

EXHIBIT "F"

BY-LAWS

OF

BAY WATER CONDOMINIUM ASSOCIATION, INC.

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BY-LAWS
OF
BAY WATER CONDOMINIUM ASSOCIATION, INC.

Article I.
Name, Principal Office, and Definitions

1.1 Name.

The name of the nonprofit corporation is Bay Water Condominium Association, Inc. (the “**Association**”).

1.2 Principal Office.

The Association’s principal office shall be located in the State of Texas in such location as the Board of Directors (the “**Board**”), determines or as the Association’s affairs require.

1.3 Definitions.

The words used in these By-Laws shall have their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration of Condominium for The Villas at Pointe West, a Condominium as it may be amended, or amended and restated, from time to time (“**Declaration**”), unless the context indicates otherwise. The interpretation of certain references, as set forth in Section 2.2 of the Declaration, shall also apply to the words used in these By-Laws.

Article II.
Membership: Meetings, Quorum, Voting, Proxies

2.1 Membership.

All Owners, by virtue of their ownership of interest in a Unit are members of the Association as more fully set forth in the Declaration. Provisions of the Declaration pertaining to membership are incorporated herein by this reference.

2.2 Change of Membership.

Change of membership in the Association shall be established by recording a deed or other instrument conveying record fee title to any Unit. The grantee named in such instrument shall, by acceptance of such instrument, become a member of the Association, and the membership of the prior Owner shall terminate. The new Owner shall deliver a copy of the conveyance instrument to the Association within 14 days after the conveyance and the new Owner shall not be entitled to voting privileges until the same has been received by the Association. The foregoing shall not, however, limit the Association’s powers or privileges and the new Owner shall be liable for accrued and unpaid fees and assessments attributable to the Unit acquired.

2.3 Place of Meetings.

The Association shall hold meetings at its principal office or at such other place as the Board may designate. Meetings may be conducted electronically (*i.e.*, via the Internet, intranet, or teleconference) if and to the extent permitted by law.

2.4 Annual Meetings.

The Association shall hold its first meeting, whether a regular or special meeting, within one year after the date of the Association's incorporation. The Board shall set the date and time of subsequent regular annual meetings to occur during the first quarter of each year thereafter.

2.5 Special Meetings.

The President may call a special meeting of the Association. It also shall be the President's duty to call a special meeting if so directed by a resolution adopted by a majority of the Board or upon written petition of members representing at least 20% of the Total Eligible Association Vote describing the purpose or purposes for which the special meeting is to be held. If the President does not call a special meeting pursuant to this Section within 30 days after the date such written petition is delivered to the Association's Secretary, any member signing the petition may set the time and place of the special meeting and give the Association notice pursuant to Section 2.6.

2.6 Notice of Meetings.

The Association's Secretary shall cause written notice stating the place, day, and hour of any Association meeting to be given in any manner permitted by applicable law. If permitted by law, notice may be published in a newspaper, or by radio, television, or other form of public broadcast communication in the County, delivered by hand delivery, or sent by facsimile, electronic mail, or other electronic communication device, or such other manner which is reasonably calculated, as the Board determines in its discretion, to provide personal notice to members. Notice shall be given at least 10 and, in any event, not more than 60, days before the date of the meeting, by or at the direction of the President, the Secretary, or the officers or Persons calling the meeting.

The Association may not meet to adopt an amendment or other change to the Condominium Instruments or rules of the Association unless the Association has given to each Owner a document showing the specific amendment or other change that would be made to the Condominium Instruments or rules. The document must be given to each Owner after the 20th day but before the 10th day preceding the date of the meeting of the Association

The notice of any meeting shall also state the items on the agenda, including, without limitation, any budget changes, and any proposal to remove a director or officer. No other business shall be transacted at a special meeting except as stated in the notice for the special meeting. Unless one-third (1/3) or more of the votes entitled to be cast in the election of directors are represented in person or by proxy, the only matters that may be voted upon at an annual or regular meeting of members are those matters that are described in the meeting notice.

If mailed, the notice of a meeting shall be deemed given when deposited in the United States mail addressed to the member at his or her address as it appears on the Association's records, with postage prepaid. If sent by facsimile, electronic mail, or other electronic communication device, notice shall be deemed delivered when transmitted to the member at his or her address, e-mail address, or telephone or fax number as it appears on the Association's records. Failure to receive actual notice of an Association meeting shall not affect the validity of any action taken at such meeting.

2.7 Waiver of Notice.

Waiver of lack of proper notice of an Association meeting shall be the equivalent of proper notice. Any member may waive, in writing, lack of proper notice of any Association meeting, either

before or after such meeting. A member's attendance at a meeting shall be deemed a waiver by such member of lack of proper notice of the meeting, unless the member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of lack of proper notice of all business transacted at the meeting, unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.8 Adjournment of Meetings.

If the Association cannot hold a meeting because a quorum is not present, or if the members otherwise elect (with the approval of the Declarant during the Development and Sale Period), a majority of the members who are present may adjourn the meeting to a time at least 5 but not more than 30 days from the date called for the original meeting. Notice need not be given of the new date, time, or place, if the new date, time, or place is announced at the meeting before adjournment. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If those in attendance at the original meeting do not fix a time and place for reconvening the meeting, or if for any reason a new date is fixed for reconvening the meeting after adjournment, the Association shall give the members notice of the time and place for reconvening the meeting in the manner prescribed for regular meetings.

2.9 Voting.

Members shall have such voting rights as are set forth in the Declaration, which provisions are incorporated herein by this reference. The Board may adopt policies and procedures regarding the methods of casting votes, such as written ballots, secret ballots or computer access. If only one of the multiple Owners of a Unit is present at a meeting of the Association, that Owner may cast the vote or votes allocated to that Unit. If more than one of the multiple Owners is present, the vote or votes allocated to that Unit may be cast only in accordance with the Owners' unanimous agreement. Multiple Owners are in unanimous agreement if one of the multiple Owners casts the votes allocated to a Unit and none of the other Owners makes prompt protest to the person presiding over the meeting.

2.10 List for Voting.

After setting a record date for notice of a meeting, the Board shall prepare an alphabetical list of the names of the members entitled to notice of such meeting. The list shall show the address of the member and the number of votes each is entitled to vote at the meeting. The list for voting shall be made available for inspection in accordance with Texas law.

2.11 Proxies.

On any matter as to which a member is entitled personally to cast the vote for his or her Unit, such vote may be cast in person or by proxy, subject to applicable law. If a Unit is owned by more than one Owner, each Owner of the Unit may vote or register protest to the casting of votes by the other Owners of the Unit through a proxy duly executed by the Unit Owner. A Unit Owner may not revoke a proxy given under this section except by giving actual notice of revocation to the Secretary of the Association.

Every proxy shall be in writing specifying the Unit(s) for which it is given, signed by the member or his or her duly authorized attorney-in-fact, dated, and filed with the Association's Secretary or person presiding over the meeting prior to or during the roll call for the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the member giving such proxy is entitled to cast, and in the event of any conflict between two or more

proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, the later, if the timing of the execution thereof can be determined, shall prevail, otherwise both shall be deemed invalid.

Every proxy shall be revocable with notice and shall automatically cease upon: (a) conveyance of any Unit(s) for which it was given; (b) the receipt of written notice of revocation of the proxy or of the death or judicially declared incompetence of a member who is an individual by the Secretary or the person presiding over a meeting of the Association; (c) 90 days from the meeting date for which the proxy was originally given, unless the proxy specifies a shorter period; or (d) 1 year after the date of the proxy, unless the proxy specifies a shorter period.

2.12 Majority.

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

2.13 Quorum.

Except as these By-Laws or the Declaration otherwise provide, members or their proxies entitled to cast 10% of the Total Eligible Association Vote and Declarant, during the Development and Sale Period, shall constitute a quorum at all Association meetings. If no quorum is present at a meeting, the meeting may be adjourned and reconvened on a later date by the affirmative vote of a majority of those members present in person or by proxy. At such reconvened meeting, the quorum requirement shall be 5% of the Total Eligible Association Vote and Declarant, during the Development and Sale Period. The quorum shall continue to be reduced by 50% from that required at the previous meeting as previously reduced, until such time as a quorum is present and business can be conducted.

2.14 Conduct of Meetings.

The President shall preside over all Association meetings at which he or she is present, and the Secretary shall keep (or cause to be kept) the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.15 Action Without a Meeting.

Without holding a meeting pursuant to Sections 2.4 or 2.5, members may take any action that applicable law requires or permits the members to take at a meeting (subject to any limitations in the Condominium Instruments), if the action is approved by members representing at least the minimum number of votes in the Association necessary to authorize such action at a meeting, assuming the number of votes cast equals or exceeds the quorum required to be present at a meeting authorizing the action. Such approval shall be evidenced by one or more written consents specifically authorizing the proposed action, dated and signed by members holding the requisite votes. The Association need not give prior notice before soliciting such consent; provided, however, that the Association must send written consent forms to all members for action authorized pursuant to this section to be valid. Members shall sign, date, and deliver such consents to the Association within 60 days after the Association’s receipt of the earliest dated consent. The Association’s Secretary shall file (or cause to be filed) such consents with the Association’s minutes and the consents shall have the same force and effect as a vote of the members at a meeting. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give (or cause to be given) written notice to all members entitled to vote, fairly summarizing the material features of the authorized action.

2.16 Order of Business.

The order of business at all annual meetings of the members shall be as follows: (a) roll call to determine whether a quorum is represented; (b) proof of notice of the meeting or waiver of notice; (c) reading of (or waiver of reading) minutes of the preceding annual meeting; (d) reports of officers, if any; (e) reports of committees, if any; (f) election of inspector(s) of election if an election is to be held; (g) election of Directors if applicable; (h) unfinished business, if any; and (i) new business.

Article III.

Board of Directors: Selection, Meetings, Powers

A. Composition and Selection.

3.1 Governing Body: Composition.

The Board shall govern the Association's affairs. Each director shall have one vote. Directors must be members or residents of the Condominium, except in the case of directors that Declarant appoints. A director must be at least 18 years old. No more than one representative of any member which is a legal entity, nor more than one Occupant of any Unit, shall serve on the Board at a time, except in the case of directors that Declarant appoints.

3.2 Number of Directors.

The initial Board shall consist of the three directors identified in the Articles of Incorporation.

3.3 Nomination and Election Procedures.

(a) Nominations and Declarations of Candidacy. Prior to each election of directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which every eligible person who has an interest in serving as a director may file as a candidate for any position to be filled by members. Nominations for election to the Board also may be made by a nominating committee. The nominating committee, if any, shall consist of a Chairman, who shall be a member, and two or more members or representatives of members, all appointed by a majority of the Board. The nominating committee, if any, may make as many nominations for election to the Board as it shall in its discretion determine. The Board shall also permit nominations from the floor at any election meeting.

The Board shall give each candidate a reasonable, equal opportunity to communicate his or her qualifications to the members and to solicit votes.

(b) Election Procedures. A member may cast the vote(s) assigned to the Unit(s) which he or she owns for each position to be filled at an election. Cumulative voting is not allowed. That number of candidates equal to the number of positions to be filled who receive the greatest number of votes shall be elected.

3.4 Election and Term of Office.

(a) Declarant shall have the right to appoint and remove any member or members of the Board of Directors and the officers of the Association subject to the limitations set forth below:

(i) Not later than the 120th day after 50% of the Units that may be created in the Condominium have been conveyed by Declarant to Owners other than a Person or Persons constituting

Declarant, the Association shall hold an election at which the members, other than Declarant, shall be entitled to elect one (1) of the three (3) directors, who shall serve a term of two (2) years or until the occurrence of the event described in subsection (ii) below, whichever is shorter. If such director's term expires prior to the occurrence of the event described in subsection (ii), a successor shall be elected for a like term. The remaining two (2) directors shall be appointees of Declarant.

(ii) Not later than the 120th day after 75% of the Units that may be created in the Condominium have been conveyed by Declarant to Owners other than a Person or Persons constituting the Declarant, the Association shall hold an election at which the members, other than Declarant, shall be entitled to elect all three (3) members of the Board, who shall each serve a term of two (2) years.

Notwithstanding the stated length of any term, directors shall hold office until their respective successors have been elected. Upon expiration of the term of each Director elected pursuant to this subsection and thereafter, a successor shall be elected for a term of two years.

3.5 Removal of Directors and Vacancies.

Any Director elected by the members may be removed, with or without cause, by a majority of the Total Eligible Association Vote. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a Director, a successor shall be elected by the members to fill the vacancy for the remainder of the term of such Director.

Any Director elected by the members who has three consecutive unexcused absences from Board meetings, or who is more than 60 days delinquent (or occupies or represents a Unit for which assessments are so delinquent) in the payment of any assessment or other charge due the Association may be removed by a majority vote of the Board present at a regular or special meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy until the next annual meeting, at which time the members shall elect a successor for the remainder to the term.

In the event of the death, disability, or resignation of a director elected by the members, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the members entitled to fill such directorship may elect a successor for the remainder of the term. If they fail to do so, the Board may appoint another director to fill the vacancy until filled by election.

This Section shall not apply to directors appointed by Declarant. Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by Declarant.

B. Meetings.

3.6 Organizational Meetings.

Within 30 days after the election or appointment of new directors, the Board shall hold an organizational meeting at such time and place as the Board shall set.

3.7 Regular Meetings.

The Board may hold regular meetings at such time and place as the Board shall determine, but the Board shall hold at least one such meeting during each fiscal year.

3.8 Special Meetings.

The Board shall hold special Board meetings when called by written notice signed by the President, Vice President, or any two directors.

3.9 Notice; Waiver of Notice.

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The Board shall give notice to each director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone (either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director); or (iv) facsimile, electronic mail, or other electronic communication device, with confirmation of transmission. All such notices shall be given at the director's telephone number, fax number, electronic mail address, or sent to the director's address, each as shown on the Association's records. Notices sent by first class mail shall be deposited into a United States mailbox at least 7 business days before the time set for the meeting, except in the event of an emergency. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

The Board may not meet to adopt an amendment or other change to the Condominium Instruments or rules of the Association unless the Board has given to each Owner a document showing the specific amendment or other change that would be made to the Condominium Instruments or rules. The document must be given to each Owner after the 20th day but before the 10th day preceding the date of the meeting of the Board.

(b) Except for emergency meetings, notice of a Board meeting shall be posted in a conspicuous place within the Condominium at least 48 hours in advance of the meeting or provided in any other manner reasonably anticipated to provide notice to all members, including, without limitation, publication in an Association newsletter with Condominium-wide circulation, posting on a Condominium cable television channel, or posting on a Condominium Internet or intranet page. In lieu of notice of each regular Board meeting, the Board may post or publish a schedule of upcoming Board meetings.

(c) Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the meeting's purpose. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.10 Telephonic Participation in Meetings.

Members of the Board or any committee designated by the Board may participate in a Board or committee meeting by means of telephone or other electronic means, through which all persons participating in the meeting can converse with each other at the same time. Participation in this manner shall constitute presence at the meeting for all purposes. Participants attending by electronic means may vote by electronic transmission.

3.11 Quorum of Board.

At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present

shall constitute the Board's decision, unless these By-Laws or the Declaration specifically provide otherwise. A meeting at which a quorum is initially present may continue, notwithstanding the withdrawal of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.12 Conduct of Meetings.

The President shall preside over all Board meetings at which he or she is present, and the Secretary shall keep (or cause to be kept) a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.13 Open Meetings; Executive Session.

Subject to the provisions of Section 3.14, all Board meetings shall be open to all members. However, attendees other than directors may not participate in any discussion or deliberation unless a director requests that they be granted permission to speak, and the Board concurs. In such case, the President (or other officer conducting the meeting) may limit the time any such individual may speak.

Notwithstanding the above, the President may call a special Board meeting, or adjourn any Board meeting and reconvene in executive session, and may exclude persons other than directors, to discuss with the Association's attorney matters relating to pending or threatened litigation which are protected by the attorney-client privileges, or to discuss among the Board any other matter of a sensitive nature, if applicable law permits. In such cases, no recording will be permitted.

3.14 Action Without a Formal Meeting.

Any action to be taken or which may be taken at a Board meeting may be taken without a meeting if all directors sign a consent in writing, setting forth the action so taken. Such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.15 Powers.

The Board shall have all of the powers and duties necessary for administering the Association's affairs and for performing all of the Association's responsibilities and exercising all of the Association's rights as set forth in the Condominium Instruments, and as provided by law. The Board may do or cause to be done on the Association's behalf all acts and things except those which the Condominium Instruments or applicable law require to be done and exercised exclusively by the membership generally.

3.16 Duties.

The Board's duties shall include, without limitation:

- (a) those obligations set forth in the Declaration and elsewhere in these By-Laws;
- (b) depositing all funds received on the Association's behalf in a bank depository which it shall approve, and using such funds to operate the Association; provided, however, that any reserve funds may be deposited, in the Board's business judgment, in depositories other than banks;
- (c) enforcing by legal means the provisions of the Condominium Instruments and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association if, in the exercise of its business judgment, it deems it prudent to do so;
- (d) keeping books with detailed accounts of the Association's receipts and expenditures; and
- (e) maintaining, and retaining for the time periods required, the official records of the Association, as provided in , or such other applicable law.

3.17 Compensation.

The Association shall not compensate a director for acting as such. The Association may reimburse any director for expenses incurred on the Association's behalf if approved by a majority of the other directors. In addition, nothing herein shall prohibit the Association from compensating a director for services or supplies he or she furnishes to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association. The foregoing also applies to any entity with which a director is affiliated.

3.18 Right of Declarant to Disapprove Actions.

During the period that Declarant initially has the right pursuant to Section 3.4 to appoint and remove officers and members of the Board (irrespective of whether such right is voluntarily surrendered prior to the end of the period set forth in Section 3.4) (the "Declarant-Control Period"), Declarant shall have a right, to the extent not prohibited by law, to veto any action, policy, or program of the Association, the Board, and/or any committee which, in Declarant's discretion, would tend to impair rights or interests of Declarant, or any affiliate of Declarant's, interfere with development or construction of any portion of the Condominium, or diminish the level of services the Association provides.

(a) Notice. The Association, the Board, and each committee shall give Declarant written notice of their meetings and proposed actions to be approved at their meetings (or by written consent in lieu of a meeting). The notice shall comply with the requirement for notice to directors under Section 3.9 and shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.

(b) Opportunity to be Heard. The Association, the Board, and each committee shall give Declarant the opportunity at any meeting to join in, or to have its representatives or agents join in, discussion from the floor concerning any prospective action, policy, or program which would be subject to the veto right described in this Section.

(c) Exercise of Rights. Declarant may exercise its veto right at any time within 30 days following the meeting at which such action was proposed or, if the action is approved without a meeting, at any time within 30 days following receipt of written notice of the proposed action. Declarant, its representatives or agents, may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. This veto right may be used to block proposed actions but shall

not include a right to require any action or counteraction by the Association, the Board, or any committee. Declarant shall not use its veto right to prevent expenditures required to comply with applicable laws.

(d) Condition of Implementation. No action, policy, or program subject to Declarant's veto right shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met, and then subject to Declarant's rights under subsection (c).

3.19 Management.

The Board may employ a professional managing agent or agents, at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize and as are otherwise within the scope of the Board's authority. The Board may delegate such powers as are necessary to perform the manager's duties, but shall not delegate policy-making authority or the obligation to adopt a budget. The Board may contract with or employ Declarant or any of its affiliates as managing agent or manager.

The Board may delegate to one or more of its members the authority to act on the Board's behalf on all matters relating to the duties of the managing agent or manager, if any, which might arise between Board meetings.

The members shall have no right to terminate a management contract during the Declarant-Control Period. Unless the Board otherwise grants such right, or unless the management contract otherwise provides, the Board may act in its discretion with respect to executing and terminating management contracts during the Declarant-Control Period. Any management contract may, among other things, authorize the managing agent to act as the Association's agent with respect to the expenditure of Association funds within the scope of the approved Association budget; however, the managing agent shall not be permitted to spend money in excess of the budget or reallocate greater than 10% of any budget line item without the Board's prior written approval.

3.20 Accounts and Reports.

The following management standards of performance shall be followed unless the Board specifically determines otherwise:

(a) Commencing at the end of the quarter in which the first Unit is sold and closed, the Board may prepare financial reports for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on a cash or accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments

which remain delinquent (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by Board resolution); and

(b) An annual financial report consisting of at least the following shall be prepared within 60 days (or such longer period as is permitted by law) after the close of the fiscal year: (i) a balance sheet showing actual receipts and expenditures; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant.

The Association shall provide each Owner or its authorized agent a copy of the annual financial report within 5 business days following receipt of a written request for same. In addition, if applicable law requires, the Association shall send a copy of the annual financial report to each member by mail or personal delivery following the close of the fiscal year. All records, books and annual reports of the financial activity of the Association should be kept at the principal office of the Association in the State of Texas for at least three (3) years after the closing of each fiscal year.

3.21 Right To Contract.

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

3.22 Fines and Sanctions.

The Association may impose fines, in such amounts as permitted by law, for any violation of the Condominium Instruments except with regard to assessments. To the extent the Declaration or applicable law specifically requires, the Board shall comply with the following procedures prior to imposition of sanctions:

(a) Notice. The Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation or property damage; (ii) the proposed sanction, fine or damage charge to be imposed; (iii) a period of not less than 30 days within which the alleged violator may present a written request for a hearing; and (iv) a statement that the proposed sanction, fine or damage charge shall be imposed as contained in the notice unless the alleged violator challenges the violation within 30 days of the notice. If a timely request for a hearing is not made, or if otherwise permitted by the Condominium Instruments and applicable law, the sanction stated in the notice shall be imposed. The Board may suspend any proposed sanction if the violation is cured, or if a diligent effort is being made to cure, within the 30-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and/or rules by any Person. If a violator repeats the violation, or engages in a similar violation, for which notice was given within 12 months after the date of the first notice, the Board shall have the discretion to impose the proposed sanction, fine or damage charge as if the alleged violation was one continuous violation without the need to serve the alleged violator with additional notice.

(b) Hearing. If the alleged violator requests a hearing within the allotted 30-day period, the hearing shall be held before the Covenants Committee, or if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Proof of proper notice shall be placed in the minutes of the meeting. A copy of the notice, together with a statement of the date and manner of delivery signed by the officer, director, or agent who delivered such notice shall be considered adequate proof of notice. The notice requirement shall be deemed satisfied if

the alleged violator or its representative appears at the meeting. A written statement of the results of the hearing and the sanction, if any, imposed shall be filed with the minutes of the Covenants Committee's meetings. The Association shall hold a hearing not later than the 30th day after the date the Covenants Committee or Board receives Owner's request for a hearing and shall notify Owner of the date, time and place of the hearing not later than the 10th day before the date of the hearing. The Covenants Committee, the Board or Owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties. The Owner or the Association may make an audio recording of the meeting.

(c) Appeal. If a hearing is held before the Covenants Committee, the violator shall have the right to appeal the Covenants Committee's decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, president or secretary of the Association within 10 days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, subject to any limitations set forth in the Declaration, the Board may elect to enforce any provision of the Condominium Instruments by self-help (specifically including, but not limited to, towing vehicles that violate parking rules) or, following compliance with the Declaration's dispute resolution procedures, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation of which abatement is sought shall pay all costs, including, without limitation, reasonable Legal Costs actually incurred.

3.23 Board Training Seminar.

The Board may provide, or provide for, as a Common Expense, seminars and continuing educational opportunities designed to educate and inform directors of their responsibilities as directors. Such programs may include instruction on applicable corporate and fiduciary law principles, other issues relating to administering the Condominium's affairs, and upholding and enforcing the Condominium Instruments. The Board may retain industry professionals, including property managers, attorneys, and accountants, as appropriate or necessary for such purpose. Each newly elected director and each re-elected director may be required to complete a training seminar within the first six months of assuming the director position.

3.24 Board Standards.

In performing their duties, directors and officers shall act as fiduciaries and are entitled to insulation from liability as provided for directors and officers of corporations by applicable law and as otherwise provided by the Condominium Instruments.

A director or officer acting in accordance with the business judgment rule shall not be personally liable to the Association or its members for errors in judgment made in the director's or officer's capacity as such. Unless the Condominium Instruments require that specific action be taken, the failure to take such specific action shall not, without further showing that the Board acted in violation of the business judgment rule, be deemed a violation of a Board duty. A director or officer shall be considered to be acting in accordance with the business judgment rule so long as the director or officers:

- (a) act within the expressed or implied scope of the Condominium Instruments and his or her actions are not *ultra vires*;
- (b) affirmatively undertakes to make decisions which are necessary for the Association's continued and successful operation and, when decisions are made, they are made on an informed basis;
- (c) act on a disinterested basis, promptly discloses any real or potential conflict of interests (pecuniary or other) and avoids participation in such decisions and actions; and
- (d) act in a non-fraudulent manner and without reckless indifference to the Association's affairs.

Board determinations of the meaning, scope, and application of Governing Document provisions shall be upheld and enforced so long as such determinations are reasonable. The Board shall exercise its power in a fair, nondiscriminatory manner and shall adhere to the procedures established in the Condominium Instruments.

3.25 Conflicts of Interest; Code of Ethics.

Unless otherwise approved by a majority of the other directors, no Director elected by the members may transact business with the Association or a contractor engaged by the Association during his or her term as director. A Director shall promptly disclose in writing to the Board any actual or potential conflict of interest affecting the director relative to his or her performance as a director. A Director's failure to make such disclosure shall be grounds for removal by a majority vote of the other Board members. The Board may void any contract which creates a prohibited conflict of interest.

Notwithstanding the above, the directors appointed by Declarant may be employed by or otherwise transact business with Declarant or any of its affiliates, and Declarant and its affiliates may transact business with the Association or its contractors.

Article IV.
Officers

4.1 Officers.

The Association's officers shall include a President, Vice President, Secretary, and Treasurer. The officers may, but need not, be Board members, Owners, or residents of the Condominium; provided, however, that during the Development and Sale Period, the appointment of officers who are not residents of the Condominium shall require the prior written consent of Declarant. The Board may appoint such other officers, including, without limitation, one or more Vice Presidents, Assistant Secretaries or Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2 Election and Term of Office.

The Board shall elect the Association's officers at the first Board meeting following each Association annual meeting. Officers shall serve until their successors are elected.

4.3 Removal and Vacancies.

Any officer may be removed with or without cause by a vote of at least a majority of the directors. The Board shall appoint a replacement to fill any vacancy in any office for the unexpired portion of the term.

4.4 Powers and Duties.

The Association's officers each shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Treasurer shall supervise the preparation of the Association's budget, but may delegate all or part of the preparation and notification duties to a finance committee, managing agent, or both. The Secretary shall prepare or supervise the preparation of meeting minutes as required by applicable law.

4.5 Resignation.

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. 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, acceptance of such resignation shall not be necessary to make it effective.

4.6 Agreements, Contracts, Deeds, Leases, Checks, Etc.

All agreements, contracts, deeds, leases, checks, and other Association instruments shall be executed by an officer, unless the Board provides otherwise, or by such other person or persons as the Board may designate by resolution.

4.7 Compensation.

Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.17.

4.8 President.

The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board at which he or she is present. He or she shall have all of the general powers and duties which are usually vested in the office of the President of a corporation, including, but not limited to, the power, subject to the provisions of Article V, to appoint committees from among the members from time to time as he or she may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association. The President shall, subject to the control of the Board, have general supervision, direction, and control of the business of the Association. The President shall be ex-officio a member of all standing committees, and shall have such other powers and duties as may be prescribed by the Board or these By-Laws.

4.9 Vice President.

The Vice President shall take the place of the President and perform his or her duties whenever the President is absent, disabled, or refuses or is unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim

basis. The Vice President shall also perform such other duties as shall from time to time be conferred upon him or her by the Board or these By-Laws.

4.10 Secretary.

The Secretary shall keep (or cause to be kept) the minutes of all meetings of the Board and the minutes of all meetings of the Association at the Association's principal office or at such other places as the Board may order. The Secretary shall keep (or cause to be kept) the seal of the Association in safe custody and shall have charge of such books and papers as the Board may direct. The Secretary shall, in general, perform (or cause to be performed) all of the duties incident to the office of Secretary. The Secretary shall give, or cause to be given, notice of meetings of the members of the Association and of the Board required by these By-Laws or by law to be given. The Secretary shall maintain (or cause to be maintained) a book of record Owners, listing the names and addresses of the Owners furnished by the Association, and such books shall be changed only at such time as satisfactory evidence of a change in ownership of a Unit is presented to the Secretary. The Secretary shall perform such other duties as may be prescribed by the Board or these By-Laws. The Secretary may delegate all or a part of such duties to the managing agent.

4.11 Treasurer.

The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping, or causing to be kept, full and accurate accounts, tax records, and business transactions of the Association, including accounts of all assets, liabilities, receipts, and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board, in accordance with the Declaration and these By-Laws, shall render to the President and the directors, upon request, an account of all of his or her transactions as Treasurer and of the financial conditions of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or these By-Laws. The Treasurer may delegate a part of such duties to the managing agent.

Article V.
Committees

5.1 General.

The Board may create such committees and appoint its members, as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution.

Committees shall exercise only such authority as granted by Board resolution; provided, however, that the Board may elect not to follow a committee's advice on any matter. Committees may not act without specific Board authority and may not bind the Association contractually or financially.

5.2 Covenants Committee.

The Board shall, from time to time, appoint a Covenants Committee consisting of three persons to serve as a hearing tribunal pursuant to Section 3.22. The Covenants Committee shall be comprised of members of the Association who are not directors, officers, or employees of the Association or the spouse, parent, child, brother, or sister of a director, officer, or employee.

5.3 Other Committees.

In addition to the above, the Board may create additional committees, as it deems necessary and useful. The following are examples of types of committees, along with their purpose, which the Board may create:

(a) Finance Committee – to assist the Board, the Treasurer, and the Association’s managing agent, if any, in preparing the Association’s budget.

(b) Physical Maintenance Committee – to assist the Board with maintenance of the Common Maintenance Areas.

(c) Dispute Resolution Committee – to assist in the mediation of disputes concerning the interpretation of Use Restrictions, rules, and other Governing Document provisions and advise the Board on initiating litigation involving the Association (as provided in the Declaration); provided, however, that the Dispute Resolution Committee shall not preside over matters relating to the collection of assessments or other fees and charges. Each member of the Dispute Resolution Committee shall attend a Board-approved course on dispute resolution, if the Board so requires.

The Board may establish by resolution the specific scope and limitations on the authority of the above committees.

Article VI. **Miscellaneous**

6.1 Fiscal Year.

The Association’s fiscal year shall be the calendar year unless otherwise established by Board resolution.

6.2 Parliamentary Rules.

Except as may be modified by Board resolution, *Robert’s Rules of Order* (the edition published on the date closest to the meeting) shall govern the conduct of Association proceedings when not in conflict with applicable law or the Condominium Instruments.

6.3 Conflicts.

Conflicts between or among the Condominium Instruments and applicable law shall be resolved as directed in the Declaration.

6.4 Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first Mortgage on a Unit, any member, or the duly appointed representative of any of the foregoing at reasonable times and on or before the date the first Unit is sold: the Condominium Instruments, the membership register, books of account, plans and specifications used to construct the Condominium, the Condominium information statement prepared by Declarant in accordance with Section 82.152 of the Act, voting records, proxies and correspondence related to amendments to the Condominium Instruments, and the minutes of meetings of the members, the

Board, and committees. The Board shall provide for such inspection to take place at the Association's office or at such other place within the Condominium as the Board shall designate.

(b) Rules for Inspection. The Board may establish reasonable rules with respect to: (i) notice to be given to the custodian of the records; (ii) hours and days of the week when such an inspection may be made; (iii) payment of the cost of reproducing documents requested; and (iv) such other matters as the Board deems appropriate.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties the Association owns or controls. The director's right of inspection includes the right to make a copy of relevant documents at the Association's expense. The Board shall provide for such inspection to take place at the Association's office, the managing agent's office, or at a place within the Condominium as the Board shall designate.

(d) Audit of Financial Records. The Association shall, as a Common Expense, annually obtain an independent audit of the Association financial records. Copies of the audit shall be available to Owners. The audit shall be performed by a certified public accountant if required by a majority vote of the Board or a majority of the Total Eligible Association Vote.

6.5 Delivery of Certain Information to Owner.

(a) Within 10 Days after the Board's receipt of a written request from an Owner, the Association shall deliver to the Owner or the Owner's agent copies of the following: the Declaration, By-Laws, and Articles of Incorporation, any amendments or supplements to the foregoing, the rules of the Association, and a "resale certificate." A "resale certificate" must be signed and dated by an officer of the Association and contain the following:

- (i) a statement of any right of first refusal or other restraint, if any, contained in the Declaration that restricts the Owner's right to transfer Owner's Unit;
- (ii) the frequency and amount of annual assessments for Common Expenses;
- (iii) the amount of any special assessment that is due after the date the resale certificate is prepared;
- (iv) the total of all amounts due and unpaid to the Association that are attributable to the Owner's Unit;
- (v) capital expenditures, if any, approved by the Association for the next 12 months;
- (vi) the amount of reserves, if any, for capital expenditures and of portions of those revenues designated by the Association for a specified project;
- (vii) the Association's current operating budget and balance sheet;
- (viii) the total of any unsatisfied judgments against the Association;
- (ix) the style and case number of any pending lawsuit in which the Association is a defendant;

(x) a copy of a certificate of insurance showing the Association's property and liability insurance relating to the Common Areas and common facilities;

(xi) a description of any conditions on the Owner's Unit that the Board has actual knowledge are in violation of the Condominium Instruments;

(xii) a summary or copy of notices received by the Association from any Governmental Authority regarding health or housing code violations existing on the preparation date of the resale certificate relating to the Owner's Unit or the Common Area;

(xiii) the amount of any administrative transfer fee charged by the Association for a change of ownership of a Unit;

(xiv) the name, mailing address, and telephone number of the Association's managing agent, if any; and

(xv) a statement indicating that the Condominium Instruments allow foreclosure of the Association's lien on the Owner's Unit for failure to pay assessments.

The Association may charge a reasonable fee to assemble, copy, and deliver the information required by this subsection and may charge a reasonable fee to prepare and deliver an update of a resale certificate.

An Owner or the Owner's agent is not liable to the purchaser of Owner's Unit for erroneous information provided by the Association in the resale certificate. If the Association does not furnish a resale certificate within the 10-day period, the Owner may provide the purchaser with a sworn affidavit signed by the Owner in lieu of the resale certificate. An affidavit must state that the Owner requested information from the Association concerning its financial conditions and the Association did not timely provide a resale certificate. The Association is not liable to an Owner for delay or failure to furnish a resale certificate. An officer or agent of the Association is not liable for a delay or failure to furnish a certificate unless the officer or agent willfully refuses to furnish the resale certificate or is grossly negligent in not furnishing the resale certificate. If the resale certificate incorrectly states the total of delinquent sums owed by the Owner to the Association, the purchaser of Owner's Unit is not liable for payment of additional delinquencies that are unpaid on the date the resale certificate is prepared and that exceed the total sum stated on the resale certificate.

(b) Within 30 days after the date of acquiring a Unit, the Owner shall provide the Association with:

(i) Owner's mailing address, telephone number, and driver's license number, if any;

(ii) name and address of the holder of any lien against the Unit and any loan number;

(iii) name and telephone number of any person occupying the Unit if not the Owner;

and

(iv) name, address, and telephone number of any person managing the Unit as agent of the Owner.

An Owner shall notify the Association within 30 days after the date the Owner has notice of a change in any information required hereinabove and shall provide the information on request by the Association from time to time.

6.6 Management Certificates.

The Association shall record in the Public Records a management certificate, signed and acknowledged by an officer of the Association, stating:

- (a) the name of the Condominium;
- (b) the name of the Association;
- (c) the location of the Condominium;
- (d) the recording data for the Declaration;
- (e) the mailing address of the Association or the name and mailing address of the person or entity managing the Association; and
- (f) other information the Association considers appropriate.

The Association shall record an amended management certificate not later than the 30th day after the date the Association has notice of a change of any information in the recorded certificate required by this section. The Association and its officers, directors, employees, and agents shall not be subject to liability to any Person for a delay in recording or failure to record a management certificate, unless the delay or failure is willful or caused by gross negligence.

6.7 Notices.

(a) Form of Notice and Method of Delivery. Except as otherwise provided in the Declaration or these By-Laws or by applicable law, all notices, demands, bills, statements, or other communications under the Declaration or these By-Laws shall be in writing and may be delivered in person, by United States mail, by private carrier, by facsimile, electronic mail or other electronic communication device with written confirmation of transmission.

(b) Delivery Address. Notices shall be delivered or sent to the intended recipient as follows:

(i) if to a member, at the address, facsimile number, or e-mail address which the member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such member;

(ii) if to the Association, the Board, or a committee of either, at the address, facsimile number, or e-mail address of the principal office of the Association or its managing agent, or at such other address as the Association shall designate by notice in writing to the members pursuant to this Section; or

(iii) if to the Declarant, at the principal address of the Declarant as it appears on the Secretary of State's records, or at such other address as the Declarant shall designate by notice in writing to the Association pursuant to this Section.

(c) Effective Date. Notice sent in accordance with subsections (a) and (b) shall be deemed to have been duly given and effective:

(i) if sent by United States mail, when deposited with the U. S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; however, if such delivery is refused or if the intended recipient has contracted with the private carrier to leave any deliveries without obtaining a signature evidencing receipt, the notice shall be deemed duly given and effective if the attempt to deliver was timely made;

(iii) if sent by facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

6.8 Amendment.

Except where a higher vote is required for action under a particular provision of the Declaration or these By-Laws, in which case such higher vote shall be necessary to amend, these By-Laws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members holding sixty-seven percent (67%) of the Total Eligible Association Vote. As long as the Declarant has the right to appoint directors of the Association as provided in Article 19 of the Declaration, any amendment to these By-Laws shall also require the written consent of the Declarant. Notice of any meeting at which an amendment will be considered shall state that fact and the subject matter of the proposed amendment. No amendment shall become effective until it is certified by the president and secretary of the Association and recorded in the Public Records. Any amendment duly certified and recorded shall be conclusively presumed to have been fully adopted in accordance with these By-Laws.

Any action to challenge the validity of an amendment adopted under this Section must be brought within one (1) year of the amendment's effective date. No action to challenge any such amendment may be brought after such time.

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Bay Water Condominium Association, Inc., a Texas nonprofit corporation;

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the ____ day of _____, 2004.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this ____ day of _____, 2004.

Secretary

[CORPORATE SEAL]