

**BYLAWS  
OF  
BOULDER CANYON HOME OWNERS ASSOCIATION, INC.**

**ARTICLE I  
GENERAL**

The Boulder Canyon Home Owners Association, Inc. is the “Association” described within the “Declaration of Covenants, Conditions and Restrictions (the “Declaration”) pertaining to the Boulder Canyon Replat A development in the City of El Paso, El Paso County, Texas, recorded in the Real Property Records of El Paso County, Texas and incorporated herein by reference for all purposes. For convenience, several of the provisions of the Declaration will be repeated or summarized within these Bylaws. The remaining terms and provisions of these Bylaws are intended to complement and supplement the Declaration. In the event of any conflict or ambiguity between the Declaration (on the one hand) and these Bylaws (on the other hand) and unless otherwise required by law, the terms and conditions of the Declaration shall control and govern.

**ARTICLE II  
NAME, DEFINITIONS, MEMBERSHIP AND VOTING RIGHTS**

**Section 1. Name.** The name of the Association shall be Boulder Canyon Home Owners Association, Inc. (herein sometimes referred to as the “Association”).

**Section 2. Definitions.** Certain words used in these Bylaws shall have the same meaning as set forth in the Declaration, some of which are set forth below either in their entirety or in an abridged format:

**“Amended Declaration”** shall mean and refer to each and every instrument recorded in the Real Estate Property of El Paso County, Texas which amends, supplements, modifies, clarifies or restates some or all of the terms and provisions of the original Declaration.

**“Annual Assessment”** shall have the meaning specified in Article V of the Declaration.

**“Architectural Review Committee”** (sometimes referred to herein as the “ARC”) shall mean and refer to that particular Committee which is described and explained within Article VII of the Declaration.

**“Assessable Property”** shall mean and refer to each and every lot, parcel and tract within the entire Properties which: (i) the Declaration has subjected to and imposed the payment of an Annual Assessment to the Association; (ii) may have been or will be given a separately identifiable tax or parcel number by the Central Appraisal District of El Paso County (“CAD”) or a similar governmental agency; or (iii) is not designated an “open space or otherwise a portion of the Common Facilities. The Declaration intends that each residential Lot within the Subdivision constitute an Assessable Property. However, the Declarant reserves the right and discretion to include or exclude each non-residential Lot from the concept of “Assessable Property” and/or to prescribe a different assessment and/or valuation scheme(s) for any nonresidential Lot which is subjected to covenants which require the payment of assessments to the Association.

**“Association”** shall mean and refer to Boulder Canyon Home Owners Association, Inc., an existing non-profit Texas corporation.

**“Board”** shall mean and refer to the Board of Directors of the Association.

**“Bylaws”** shall mean and refer to the Bylaws of the Association, as adopted and amended from time to time in accordance with the provisions of the Texas Non-Profit Corporation Act and the Declaration.

**“Covenants”** shall mean and refer to all covenants, conditions, restrictions, easements, charges and liens set forth within the Declaration.

**“Declarant”** shall mean and refer to DVEP Land, LLC or any successors or assigns. However, no person or entity merely purchasing one or more Lots from in the ordinary course of business shall be considered collectively the “Declarant.”

**“Declaration”** shall mean and refer to the particular instrument entitled “Declaration of Covenants, Conditions and Restrictions, for Boulder Canyon Replat A, together with any and all amendments or supplements thereto.

**“Deed”** shall mean and refer to any deed, assignment, testamentary bequest, muniment of title or other instrument, or intestate inheritance and succession, conveying or transferring fee simple title or a leasehold interest or another legally recognized estate in a Lot.

**“Development Period”** shall mean a period commencing on the date of the recording of the Declaration in the public real estate records of El Paso County, Texas and continuing thereafter until and ending the later to occur of: (i) substantial completion of all development within the Subdivision, as determined by the Declarant; or (ii) Declarant’s recordation in the Real Property Records of El Paso County, Texas of an instrument specifying the end of the Development Period established by Declarant in Declarant’s sole and absolute discretion (the “Conversion Date”).

**“Directors”** shall mean the persons designated to serve as the Directors of the Association, and shall also be the same persons who are referred to in the Declaration as the Trustees. All references to Directors shall also mean Trustees.

**“Dwelling Unit”** shall mean and refer to any building or portion of a building situated upon the Facilities which is designed and intended for use and occupancy as a residence by a single person, a couple, a family or a permitted family size group of persons.

**“Improvement”** shall mean any physical change to raw land or to an existing structure which alters the physical appearance, characteristics or facilities of the land or structure, including but not limited to adding or removing square footage area space to or from a structure, painting or repainting a structure, or in any way altering the size, shape or physical appearance of any land or structure.

**“Lot”** shall mean and refer to each separately identifiable portion of the Assessable Property which is platted, filed and recorded in the office of the County Clerk of El Paso County, Texas and which is assessed by any one or more of the Taxing Authorities and which is not intended to be an “open space”, or dedicated for use of the public.

**“Management Certificate”** shall mean the instrument required to be recorded pursuant to Section 209.004, Texas Property Code, being the Texas Residential Property Owners Act.

**“Member”** shall mean and refer to each Owner who is in good standing with the Association and who has filed a proper statement of residency with the Association and who has complied with all directives and requirements of the Association.

**“Owner”** shall mean and refer to the holder(s) of record title to the fee simple interest of any Residential Lot whether or not such holder(s) actually reside(s) on any part of the Residential Lot. There shall be only one Owner for each Residential Lot. The entity having record title to nonresidential lots shall not be considered owner for purposes of voting or other rights under these By-laws.

**“Residential Lot”** any lot used solely for residential purposes. Certain lots are set aside and are part of the Common Area that are not designated for residential purposes.

**“Subdivision”** shall mean and refer to Boulder Canyon Replat A, in accordance with the map and plat thereof filed of record in the Map and Plat Records of El Paso County, Texas, as well as any and all revisions, modifications, corrections or clarifications thereto.

**“Texas Residential Property Owners Protection Act” or the “Act”** shall refer to Chapter 209, Texas Property Code, as the same may be amended in whole or in part.

**“Zoning Ordinance”** shall mean and refer to City of El Paso zoning ordinance, governmental regulations, and all amendments thereto.

**Section 3. Membership.** Each and every Owner of each and every Residential Lot within the Subdivision shall automatically be, and must at all times remain, a Member of the Association in good standing. During the Development Period, the Association shall have two (2) classes of Members: Class A and Class B. The Class A Members shall include all Owners (other than the Declarant during the Development Period). The Class B Member shall be the Declarant. Upon conclusion of the Development Period, the Class B membership shall terminate and the Declarant shall become a Class A Member.

**Section 4. Voting Rights.** After the completion of the Development Period, the Owner(s) of each Residential Lot in good standing shall be entitled to one (1) vote per Lot. An Owner not in good standing shall not be eligible to vote. Where more than one (1) Owner owns and holds a record fee interest in a Lot, such Owner(s) may divide and cast portions of the one (1) vote as they decide, but in no event shall any one (1) Lot yield more than one (1) vote. Any Owner shall not be in “good standing” if such person or entity is: (a) in violation of any portion of the Covenants, or any rule or regulation promulgated by the Board and/or any portion of the Zoning Ordinance; or (b) delinquent in the full, complete and timely payment of any Annual Assessment, special assessment, or any other fee, charge or fine which is levied, payable or collectible pursuant to the provisions of the Declaration, these Bylaws or any rule or regulation promulgated by the Board. The Board may make such rules and regulations, consistent with the terms of the Declaration and these Bylaws, as it deems advisable for: any meeting of Members; proof of membership in the Association; the status of good standing; evidence of right to vote; the appointment and duties of examiners and inspectors of votes; the procedures for actual voting in person or by proxy; registration of Members for voting purposes; and such other matters concerning the conduct of meetings and voting as the Board shall deem fit. Prior to the completion of the Development Period, voting shall be as provided in Section 5.06 of the Covenants.

**ARTICLE III**  
**MEMBERS: MEETINGS, QUORUM, VOTING, PROXIES**

**Section 1. Place of Meetings.** Meetings of the Association shall be at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors.

**Section 2. Annual Meetings.** The first annual meeting of the Members, whether a regular or special meeting, shall be held on or about one (1) year from the date of incorporation of the Association. The next annual meeting shall be set by the Board so as to occur within forty-five (45) days after the close of the Association's fiscal year. Subsequent regular annual meetings of the Members shall be held within forty-five (45) days of the same day of the same month of each year thereafter, at a specific date and hour set by the Board.

**Section 3. Special Meeting.** 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 two members of the Board of Directors, or upon a petition signed by at least twenty percent (20%) of the total votes of the Association. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 4. Notice of Meetings.** It shall be the duty of the Secretary to cause notices to be prepared concerning each annual or special meeting of the Association, stating the purpose of the special meeting, as well as the time and place where it is to be held.

**Section 5. Waiver of Notice.** Waiver of notice of any meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, 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 there 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.

**Section 6. Adjournment of Meetings.** If any meetings 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 proxy, 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 such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings. The 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 Members to leave less than a quorum, provided that any action taken shall be approved by at least a majority of the Members required to constitute a quorum.

**Section 7. Voting.** The voting rights of the Members shall be as set forth in the Declaration and Section 4 of Article II above.

**Section 8. 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 before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon loss of good standing by any such Member or upon receipt of notice by the Secretary of the Board of the death or judicially declared incompetence of a Member or upon the expiration of eleven (11) months from the date of the proxy. A form of proxy or written ballot may provide an opportunity to specify approval or disapproval with respect to any proposal.

**Section 9. Majority.** As used in these Bylaws, the term majority shall mean those votes totaling more than fifty (50%) per cent of the total number of votes cast by voting Members in good standing attending any meeting (or represented by proxy) of the Association.

**Section 10. Quorum.** Except as otherwise provided in these Bylaws or in the Declaration, the presence in person or by proxy of twenty percent (20%) of the Members shall constitute a quorum at all meetings of the Association.

**Section 11. Conduct of Meetings.** The President (or, in the absence of the President, a Vice President) shall preside over all meetings of the Association, and the Secretary or an Assistant 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 thereat.

**Section 12. Action Without a Meeting.** Any action which may be taken by the vote of the voting Members at a regular or special meeting may be taken without a meeting as and to the extent permitted by applicable Texas law.

#### **ARTICLE IV BOARD OF DIRECTORS: NUMBER, ELECTION, POWERS, MEETINGS**

**Section 1. Governing Body; Composition.** The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the Directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time.

**Section 2. Directors During Development Period.** During the Development Period, Directors need not be Members.

**Section 3. Number of and Voting for Directors.** Until the Conversion Date, the affairs of the Association shall be managed by a board of three (3) individuals elected by the Developer. After the Conversion Date, the affairs of the Association shall be managed by a board of not less than three nor more than seven elected by the Members. The Board, no later than 30 days prior to the annual meeting of the Members, shall file with the Declarant and distribute to the Members (by whatever means the Board may deem reasonable and economical) a certification of the Directors to be elected. The actual election of the directors shall take place in accordance with the Bylaws or, to the extent not inconsistent with the Bylaws, the directives of the then-existing Board.

**Section 4. Election and Term of Office.** The election process shall occur at the annual meeting of the Members, in accordance with any reasonable procedure approved by the Board. Directors shall be elected for two (2) year terms of office and shall serve until their respective successors are elected and qualified. Any vacancy which occurs in the Board, by reason of death, resignation, removal, or otherwise, may be filled at a meeting of the Board by the affirmative vote of a majority of the remaining Directors. Any Director elected to fill a vacancy shall serve as such until the expiration of the term of the Director whose position

he or she was elected to fill.

**Section 5. Removal of Directors.** At any regular or special meeting or special voting process (in lieu of a meeting) of the Association duly called, where the bona-fide signatures of at least 20% of the Members appear on an appropriate petition, any one or more of the Directors may be removed, with or without cause, by a majority vote of those Members voting in person or by proxy, and a successor may then and there be elected to fill the vacancy thus created. A Director whose removal has been proposed by the Members shall be given at least five (5) days' notice of the calling of the meeting or the special voting process (in lieu of a meeting) and the purpose thereof and shall be given an opportunity to be heard at the meeting or to communicate his position in connection with the special voting process in lieu of a meeting. Additionally, any Director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than sixty (60) days, may be removed by a majority vote of the remaining Directors at a regular or special Board meeting. In the event of death or resignation of a Director, his or her successor shall be a Member selected by a majority of the remaining Members of the Board and shall serve for the unexpired term of the predecessor.

**Section 6. Voting Procedure for Directors.** At each election, the Members or their proxies may cast, with respect to each such director position, as many votes as they are entitled to exercise under the provisions of the Declaration. The person(s) receiving the largest number of votes (which may be a plurality and not a majority) shall be elected.

**Section 7. 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) meeting per quarter. Notice of the time and place of the meeting shall be posted at a prominent place within the Facilities and shall be communicated to 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. Advance notice of the meeting(s) at which the annual budget and/or the Annual Assessment are likely to be discussed shall be reasonably publicized.

**Section 9. Special Meetings.** Special meetings of the Board of Directors shall be held when called by written notice signed by the President, or by any two (2) 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 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 telecopy. All such notices shall be given or sent to the Director's business office and/or home address or telephone number(s) as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least seven (7) days before the time set for the meeting. Notices given by personal delivery, telephone, or telecopy shall be delivered, telephoned, or faxed at least seventy-two (72) hours before the time set for the meeting. Notices should be posted at a prominent place within the Facilities not less than seventy-two (72) hours prior to the scheduled time of the meeting.

**Section 10. Waiver of Notice.** The transactions of any meeting of the Board of Directors, 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 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 11. 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. 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. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

**Section 12. Compensation.** No Director shall receive any compensation from the Association for acting as such.

**Section 13. Conduct of Meetings.** The President (or, in the President's absence, a Vice President), shall preside over all meetings of the Board of Directors, and the Secretary or an Assistant Secretary shall keep a minute book of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings.

**Section 14. Open Meetings.** All meetings of the Board (excluding workshop meetings and meetings to discuss personnel, litigation and other similar confidential matters) shall to the extent possible be open to all Members, but Members other than Directors may not participate in any discussion or deliberation except as follows in accordance with a format approved by the Directors from time to time:

- (a) the Directors shall publish a meeting agenda and permit Members a reasonable opportunity to express their opinions concerning such agenda matters prior to taking any formal action; and
- (b) the Directors shall allow an "open" or "new business" portion of the meeting in which any Member can express his/her opinion concerning any new or previously non-discussed matter.

The Directors shall at all times have the right to reasonably limit the number of speakers, the time limit for each presentation and speaker, and to adopt other rules of efficiency and decorum.

**Section 15. Executive Session and Workshops.** The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and other business of a similar confidential nature. The nature of any and all business to be considered in executive session shall first be announced in open session. The Board may also attend "workshop" meetings or sessions to discuss long-range concepts, receive educational assistance and training and the like, provided no official action of any sort is taken.

**Section 16. 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 the Directors. An explanation of the action taken shall be posted at a prominent place or places within the Facilities within three (3) days after the written consents of all the Board members have been obtained.

**Section 17. Powers.** The Board of Directors shall be responsible for the affairs of the Association and shall have all the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these Bylaws directed to be done and exercised exclusively by the Members. The Board of Directors may 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, and/or matters directly or indirectly pertaining to the Managing Agent, if any, which might arise between meetings of the Board of Directors. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may be hereafter adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

- (a) preparation and adoption of an annual budget in which there shall be established the Annual Assessment rate charge;
- (b) making assessments to defray the expenses, establishing the means and methods of collecting such assessments, and establishing the period of any installment payments of the Annual Assessment;
- (c) providing for the operation, care, upkeep, and maintenance of any improvements in the Subdivision;
- (d) collecting the assessments, depositing the proceeds thereof in a depository which it shall approve, and using the proceeds to administer the Association;
- (e) making and amending rules and regulations;
- (f) opening of bank accounts and/or banking-type accounts on behalf of the Association and designating the signatories required;
- (g) making or contracting for the making of repairs or additions to improvements in the Subdivision in accordance with the other provisions of the Declaration and these Bylaws after damage or destruction by fire or other casualty;
- (h) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Members concerning the Association;
- (i) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- (j) paying the cost of all services rendered to the Association or its Members; and
- (k) keeping books with reasonably detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Members and bona-fide mortgagees, their respective duly authorized agents, accountants, or attorneys, during general business hours on working days at the time and in a manner that shall be set and announced by the Board of Directors for the general knowledge of the Members; and
- (l) filing all requisite forms, documents and information with Taxing Authorities; and

**Section 18. Management Agent.** The Board of Directors may employ for the Association a professional management agent(s) or executive manager (each and all of whom will be sometimes referred



to herein as the “Managing Agent”) at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Managing Agent shall provide the Board and the officers with reasonable reports, prepared not less than once a month, concerning the affairs of the Association. No management contract may have a term in excess of three (3) years and, where the Declarant or an affiliate of the Declarant is the Managing Agent, the Declarant must permit termination by either party without cause and without any materially adverse termination fee upon at least ninety (90) days advance written notice of such termination.

**Section 19. Rights of the Association.** In accordance with the Declaration and to the maximum extent permitted by applicable law, the Association shall have the right to contract with any person for the performance of various duties and functions.

## **ARTICLE V OFFICERS**

**Section 1. Officers.** The officers of the Association may include a President, Vice President, Secretary, Treasurer and such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as the Board shall deem desirable, such officers to have the authority and to perform the duties prescribed from time to time by the Board of Directors. Any two or more offices may be held by the same person, excepting the offices of President and Secretary. Any member of the Board, or of the Managing Agent or of the Declarant may serve as an officer.

**Section 2. 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.

**Section 3. Removal.** Any officer may be removed by the affirmative vote on a majority of the Board of Directors whenever in their judgment the best interests of the Association will be served thereby.

**Section 4. 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 be specifically 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 annual budget as provided for hereinabove and may delegate all or part of the preparation and notification duties to a finance committee, Managing Agent, or both.

**Section 5. Resignation.** Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the Secretary. Such resignation 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.

**Section 6. Agreements, Contracts, Deeds, Leases, Checks.** All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least one (1) officer or by such other person or persons as may be designated by resolution of the Board of Directors.

## **ARTICLE VI COMMITTEES**

**Section 1. General.** Committees to perform such tasks and to serve or 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 are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors. The Board shall appoint the chairperson for each committee who shall preside at its meetings and who shall be responsible for transmitting any and all communications to the Board of Directors.

**Section 2. Architectural Review Committee.** After the Development Period, the Board of Directors shall appoint an Architectural Control Committee consisting of at least three (3) individuals initially selected and appointed by the Declarant to act in accordance with the provisions of the Declaration and the Design Guidelines.

## **ARTICLE VII ASSOCIATION RECORDS**

**Section 7.1. Availability.** The Association shall make the books and records of the Association, including financial records, open to and reasonably available for examination by an Owner, or a person designated in a writing signed by the owner as the Owner's agent, attorney, or certified public accountant, in accordance with this section. An Owner is entitled to obtain from the Association copies of information contained in the books and records. Association attorney's files and records, excluding invoices requested by an Owner are not records of the Association and are not subject to inspection by the Owner or production in a legal proceeding. If a document in an attorney's files and records relating to the Association would be responsive to a legally authorized request to inspect or copy association documents, the document shall be produced by using the copy from the attorney's files and records if the Association has not maintained a separate copy of the document. This Article does not require production of a document that constitutes attorney work product or that is privileged as an attorney-client communication. An Owner or the Owner's authorized representative must submit a written request for access or information by certified mail, with sufficient detail describing the Association's books and records requested, to the mailing address of the Association or authorized representative as reflected on the most current Management Certificate. The request must contain an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records and if an inspection is requested, the Association, on or before the tenth (10<sup>th</sup>) business day after the date the Association receives the request, shall send written notice of dates during normal business hours that the Owner may inspect the requested books and records to the extent those books and records are in the possession, custody, or control of the Association, or if copies of identified books and records are requested, the Association shall, to the extent those books and records are in the possession, custody, or control of the Association, produce the requested books and records for the requesting party on or before the tenth (10<sup>th</sup>) business day after the date the Association receives the request. If the Association is unable to produce the books or records requested on or before the tenth (10<sup>th</sup>) business day after the date the Association receives the request, the Association must provide to the requestor written notice that informs the requestor that the Association is unable to produce the information on or before the tenth (10<sup>th</sup>) business day after the date the Association received the request, and states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the fifteenth (15<sup>th</sup>) business day after the date notice under this Article is given. The

Association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the Association.

**Section 7.2. Open Records Policy.** The Board has adopted a Records Production and Copying Policy that prescribes the costs the Association will charge for the compilation, production, and reproduction of information requested under this section, and is recorded in the Official Public Record of Real Property Records of Harris County, pursuant to Section 209.005 of the Act. The prescribed charges may include all reasonable costs of materials, labor. The Association may not charge an owner for the compilation, production, or reproduction of information requested under this section unless the policy prescribing those costs has been recorded as required by this subsection. An Owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted under this section. The Association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the estimated costs are lesser or greater than the actual costs, the Association shall submit a final invoice to the Owner on or before the thirtieth (30th) business day after the date the information is delivered. If the final invoice includes additional amounts due from the owner, the additional amounts, if not reimbursed to the Association before the thirtieth (30<sup>th</sup>) business day after the date the invoice is sent to the Owner, may be added to the Owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the owner is entitled to a refund, and the refund shall be issued to the owner not later than the thirtieth (30th) business day after the date the invoice is sent to the Owner.

**Section 7.3. Records Retention.** In accordance with Section 209.005(m) of the Act has adopted, recorded and complied with a Document Retention Policy which shall be recorded in the Official Public Records of Real Property of El Paso County, Texas.

## **ARTICLE VIII MISCELLANEOUS**

**Section 1. Fiscal Year.** The fiscal year of the Association shall be the calendar year.

**Section 2. Parliamentary Rules.** Except as may be modified by Board resolution establishing modified procedures, Robert's Rules of Order (current edition) shall govern the conduct of the Association proceedings when not in conflict with Texas law, the Certificate of Organization, the Declaration, or these Bylaws.

**Section 3. Conflicts.** If there are conflicts or inconsistencies between the provisions of Texas law, the Articles of Incorporation, the Declaration, and these Bylaws, then the provisions of Texas law, the Declaration, the Certificate of Organization, and the Bylaws (in that order) shall prevail.

**Section 4. Rules and Regulations.** The Board shall have the right to establish and amend, from time to time, reasonable rules and regulations for: (i) the administration of the Association and the governing documents, (ii) the maintenance, management, operation, use, conservation and beautification of the subdivision, and (iii) the health, comfort and general welfare of the residents; provided however, that such rules may not be in conflict with law or the governing documents. The Board shall, at all times, maintain the then current and complete rules in written form which can be copied and distributed to the members and may be recorded in the Real Property Records of El Paso County, Texas.

**Section 5. Conflict of Interest.** A contract or transaction between the Association and one more directors, officers or members which have a financial interest is valid and enforceable notwithstanding such

relationship or interest only if the material facts as to the relationship or interest as to the contract or transaction are disclosed to or known by the Association's Board of Directors or the members. In the event the Board considers a contract or transaction which would create a conflict of interest or in which a director, officer or member has a financial interest, the Board may authorize the contract or transaction by the affirmative vote of a majority of the disinterested directors. Alternatively, the contract or transaction may be submitted to the members for review and approval. The person who is a director, officer or member who has a financial interest or conflict of interest may not participate in the voting or deliberation but may be present and may answer any questions or make any statements that the person deems appropriate.

**Section 6. Amendments.** The power and authority to alter, amend or repeal the Bylaws, or to adopt new Bylaws, is retained by the Board of Directors.

**Section 7. Governing Law.** The enforcement of these By-laws and interpretation of any provisions of the By-laws, rules and regulations, or any matter relating to the conduct and affairs of the Association shall be governed by the law of the State of Texas as that law currently exists or may hereafter be amended.

We, the undersigned, being all the existing Directors of the Association, do hereby certify that we hereby assent to the foregoing Bylaws and hereby adopt the same as the Bylaws of said Association.

**IN WITNESS WHEREOF**, we have hereunto subscribed our names effective as of the 24th day of June, 2014.

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RANDAL S. O'LEARY

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PATRICK WOODS

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KELLY O'LEARY