

BYLAWS
OF
BELTERRA COMMUNITY ASSOCIATION, INC.
Hays County, Texas

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>PAGE</u>
I Applicability; Definitions; Office	
1.01 Statement of Applicability	1
1.02 Definitions	1
1.03 Principal Office	1
II Membership Rights; Meetings; Voting	
2.01 Membership	1
2.02 Membership Classes	1
2.03 Place of Meetings	2
2.04 Annual Meetings	2
2.05 Special Meetings	2
2.06 Notice of Meetings; Waiver of Notice	
Roster of Members	2
2.07 Casting of Votes	3
2.08 Suspension of Voting Rights	3
2.09 Proxies	3
2.10 Conduct of Meeting	4
2.11 Presiding Officer	4
2.12 Association Action	4
2.13 Quorum	4
2.14 Adjournment of Meetings	4
III Board of Directors	
3.01 Number	4
3.02 Partnership Designation Rights	4
3.03 Election	5
3.04 Qualifications	5
3.05 Term of Office	6
3.06 Compensation	6
3.07 Quorum; Voting	6
3.08 Meetings of Directors	6
3.09 Removal or Resignation of	
Members of the Board of Directors	7
3.10 Vacancies	8
3.11 Committees	8
3.12 Authority; Powers and Duties	8
3.13 Common or Interested Directors	8
IV Officers	
4.01 Designation	9
4.02 Qualifications	9
4.03 Election	9
4.04 Removal or Resignation of Officers	9
4.05 Agreements, Contracts, Deeds, Checks, Etc	10
4.06 Compensation of Officers	10

<u>ARTICLE</u>		<u>PAGE</u>
V	Books and Records; Managing Agent	
	5.01 Books and Accounts	10
	5.02 Inspection of Books	10
	5.03 Annual Report	10
	5.04 Managing Agent	11
	5.05 Management Certificate	12
VI	Insurance	
	6.01 General Requirements	12
	6.02 Physical Damage Insurance	13
	6.03 Liability Insurance	13
	6.04 Other Insurance	14
	6.05 Separate Insurance	14
VII	Compliance and Default	
	7.01 Lots Subject to Governing Documents	15
	7.02 Judicial Proceedings	15
	7.03 Costs and Attorneys' Fees; Indemnification	15
	7.04 Enforcement; No Waiver	15
	7.05 Fines and Sanctions	15
VIII	Miscellaneous	
	8.01 Amendments	16
	8.02 Notices	17
	8.03 Severability; Conflicts	18
	8.04 Interpretation	18

BYLAWS
OF
BELTERRA COMMUNITY ASSOCIATION, INC.

ARTICLE I
Applicability; Definitions; Principal Office

1.01 Statement of Applicability. The provisions of these Bylaws are applicable to (i) the use and occupancy of certain land, buildings and improvements located in Hays County, Texas, which have been or from time to time in the future may be submitted to the provisions of that certain Declaration of Covenants, Conditions and Restrictions, as from time to time amended (the "Declaration"), to which these Bylaws are attached as Exhibit B, as the same is recorded among the Land Records of Hays County, Texas, and (ii) the structure and operation of Belterra Community Association, Inc., a Texas nonprofit corporation, its successors or assigns (the "Association").

1.02 Definitions. Capitalized terms used herein without definition have the meanings specified for such terms in the Declaration.

1.03 Principal Office. For so long as the Partnership shall be a Declarant and shall hold any Class B Membership, the principal office of the Association shall be located at the Austin, Texas office of the Partnership. Thereafter, the principal office of the Association shall be located in Hays County, Texas. The Association may have such other or additional offices within or without the State of Texas as the Board of Directors from time to time may designate or the affairs of the Association may require.

ARTICLE II
Membership Rights; Meetings; Voting

2.01 Membership. Each Owner shall be a Member of the Association. Membership in the Association is and shall be appurtenant to and inseparable from fee simple ownership of a Lot, and shall not be sold, transferred or conveyed, or encumbered or otherwise hypothecated except together with the sale, transfer or conveyance, or encumbrance or other hypothecation, of the Lot appurtenant to such Membership.

2.02 Membership Classes. The Association shall have two classes of membership, "Class A" and "Class B," as follows:

(a) *Class A:* Class A Members shall be all Owners other than the Class B Member(s), if any. Each Lot owned by a Class A Member(s) (regardless of the number of Members owning such Lot) shall be entitled to one (1) vote at all meetings of the Association.

(b) *Class B:* Each Declarant shall be a Class B Member. Each Lot owned by a Class B Member shall be entitled to three (3) votes at all meetings of the Association; *provided*, that all Class B Memberships shall terminate and automatically be converted to Class A Memberships, with each Lot entitled to one vote (1) at all meetings of the Association, upon the later to occur of the following events:

- (i) The date on which the total number of all votes held by all Class A Members equals the total number of all votes held by all Class B Members; or
- (ii) The tenth (10th) year anniversary of the date this Declaration shall have been recorded among the Land Records; and

provided, further, that a Declarant shall have the right, in the discretion of such Declarant, upon notice of termination recorded among the Land Records, to terminate and convert to Class A Memberships all (but not less than all) of such Declarant's Class B Memberships effective as of the date specified in such notice.

2.03 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to Members as from time to time may be designated by the Board of Directors.

2.04 Annual Meetings. The first annual meeting of the Association shall be held on a date to be determined by the Partnership (or any Designated Declarant, as the case may be) within one (1) year following the date the Articles of Incorporation shall have been filed with the Secretary of State of the State of Texas. Each subsequent annual meeting of the Association held after the first annual meeting shall be held on a weekday that is not a legal holiday, at least one hundred twenty (120) days, but not more than one hundred eighty (180) days, after the close of each fiscal year. Subject to the provisions of Section 3.02 of these Bylaws, at all annual meetings of the Association, members of the Board of Directors shall be elected and such other business as properly may come before a meeting may be transacted.

2.05 Special Meetings. Special meetings of the Association shall be called at any time by the President upon resolution of the Board of Directors or, after the first annual meeting of the Association, upon the written petition of Members holding not less than ten percent (10%) of all outstanding Class A Memberships in the Association from time to time, or for so long as any Declarant shall own any Lot(s), if so requested by any such Declarant. Such resolution, petition or request shall (i) specify the time and place of such meeting, (ii) specify either the date of such meeting or that the Secretary shall designate such date, (iii) specify the purpose or purposes of such meeting, and (iv) be delivered to the Secretary. No business shall be transacted at a special meeting except as stated in the notice of such meeting given in accordance with the provisions of Section 2.06.

2.06 Notice of Meetings; Waiver of Notice; Roster of Members.

(a) Written notice stating the time and place of each meeting of the Association shall be given to each Member entitled to vote thereat, and, if such meeting is a special meeting of the Association or if otherwise required by these Bylaws or by law, such notice also shall state purpose or purposes of such meeting. Notice shall be given by the Secretary or any Assistant Secretary of the Association if such meeting is an annual meeting of the Association or is a special meeting of the Association called by the President or any Declarant, and if such meeting is a special meeting of the Association petitioned by Members in accordance with Section 2.05 of these Bylaws, shall be given by such Members. Each notice of meeting shall be hand delivered or mailed, postage prepaid, not less than ten (10) nor more than fifty (50) days before the date of such meeting and shall be addressed to each Member at his, her or its address as it appears on the books of the Association. The mailing of notice of meeting in the manner provided herein shall be deemed service of notice.

(b) Any Member at any time in writing may waive notice of any meeting of the Association, and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Member at any meeting of the Board of Directors shall constitute a waiver of notice by such Member of the time and place of such meeting and, if such meeting is a special meeting of the Association, also shall be deemed a waiver of notice of all business transacted at such meeting, unless such attendance is for the purpose of objecting to such meeting.

(c) The Board of Directors shall maintain a current roster of the names and addresses of Members to which notices of meetings of the Association shall be sent. Each Member shall furnish the Board of Directors with his, her or its name and current mailing address and, upon the sale or other disposition of such Member's Lot, no less than seven (7) days prior written notice of transfer disclosing the name and address of the transferee, the date of transfer and such additional information as may be requested by the Board of Directors. The Board of Directors may rely on the most current information supplied to it by a Member, and shall have no responsibility to verify or independently obtain any such information.

2.07 Casting of Votes. Since an Owner of a Lot may be more than one Member (in the case, for example, of a husband and wife), the Member who shall be entitled to cast the vote of such Lot shall be the Member named in a certificate executed by all of the Members constituting such Owner and filed with the Secretary, or, in the absence of such named Member from a meeting (or the failure to name a Member), the Member who shall be entitled to cast the vote of such Lot shall be the Member who is present at any meeting, if only one Member is present. If more than one Member is present and no certificate has been filed with the Secretary (or if the Member named in the certificate for such Lot is not present), the vote appertaining to a Lot shall be cast only in accordance with the agreement of a majority of the Members so present, and such agreement shall be conclusively presumed if any one Member purports to cast the vote appertaining to that Lot without protest being made to the presiding officer of the meeting. If protest is made, such protest automatically shall constitute an abstention and such Lot shall be counted solely for the purpose of determining whether a quorum is present.

2.08 Suspension of Voting Rights. Subject to Section 7.05 of these Bylaws, but without limiting any other provision of these Bylaws, the Declaration or any other Governing Document, no Member may vote at any meeting of the Association if at the time of such meeting such Member shall be delinquent by more than sixty (60) days in the payment of any financial obligation to the Association.

2.09 Proxies. The vote appertaining to any Lot may be cast pursuant to a proxy duly executed by or on behalf of the Owner of such Lot, or, in cases where the Owner is more than one Member, by or on behalf of all Members. A proxy may be instructed (directing the proxy how to vote) or uninstructed (permitting the proxy to vote in his or her discretion). Only a Declarant and an officer of the Association may hold more than one proxy, and an officer of the Association may hold no more than five (5) uninstructed proxies. The foregoing limitation shall not apply to Mortgagees or to attorneys or rental agents for nonresident Owners with respect to proxies granted for Lot(s) represented. No proxy shall be revocable except by actual written notice of revocation given to the presiding officer of the meeting by an Owner, or, in cases where such Owner is more than one Member, by or on behalf of all such Members. A proxy shall be void if it is not dated or if it purports to be revocable without notice as aforesaid. All proxies must be filed with the presiding officer of the meeting at or prior to the time of any meeting for which they are given. No proxy shall be valid for a period in excess of eleven (11) months after execution thereof, unless otherwise provided in such proxy and unless such proxy is witnessed and notarized.

2.10 Conduct of Meetings. The minutes of all meetings shall be kept in a Minute Book maintained for the Association by the Secretary. The then current Robert's Rules of Order or any other rules of procedure acceptable to a majority of the votes of Members shall govern the conduct of all meetings of the Association when not in conflict with these Bylaws or the Declaration. All votes shall be tallied by a person or persons appointed by the presiding officer of the meeting.

2.11 Presiding Officer. Any person designated by the Partnership (or any Designated Declarant, as the case may be) shall preside at the first annual meeting of the Association. Thereafter, the President or his or her designee shall preside at all meetings of the Association. In the absence of the President or such designee at any meeting of the Association, any person chosen by the Board of Directors shall preside over such meeting.

2.12 Association Action. Except as otherwise provided in these Bylaws, the Articles of Incorporation, the Declaration or any other Governing Document, or as required by law, decisions of the Association shall be made by Members holding a majority of the votes. As used in these Bylaws, the term "Members holding a majority of the votes" or words of like import shall mean more than fifty percent (50%) of the aggregate votes entitled to be cast by Members present, in person or by proxy, at a meeting of the Association at which a quorum is present.

2.13 Quorum. Except as otherwise provided in these Bylaws or as required by law, the presence, in person or by proxy of Members holding thirty-five percent (35%) of the outstanding votes of all Class A Memberships and all Class B Memberships in the Association from time to time shall constitute a quorum at and throughout all meetings of the Association.

2.14 Adjournment of Meetings. Unless otherwise provided in these Bylaws or as required by law, if any meeting of the Association cannot be held because a quorum is not present, Members holding a majority of the votes present, in person or by proxy, at such meeting may adjourn the meeting, without further notice, to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called.

ARTICLE III Board of Directors

3.01 Number. The affairs of the Association shall be managed by a Board of Directors composed of either three (3) or seven (7) members as provided below. The initial Board of Directors shall be composed of the three (3) persons named in the Articles of Incorporation, all of whom have been designated by the Partnership.

3.02 Partnership Designation Rights. For so long as any Class B Membership shall exist, the Board of Directors shall be composed of three (3) persons all of whom shall be designated by the Partnership (or any Designated Declarant, as the case may be) in its sole discretion, *provided*, that the Partnership or any Designated Declarant shall have the right, in its discretion and upon notice of termination recorded among the Land Records, to terminate in whole or in part the right of designation hereby granted effective as of the date specified in such notice, which right of termination is separate and apart from the right of a Declarant to convert Class B Memberships under Section 2.02 of these Bylaws or the Declaration. At such time as such Declarant's right to designate the Board of Directors shall terminate as herein provided, the Board of Directors automatically shall be increased from three (3) to seven (7) members, and a special meeting of the Association shall be called at which all members of the Board of Directors

so designated by the Partnership or any Designated Declarant shall be deemed to have resigned and all seven (7) members of the Board of Directors shall be elected by all then Members, including, without limitation, all Class B Members, if any.

3.03 Election.

(a) Elections Committee. At least sixty (60) days prior to each meeting of the Association at which members of the Board of Directors shall be elected by all Members, the then sitting Board of Directors shall appoint an Elections Committee comprised of no less than three (3) members, one of which members shall be a member of the Board of Directors. The remaining members of the Elections Committee shall be Members. The Elections Committee shall develop election procedures and administer such procedures as from time to time may be approved by the Board of Directors.

(b) Nominations. Except for members of the Board of Directors named in the Articles of Incorporation or designated by the Partnership or any Designated Declarant as provided above, each person eligible for election as a member of the Board of Directors may be nominated only by petition signed by Members representing at least ten (10) Lots and submitted to the chairman of the Elections Committee at least thirty (30) days prior to the date of the meeting at which such election shall be held, *provided*, that additional nominations may be made from the floor of any meeting for any vacancy for which no more than one person has been nominated by petition. Each nominee shall be required to consent to nomination, which consent either shall be made in person at the meeting for which such election shall be held or by written instrument filed with the Elections Committee or the presiding officer of the meeting at or prior to the time of such meeting.

(c) Election. Except for members of the Board of Directors named in the Articles of Incorporation or designated by the Partnership or any Designated Declarant, Directors shall be elected by plurality vote. Each Lot owned by a Class A Member(s) (regardless of the number of such Members owning such Lot) shall be entitled to one (1) vote for as many persons as there are Directors to be elected and for whose election such Member(s) shall be entitled to vote. Cumulative voting by Class A Members shall be prohibited. Each Lot owned by a Class B Member shall be entitled to three (3) votes for as many persons as there are Directors to be elected and for whose election such Member shall be entitled to vote. Cumulative voting by Class B Members shall be permitted but only to the extent of such Member's triple voting strength.

3.04 Qualifications. Except for members of the Board of Directors named in the Articles of Incorporation or designated by the Partnership or any Designated Declarant, all members of the Board of Directors shall be Members, or members, stockholders, partners, officers, directors, trustees, agents or employees of Members that are not natural persons. Subject to Section 7.05 of these Bylaws, but without limiting any other provision of these Bylaws, the Declaration or any other Governing Document, no Member may be elected to or may serve on the Board of Directors if at the time of such election or during such incumbency such Member shall be delinquent by more than sixty (60) days in the payment of any financial obligation to the Association. No husband and wife or more than one member of any single family household shall be eligible to serve on the Board of Directors at the same time and, except for members of the Board of Directors named in the Articles of Incorporation or designated by the Partnership or any Designated Declarant, no member of the Board of Directors shall be eligible to serve more than two (2) full terms.

3.05 Term of Office. At the first annual meeting of the Association at which members of the Board of Directors shall be elected by all Members, each person receiving the first and second highest number of votes shall be elected to the Board of Directors for a term of three (3) years, each person receiving the third, fourth and fifth highest number of votes shall be elected to the Board of Directors for a term of two (2) years, and the remaining persons shall be elected for a term of one (1) year. Each person elected as a member of the Board of Directors at any subsequent annual meeting of the Association shall be elected for a three (3) year term. Each person elected as a member of the Board of Directors shall hold office until such person's successor shall have been elected and shall have qualified.

3.06 Compensation. No Director shall receive any compensation for serving as a Director, although each Director shall be entitled to reimbursement for actual and reasonable expenses incurred in the performance of his or her duties to the Association.

3.07 Quorum; Voting. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business and, except as otherwise provided in Section 3.08(g) of these Bylaws or otherwise in these Bylaws, the Declaration or any other Governing Document, the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the act of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present or the sole present Director may adjourn the meeting from time to time. At any such reconvened meeting at which a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice.

3.08 Meetings of Directors.

(a) Regular Meetings. Regular meetings of the Board of Directors shall be held between annual meetings of the Association, with such frequency and at such time and place as shall be determined from time to time by the Board of Directors, but no less frequently than twice each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director by personal delivery, recognized overnight courier, telecopy or electronic mail at least five (5) Business Days prior to the date scheduled for such meeting.

(b) Special Meetings. For so long as the Partnership or any Designated Declarant shall have the right to designate members of the Board of Directors under Section 3.02 of these Bylaws, special meetings of the Board of Directors may be called by the President or the request of any member(s) of the Board of Directors. Thereafter, special meetings of the Board of Directors may be called by the President or upon written petition of no less than three (3) members of the Board of Directors. No less than seventy-two hours prior notice of the time, place and purpose of each special meeting of the Board of Directors shall be given to each member of the Board of Directors by the President or such petitioning Director(s), as the case may be, by personal delivery, recognized overnight courier, telecopy or electronic mail.

(c) Organization Meeting. A special organization meeting of the Board of Directors shall be held within ten (10) days after each annual meeting of the Association. No notice to the members of the Board of Directors shall be necessary in order legally to constitute such special meeting, provided that a quorum shall be present thereat.

(d) Waiver of Notice. Any Director at any time and in writing may waive notice of any meeting of the Board of Directors and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors

shall constitute a waiver of notice by such Director of the time and place of such meeting and, if such meeting is a special meeting of the Association, also shall be deemed waiver of notice of all business transacted at such meeting, unless such attendance is for the purpose of objecting to such meeting.

(e) Telephone Meetings. Members of the Board of Directors may participate in any meeting of the Board of Directors by means of a conference telephone or similar communication equipment if all persons participating in such meeting can hear each other at the same time. Such participation shall constitute presence in person at any such meeting.

(f) Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors consent in writing to such action. Any such unanimous written consent shall be filed with the minutes of the proceedings of the Board of Directors.

(g) Conduct of Meetings. A minute book recording all resolutions adopted by the Board of Directors, and a record of all transactions and proceedings occurring at all meetings of the Board of Directors shall be kept by the Secretary of the Association. The then current Robert's Rules of Order or any other rules of procedure at any time or from time to time acceptable to a majority of the Board of Directors shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Declaration or these Bylaws. Unless otherwise decided by a majority in number of the entire Board of Directors with respect to a specific matter or meeting, all meetings of the Board of Directors shall be held in closed session, *provided*, that a copy of the Minute Book maintained by the Secretary in accordance with this Section shall be made reasonably available for examination by all Members, and *provided, further*, that, notwithstanding the foregoing or any provision of these Bylaws, the Declaration or any other Governing Document to the contrary:

- (i) The Secretary shall give to the Partnership (or any Designated Declarant, as the case may be), written notice of all meetings of the Board of Directors simultaneously with notice given to the members of the Board of Directors, together with a written copy of all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at all meetings of the Board of Directors; and
- (ii) The Partnership (or any Designated Declarant, as the case may be), shall have the unqualified right to attend all meetings of the Board of Directors and the additional right and standing to be heard thereat.

3.09 Removal or Resignation of Members of the Board of Directors.

(a) Until the first meeting of the Association at which members of the Board of Directors shall be elected by all Members, the Partnership (or any Designated Declarant, as the case may be) shall have the right to remove any member of the Board of Directors, with or without cause, and to designate their successors. Thereafter, any member of the Board of Directors may be removed, with or without cause, by Members holding a majority of the votes at any regular or special meeting of the Association duly called for such purpose, and a successor may then and there be elected for the unexpired term of his or her predecessor in office. Any Director whose removal has been proposed by the Members shall be given at least seven (7) days'

notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting.

(b) Any member of the Board of Directors may resign at any time and shall be deemed to have resigned in the event such member for any reason shall be incapacitated or otherwise absent from four (4) consecutive meetings of the Board of Directors without the consent of the Board of Directors reflected in the minutes of its proceedings, or shall become disqualified under Section 3.04 of these Bylaws.

3.10 Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director as provided in Section 3.09 (which shall be filled as provided in such Section) shall be filled by the sole remaining Director or by a vote of a majority of the remaining Directors (whether or not the remaining Directors constitute a quorum) at a special meeting of the Board of Directors held for such purpose promptly after the occurrence of any such vacancy, and each person so elected shall be a member of the Board of Directors until a successor shall be elected at the next annual meeting of the Association for the unexpired term of his or her predecessor in office; *provided, however,* that, until the first annual meeting of the Association at which members of the Board of Directors shall be elected by all Members, any vacancy in the position of any member of the Board of Directors shall be filled by the Partnership (or any Designated Declarant, as the case may be).

3.11 Committees. The Board of Directors from time to time may appoint (and expand and/or disband) such committees from among its own membership and/or from among the Association as the Board of Directors from time to time deems desirable to assist in the administration, operation and affairs of the Association and the Property.

3.12 Authority; Powers and Duties. Except as otherwise provided by law or expressly reserved to Members in accordance with these Bylaws, the Articles of Incorporation, the Declaration or any Supplemental Declaration, or any other Governing Document, the Board of Directors shall have all of the authority, powers and duties in connection with the administration of the affairs of the Association that are vested in or granted to the Association or the Board of Directors by these Bylaws, the Articles of Incorporation, the Declaration or any Supplemental Declaration, or any other Governing Document, any resolution of the Members hereafter adopted in accordance with these Bylaws, or applicable law. The foregoing grant of authority to the Board of Directors shall be interpreted in its broadest sense.

3.13 Common or Interested Directors. No contract or other transaction between the Association and any one or more of its officers or directors, and no contract or other transaction between the Association and any other Person in which any one or more of the officers or Directors of the Association are officers or directors or are pecuniarily or otherwise interested is or shall be either void or voidable because of such relationship or interest or because any such officer or director is present at any meeting of the Association, Board of Directors or any committee thereof that authorizes, approves or ratifies such contract or transaction, or because his or her or their vote(s) is counted for such purpose, if any of the conditions specified in any of the following paragraphs exists:

(a) The material facts of such relationship or interest are disclosed or known to the Association, the Board of Directors or committee that authorizes, approves or ratifies such contract or transaction in good faith and by a vote sufficient for the purpose, without counting the vote(s) of such interested officers or directors; or

(b) The material facts of such relationship or interest are disclosed or known to Members holding a majority of all of the votes in the Association and such Members authorize, approve or ratify such contract or transaction in good faith and by a vote sufficient for the purpose; or

(c) Such contract or transaction was fair and commercially reasonable to the Association in view of all the facts known to any officer or member of the Board of Directors at the time it was authorized, ratified, approved or executed.

Any common or interested officer or director may be counted in determining the presence of a quorum at any meeting of the Association, Board of Directors or committee thereof that authorizes, ratifies or approves any contract or transaction. Arrangements between the Association or any other Person and the Partnership or any other Declarant, or any affiliate of any of the foregoing, conclusively shall be deemed to satisfy the requirements of this Section. In connection with the foregoing, the Partnership discloses that the Partnership holds a financial interest in future earnings under a contract entered into between the Partnership and Propane Belterra, Ltd., a Texas limited partnership and an affiliate of Texas Community Propane, Inc., for the provision of propane gas to Belterra.

ARTICLE IV
Officers

4.01 Designation. The principal officers of the Association shall be a President, a Secretary and a Treasurer. The Board of Directors from time to time may appoint such vice president(s), assistant treasurer(s), assistant secretary(s) and/or such other officers as in its judgment may be desirable. All officers shall have the duties normally incident to their respective offices in a Texas business corporation and such other additional duties as from time to time may be assigned by the Board of Directors.

4.02 Qualifications. Except for officers elected by the Board of Directors named in the Articles of Incorporation or designated by the Partnership or any Designated Declarant, all officers of the Association shall be Members, or partners, members, stockholders, officers, directors, trustees, agents or employees of Members who are not natural persons. Subject to Section 7.05 of these Bylaws, but without limiting any other provision of these Bylaws, the Declaration or any other Governing Document, no Member may be elected or may serve as an officer of the Association if at the time of such election or during such incumbency such Member shall be delinquent by more than sixty (60) days in the payment of any financial obligation to the Association. The President and Secretary shall be members of the Board of Directors and such offices shall not be held by the same person. Any officers other than the President and the Secretary may be, but shall not be required to be, members of the Board of Directors. Any officer may hold more than one position, except that the offices of President, Vice President and Secretary shall be held by three different persons.

4.03 Appointment. The officers of the Association shall be appointed by a majority of the members of the entire Board of Directors at the organization meeting following each annual meeting of the Association, and shall hold office at the pleasure of the Board of Directors.

4.04 Removal or Resignation of Officers. Any officer may be removed, with or without cause, by the Board of Directors. Any officer may resign at any time and shall be deemed to have resigned in the event such officer for any reason shall be incapacitated or

otherwise absent from his or her duties for a continuous period of ninety (90) days or more, or shall become disqualified under Section 4.02. Any vacancy in an office shall be filled by the Board of Directors at a regular meeting or a special meeting called for such purpose.

4.05 Agreements, Contracts, Deeds, Checks, Etc. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of two percent (2%) of the total assessment for Common Expenses for any fiscal year or for a term in excess of one year, and all checks drawn upon reserve accounts, shall be executed by any two officers of the Association or by such other person or persons as may be designated by the Board of Directors. All such instruments for expenditures or obligations of two percent (2%) of such total assessment or less (except for reserve accounts) or for a term of one year or less, may be executed by any one officer of the Association or by such other person as may be designated by the Board of Directors.

4.06 Compensation of Officers. No officer shall receive any compensation for acting as such, although each officer shall be entitled to reimbursement for actual and reasonable expenses incurred in the performance of his or her duties to the Association.

ARTICLE V
Books and Records; Managing Agent

5.01 Books and Accounts. Books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with good accounting practices, and shall include detailed accounts, in chronological order, of the receipts and expenditures of the Association and its administration, and shall specify all maintenance, repair, service and other expenses incurred. The amount of any special assessment required for payment of any capital improvement of the Association shall be credited upon the books of the Association to the "Paid-in Surplus" account as a capital contribution.

5.02 Inspection of Books. The books and accounts of the Association, together with a current copy of these Bylaws, the Declaration, any Supplemental Declaration, and all other Governing Documents, the minutes of all meetings of the Association and the Board of Directors, and any other records of the Association, shall be available for inspection and copying by each Owner and first Mortgagee, and their respective duly authorized agents or attorneys, for a purpose reasonably related to the interest of such Owner or Mortgagee, at reasonably convenient hours on working days and at the principal office of the Association or the Texas custodian of such books and accounts. Document copies may be purchased from the Association by any such Owner or Mortgagee, free of cost except for reasonable copying charges from time to time established by the Board of Directors. Each member of the Board of Directors shall have the unqualified right to inspect and copy all such books and records, Governing Document and other records as from time to time may be desired by such member, and any copies requested by any such member of the Board of Directs shall be a cost of the Association. The provisions of this Section are in addition to the obligation of the Association to provide subdivision information in accordance with Texas Property Code §207.003 as set forth in Section 4.14 of the Declaration.

5.03 Annual Report. The Managing Agent (defined below) or, if none, then the Board of Directors (as the case may be) shall prepare an annual report of the financial condition of the Association within ninety (90) days of the close of each fiscal year. Each annual report shall contain for such preceding fiscal year a balance sheet, operating statement and a statement of changes in financial position and shall be distributed to Members at the ensuing annual meeting

of the Association request. Each annual report shall be prepared on an audited or reviewed basis, as may be determined by the Board of Directors, by an independent public accountant who shall not be a Member, *provided*, that, upon the written request of any first Mortgage, the Association shall prepare audited financial statements. The cost of each such annual report and audit shall be a Common Expense.

5.04 **Managing Agent.** Except as provided for in this Section with respect to the Partnership, any Designated Declaration or any affiliate of either of the foregoing, the Board of Directors shall employ for the Association a professional managing agent ("**Managing Agent**") to perform such duties and services, and to be paid such compensation, as the Board of Directors from time to time may authorize. The Board of Directors may delegate to the Managing Agent all of the authority granted to the Board of Directors by these Bylaws, the Declaration or any Supplemental Declaration, or any other Governing Document, other than the powers set forth in Sections 3.01 (i), (ii), (iii), (vii), (ix) and (x) of the Declaration. The Board of Directors shall delegate to one of its members the authority to act on its behalf on all matters relating to the duties of the Managing Agent that might arise between meetings of the Board of Directors. The Association and the Board of Directors shall not undertake "self-management" or fail to employ a professional Managing Agent, except that the Partnership (or any Designated Declarant, as the case may be), or any affiliate of any such Declarant, shall have the right and authority to undertake management on behalf of the Association for so long as the Partnership or any Designated Declarant shall have the right to designate members of the Board of Directors under Section 3.02 of these Bylaws. Except as permitted in the preceding sentence, the Board of Directors shall not employ a Managing Agent for a term in excess of one (1) year, and any contract with a Managing Agent must provide that it may be terminated for cause on no more than thirty (30) days' written notice and without cause or imposition of any termination fee on no more than ninety (90) days' written notice. The Board of Directors shall require appropriate standards of performance of the Managing Agent, including, without limitation, the following:

- (i) Cash accounts of the Association shall not be commingled with any other accounts;
- (ii) no remuneration or other benefit shall be accepted by the Managing Agent from vendors, independent contractors or others providing goods or services to the Association, and any discount or other benefit received shall be received for and on behalf of the Association;
- (iii) any financial or other interest that the Managing Agent may have in any firm providing goods or services to the Association promptly shall be disclosed to the Board of Directors and, in the discretion of the Board of Directors, terminated;
- (iv) the Managing Agent shall prepare a financial report for the Association for each regular assessment installment payment period containing the following: (A) a balance sheet reflecting the financial condition of the Association on an unaudited basis; (B) an income and expense statement reflecting the income and expense activity for the preceding installment payment period on an accrual basis; (C) an account activity statement reflecting all cash receipts and disbursements for the preceding installment payment period; (D) a delinquency report indicating all Owners who are delinquent in paying assessments and describing any actions taken to collect such assessments; (E) a variance report reflecting the status of all

accounts on an "actual" versus "projected" budget basis; and (F) a budget report reflecting any actual or pending obligations that are in excess of budgeted amounts by an amount exceeding the amount of operating reserves or ten percent (10%) of any budget category (as distinct from a specific line item); and

- (v) the Managing Agent shall maintain fidelity bond coverage upon the same terms as are required of the Association under Section 6.04(a) of these Bylaws.

5.05 Management Certificates. The Association shall record among the Land Records of Hays County, Texas a management certificate, signed and acknowledged by an officer of the Association or the Managing Agent, and containing the disclosure required under Texas Property Code §209.004, and being:

- (1) The name of the Subdivision
- (2) The name of the Association
- (3) The recording data for the Subdivision
- (4) The recording date for this Declaration and any Supplemental Declaration
- (5) The mailing address of the Association, or the name and address of the Managing Agent
- (6) Any other information the Association from time to time may consider appropriate

The Association shall record an amended management certificate not later than thirty (30) days after the date upon which the Association shall have notice of a change in any previously recorded management certificate, provided, that neither the Association nor any of its officers, directors, employees or agents, shall be subject to liability to any Person for any failure or delay in recording any management certificate unless such failure or delay is wilful or caused by gross negligence.

ARTICLE VI
Insurance

6.01 General Requirements.

(a) Each policy of insurance purchased by the Board of Directors on behalf of the Association pursuant to this Article shall provide to the fullest extent obtainable that:

- (i) The named insureds under such policies shall be the Association, the Owners, each Declarant, the Board of Directors, any Managing Agent, and their authorized Related Parties, as their interests may appear;
- (ii) In no event shall any insurance be brought into contribution with insurance purchased by any Declarant, Owner or Mortgagee;
- (iii) The insurer waives (1) any right to claim by way of subrogation against the any Declarant, the Association, the Board of Directors, any Managing Agent, and the Owners, and their respective Related

Parties and invitees, (2) any defense based upon co-insurance or any invalidity arising from the acts of the insured, and (3) any right to repair or reconstruct in lieu of paying the amount of the insured loss;

- (iv) No policy shall be cancelled, invalidated or suspended due to the act or omission of any Declarant, Owner, the Board of Directors or any Managing Agent, or any of their respective Related Parties;
- (v) No policy shall be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior notice to the Board of Directors and any Managing Agent, and, in the case of physical damage insurance, to each first Mortgagee and each Owner to whom a certificate, subpolicy or endorsement shall have been issued, and, in the case of liability insurance, to all first Mortgagees; and
- (vi) Any "no other insurance" clause shall exclude Owners' policies from its operation.

(b) All policies of insurance shall be written by companies with a financial rating of X or better under Best's Rating Guide (or any comparable rating under a revised rating guide).

(c) Neither the Board of Directors, any Managing Agent or any Declarant shall be liable for any failure to obtain any coverage required to be obtained by this Article if such coverage shall have been unavailable upon reasonable inquiry and investigation or available only at a commercially unreasonable cost.

6.02 Physical Damage Insurance.

(a) The Board of Directors shall obtain and maintain a blanket all-risk policy of physical damage insurance, with extended coverage, insuring all insurable Common Areas, in an amount equal to one hundred percent (100%) of the full replacement value thereof based on the then current replacement cost (exclusive of land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation. Such insurance shall contain the following endorsements to the extent obtainable: (i) Agreed Amount and Inflation Guard Endorsement; (ii) Construction Code Endorsement; (iii) Demolition Cost Endorsement; and (v) Contingent Liability from Operation of Building Laws Endorsement. The amount of such coverage provided for under such policy shall be reviewed annually by the Board of Directors with the assistance of the insurance company affording such coverage and such coverage shall be redetermined when and as the Board of Directors deems advisable.

(b) A certificate of insurance or a true and certified copy of the policy of physical damage insurance, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder, together with proof of payment of premiums shall be delivered by the insurer to any first Mortgagee so requesting the same.

6.03 Liability Insurance. The Board of Directors shall obtain and maintain comprehensive public liability insurance in such limits as the Board of Directors from time to time may determine in accordance with this Section, insuring each member of the Board of

Directors, any Managing Agent, the Association and each Declarant and Owner, and their respective Related Parties, from and against any liability to the public or any Owner or any Owner Related Party arising out of or in connection with the ownership and/or use of the Common Areas or any employment contracts of the Association. Such insurance shall be issued on a comprehensive basis and shall contain: (i) libel, slander, false arrest and other personal injury offenses; (ii) medical payments coverage; (iii) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to such insured's action against another named insured; (iv) hired and non-owned vehicle coverage; (v) host liquor liability coverage with respect to events sponsored by the Association; (vi) coverage for water damage liability; and (vii) a "severability of interest" endorsement that shall preclude the insurer from denying liability to a Owner because of negligent acts of the Board of Directors, the Association, any Managing Agent, any Declarant, another Owner, or any of their respective Related Parties. The Board of Directors shall review such limits once each year, but in no event shall such insurance be written in an amount less than Two Million Dollars (\$2,000,000.00) covering all claims for bodily injury or property damage arising out of one occurrence. Additional amounts of umbrella liability insurance in excess of primary limits in the discretion of the Board of Directors also may be maintained.

6.04 Other Insurance. The Board of Directors shall obtain and maintain:

(a) Directors and officers liability coverage and fidelity bond coverage to protect against wrongful and dishonest acts on the part of the officers, directors, employees and other agents of the Association or any Managing Agent, and all others who either handle or are responsible for handling the funds held or administered by the Association. Fidelity bonds shall (i) name the Association as an obligee; (ii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression; (iii) be written in amounts no less than the amounts from time to time required by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, whichever is greater, and (iv) include provision for ten (10) days' written notice to the Association and each servicer of any Mortgage owned by the Federal National Mortgage Association before the bond can be cancelled or substantially modified; and

(b) If any portion of the Common Areas is located in an area at any time designated as having special flood hazards, a blanket policy of flood insurance in an amount equal to one hundred percent (100%) of the insurable value of all insurable property located in the flood hazard area, based upon the then replacement cost, or the maximum coverage available under the National Flood Insurance Administration Program, as amended, whichever is less;

(c) Worker's compensation insurance if and to the extent necessary to meet the requirements of law; and

(d) Such other insurance as the Board of Directors may determine, or as may be requested from time to time by a majority of the votes of Members, or as required by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or by law.

6.05 Separate Insurance. Each Owner, by acceptance of a deed for such Owner's Lot, shall be deemed to covenant and agree to obtain and maintain a blanket all-risk policy of physical damage insurance, with extended coverage, for his or her own Lot and Unit, and for his or her own benefit, and to obtain and maintain insurance coverage upon such Owner's personal property and for such Owner's personal liability, all in substantial compliance with the requirements of

this Article applicable to insurance obtained by and on behalf of the Association (except that the minimum amount of liability insurance under Section 6.03 shall be \$500,000 rather than \$2,000,000).

ARTICLE VII Compliance and Default

7.01 Lots Subject to Governing Documents. All present and future Owners shall be subject to and shall comply (and shall cause their Related Parties to comply) with the provisions of these Bylaws, the Declaration and all other Governing Documents. Any default by any Owner or any Owner's Related Parties under any of the Governing Documents shall entitle the Association, the Board of Directors, any Declarant, or an aggrieved Owner to the relief provided in these Bylaws, in the Declaration or any other Governing Document.

7.02 Judicial Proceedings. An action to recover any sums due for money damages, injunctive relief (either prohibitive or mandatory), foreclosure of any Assessment Lien, any other relief provided for in these Bylaws, the Declaration or any other Governing Document, or any combination thereof, and any other relief afforded by a court of competent jurisdiction, may be sought by the Association, the Board of Directors, any Declarant or, if appropriate, by an aggrieved Owner.

7.03 Costs and Attorneys' Fees; Indemnification. In any proceeding arising out of any alleged default or breach by an Owner or an Owner Related Party, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees. Each Owner, for itself and on behalf of such Owner's Related Parties, hereby agrees to indemnify and hold harmless the Association and each Declarant, and their respective Related Parties, from and against any and all claims, liabilities, damages, loss, costs, expenses, suits and judgments of whatsoever kind, including reasonable attorney's fees, incurred in connection with any default or breach by any Owner or any Owner Related Party under these Bylaws, the Declaration or any other Governing Document, or any willful or negligent act or omission of such Owner or any Owner Related Party.

7.04 Enforcement; No Waiver. The failure of the Association, the Board of Directors, any Declarant or an aggrieved Owner to enforce any right or remedy, provision, covenant or condition provided for by these Bylaws, the Declaration or any other Governing Document shall not constitute a waiver of the same in the future, and in no event shall the Association, the Board of Directors or any Declarant have any liability whatsoever to any Owner, Owner Related Party, Mortgagee or any other Person for any failure or alleged failure to enforce any such right or remedy, provision, covenant or condition. All rights, remedies and privileges granted to the Association, the Board of Directors, the Declarant or any Owner pursuant to any term, provision, covenant or condition of these Bylaws, the Declaration or any other Governing Document shall be deemed to be cumulative, and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such rights as may be granted to such party by these Bylaws, the Declaration or any other Governing Document, or at law or in equity.

7.05 Fines and Sanctions. The Board of Directors, acting for and in the name of the Association, shall have the authority to levy as a Special Assessment against any Owner and such Owner's Lot and Unit reasonable fines, and the additional right to suspend such Owner's right to vote or use or enjoy the Common Areas, for violation of these Bylaws, the Declaration or any

other Governing Document by such Owner or any Owner Related Party, subject, however, to the following terms:

- (i) No fine shall be levied for a single violation in an amount in excess of five percent (5%) of such Owner's annual assessment for Common Expenses, *provided*, that each day a violation continues after written notice is given to such Owner shall constitute a separate violation;
- (ii) Notice of violation shall be given to the affected Owner before a fine or other sanction shall be imposed, which notice shall describe the nature of the alleged violation, the proposed fine or sanction to be imposed, grant to such Owner a period of not less than ten (10) days within which such Owner may deliver a written request for hearing to the Board of Directors, and include a statement that the proposed fine or sanction shall be imposed unless such Owner notices a hearing as aforesaid within such 10-day period. If for any reason request for hearing is not timely given by any Owner, then the proposed fine or sanction shall be imposed without further notice or opportunity to be heard.
- (iii) If an Owner shall request a hearing within the prescribed 10-day period, then the Board of Directors shall schedule such hearing within the ensuing forty-five (45) days, such hearing shall be held in special executive session of the Board of Directors, such Owner shall be given a reasonable opportunity to be heard and to be represented by counsel, and the minutes of the meeting shall reflect the decision of the Board of Directors and the fine and/or sanction imposed. If the Owner for any reason shall not attend any scheduled hearing, then the proposed fine or sanction shall be imposed without further notice or opportunity to be heard.

Use used in this Section 7.05, the term 'fine' shall not include any Compliance Assessment imposed, authorized or otherwise provided for, or any indemnification obligation imposed upon Owners in these Bylaws, the Declaration or any other Governing Document, including without limitation, the costs and indemnifications provided for in Section 7.03 of these Bylaws and Section 12.03 of the Declaration, the costs of any Compliance Inspection or Remedial Action under Section 7.04 of the Declaration, any fines or impositions imposed under the Design Guidelines or Section 8.03 of the Declaration, and all Association assessments and applicable Costs thereon.

ARTICLE VIII
Miscellaneous

8.01 Amendments.

- (a) For so long as the Partnership is the only Owner, the Partnership shall have the unilateral authority to amend these Bylaws without the consent or approval of any Owner, Mortgagee or other Person.
- (b) After the Partnership shall convey any Lot to any other Owner, the Board of Directors shall have the unilateral authority to amend any provision these Bylaws without the consent or approval of any Owner, Mortgagee or other Person, except for Sections 2.01, 2.02,

2.12, Article V, Article VI, Article VII and this Section 8.01, and except that no amendment to these Bylaws shall be adopted:

- (i) That could unreasonably interfere with the development and sale of any of the Property, or abridge, modify, eliminate or otherwise affect any right, power, easement, privilege or benefit reserved to any Declarant by the provisions of these Bylaws or impose any discriminatory charge or fee against any Declarant for so long as any Declarant owns one or more Lots; or
- (ii) That could abridge, modify, eliminate or otherwise affect any right, power, easement, privilege or benefit granted or reserved to any Mortgagee by the provisions of these Bylaws; or
- (iii) for so long as any Class B Membership shall exist, without the approval of the FHA and the VA, as applicable.

(c) Except as otherwise provided in paragraphs (a) and (b) of these Section 8.01, these Bylaws may be amended only by the affirmative vote of at least seventy-five (75%) of the aggregate votes held by all Class A Members and seventy-five (75%) of the aggregate votes held by all Class B Member(s), if any, obtained at any annual meeting of the Association or any special meeting of the Association duly called for such purpose, except, that no amendment to these Bylaws shall be adopted:

- (i) That could unreasonably interfere with the development and sale of any of the Property, or abridge, modify, eliminate or otherwise affect any right, power, easement, privilege or benefit reserved to any Declarant by the provisions of these Bylaws or impose any discriminatory charge or fee against any Declarant for so long as any Declarant owns one or more Lots; or
- (ii) That could abridge, modify, eliminate or otherwise affect any right, power, easement, privilege or benefit granted or reserved to any Mortgagee by the provisions of these Bylaws; or
- (iii) for so long as any Class B Membership shall exist, without the approval of the FHA and the VA, as applicable.

No amendment to these Bylaws shall be effective unless and until recorded among the Land Records.

8.02 Notices. Except as otherwise provided in these Bylaws, all notices, demands, bills, statements or other communications required or permitted under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally, recognized overnight courier, or if sent by United States mail, postage prepaid, or hand delivered (i) if to an Owner, at his, her or its address as it appears on the books of the Association or, if none, at the address of such Owner's Lot, or (ii) if to the Association, the Board of Directors or the Managing Agent, at the principal office of the Managing Agent or at such other address as shall be designated by notice in writing given to Owners pursuant to this Section or announced at any annual meeting of the Association. If a Lot is owned by more than one Person, each Person who designates an address in writing to the Secretary shall be entitled to receive all notices hereunder.

8.03 Severability; Conflicts. The invalidity or unenforceability of any provision of these Bylaws shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of these Bylaws, and in any such event, all of the other provisions of these Bylaws shall continue in full force and effect as if such invalid or unenforceable provision had never been included herein. In the event of any conflict among any of the provisions of this Bylaws and any other Governing Document, the provisions of the Declaration any Supplemental Declaration and the Articles of Incorporation shall govern these Bylaws, these Bylaws shall govern the Design Guidelines and the Rules and Regulations. Notwithstanding the foregoing, in the event any of the provisions of these Bylaws shall conflict with the provisions and requirements of Chapter 209, Title 11, of the Texas Property Code, the provisions of Chapter 209, Title 11, of the Texas Property Code shall control.

8.04 Interpretation. No term, provision, restriction or prohibition set forth in these Bylaws or in any other Governing Document shall be construed to limit or prohibit any act by the Partnership or any Designated Declarant or any of their respective Related Parties or other authorized Persons in connection with the development, construction, completion, sale or financing of any portion of the Property or the balance of Belterra (whether or not annexed under Article XI of the Declaration), and these Bylaws and all other Governing Documents shall be construed strictly in favor of the Partnership, any Designated Declarant and any and all other Declarants.

IN WITNESS WHEREOF, MAK FOSTER RANCH, L.P. has caused these Bylaws duly to be executed as of the day and year acknowledged below.

MAK FOSTER RANCH, L.P.,
a Delaware limited partnership

BY: MAKFR, INC.,
a Delaware corporation,
Its General Partner

By: *Samuel H. Weissbard*
Name: Samuel H. WEISSBARD
(Executive) Vice President

STATE OF CALIFORNIA
COUNTY OF Orange

§
§
§
§
§

This instrument was acknowledged before me on May 01, 2003, by Samuel H. Weissbard, (Executive) Vice President of MAKFR, INC., a Delaware corporation and the sole general partner of MAK FOSTER RANCH, L.P., a Delaware limited partnership, on behalf of such limited partnership.

Pilar Solano

Notary Public, State of California

Name of Notary:
My Commission Expires:

Pilar Solano
Apr 23, 2006

