residents associations, both within and outside the Properties.

3.24. Enforcement.

(a) Notice. Prior to the imposition of any sanction as provided in the Declaration involving:

- (1) suspending an Owner's right to use a common area;
- (2) filing suit against an Owner (other than a suit to collect regular or special assessments, a suit for foreclosure of the Association's lien, or a suit for a temporary restraining order or injunctive relief);
- (3) assessing an Owner for property damage; or
- (4) the levy of a fine for a violation of the restrictions,

the Board or, if so directed by the Board, the Covenants Committee, if established, or the managing agent shall serve the alleged violator with written notice by certified mail, return receipt requested. This notice must include:

- (i) A description of the violation or property damage and a statement of the amount due the Association from the Owner;
- (ii) A statement giving a reasonable period of time that the Owner has to cure the violation and avoid the fine or suspension. However, if the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months, at the Association's option, the Owner will not be entitled to a cure period and the notice need not contain reference to a cure period; and
- (iii) A statement that the Owner may request a hearing before the Board or Covenants Committee, if established, on or before the 30th day after the day the Owner receives the notice. Proof of proper notice shall be placed in the Board's record book. Proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice.

If a timely request for a hearing is not received by the Board or the Covenants Committee, if any, the sanctions stated in the notice shall be imposed; provided the Board or the Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured or if a cure is diligently commenced within the 30-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 30 day period, the hearing shall be held before the Covenants Committee, if any, or if none, before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Appeal. If a hearing is held before a Covenants Committee, the violator shall have the right to appeal the decision to the Board. To perfect this right, a written notice of appeal must be received by the management agent, President, or Secretary of the Association within 30 days after the hearing date.

D. Officers.

3.25. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President, Vice President, Secretary and Treasurer shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board 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 by the Board. Any two or more offices may be held by the same person, except the offices of President and Secretary.

3.26. Election and Term of Office. The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each annual meeting of the Association, as set forth in Article III.

3.27. Removal and Vacancies. Any officer may be removed by the Board whenever in its judgment the best interests of the Association will be served thereby. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

3.28. 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 specifically be conferred or imposed by the Board.

(a) The President shall be the chief executive officer of the Association.

(b) The Vice President shall act in the President's absence and shall have all powers, duties and responsibilities provided for the President when so acting.

(c) The Secretary shall keep the minutes of all meetings of the Association and the Board and shall have charge of such books and papers as the Board may direct. In the Secretary's absence, any officer directed by the Board shall perform all duties incident to the office of secretary.

(d) The Treasurer shall have primary responsibility for the preparation of the Budget as provided for in the Declaration and these By-Laws and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

3.29. Resignation. Any officer may resign at any time by giving written notice to the Board, 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.

3.30. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association (other than for the withdrawal of reserve funds) shall be executed by at least two officers or by such other person or persons as may be designated by resolution of the Board.

3.31. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.12 hereof.

Article IV

BOARD GOVERNANCE COMMITTEES:

A. Composition.

4.1 Composition. The Association's Board may charter advisory committees to advise the Board on affairs of the Association. Each committee shall be comprised of Committee Members appointed by the Board. Committee Members shall be Members of the Association; provided, however, no more than one representative from a Lot may serve on the same committee at the same time and no resident may serve on more than one committee at any given time. All Members shall complete, as soon as possible after being appointed to a committee, such training or other service requirements as established by the Board. Each committee may also have one non-voting Board liaison and one non-voting staff liaison, as determined by the Board.

4.2 Number of Committee Members. The number of Committee Members on any one committee shall be not less than three or more than seven members, unless specifically waived by the Board. Committees may form and direct sub-committees to assist in the work of the parent committee.

4.3 Nomination of Committee Members. Except with respect to committee members appointed by the Class "B" Member, nominations for committees shall be made by a Nominating Committee. Appointments to the Nominating Committee shall be made annually by the Board. The Nominating Committee shall nominate its slate of candidates for committees no later than 30 days before the meeting at which the Board is schedule to make appointments. The Nominating Committee shall make as many nominations as vacancies on committees.

4.4 Appointments and Term of Office. Notwithstanding any other provision of these By-Laws: Committee Members shall be appointed for a term of two years, with terms expiring on either June 30 or December 31. Successor Committee Members shall be appointed to serve for two-year terms. The Committee Members shall hold office until their respective successors have been elected. Committee Members may serve no more than two full or partial consecutive terms on a committee. Committee Members who serve two full or partial terms on a committee may not serve on that committee again until twelve months has lapsed since the expiration of their most recent term on the committee.

4.5 Removal of Committee Members and Vacancies. The Board may remove any Committee Member, with or without cause. Committee Members, whose removal is sought, shall be given notice prior to any meeting called and noticed for that purpose. Upon removal of a Committee Member, a successor shall be appointed by the Board to fill the vacancy for the remainder of the term of such Committee Member.

Any Committee Member who has three consecutive unexcused absences from committee meetings, or who is more than 30 days delinquent in the payment of any assessment, fee or other charge due the Association, may be removed by a majority vote of the remaining Committee Members present at a regular or special meeting of the Committee, at which a quorum is present. If removed, 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 Committee Member, the Board may declare a vacancy and appoint a successor to fill the vacancy for the remainder of the term. Committee Chairpersons are to notify the Chairperson of the Nominations Committee should a vacancy occur.

B. Meetings.

4.6 Organizational Meetings. Committees shall hold their first meeting within 30 days after being chartered by the Board.

4.7 Scheduling of Meetings. Regular meetings of committees may be held at such time and place as the committee shall determine, but at least one such meeting shall be held each quarter. Notice of the time and place of the meeting with an agenda shall be posted in a prominent place within the Properties and communicated to Committee Members not less than 72 hours prior to the meeting.

4.8 Special Meetings. Special meetings of committees may be held when called by written notice prepared by the committee Chairperson or by any two-committee members. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Committee Member either by: (a) personal delivery; (b) mail, (c) telephone communication, either directly to the Committee Member or to a person at the Committee Member's home who would reasonably be expected to communicate such notice promptly to the Committee Member; or (d) facsimile, computer, fiber optics or any such other communication device. Notices shall be delivered, telephoned, or transmitted at least 72 hours before the time set for the meeting.

4.9 Waiver of Notice. The transactions of any meeting of the committee however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if a quorum is present. Notice of a meeting also shall be deemed given to any Committee Member who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

4.10 Quorum of Committee Members. At all meetings of committees, majority of the Committee Members shall constitute a quorum for the transaction of business, and the votes of a majority of the Committee Members present at a meeting at which a quorum is present shall constitute the decision of the committee, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Committee Members, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Committee cannot be held because a quorum is not present, a majority of the Committee Members present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business, which might have been transacted at the meeting originally called, may be transacted without further notice.

4.11 Compensation. No Committee Member shall receive any compensation from the Association for acting as such; provided however, any Committee Member may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other Committee Members. Nothing herein shall prohibit the Association from compensating a Committee Member, or any entity with which a Committee Member is affiliated, for services or supplies furnished to the Association in a capacity other than as a Committee Member pursuant to a contract or agreement with the Association, provided that such Committee Member's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Committee, excluding the interested Committee Member.

4.12 Conduct of Meetings. The Committee Chairperson shall preside over all meetings of the committee, and the Secretary shall keep a minute book of meetings of the committee, recording all resolutions adopted by the committee and all transactions and proceedings occurring at such meetings.

4.13 Open Meetings. All meetings of committees shall be open to all members of the association, but a Association member (other than a Committee Member) may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a Committee Member. Committee liaisons (both staff and Board) are to be treated as Committee Members with respect to speaking at Committee meetings. In such case, the Chairperson may limit the time any Member may speak. Notwithstanding the above, the Chairperson may adjourn any meeting of the committee and reconvene in executive session, excluding non-Committee Members, to discuss matters of a sensitive nature, such as pending or threatened litigation and personnel matters.

4.14 Action Without a Formal Meeting. Any action to be taken at a meeting of the Committee Members or any action that may be taken at a meeting of the Committee Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Committee Members, and such consent shall have the same force and effect as a unanimous vote. Written consent or consents shall be filed with the minutes of the proceedings of the committee.

4.15 Telephonic Participation. One or more Committee Members may participate in and vote during any regular or special meeting of the committee by telephone conference call or similar communication equipment by means of which all Persons participating in the meeting can hear each other at the same time, and those Committee Members so participating shall be present at such meeting. Any such meeting at which a quorum participates shall constitute a meeting of the committee.

4.16 Powers. Committees will have only those powers specifically delegated by the Board in the Committee's Charter. Committees may not do or cause to be done acts and things that are not provided for in the Declaration, Certificate, By-Laws, or Texas law.

C. Officers.

4.17 Officers. The officers of Committees' shall be a Chairperson, Vice Chair and Secretary. The Chairperson, Vice Chair and Secretary shall be elected from among the members of the committee. The Committee may appoint such other officers, including one or more Assistant Secretaries as it shall deem desirable, such officers to have the authority and perform the duties prescribed by the Committee.

4.18 Election and Term of Office. The officers of the Committee shall be elected annually by the Committee at the first meeting of the Committee following anniversary date of the committee original charter.

4.19 Removal and Vacancies. The Committee may remove any officer whenever in its judgment the best interests of the Committee and the Association will be served thereby. The Committee for the remaining portion of the term may fill a vacancy in any office arising because of death, resignation, removal, or otherwise.

4.20 Powers and Duties of Officers. The officers of the Committee shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Committee. The Chairperson shall be the chief executive officer of the Committee. The Vice Chair shall act in the Chairperson's absence and shall have all powers, duties and

responsibilities provided for the Chairperson when so acting. The Secretary shall keep the minutes of all meetings of the Committee and shall have charge of such books and papers as the Committee may direct. In the Secretary's absence, any officer directed by the Committee shall perform all duties incident to the office of secretary.

4.21 Resignation. Any officer may resign at any time by giving written notice to the Committee Chairperson 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.

4.22 Parliamentary Rules. Except as may be modified by the Board, Roberts Rules of Order (current edition) shall govern the conduct of Committee proceedings when not in conflict with Texas law, the Certificate, the Declaration or these By-laws.

4.23 Right of Declarant to Disapprove Actions.

(a) So long as the Declarant controls the Board, the Declarant shall have a right to disapprove any action, policy or program of the Association, the Board, and any Committee which, in the judgment of the Declarant, would tend to impair rights of the Declarant or its designees under the Declaration or these By-Laws, or interfere with development, construction or marketing of any portion of the Properties or the real property described in Exhibit "B" to the Declaration, or diminish the level of services being provided by the Association. This right to disapprove is in addition to, and not in lieu of, any right to approve or disapprove specific actions of the Association, the Board or any Committee as may be granted to the Declarant in the Declaration or these By-Laws.

(b) The Declarant shall be given the opportunity at each such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents may make its concerns, thoughts, and suggestions known to the Committee and/or the members of the subject committee.

(c) No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met and the time period set forth in subsection (d) below has expired.

(d) The Declarant, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within 30 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 30 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions, but shall not extend to the requiring of any action or counteraction on behalf of any Committee, the Board, or the Association unless such action or counteraction countermands an action, policy or program that was not properly noticed and implemented in accordance with these By-Laws. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable federal, state or local laws and regulations.

Article V
MISCELLANEOUS

5.1 Calendar Year. The calendar and fiscal year of the Association shall be January 1 through December 31 unless otherwise established by Board resolution.

5.2 Parliamentary Rules. Except as may be 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 Certificate, the Declaration, or these By-Laws.

5.3 Conflicts. If there are conflicts between the provisions of Texas law, the Certificate, the Declaration, and these By-Laws, the provisions of Texas law, the Declaration, the Certificate, and the By-Laws (in that order) shall prevail.

5.4 Books and Records.

- (a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Lot, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Lot: the Declaration, By-Laws, and Certificate, any amendments to the foregoing, the rules of the Association, the membership register, the most recent Financial Statement, Management Certificate, the current Budget, books of account, the minutes of meetings of the Members, the Board, and committees and any other document required by law to be made available to Members or their Mortgages. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate.
- (b) Rules for Inspection. The Board shall establish reasonable rules with respect to:
 - (i) notice to be given to the custodian of the 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.
- (c) 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 properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association in furtherance of such director's duties as a director.
- (d) The Board shall adopt reasonable rules and procedures for the delivery of subdivision information and re-sale certificates to an Owner, an Owner's agent or to the insurance company or its agent in accordance with Texas Property Code, Chapter 207, as amended

from time to time.

(i) The Association is not required to inspect a Lot prior to issuing a resale certificate for the Lot;

(ii) The Association shall have no liability for failure to comply with the rules and procedures promulgated by the Board or in relation to a resale certificate except as expressly provided under Chapter 207 of the Texas Property Code as amended.

5.5 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 which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member; or
- (b) if to the Association, the Board, 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.

5.6 Indemnification. The Association shall indemnify every officer, director, and committee member against all expenses, including counsel fees, reasonably incurred by them and each of them in connection with any action, suit, arbitration or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member of the Association.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association. The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

5.7 Amendments.

- (a) By Declarant. Until termination of the Class "B" membership, Declarant may unilaterally amend these By-Laws for any purpose. Thereafter, the Declarant may unilaterally amend these By-Laws if such amendment is (i) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) 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; (iv) necessary to enable any governmental agency or reputable private insurance company to guarantee or insure Mortgage loans on the Lots; or (v) otherwise necessary to satisfy the requirements of any governmental agency for approval of these By-Laws. However, any such amendment shall not adversely affect the ownership of title to any Lot unless the affected Owner shall consent thereto in writing. In addition, so long as the Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 10.1 of the Declaration, it may unilaterally amend these By-Laws for any other purpose provided that the amendment has no material adverse effect on any right of any owner. Thereafter and otherwise, these By-Laws may be amended in accordance with Section 5.7(b).

(b) By Board. Except as provided above, these By-Laws may be amended only by resolution duly adopted by the Board and with the consent of the Declarant, so long as the Declarant owns any Private Amenity or any portion of the Properties or has the right to annex property pursuant to Section 10.1 of the Declaration.

Notwithstanding the above, the percentage of votes 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.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon recordation in the Official Records of Real Property of Hidalgo County, Texas unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

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 do so, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Notwithstanding any provision herein to the contrary, 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 for as long as the Declarant owns any Private Amenity or any portion of the Properties or has the right to annex property pursuant to Section 10.1 of the Declaration.