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Certificate of Corporate Resolution

Revised Bylaws



DOC #2020132907

I, the undersigned, do hereby certify:

That I am the duly elected and authorized Secretary and President of the Grand Harbor Property Owners Association, Inc., a Texas Non-Profit Corporation.

That the foregoing Resolution was duly adopted by formal action of the Board of Directors on the 29th day of October 2020.

By: [Signature]
Title: Bob President

By: [Signature]
Title: Treasurer

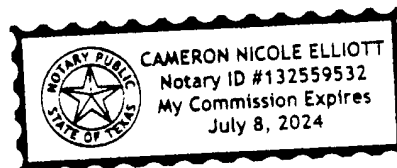
THE STATE OF TEXAS
COUNTY OF MONTGOMERY

THIS INSTRUMENT was acknowledged before me on the 30th day of October, 2020 by Kevin Smith, Secretary and Mark Dearing, President of GRAND HARBOR PROPERTY OWNERS ASSOCIATION, a Texas non-profit corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes therein expressed and in the capacity therein expressed.

[Signature]

Notary Public – State of Texas

After filing, mail to:
Grand Harbor POA
18956 Freeport Dr. Suite A
Montgomery, TX 77356



**GRAND HARBOR PROPERTY OWNERS ASSOCIATION
FIFTH AMENDED AND RESTATED BYLAWS**

Adopted on November 29, 2020

GRAND HARBOR
Property Owners Association

FIFTH AMENDED AND RESTATED BYLAWS

ENABLING RESOLUTION

**FIFTH AMENDED AND RESTATED BYLAWS OF
GRAND HARBOR PROPERTY OWNERS ASSOCIATION**

WHEREAS, pursuant to Article VI, Paragraph F of the First Amended Bylaws of the Grand Harbor Property Owners Association (the "Association"), the Association's Board of Directors is vested with the authority to bring forward, to the Association Members, alterations and amendments of the Bylaws of the Association; and,

WHEREAS, Bylaws of the Association were duly adopted by the Board of Directors on June 28, 2004 (the 'Original Bylaws'); and,

WHEREAS, the Original Bylaws were amended and restated by the Board of Directors on March 13, 2006 (the "First Amended and Restated Bylaws"); on February 15, 2012, (the "Second Amended and Restated Bylaws"), and on March 7, 2014 (the "Third Amended and Restated Bylaws"), and on November 18, 2015 (the "Fourth Amended and Restated Bylaws");

WHEREAS, the current Board of Directors desires to replace the Fourth Amended and Restated Bylaws");

NOW THEREFORE, pursuant to the authority contained in the First, Second, Third and Fourth Amended and Restated Bylaws, the Board of Directors of the Association hereby brings forward for adoption the following Fifth Amended and Restated Bylaws of the Grand Harbor Property Owners Association.

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**FIFTH AMENDED AND RESTATED BYLAWS
OF GRAND HARBOR PROPERTY OWNERS ASSOCIATION**

ARTICLE 1.

NAME, PRINCIPAL OFFICE, DEFINITIONS, PROPERTY AND MEMBERSHIP

Section 1.01 Name

The name of this corporation is Grand Harbor Property Owners Association (the "Association").

Section 1.02 Principal Office

The principal office of the Association shall be located in Montgomery County or such other place as may be designated by the Board of Directors of the Association (the "Board") from time to time.

Section 1.03 Definitions

Except as otherwise provided herein, the words used in these Bylaws shall have the same meaning as set forth in that Declaration of Covenants Conditions and Restrictions of Grand Harbor Section 1, recorded in the Montgomery County, Texas public records under Clerk's File No. 99029326 (said Declaration, as amended, renewed, or extended from time to time), together with any and all Declarations filed of record submitting additional property to the jurisdiction of the Association, (collectively, the "Declaration"). For clarity, the words "Owner" and "Member" shall have the same meaning for purposes of these Bylaws. These definitions include but are not limited to:

- A. "Association" shall mean and refer to Grand Harbor Property Owners Association.
- B. "Property" and/or "Properties" shall mean and refer to Grand Harbor Sections 1 through 16, and Harbor Side at Grand Harbor Side Sections One and Two.
- C. "Lot" and/or "Lots" shall mean and refer to the Lots show upon the subdivision plats which are restricted to use for single family residential dwellings only.
- D. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is part of the Properties, but in the event of the execution of a contract for sale covering any Lot, the Owner shall be the purchaser named in the contract, but excluding those having such interest merely as security for the performance of an obligation and those having only an interest in the mineral estate.
- E. "Architectural Control Committee" and/or "ACC" shall mean and refer to Grand Harbor Architectural Control Committee.
- F. "Member" shall mean and refer to every person or entity who holds a membership in the Association.
- G. "Board of Directors" shall mean and refer to the elected body of the Association.

Section 1.04 Property

The Property affected by these Bylaws is the property described on the first recorded plat for Grand Harbor recorded under Clerk's File No. 99028551 in the Map Records of Montgomery County, Texas, and any other subdivisions which are subsequently annexed and made subject to the authority of the Association.

Section 1.05 Membership

The Association shall have one (1) class of membership as more fully set forth in the Declaration Article V, Section 1, "Membership," and specifically incorporated herein by reference.

ARTICLE 2.

ASSOCIATION: ANNUAL MEETING, QUORUM, VOTING, PROXIES

Section 2.01 Place of Meetings of Members

Meetings of the Association shall be held 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 2.02 Annual Meeting of the Association

The Board of Directors shall call an Annual Meeting of the Association Members which shall be held in the month of May. Directors shall be elected by the Membership at the Annual Meeting according to the procedures described in these Bylaws. Should the Board of Directors fail to conduct an Annual Meeting, the Association Members may follow the procedures outlined in Texas Property Code. The Annual Meeting may be held in person or by virtual or telephonic means.

Section 2.03 Special Meetings of the Association

- A. Upon the request of a majority of Directors, or the receipt of a petition signed by Owners representing at least 10% of the Lots, the President of the Board shall call a Special Meeting of the Association. A Special Meeting may be held in person or by virtual or electronic means.

While a Special Meeting may be called for any purpose the following items must be voted on at a Special Meeting or Annual Meeting:

1. Any proposed borrowing or request of the Board to open a credit facility, or otherwise create secured or unsecured indebtedness on the part of the Association (with the exception of routine business leases or similar methods for financing items such office equipment, vehicles, etc.).

2. Any proposed Amendment(s) to the Certificate of Formation; the Declarations of Covenants, Conditions and Restrictions, ("CCRs"); or for approval of the Bylaws.
 3. The acquisition, disposition of interest in real property by purchase, sale, lease or any other means.
 4. The purchase or lease of a New Asset above the limits specifically detailed in Section 8.06.
- B. The Notice of a Special Meeting shall be sent to the Members a minimum of thirty (30) calendar days prior to a Special Meeting. The thirty (30) day notice requirement may be shortened if the Board determines in its sole discretion that exigent circumstances require a shorter period. In no event shall the notice be sent fewer than ten (10) days in advance of the Special Meeting. The Notice should include a full description of the matter to be voted on, a statement by the Board as to the purpose of the Special Meeting (see Section 2.04, below), all relevant financial information including the terms, conditions, restrictions and other details of the transaction, all information pertinent to the matter being voted on, including a full description of the changes being or action being considered. In the case of borrowing, there must be an analysis of the financial situation prepared by the Financial Planning and Oversight Committee ("FPOC") and approved by the Board outlining the reason for the necessity of borrowing and all details of the terms and conditions of the credit facility being considered.

Section 2.04 Notice of Meetings

Members shall be given notice of the date, hour, place, and general subject matter of an Annual or Special Meeting of the Association. The notice shall be sent to each Owner, not later than the 10th day or earlier than the 60th day before the date of the meeting, via the U.S. Postal Service. The notice of a meeting shall be deemed to be delivered when deposited in the U.S. Mail, first class postage affixed, and addressed to the Member at his or her address as it appears on the records of the Association, with postage thereon prepaid.

Section 2.05 Waiver of Notice

Waiver of notice of an Association meeting shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any Association meeting either before or after such meeting. Attendance at a meeting, either in person or by proxy, shall be deemed waiver by such Member of sufficient notice of the time, date and place thereof. This Section 2.04 shall not apply to meetings of the Association at which a vote or election occurs.

If any meeting of the Association cannot be held because a quorum is not present, either in person, by proxy, by absentee ballot, or by electronic ballot, the presiding officer or a majority of the Members who are counted present at such meeting may adjourn the meeting and immediately reconvene, or adjourn the meeting to a time not more than thirty (30) calendar days from the time the original meeting was called. At the reconvened

meeting if a quorum is present, any business that might have been transacted at the meeting originally called may be transacted.

All votes cast by Members prior to the originally called meeting either in person, by proxy, by absentee ballot, or by electronic ballot on issues to be considered at the meeting shall be valid and may be counted at the reconvened meeting at which a quorum is present, provided that a Member who cast a vote on an issue either in person, by proxy, by absentee ballot, or by electronic ballot may change that Member's vote at any time prior to the time that a call for a vote on the issue is made at the reconvened meeting at which a quorum is present. A Member may change his vote by attending the reconvened meeting in person to vote in a different manner.

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 above.

Section 2.06 Voting

Members shall be entitled to one (1) vote for each Lot they own. When more than one person holds such ownership, all such persons shall be Members, and the vote for such Lot shall be exercised as they may among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

Section 2.07 Majority and Super Majority

.For purposes of these Bylaws, the term “**Super Majority**” means 67%, while the term “**Majority**” means a simple majority (50% + 1 vote). The terms are most crucial for:

- A. Any proposed borrowing or request of the Board to open a credit facility, or otherwise create secured or unsecured indebtedness on the part of the POA (with the exception of routine business leases or similar methods for financing items such as office equipment, vehicles, etc.) shall require an affirmative vote of a **Super Majority** of Owners present at a duly called Special Meeting at which a quorum has been established
- B. The acquisition, disposition of interest in real property by purchase, sale, lease or any other means shall require an affirmative vote of a **Majority** of Owners present at a duly called Special Meeting at which a quorum has been established.
- C. The purchase or lease of any New Asset with an Acquisition Cost greater than the limits set in Section 8.08.B, shall require an affirmative vote of a **Majority** of Owners present at a Special Meeting at which a quorum has been established.
- D. The vote required to pass any proposed Amendment(s) to the Certificate of Formation; the Declaration, or the Bylaws shall be determined in accordance with the amendment provision of the document to be amended. Where the document is silent, an affirmative vote of a **Super Majority** of Owners present at a duly called Special Meeting at which a quorum has been established at an Annual or Special Meeting

Section 2.08 Quorum

Except as otherwise provided in these Bylaws or in the Declaration, the presence, in person, by proxy, absentee, or electronic means, of Owners representing ten percent (10%) of the total eligible votes in the Association shall constitute a quorum at meetings of the Association. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment. In the event, however, a sufficient number of Members depart, leaving less than a quorum at such a meeting, business may continue to be conducted provided that:

- A. At least five percent (5%) of the total votes of the Association remains present in person and/or by proxy; and
- B. Any action taken shall be approved by at least a Majority of the Members required to constitute a quorum.

If a quorum is not present or represented for a Board election Annual Meeting, the meeting shall be adjourned without notice other than announcement at the meeting and immediately reconvened for the sole purpose of election of Directors. At the reconvened meeting, a quorum shall be all those Members counted as present whether in person, by proxy, by absentee ballot, or by electronic ballot. Directors shall be elected by a majority of those votes of Members counted as present whether in person, by proxy, by absentee ballot or by electronic ballot.

Section 2.09 Proxies and Absentee Ballots

The voting rights of an Owner may be cast or given by one or more of the following methods:

- A. In person or by proxy or power of attorney at a meeting of the Association; or
- B. By absentee ballot in accordance with these Bylaws; or
- C. By electronic ballot in accordance with these Bylaws; or
- D. By any method of representation or delegated voting method provided by the Declaration.

Section 2.10 Tabulation and Recount of Votes

Tabulation any and all votes and any recount will be governed by the Texas Property Code, as amended.

ARTICLE 3.

BOARD OF DIRECTORS: NUMBER, ELECTION PROCESS, VACANCIES

Section 3.01 Composition and Selection

A. Governing Body

1. Composition and Membership: The affairs of the Association shall be managed by a Board of Directors, each of whom shall have one vote. All Directors must be Members of the Association

2. Number of Directors: The number of Directors on the Board must be an odd number and shall be either five (5) or seven (7). If a Director vacancy occurs at any time, the Board shall fill that vacancy according to the procedures found in these Bylaws. The Board may increase the number of Directors only in conjunction with the Annual Meeting election and not through appointment of additional Directors. Any decrease in the number of Directors must be approved by a Super Majority of the Association Membership.

B. Term of Office; Term Limits

1. Directors shall serve for a term of two (2) years.
2. A Member who is elected or appointed to the Board of Directors is limited to three (3) consecutive terms on the Board. A Director who is elected or appointed to three (3) consecutive terms on the Board may not be elected or appointed again until the annual Board election in the year following the expiration of the Director's third term.

C. Board Member Election Protocol

Election Date: The election to fill Board Director vacancies shall take place at the Annual Meeting.

Election Committee: No more than ninety (90) nor less than thirty (30) calendar days prior to the election, the Board shall appoint an Election Committee composed of a nominal membership of three (3) Members, and shall designate the chair of the committee. The Election Committee shall oversee all facets of the election, including Solicitation of candidates under the Texas Property Code, preparation of the ballots, supervision of the ballot boxes on election night, and counting and tallying of ballots.

1. Board Candidacy: At least ten days before the date the Association disseminates absentee or other ballots to the Members for purposes of voting in a Board Election, the Association must provide notice to the Members soliciting candidates interested in running for the Board. The notice must contain instructions for an eligible candidate to notify the Association of the candidate's request to be placed on the ballot and the deadline to submit the candidate's request. The deadline shall not be earlier than the 10th day after the date the Association provides the notice. The Association shall include on the ballot the name of each eligible Member from whom the Association received a timely request to be put on the ballot.
2. Each Member interested in running for the Board has the option to complete the Association's "Candidate Biography and Position Statement" form, which is approved by the Election Committee, and return it, in hard copy or electronic format, to the Association's office no sooner than sixty (60) and no later than ten (10) calendar days before the next Board election. Completed "Candidate Biography and Position Statement" forms will be posted on the POA website.

3. A Member convicted of a felony or crime of moral turpitude may run for office but, if elected and if the conviction occurred less than 20 years before the date of the election, is immediately removed.
 4. Spouses or cohabitants of any one Lot shall not serve on the Board simultaneously, unless otherwise provided by state law.
- D. **Ballot Voting:** Owners shall have the option to cast their votes via printed ballot. The Board may, in its sole discretion, offer electronic voting as well, provided the means of electronic voting allows for the verification of authenticity of all votes. Regardless of the form of the ballot, the ballot shall:
1. Designate the number of vacancies to be filled; and
 2. Set forth the names of candidates for such vacancies with spaces opposite each name with the word "For." The order of appearance of the candidates' names on the ballot shall be determined by a quorum of the Election Committee through the drawing of names.

For printed ballots: One ballot per Lot shall be prepared, each containing a random number, and mailed by the Secretary of the Association to all Members of the Association, at least fourteen (14) calendar days in advance of the date designated by the Board of Directors as the date for the election. If duplicate ballots are returned that contain the same random number but both votes are the same, one will be automatically voided. If duplicate ballots are not the same, the Election Committee will contact the Member to determine which ballot should be counted. The candidates receiving the greater number of votes shall be elected to fill the number of positions vacant.

- E. **Election Results Declaration.** If by the time set above for the filing of applications expires and the number of vacancies on the Board of Directors to be filled at any election and the number of eligible candidates for those positions is the same or less, the Association shall not be required to follow the election procedure outlined below for these uncontested races. Rather, for reasons of economy, the Association's President, as the presiding officer of the Board of Directors shall declare the candidates officially elected by acclamation as if elected by the ballot procedure, and they shall take and hold office accordingly. Should the number of candidates be less than the vacancies, once the candidates have been officially declared as elected, the Board shall appoint Members to fill the vacant positions. The Board of Directors shall inform the Members of the Association the names of the elected persons by following the process outlined in the notification of Members for elections and voting.
- F. **Candidacy Endorsement.** The Grand Harbor Property Owners Association may not endorse any candidate.
- G. **Removal of a Director.** Any Director may be removed, with or without cause, at a properly convened Special Meeting at which a quorum is present, by the majority vote of Members present by ballot, in person, by proxy or power of attorney at said meeting. The Board will hold such a Meeting upon receipt of a petition for removal of the Director signed by 25% of the Association's eligible votes. The petition for removal can be initiated by either the Association or the

Board but the removal procedure will be the same. Any Director whose removal is sought shall be given notice fourteen (14) calendar days prior to any meeting called for that purpose.

- H. **Ineligibility Based on Criminal Record.** If the Board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a Board member has been convicted of a felony or crime involving moral turpitude within the last twenty (20) years, the Board member is immediately ineligible to serve on the Board of the Association and is automatically considered removed from the Board, and prohibited from future service on the Board until twenty calendar years have elapsed since the date of conviction.
- I. **Discipline of a Director.** A majority of a quorum of the Board may discipline a Director (but not remove the Director from the Board). Grounds for discipline include but are not limited to violations of the Board's Code of Ethics or Confidentiality Agreement, poor attendance at Board meetings, and offensive or profane conduct at Board or Association meetings. Disciplinary action includes but is not limited to reprimand, removal from Committee assignments or, if the Director is an Officer, removal from office.
A Director's attendance at Board Meetings is poor if, except under emergency circumstances, the Director fails to attend four (4) consecutive meetings if the Board meets weekly, three (3) consecutive meetings if the Board meets bi-weekly and two (2) consecutive meetings if the Board meets monthly.
- J. **Board Vacancy.** In the event of a vacancy on the Board, the remaining Board **members** shall appoint a replacement Director to serve for the remainder of the unexpired term of the vacant position. After the replacement Director's term expires, the position will be filled according to the Annual Meeting procedure described in this Article 2. The vacancy must be filled no later than the second Open Board Meeting after the vacancy occurs.
- K. **Resignation.** Any Officer or Board Member may resign at any time by giving written or verbal 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. Any verbal notice shall be immediately reduced to writing in both the minutes and in a confirming letter or email to the resigning Board member.

ARTICLE 4.

BOARD OF DIRECTORS: POWERS AND DUTIES

Section 4.01 Officers

The Officers of the Association shall be a President, Vice President, Secretary, and Treasurer, to be elected from among the members of the Board. The Board of Directors may appoint such other Officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable. Such Officers shall have the authority to perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary may not be held by the same person.

Subject to the limitations set out in these Bylaws, the Officers of the Association shall each have powers and duties as described below:

- A. **President:** The President has responsibility for the Association's activities, execution of Association contracts and other legally binding documents along with one other Board member, setting final meeting agendas and presiding over any such meetings.
- B. **Vice-President:** The Vice-President shall assume the powers and duties of the President when the President is absent.
- C. **Treasurer:** The Treasurer shall monitor all Association financial activity and ensure all required financial reports are prepared and made available to Members as is required by the Association's Governing Documents.
- D. **Secretary:** The Secretary shall prepare, maintain, and make available to the Members all meeting minutes. The Secretary shall also ensure that all officers and Board members have signed the Code of Ethics and the Confidentiality Policy acknowledgements and said documents are placed in the appropriate Association files. The Secretary is responsible for recording the results of all votes by Board Member as to Yes/No/Abstain/Not Present at Open Meetings, Executive Sessions, or other meetings, whether in-person, telephonically, via virtual or other means, and reporting them to the membership.

Section 4.02 Powers

The Board of Directors shall be responsible for the affairs of the Association and shall have all the powers prescribed by law or granted herein necessary for the administration of the Association's affairs. The Board shall at all times act in the best interest of the Association. The Board of Directors shall delegate to one (1) or more of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, that might arise between meetings of the Board of Directors. In addition to the duties imposed by these

Bylaws, Texas law or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to establish policies relating to, and for performing or causing to be performed for the Association, the following, in way of explanation, but not limitation:

- A. Preparing and adopting the annual budget, in consultation with the IC and FPOC.
- B. Setting annual maintenance charges, establishing the means and methods of collecting such charges, and establishing the payment schedule for maintenance charges;
- C. Collecting the annual maintenance charges, depositing the proceeds thereof in any federally insured bank depository that it shall approve, and using the proceeds to operate the Association or fund the Reserve Funds, as appropriate;
- D. Any and all moneys held for the Emergency Fund, the Residual Fund, the Bridge and Spillway Fund, the M&R Fund, and the New Assets Fund shall be maintained in accounts separate and distinct from all operating or other accounts and from one another;
- E. All accounts shall be deposited in federally insured institutions (no account exceeding FDIC-insured limits) or, if invested in any other financial instrument, approval must be obtained from a majority of a quorum of the Membership by vote;
- F. Providing for the operation, care, upkeep and maintenance of all common areas, including entering into a contract or contracts to provide for such operation, care, upkeep and maintenance.
- G. Making or contracting for the repairs to or replacement of the assets of the existing assets of the Association in accordance with the other provisions of the Declaration and these Bylaws after damage or destruction by fire or other cause.
- H. Designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, operation, repair, and replacement of its Property and the common areas and, 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, in accordance with the conditions of the annual budget;
- I. Making and amending rules and regulations and promulgating, implementing and collecting fines for violations of the rules and regulations, provided that before the Board meets to approve and implement the new or amended rules and regulations, the Members must be notified of the Board meeting at which the Board will consider the proposed new or amended rules and regulations, such notice to be accompanied by a copy of such proposed new or amended rules and regulations;
- J. Opening of bank accounts on behalf of the Association shall require a vote of a majority of the Board of Directors, designating the signatories required, with the stipulation that all accounts shall require the signatures of at least two (2) Directors;
- K. Enforcing by legal means the provisions of the Declaration, including the provisions concerning architectural control, these Bylaws, and the rules and regulations adopted by the Association and bringing any proceedings that may be instituted on behalf of or against the Owners concerning the Association;

- L. Obtaining and carrying insurance against casualties and liabilities with policy limits, coverage and deductibles as required by law and deemed reasonable by the Board of Directors and paying the premium cost thereof;
- M. Paying the cost of all services rendered to the Association or rendered on its behalf to its Members and not chargeable directly to specific Owners;
- N. In accordance with generally accepted accounting practices, the Board shall maintain the books with detailed accounts of all the receipts and expenditures of the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;
- O. Maintaining a membership register reflecting, in alphabetical order, the names, Property addresses and mailing addresses of record of all Members;
- P. Pledge the Association's Assessments and assign the Association's lien rights as collateral for any loan approved by the members and obtained by the Board on behalf of the Association, subject to the limitations contained in Section 4.04 below.
- Q. Making available upon request to any prospective purchaser, any Owner, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Property, for any proper purpose during normal business hours by advance appointment, copies of the Declaration, the Articles of Incorporation, the Bylaws, rules governing such Property and all other non-confidential books, records, and financial statements of the Association for a reasonable charge: and making copies thereof available for a reasonable charge;
- R. Permitting utility suppliers to use portions of the common areas reasonably necessary to the on-going development or operation of the Property; and
- S. Employing those employees necessary for the day-to-day operation of the Association, at a compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize through established policies and procedures. The Board will establish such policies and procedures. The Board of Directors, at its sole discretion, may delegate to the manager.

Section 4.03 Management Company: Should the Board of Directors desire to employ a management company, the Board shall be required to give notice to the Members at a Special Meeting and obtain approval of a majority of the Members' votes cast at the Special Meeting where a quorum is present in person, by proxy, absentee, or electronic means, of Owners representing ten percent (10%) of the total eligible votes in the Association shall constitute a quorum at meetings of the Association.

Section 4.04 Borrowing, Spending and Additional Obligations

- A. **Borrowing.** The Board may only borrow money on behalf of the Association after proper notice of the proposed borrowing, including an explanation of the purpose of the borrowing and details of how the borrowed funds will be used, is provided to the Members and, within a properly convened Special Meeting of Members with a quorum present, the proposed borrowing is approved by sixty-seven percent (67%) as detailed in §2.07.

- B. Real Property Obligations.** All agreements (1) regarding additional Property sections or other real property assets to be incorporated into the subdivision or (2) regarding use by governmental authorities or the public of Association roads or Property, shall be approved by the Board at an Open Board meeting.

At least ten (10) days but no earlier than thirty (30) days prior to any such Open Board meeting, the Board must provide all Members with information regarding the proposed agreement and notice of the date and time of the Open Board meeting at which the proposed agreement will be considered. Such information may be mailed or posted on the Association's website.

Section 4.05 Execution of Legal Documents

Subject to the limitations set out in Article 3, with prior approval of a majority of the Board, all agreements, contracts, deeds, leases, and other instruments of the Association shall be executed by at least two (2) Officers the President (or Vice President if the President is absent) and one (1) other Officer, or such other person or persons as may be designated by resolution of the Board of Directors. The Board may establish a check writing policy for routine administrative recurring expenses

ARTICLE 5. ASSOCIATION MEETINGS

Section 5.01 Board and Member Meetings

- A. Organizational Meeting:** The first meeting of the Board of Directors following each Annual Meeting of the Members is an "Organizational Meeting" and shall be held no later than thirty (30) calendar days following the Annual Meeting at such time and place as shall be fixed by the Board. The purpose of the Organizational Meeting is to select Board Officers.
- B. Regular Board Meetings:** Regular Board Meetings are business meetings of the Board. The Board will hold periodic "Open Meetings" at times and locations selected by the Board and open to the Membership in person or electronically. The President, or her/his designee, shall preside over all meetings of the Board of Directors. The Board shall keep a record of all meetings in the form of written minutes of the meeting, and the Secretary, or her/his designee, shall keep a minute book of all meetings of the Board of Directors, recording therein all resolutions adopted by the Board and all transactions and proceedings occurring at such meetings. The Board members receive, review and discuss reports from the Committees and the Treasurer; make, review and vote on Motions relating to business matters of the Association; consider and debate issues, problems and possible courses of action including seeking bids or approving contracts for projects; and, in general, transact the business matter of the Association.
- C. Frequency:** The Board shall hold at least one (1) Regular Meeting every calendar month. Regular Meetings of the Board shall be open to attendance by all Members of the Association, so that the Members may observe the Board's proceedings, subject to the right of the Board to adjourn a Board meeting and reconvene in

closed Executive Session. At each Regular Meeting there shall be provision for a segment for the Members to present suggestions, raise questions, inform the Board of problems and have open discussions with the Board. The time allotted to Member comments and the time allotted to any particular topic or issue shall be determined solely by the Board.' Members present, in person or by electronic means.

- D. **Method of Meeting:** Board Meetings may be held in person, or by telephonic or virtual means. For any meetings held by any method other than in-person, it is required that all Board members be able to hear all other Board members and be heard by all other Board members.

Section 5.02 Notice of Board Meetings

Members shall be given notice of the date, hour, place, and general subject matter of Board meetings, including a description of the topics to be discussed and the motions under consideration. Any actions taken without a formal Meeting will be described.

- A. The notice shall be provided at least 72 hours before the start of a Regular Meeting by:
1. Posting the notice in a conspicuous manner reasonably designed to provide notice to Members;
 2. Locating the notice on the Association's property, or with the property owner's consent, on other conspicuously located privately owned property within the subdivision; or
 3. Posting the notice on any Internet website maintained by the Association; and
 4. Sending the notice by email to each Owner who has registered an email address with the Association.
- B. Waiver of Notice of a Board meeting shall be deemed the equivalent of proper notice. A Member or Director may, in writing, waive notice of any Board meeting either before or after such meeting. Attendance at a meeting, either in person or by proxy, shall be deemed waiver of sufficient notice of the time, date, and place.

Section 5.03 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 quorum is present shall constitute the decision of the Board of Directors.

Section 5.04 Compensation

No Director shall receive any compensation from the Association for acting as such unless approved by Members representing a majority of the Votes of the Association at a Meeting of the Association; provided, however, that a Director may be reimbursed for expenses incurred on behalf of the Association upon receipt of an appropriate expense report and approval of a majority of the other Directors.

Section 5.05 Executive Session

The Board of Directors may adjourn a Board meeting and reconvene the meeting in closed Executive Session to consider actions including but not limited to those involving personnel, pending or threatened litigation, contract negotiations, enforcement actions, confidential communications with the Association's attorney, matters involving the invasion of privacy of individual Owners, or matters that are to remain confidential by request of the affected parties and agreement of the Board.

Following an Executive Session, any decision made in the Executive Session must be summarized orally by the Secretary and included in the minutes, in general terms, without breaching the privacy of individual Owners, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary and minutes must include a general explanation of expenditures approved by the Board in Executive Session. Information on all votes not taken in an Open Meeting must include names of those voting pro, con and abstaining.

ARTICLE 6. COMMITTEES

Section 6.01 Committee Duties and Responsibilities

The Board of Directors is hereby authorized to establish committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Each Committee established by the Board shall operate in accordance with the terms of the resolution of the Board of Directors designating the Committee, in accordance with such rules as are adopted by the Board of Directors, and provided to the Committee before it begins work, and, if the Committee adopts a charter, in accordance with the charter. The Board of Directors are authorized to establish new committees as needed with the following established as permanent committees whose purposes and organization are defined in Board Resolutions filed within Montgomery County:

- a) Financial Planning and Oversight Committee (FPOC)
- b) Infrastructure Committee (IC)
- c) Architectural Control Committee (ACC)
- d) Advisory Committee for Analysis and Planning (ACAP)

All existing Board Resolutions addressing these committees shall be updated to reflect updated needs by the Board in conjunction with inputs from committee members and knowledgeable residents familiar with each committee's functions. All revisions shall be presented in a scheduled Board meeting prior to Board approval and filing. The refiling shall occur prior to May 1, 2021.

Section 6.02 Committee Membership

A. Committee Members must be Owners or residents.

- B. With the exception of the Architectural Control Committee, Directors may serve on Committees but may not serve as chair of the Committee.
- C. All Committee Members shall be uncompensated volunteers. However, upon receiving permission from the Board, Committees may utilize paid consultants.

Section 6.03 Board Liaisons

Each Committee shall be assigned two Board Members to act as primary and secondary Liaisons. The Liaisons are charged with serving as intermediaries between the Committee and the Board and to assist the Committee in achieving its goals. The Liaisons do not direct, supervise or in any manner oversee the activities of the Committee, but provide support, guidance and assistance.

Section 6.04 Powers

With the exception of the Architectural Control Committee (ACC), all committees of the Association shall be vested with advisory powers only and are not authorized to act on behalf of the Association. The ACC, governed by the subdivision's "Covenants, Conditions and Restrictions" (i.e., Declarations), has other limited approval responsibilities.

Section 6.05 Reporting

Committees shall report on their activities at Regular Meetings.

ARTICLE 7.

FINANCIAL STANDARDS, MANAGEMENT AND REPORTS

Section 7.01 Operating Accounts and Reports

- A. The following fiscal management standards of performance shall be followed:
 - 1. Accrual or cash accounting, as defined by generally accepted accounting principles, shall be employed.
 - 2. Accounting and controls shall conform to generally accepted accounting principles.
 - 3. The following funds; 1) Emergency, 2) Residual, 3) Bridge and Spillway, and 4) New Assets and 5) M&R are to be held separate from one another and may not be comingled, combined or monies transferred between accounts except as outlined in §8.03 et seq..
 - 4. No remuneration without full disclosure and prior agreement of the Board of Directors, or as contained in a written management contract approved in the manner set out in these Bylaws. Any financial or other interest that any Director or the managing agent may have in any firm providing goods or services to the Association shall be fully disclosed promptly to the Board of Directors.

- B. The Board shall cause financial reports to be prepared for the Association, FPOC shall review the reports for submission to the Board for review and approval on a monthly basis. At a minimum, the reports shall contain a/an:
1. Income statement reflecting all income and expense activity for the preceding period on an accrual or cash basis;
 2. Statement reflecting all disbursements for the preceding period from debit cards and ACH transfers;
 3. Variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
 4. Balance sheet as of the last day of the preceding period; and
 5. Delinquency report listing the number of delinquent accounts at the time of the report and describing the status of any action to collect such assessments that remain delinquent. Such report may not contain any identifying information for delinquent members or their individual account histories or detail.
 6. The details of all non-recurring expenditures shall be explained and included in the monthly report.
 7. FPOC will provide a Quarterly report detailing the current status of all budgets.
- C. A preliminary annual report consisting of at least the following shall be prepared by the Financial Planning and Oversight Committee for review and approval by the Board and shall made available to Members within sixty (60) calendar days after the close of the fiscal year and a final annual report shall be made available to Members by the Association's Annual Meeting:
1. a balance sheet;
 2. an operating (income) statement; and
 3. a statement of changes in financial position for the fiscal year.
- The annual report referred to above may be prepared on an audited or reviewed basis, as determined by the Board, by an independent certified public accountant.

ARTICLE 8. ASSOCIATION FUNDS

Section 8.01 Definitions

- A. **"ACAP"** shall mean the Advisory Committee for Analysis and Planning.
- B. **"AMR Plan"** means the five-year plan, developed by the IC, setting forth a schedule of the currently known necessary maintenance and Replacement to Major Assets.
- C. **"AMR Budget"** means the annual estimated Asset Maintenance and Replacement Budget, developed by the IC based on the AMR Plan and provided to FPOC for preparation of its long range planning

- D. **“Annual IC Projects”** means projects outside of the “Ordinary Asset” classification which have been presented to the Board for approval and inclusion in the annual budget.
- E. **“Acquisition Cost”**, for the purposes of approval limits for spending as set out in Section 8.08 and elsewhere, means the total costs of acquiring a New Asset or, in the case that the New Asset is a part or component of a larger project, the total anticipated costs of the entire project. As an example, if the intention is to purchase a truck for \$X and a trailer for \$Y, the Acquisition Cost of the purchase is (\$X + \$Y). The Acquisition Cost shall include (1) the full purchase costs of the New Asset plus applicable taxes, title or registration fees; (2) the costs of any professional services used to identify, select, plan for, and/or install the New Asset or project; (3) the cost of any professional services used to train or supervise with respect to the New Asset or project; and (4) any incremental insurance costs or premiums.
- F. **“Bridge and Spillway Fund”** means a dedicated fund established by the Board for the purpose of ensuring that adequate funds are available to replace bridges and major spillways as needed.
- G. **“Catch-Up Work”** means maintenance and repair projects which were postponed, delayed, cancelled or identified by IC for any reason prior to 2021.
- H. **“Emergency Expenses”** means (1) infrastructure expenses arising from situations not accounted for by the Study, (2) property damage expenses caused by major weather events, or (3) other types of damage that were unforeseeable and cannot be funded from any other Association account.
- I. **“Emergency Fund”** means a dedicated fund established by the Board to cover Emergency Expenses. Initial funding will be from the existing 2020 Reserve Fund..
- J. **“Essential Asset”** means a New Asset, as defined below in 8.01.R., is a component of the infrastructure or of operations of the POA which has been recommended by the Infrastructure Committee and designated by the Board as being necessary to either
 1. Improve the efficiency or functioning of the Association’s operations or infrastructure or
 2. Provide added safety of the Members.
- K. **“FPOC”** means the Financial Planning and Oversight Committee.
- L. **“Fund”** means a defined expense tracking as determined by FPOC
- M. **“IC”** means the Infrastructure Committee.
- N. **“M&R”** means a dedicated fund established by the Board for the purpose of ensuring that adequate funds are available for Maintenance and Replacement expenses
- O. **“Major Assets”** are all assets of the POA with a replacement cost greater **than** \$ 50,000.
- P. **“Major Projects”** are all M&R projects with an expected Total Cost of \$100,000 or more.

- Q. **“Net Ordinary Income”** shall mean the Association's total revenue less all expenses, including but not limited to the following:
1. Professional Services
 2. Operation Expenses
 3. Office expense
 4. Payroll Expense
 5. Employee Benefits and Payroll Fees
 6. Utilities
 7. Federal Taxes
- R. **“New Asset”** means a fixed asset or real property that is not replacing an existing Association asset in purpose
- S. **“Ordinary Asset”** means all assets of the POA that are not Major Assets.
- T. **“Ordinary Asset Plan”** means the 12-month plan prepared by the IC setting forth the maintenance and repair plan for Ordinary Assets. The initial Ordinary Asset Plan shall be completed no later than October 1st of each year, beginning on October 1, 2021. The final, Board-approved Ordinary Asset Plan shall be posted on the Association website.
- U. **“Project Manager”** means the professional project manager experienced in the field of the project, carries professional liability insurance and retained by the Board to oversee a Major Project.
- V. **“Residual Fund”** means a dedicated fund established by the Board to provide money to cover the cost of completing Catch-Up Work. Initial funding shall be per Section 8.03 and will cease to exist once all funds are dispensed
- W. **“Study”** means a five-year study to evaluate the condition, maintenance and repair needs, and expected usable life expectancy of all Major Assets.
- X. **“Total Cost”**, whether applied to a Project or a replacement or acquisition of a new asset, is the cost of all relevant components, including but not limited to the full purchase price/cost plus applicable taxes, title or registration fees; the cost of any professional services used to define, identify, select, plan for, install/supervise and any additional insurance costs,

Section 8.02 Asset Maintenance and Replacement (AMR)

A. The Study

1. The Study consists of two parts.
 - a. It identifies assets with a replacement cost greater than \$50,000, determines the appropriate level of maintenance and estimates its remaining years of useful life and expected replacement costs.
 - b. It provides a risk analysis of all assets with replacement value greater than \$100,000.
2. The Board shall retain a firm with experience in asset management studies and risk analyses to perform the Study. The initial Study shall be completed no later than August 1, 2021 and shall be updated every five

years thereafter. A copy of the most recent Study shall be available on the Association website.

3. The asset management portion of the Study will provide the IC with the information needed to begin to develop the AMR Plan.
4. As part of the Study and each subsequent review, the outside firm shall identify any bridge or spillway that will be within 15 years of remaining life.

B. The Plan.

1. The Plan will be developed annually by IC, with assistance and review by FPOC, and submitted to the Board for review and approval.
2. The Plan will consist of two sections, the first for specific Major Asset related projects and the second a general plan for the smaller, Ordinary Assets.
 - a. Major Asset Projects: The asset management information of the AMR Study will provide the starting point or preliminary list of maintenance and repair work projects. IC will examine the status of the assets and make appropriate changes to the priorities for inclusion in the next year's budget.
 - b. Ordinary Asset Plan: sets forth the general maintenance and repair plan for general minor repairs to roads, entrances, gate damage, drainage and office equipment, etc.
3. The initial AMR Plan shall be completed no later than October 1, 2021 and each year thereafter.
4. The final, Board-approved AMR Plan shall be posted on the Association website.
5. Budgeting presented within the AMR Plan shall include the following four (4) groupings.
 - a. Residual Fund (8.05)
 - b. Emergency Fund (8.06)
 - c. Bridge and Spillway Fund (8.07)
 - d. Maintenance & Replacement Expenses (8.04)

Section 8.03 Minimum Annual Spending for Maintenance and Replacement (M&R).

To ensure a continual funding of M&R work and to avoid any unnecessary delays, the Board shall budget annually a minimum amount equal to 50% of the Association's Net Ordinary Income for the immediately preceding year for M&R. This shall commence for fiscal year 2021. These funds are to be transferred into the M&R Fund and are in addition to the initial M&R funding transferred into the Residual fund.

Section 8.04 Maintenance and Replacement Expenses (M&R)

A. Budgeting.

1. The annual M&R expenses shall result from the coordination of IC and FPOC with final budgetary approval by the Board. In no instances shall the annual funding be less than the minimal funding as determined by 8.03.
 2. The Annual M&R budget shall be developed using the AMR plan as a guide once it is developed.
- B. The funding shall be in addition to funds deposited into the Residual Fund from the Reserve Fund in affect at the end of 2020, Use of Expense Budgets:
1. M&R annual budgeted funds shall be used only for existing asset's work.
 2. For the bridges and spillways. The Annual M&R expenses may be used for general maintenance work for expenses under \$50,000 if identified in the annual funding request by IC.
 3. Any Project approved by the Board is to be charged to that year's budget of the appropriate Fund, whether it is
 - a. completed and invoiced in that year; or
 - b. partially completed in that year and finished and invoiced in whole or in part in a subsequent year; or
 - c. started, completed, and invoiced in a subsequent year.
 4. If the Project is over budget, the overage (and only the overage) is to be included in the budget of the year in which it is completed.

Section 8.05 The Residual Fund

- A. **Funding:** The Residual Fund will be opened with all funds in the current the Reserve Funds at December 31, 2020 less the \$500,000 allocation to the Emergency Fund. Should any funds not be expended by fiscal year end 2021 or any subsequent year, the year-end balance shall be transferred in full to the next year's Residual Fund budget.
- B. **Budgeting:**
1. As part of preparation and development of the 2021 budget, the IC will identify Catch-Up Work to be recommended to the Board for inclusion in the budget.
 2. Once the Board approves the IC's proposed Catch-Up Work, the IC will work with the FPOC to develop a line item for the related expenses to be included in the 2021 budget.
- C. Residual Fund monies are to be deposited into a designated, U.S. government-insured account and may not be comingled with operating or any other Funds.
- D. Upon expending all funds, the Fund will be closed
- E. **Quarterly Reporting.** As part of its quarterly reporting, the IC and FPOC will provide the Board with a list of Catch-Up Work projects which were completed during the quarter and the status of any other budgeted Catch-Up Work projects.
- F. **Year End Accounting.** Until such time as the Fund is exhausted, on or before December 1st of each year (beginning 2021), the IC will provide the FPOC with the following information:
1. A summary of Catch-Up Work completed in the preceding year;

2. A summary of budgeted Catch-Up Work projects which were not completed, which items shall remain on the Catch-Up Work list and budget for the following year (if not fully funded at the time of the report); and
3. A report of all AMR work which was scheduled for the year but which was not completed, with such unperformed projects becoming part of the Catch-Up list for the next year unless the IC recommends additional delays.
4. The final report will be posted on the POA website

Section 8.06 Emergency Fund

A. Funding.

1. The Emergency Fund shall be maintained initially at \$500,000. The minimum balance will be adjusted to reflect the Energy News Record (ENR) Building Cost Index every five (5) years.
2. The initial funding shall be from the existing Reserve Fund and occur for the 2021 fiscal year.
3. Emergency Fund monies are to be deposited into a designated, U.S. government-insured account and may not be comingled with operating or any other funds.
4. When monies are withdrawn from the Fund, the Board shall include in the next annual budget a plan for replenishing the amounts withdrawn using annual fees. If the amount withdrawn exceeds \$250,000, the repayment may occur over a period not to exceed three (3) years, with at least 50% of withdrawn amount replaced the first year. The total annual increase in fees due to the repayment may not exceed \$250,000.

B. Use of Funds. The Emergency Fund shall be used only for the purpose of funding Emergency Expenses, and only to the extent necessary (1) to address imminent threats to life or safety, or (2) to prevent catastrophic damage to or loss of Association property. Examples of appropriate uses of the Emergency Fund include:

1. The cost of containing an immediate threat and minimizing danger to residents and damage to Association and member-owned property;
2. The restoration of basic functions, such as supplying water and/or electricity, and enabling residents to access their homes or leave the subdivision;
3. The cost of any related property insurance deductibles; and
4. The cost of preparing and adopting plans and designs for the repair or replacement of damaged assets (where the repair or replacement of such damaged asset constitutes an Emergency Expense).

C. Procedure for Authorizing Use of Emergency Funds. If an emergency arises, the IC will prepare an emergency fund authorization request with a brief plan: (1) summarizing the situation, (2) outlining the funds requested; and (3) setting forth the intended use of the funds with notification to FPOC. Upon approval of the report's authorization request by a majority of the Board, the requested funds shall be released per the plan. The Board may approve staged release of the funds

requested. In the case a situation arises and there is inadequate time to prepare a report, the Board may make a motion, in consultation with the IC, to immediately release up to \$50,000 with notification to FPOC and Members.

Section 8.07 Bridge and Spillway Fund

A. Annual Funding.

1. Funding will be triggered by expected years of useful life of an asset reaching 15 years. Until that event, there will be no contributions to the Bridge and Spillway Fund.
2. When the 15-year mark is reached, the Board shall make annual contributions to the Fund one-fifteenth ($1/15^{\text{TH}}$) of the Total Replacement Cost.

B. Deposits. Bridge and Spillway Fund monies are to be deposited into a designated, U.S. government-insured account and may not be comingled with operating or any other Funds.

C. Setting Expected Replacement Cost. As part of the identification of the expected useful life milestone for a bridge or spillway, the engineering firm performing the Study or assisting with a subsequent review of the Study will set an expected total cost of replacement of the bridge or spillway. Such expected total cost shall include all attendant costs such as engineering, design, supervision, escalation etc. The expected total replacement cost of each bridge and spillway will be reviewed every five years as part of the review of the updating and amending of the AMR Study and adjusted as per the recommendations of the firm performing the Study.

Section 8.08 New Assets Fund.

The purpose is to build a fund for the acquisition of new assets. The Fund is to be used solely for the Acquisition Cost of New Assets.

A. Funding: The Board shall transfer into the Fund:

1. \$10,000 annually from dues beginning in fiscal 2021.
2. The difference between the available balance in the Fund and the Acquisition Cost of any New Asset approved by the Owners as detailed below.
3. All monies from ACC non-refundable application fees shall be transferred into the New Assets Fund at the end of each year.
4. All asset purchases not requiring Owners approval is limited to a total annual amount of \$75,000 and \$50,000 respectively for **New Essential Assets** and **New Assets**

B. Spending and Spending Authority

1. **New Essential Assets:** At any time, upon receipt of a written recommendation from IC to the Owners detailing the purpose and benefits of the Acquisition, the Board may either authorize or obtain permission from the Owners to authorize funding as follows:
 - a. If the Acquisition Cost is: \$75,000 or less and sufficient funds are not available in the New Assets Fund, the difference between the

available balance and the Acquisition Cost may be added to the annual budget for the following year;

- b. \$75,000 or less and sufficient funds are in the Fund, the Board may authorize the purchase.
- c. More than \$75,000 requires approval by a Majority of affirmative votes of Owners at a duly called Special Meeting at which a quorum is established. (Section 2.03).

2. For New Assets:

- a. Until fiscal year 2024, none of the funds in the New Assets Fund may be spent except for the Acquisition Cost of New Essential Assets, or if authorized by the affirmative vote of a Super Majority of Owners as a duly called Special Meeting.
- b. Beginning in fiscal year 2024, if the Acquisition Cost is:
 - i. \$50,000 or less and sufficient funds are not available in the New Assets Fund, the difference between The Acquisition Cost and the New Asset Fund balance may be added to the next year's annual budget.
 - ii. \$50,000 or less and there are sufficient funds in the Fund, the Board and/or the IC must provide a written report to the Owners detailing the purpose and benefits of the Acquisition at least 72 hours in advance of an Open Meeting at which the Board will motion a vote and vote on the acquisition.
 - iii. More than \$50,000 requires approval by a Super Majority of affirmative votes of Owners at a duly called Special Meeting.

C. New Asset When an Element of a Larger Project. If the asset being acquired is subpart of a larger project, including multi-year, staged projects, the Board will report to the Members the anticipated scope, duration and stages of the project and estimates of the Total Cost.

Section 8.09 Reporting

On a quarterly basis, the IC and FPOC will provide the Board with a report detailing which projects in the AMR Plan were completed during the quarter, including a comparison of budgeted cost to actual cost, and a list of projects to be undertaken in the next quarter. The report will also list all scheduled projects which were delayed, postponed temporarily, or cancelled during the quarter and provide a brief explanation of the reasons for those actions. This report shall be posted on the Association website.

Section 8.10 Supervision of Major Projects

For all Major Projects the Board shall retain licensed firms experienced in appropriate project tasks (engineering, design and project and construction management). At the Board's discretion:

- A. Detailed project supervision may be included in the services provided by the licensed contractor on project executed on a lump sum turnkey (LSTK) project

basis which includes all engineering, design, construction management and physical construction (EPC).

- B. An overall project coordinator experienced in the work being performed may be engaged by the Board to supervise/coordinate the work between the Board and firms hired (single EPC firm or multiple firms) required to perform the work associated with the project. The coordinator shall not be an employee of firms performing the projects.

Regardless of the approach taken all project work contracts shall note that no work scope nor project value can be modified without (i) written approval of the Board, and (ii) written recommendation by IC chairman. In the case the IC chairman is, in the sole discretion of the Board, not experienced/qualified to provide this approval, an independent party not associated with the execution of the project shall be engaged by the Board to act in the IC chairman's place for the limited purposes of evaluating and issuing a recommendation for or against the proposed contract modification.

The project coordinator may be engaged either on a project-by-project basis or under an annual retainer agreement. All costs related to supervision shall be charged to the project being supervised.

ARTICLE 9.

INDEMNIFICATION, INTEREST PARTY CONTRACTS, BUSINESS JUDGMENT RULE

Section 9.01 Indemnification of Officers and Directors

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE ASSOCIATION DOES HEREBY AGREE TO INDEMNIFY, PROTECT, HOLD HARMLESS AND DEFEND ITS OFFICERS, DIRECTORS, AND COMMITTEE MEMBERS,

(HEREINAFTER REFERRED TO COLLECTIVELY AS "INDEMNITEES") FROM AND AGAINST ALL CLAIMS, DEMANDS, DAMAGES, INJURIES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, PENALTIES, LIABILITIES, DEBTS, COSTS AND EXPENSES, INCLUDING COURT COSTS AND ATTORNEYS' FEES (COLLECTIVELY, "LIABILITIES"), OF ANY NATURE, KIND OR DESCRIPTION, WHETHER ARISING OUT OF CONTRACT, TORT, STRICT LIABILITY, MISREPRESENTATION, VIOLATION OF APPLICABLE LAW AND/OR ANY CAUSE WHATSOEVER (INCLUDING WITHOUT LIMITATION, CLAIMS FOR INJURIES TO OR DEATH OF ANY PERSON, OR DAMAGES TO OR LOSS OF ANY PROPERTY) OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY, IN CONNECTION WITH, OR RESULTING FROM ANY ACT OR OMISSION OF ANY OF THE INDEMNITEES; PROVIDED, HOWEVER, THAT THE ASSOCIATION WILL NOT INDEMNIFY THE INDEMNITEES FOR ANY LIABILITIES ARISING AS A RESULT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF INDEMNITEES. THE OBLIGATIONS OF THE ASSOCIATION UNDER THIS SECTION APPLY TO LIABILITIES EVEN IF SUCH LIABILITIES ARE CAUSED IN WHOLE OR IN PART BY THE SOLE, JOINT OR CONCURRENT NEGLIGENCE, FAULT OR STRICT LIABILITY OF ANY INDEMNITEE AND WHETHER OR NOT SUCH

SOLE OR CONCURRENT NEGLIGENCE, FAULT OR STRICT LIABILITY WAS ACTIVE OR PASSIVE.

The Indemnitees will promptly advise the association in writing of any action, administrative or legal proceeding or investigation as to which indemnification may apply, and association, at association's expense, will assume on behalf of Indemnitees and conduct with due diligence and in good faith the defense thereof with competent trial counsel, provided, however, that indemnitees will have the right, at their own option, to be represented therein by advisory counsel of their own selection and at their own expense.

In the event of the failure by association to fully perform its obligations in accordance with this section, Indemnitees, at their option, and without relieving the Association of its obligations hereunder, may so perform, but all costs and expenses so incurred by Indemnitees in that event will be reimbursed by the Association to Indemnitees, the indemnification will not be limited to damages, compensation or benefits payable under insurance policies. It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under this section, such legal limitations are made a part of indemnification obligations and will operate to amend the indemnification obligations to the minimum extent necessary to bring the provisions into conformity with the requirements of such limitations, and as so modified, the indemnification obligations will continue in full force and effect.

Section 9.02 Contracts Involving Interested Directors

- A.** Subject to the limitations listed in subsection (b) below, the Association may enter into a contract with any of the parties or entities listed below, hereinafter referred to as the "Interested Director" whether the party is an individual or a company. The following are Interested Directors for the purposes of this Policy:
 - 1. a current Board Member;
 - 2. a person related to a current Board Member within the third degree by consanguinity or affinity (as determined by Chapter 573 Government Code);
 - 3. a company in which a current Board Member has a financial interest in at least 51% of profits;
 - 4. a company in which a person related to a current Board Member within the third degree of consanguinity or affinity (as determined by Chapter 573 Government Code) has a financial interest in at least 51% of profits.
- B.** A contract entered into by the Association with an Interested Director, is valid and enforceable only if all of the following conditions are satisfied:
 - 1. The Interested Director bids on the proposed contract and the Board has received at least two other bids for contracts from persons not associated with the Interested Director, if reasonably available in the community;
 - 2. The Interested Director is not given access to the other bids;
 - 3. The Interested Director does not participate in any Board discussion regarding the contract;
 - 4. The Interested Director does not vote on the award of the contract;

5. The material facts regarding the Interested Director's relationship or interest with respect to the proposed contract are disclosed to or known by the other members of the Board, and the Board in good faith and with ordinary care, authorizes the contract by an affirmative vote of the majority of the non-interested Directors;
6. The Interested Director may be included in determining the presence of a quorum at a meeting of the Board, or a committee of the Board, that authorizes the contract.

Section 9.03 Business Judgment Rule/Standard of Care.

Any act or thing done by any Director, Officer, or committee member taken in furtherance of the purposes of the Association, and accomplished in conformity with the procedures set forth in the Documents shall be reviewed under the standard of the Business Judgment Rule as established by the common law of Texas, and such act or thing done shall not be a breach of duty on the part of the Director, Officer, or committee member if they have been done within the exercise of their discretion and judgment.

The Business Judgment Rule means that a court shall not substitute its judgment for that of the Director, Officer, or committee member. A court shall not re-examine the quality of the decisions made by the Director, Officer, or committee member by determining the reasonableness of the decisions as long as the decision is made in good faith, with ordinary care, and in what the Director, Officer, or committee member believes to be in the best interest of the Association.

In performing their duties, the officers are required to exercise the standards of care provided by Section 22.221 of the Texas Business Organizations Code. No Officer shall be deemed to be a fiduciary as to the Association or to its members, nor shall a higher standard of care apply than the aforementioned provision of the Texas Business Organizations Code.

ARTICLE 10

LONG RANGE PLAN

Section 10.01 Long Rang Plan

The Board shall charge ACAP with the responsibility for updating and expanding the previous Long Range Plan for our major assets. These assets have a direct impact on property values and the focus of the analysis and the subsequent report should be whether the asset is meeting the functional needs and demands of the Members as well as if their appearance/aesthetic is in keeping with the property values of homes in the subdivision. The functional review would include input from residents and in close consultation with IC. For the appearance/aesthetics perspective, surveys and focus groups of residents would be helpful. To the greatest degree possible, the individual asset should be viewed in the context of the larger system of which it is a part, e.g., a swing arm gate as an integral element of access control.

An updated Plan should be submitted to the Board for review and approval by August 1, 2021. The Plan should be given a cursory review annually to determine whether needs or priorities have changed and a comprehensive assessment and detailed review and amendment every third year

ARTICLE 11. MISCELLANEOUS

Section 11.01 Fiscal Year

The fiscal year of the Association shall be January 1st to December 31st of each year.

Section 11.02 Books and Records

The Association records shall be maintained in accordance with Texas Property Code.

Section 11.03 Financial Oversight

The Board shall charge the FPOC with financial oversight responsibility for the Association

Section 11.04 Notices

Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws 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:

- if to a Member at the postal and/or electronic address that 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
- if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section. It is the duty of the Member to provide a current postal and/or electronic address to the Association.

Section 11.05 Amendment

These Bylaws may be amended only by an affirmative vote or written consent of sixty-seven percent (67%) of the Votes of the Association present, in person, by proxy, by absentee ballot, or by electronic ballot, once a quorum of Members is established at a properly convened Special or Annual Meeting.

Section 11.06 Committee Reports

All Committee formation resolutions shall define specific reports, required contents, and issuance requirements. Additional reports can be required as needed to address specific needs.

FILED FOR RECORD
11/17/2020 02:01PM

Mark Turnbull

COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS,
COUNTY OF MONTGOMERY

I hereby certify that this instrument was filed in the file number
sequence on the date and time stamped herein
by me and was duly RECORDED in the Official Public
Records of Montgomery County, Texas.

11/17/2020



Mark Turnbull

County Clerk
Montgomery County, Texas