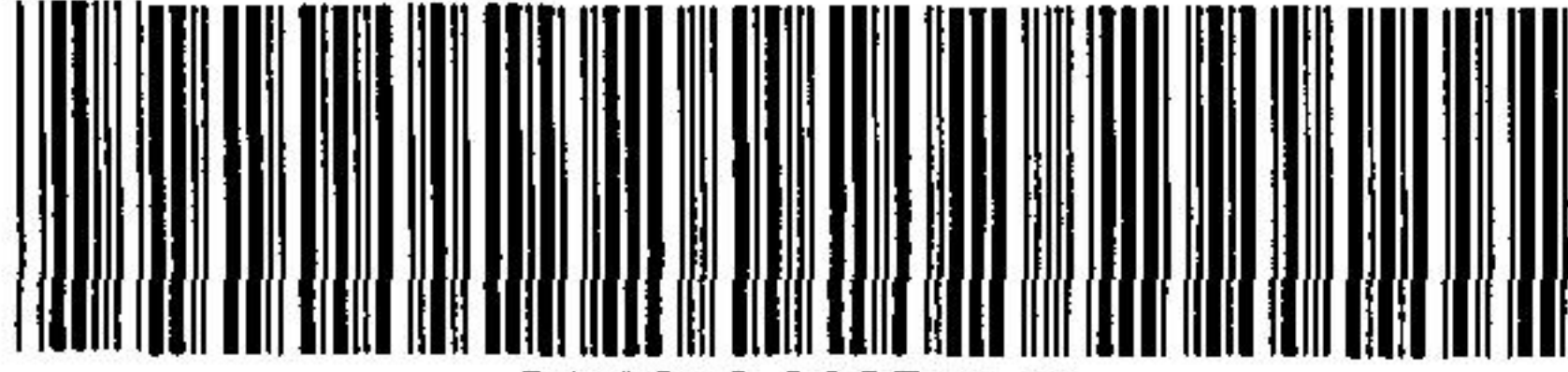


Hidalgo County  
Arturo Guajardo Jr.  
County Clerk  
Edinburg, TX 78540



70 2013 02371949

Instrument Number: 2013-2371949

As  
Recording

Recorded On: January 08, 2013

Parties:

To

Billable Pages: 52

Number of Pages: 53

Comment: CERTIFICATE

**\*\* Examined and Charged as Follows: \*\***

Recording	220.00
<b>Total Recording:</b>	<b>220.00</b>

\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

**File Information:**

Document Number: 2013-2371949

Receipt Number: 1327386

Recorded Date/Time: January 08, 2013 11:23A

**Record and Return To:**

ORIGINAL RETURN TO CUSTOMER

User / Station: I Leal - Cash Station 02



STATE OF TEXAS  
COUNTY OF HIDALGO

I hereby certify that this instrument was FILED in the File Number sequence on the date/time printed heron, and was duly RECORDED in the Official Records of Hidalgo County, Texas

Arturo Guajardo Jr.  
County Clerk  
Hidalgo County, TX

**CERTIFICATE OF RECORDING DEDICATORY INSTRUMENTS  
PURSUANT TO §202.006 TEXAS PROPERTY CODE**

**DEDICATORY INSTRUMENTS FOR RECORDING ARE ATTACHED HERETO AS THE  
FOLLOWING EXHIBITS:**

- A. Certificate of Formation Nonprofit Corporation (2 pages)
- B. Latitude 360 Apartments and Condo Owners Association, Inc. Corporate Bylaws (16 pages)
- C. First Amendment to Declaration of Restrictive Covenants of the Latitude 360 Apartment and Condo Owners Association AKA All of Block 1, Sunrise Terrace Subdivision
- D. HOA Alternative Payment Schedule Policy Adopted Pursuant to Section 209.0062, Texas property Code (3 pages)
- E. HOA Document Retention Policy & Records Production & Copying Policy Adopted Pursuant to §209.005, Texas Property Code (9 pages)

**PROPERTY DESCRIPTION:** (Include platted subdivision name & plat recording data)

All of Block 1, Sunrise Terrace Subdivision (including Lots 1 through 48, Block 1, Sunrise Terrace Subdivision) an addition to the City of McAllen, Hidalgo County, Texas

**POPULAR NAME OF DEVELOPMENT:**

Latitude 360 Apartments and Condominiums

**ADDITIONAL DEDICATORY INSTRUMENTS TO WHICH CONDOMINIUM IS  
SUBJECT:**

- 1. Declaration of Restrictive Covenants of the Latitude Apartments and Condo Owners Association AKA All of Block 1, Sunrise Terrace Subdivision, recorded as Document No. 1856546, Real Property Records, Hidalgo County, Texas, as amended
- 2. Management Certificate for Latitude 360 Apartments and Condo Association, Inc. dated October 13, 2011 and recorded as Document No. 2249115, Real Property Records, Hidalgo County, Texas

**NAME OF PROPERTY OWNERS ASSOCIATION:**

Latitude 360 Apartments and Condo Owners Association, Inc. (the "Association")



**Form 202**  
 Secretary of State  
 P.O. Box 13697  
 Austin, TX 78711-3697  
 FAX: 512/463-5709  
 Filing Fee: \$25



**Certificate of Formation  
 Nonprofit Corporation**

Filed in the Office of the  
 Secretary of State of Texas  
 Filing #: 801043906 10/23/2008  
 Document #: 234226430002  
 Image Generated Electronically  
 for Web Filing

**Article 1 - Corporate Name**

The filing entity formed is a nonprofit corporation. The name of the entity is :

**LATITUDE 360 APARTMENTS AND CONDO OWNERS ASSOCIATION, INC.**

The name must not be the same as, deceptively similar to that of an existing corporate, limited liability company, or limited partnership name on file with the secretary of state. A preliminary check for the "name availability" is recommended.

**Article 2 - Registered Agent and Registered Office**

A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:  
**Sameer N Saxena**

C. The business address of the registered agent and the registered office address is:

Street Address:  
**4009 S. Sugar Road Edinburg TX 78539**

**Article 3 - Management (Complete items A or B)**

A. Management of the affairs of the corporation is to be vested solely in the members of the corporation.

OR

B. Management of the affairs of the corporation is to be vested in its board of directors. The number of directors, which must be a minimum of three, that constitutes the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting or until their successors are elected and qualified are set forth below.

Director 1: **Sameer N Saxena** Title: **Director**

Address: **4009 S. Sugar Road Edinburg TX, USA 78539**

Director 2: **Qusai Mahesri** Title: **Director**

Address: **3388 Sage Road # 1902 Houston TX, USA 77056**

Director 3: **August Al-Uqdah** Title: **Director**

Address: **3771 University Houston TX, USA 77005**

**Article 4 - Organization Structure  
 (You must select either A or B below)**

A. The corporation will have members.

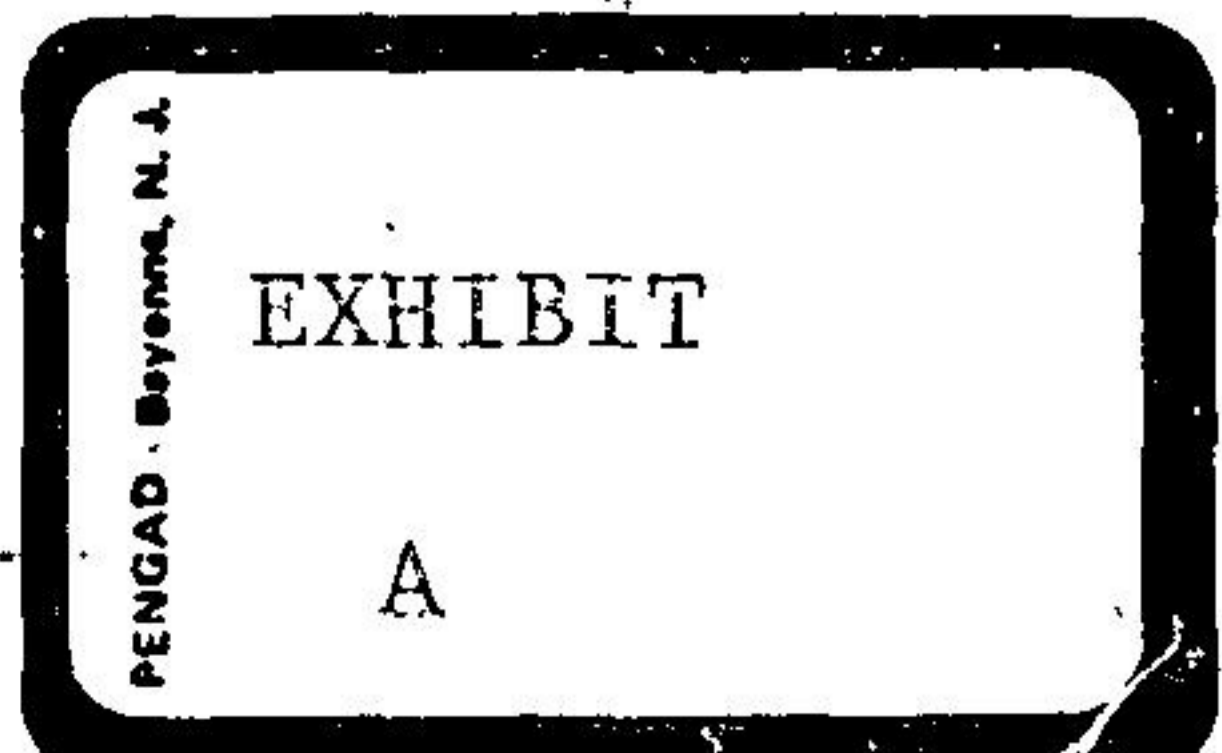
B. The corporation will not have members.

**Article 5 - Purpose**

The corporation is organized for the following purpose or purposes:

**The Corporation is formed exclusively for non-profit purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code. Notwithstanding any other provision of this Certificate of Formation, this Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of this Corporation.**

**The purpose of the Corporation is to improve and preserve the quality of life in**



the Latitude 360 at Sunrise Terrace Subdivision through the following actions:

- A. Review and recommend any action, policy, or plan presented to the City of McAllen or any city agency, commission or board on any matter affecting the Subdivision;
- B. Represent the subdivision in all land use matters arising before the City or any agency, board or commission;
- C. Review and recommend action on any proposed changes to the subdivision covenants
- D. Coordinate activities in the subdivision to promote the safety, health, and beauty of the subdivision.
- E. Undertake to manage projects as may be agreed upon or contracted with public or agencies in support of the purposes of the Association;
- F. To source, secure, manage and disburse funds for the advancement of the foregoing;
- G. To promote community and good relations in our subdivision.
- H. To enforce the covenants of the subdivision.

**Supplemental Provisions / Information**

[The attached addendum, if any, is incorporated herein by reference.]

**Effectiveness of Filing**

A. This document becomes effective when the document is filed by the secretary of state.

OR

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

**Organizer**

The name and address of the organizer are set forth below.

**Sameer N. Saxena                      4009 S. Sugar Road, Edinburg, TX 78539**

**Execution**

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

**SAMEER N. SAXENA**

Signature of organizer.

**ARTICLE ONE – ADOPTION AND INTERPRETATION OF BYLAWS**

**1.01 DEFINITIONS**

**In these Bylaws:**

“Board of Directors” has the meaning set forth in Section 22.001 (1) of the TBOC: the group of person vested with the management of the affairs of the Corporation, regardless of the name used to designate the group. “Director” means a person who is a member of that group, regardless of the name used to designate the person.

“Corporation” means the corporation formed as described in Article 2.01 of these Bylaws.

“Governing authority” has the meaning set forth in Section 1.002(35)(A) of the TBOC: the Board of Directors of the Corporation or other persons authorized to perform the functions of the Board of Directors of the Corporation. The term does not include an Officer who is acting in the capacity of an Officer.

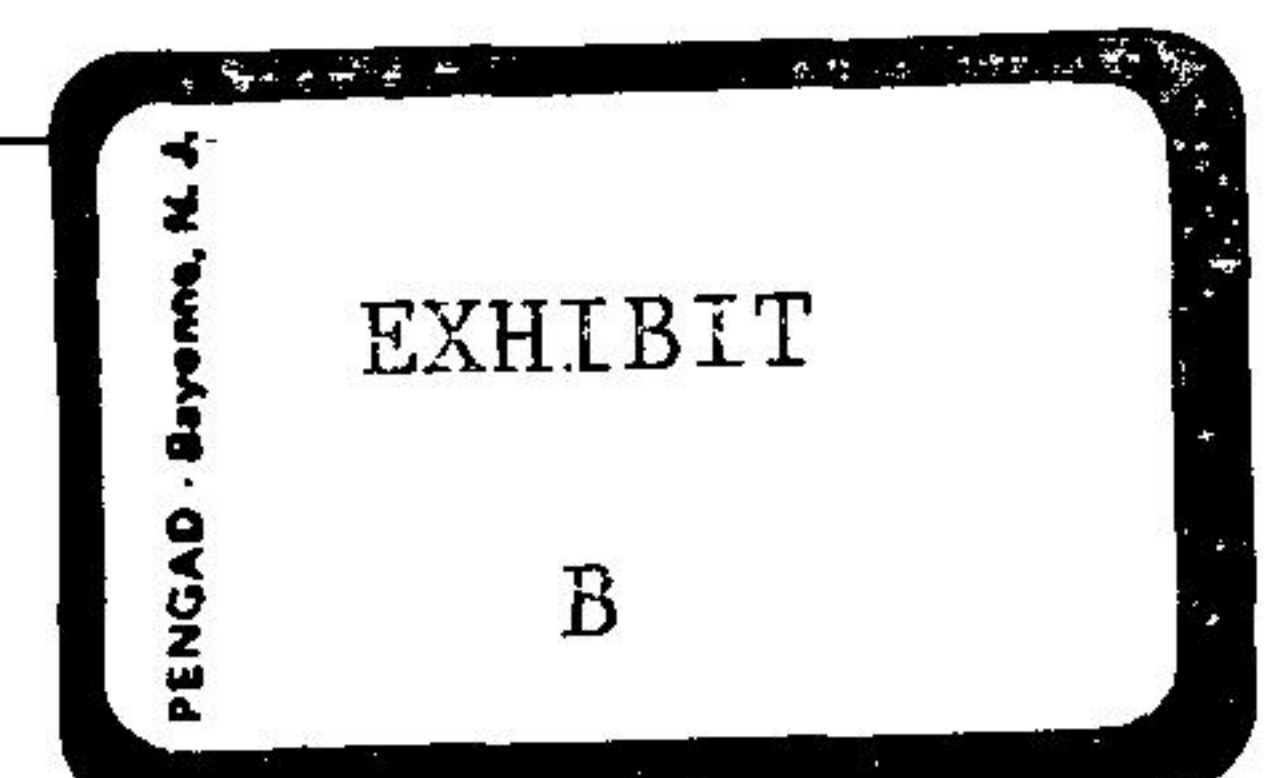
“Governing documents” has the meaning set forth in Section 1.002(36) of the TBOC: the Certificate of Formation, the Bylaws and other documents or agreements adopted by the Corporation under the TBOC to govern the internal affairs of the Corporation.

“Governing person” has the meaning set forth in Section 1.002(37) of the TBOC: a person serving as part of the governing authority of an entity.

“Signature” has the meaning set forth in Section 1.002(82) of the TBOC: any symbol executed or adopted by a person with present intention to authenticate a writing. Unless the context requires otherwise, the term includes a digital signature, an electronic signature, and a facsimile of a signature.

“TBOC” means the Texas Business Organizations Code, as amended from time to time.

“Writing” or “written” has the meaning set forth in Section 1.002(89) of the TBOC: an expression of words, letters, characters, numbers, symbols, figures, or other textual information that is inscribed on a tangible medium or that is stored in an electronic or other medium that is retrievable in a perceivable form. Unless the context requires otherwise, the term includes stored or transmitted electronic data, electronic transmissions, and reproductions of writings; and does not include sound or video recordings of speech other than transcriptions that are otherwise writings.



**1.02 INTERPRETATION AND SEVERABILITY**

These Bylaws are governed by, and shall be construed in accordance with the laws of the State of Texas. If any provision of these Bylaws or the application thereof to any person or circumstance is held invalid or unenforceable, the remainder of these Bylaws and the application of that provision to other persons or circumstances are not affected thereby, and that provision shall be enforced to the greatest extent permitted by the applicable law.

**1.03 GENDER AND NUMBER**

Whenever the context requires, the gender of all words used in these Bylaws will include the masculine, feminine, and neuter, and the number of all words will include the singular and plural.

**1.04 ARTICLES AND OTHER HEADINGS**

The articles and other headings contained in these Bylaws are for reference purposes only and will not affect the meaning or interpretation.

**1.05 ADOPTION, AMENDMENT, AND REPEAL OF BYLAWS**

The Board of Directors may alter, amend, or repeal these Bylaws, and adopt new Bylaws. All amendments shall be upon advice of counsel as to legal effect, except in emergency. Bylaw changes shall take effect upon adoption unless otherwise specified. Notice of Bylaw changes shall be given in or before notice of the first Members' meeting following their adoption.

**ARTICLE TWO – CERTIFICATE OF FORMATION AND OFFICES**

**2.01 CERTIFICATE OF FORMATION PROVISIONS**

The Certificate of Formation of Latitude 360 Apartment and Condo Owners Association was duly filed with the Texas Secretary of State. The Certificate of Formation sets forth the Corporation's name, purpose, duration if not perpetual, registered office and registered agent, and initial Board of Directors, and may set forth other provisions as well. Each provision of the Certificate of Formation shall be observed until amended by Restated Certificate or Certificate of Amendment duly filed with the Secretary of State.

**2.02 REGISTERED OFFICE AND REGISTERED AGENT**

The address of the Registered Office provided in the Certificate of Formation, as duly filed with the Texas Secretary of State, is:

**c/o Magnolia Property Management, Inc.  
520 Pecan Blvd.  
McAllen, TX 78501**

The name of the Registered Agent of the Corporation at such address, as set forth in the Certificate of Formation, is: Scott A. Walsh.

The registered agent or registered office may be changed by filing a Statement of Change of Registered Agent or Registered Office, or Both, with the Texas Secretary of State, and not otherwise. Such filing shall be made promptly with each change. Arrangements for each change in registered agent or office shall ensure that the Corporation is not exposed to the possibility of a default judgment. Each successive registered agent shall be of reliable character and will be informed of the necessity of immediately furnishing the papers of any lawsuit against the Corporation to its attorneys.

### **2.03 INITIAL PRINCIPAL PLACE OF BUSINESS**

The address of the initial principal place of business of the Corporation is hereby established as:

**c/o Magnolia Property Management, Inc.  
520 Pecan Blvd.  
McAllen, TX 78501**

The Corporation may have additional business offices within the State of Texas, and where it may be duly qualified to do business outside of Texas, as the Board of Directors, may designate or the business of the Corporation may require.

## **ARTICLE THREE – DIRECTORS AND DIRECTORS’ MEETINGS**

### **3.01 MANAGEMENT BY DIRECTORS**

The business and affairs of the Corporation and all corporate powers shall be exercised by or under the authority of the Board of Directors, subject to the limitations imposed by law, the Certificate of Formation, and these Bylaws.

### **3.02 NUMBER OF DIRECTORS**

The number of Directors the Corporation shall have is three. No Director need be a Member or resident of Texas. The number of Directors may be increased or decreased from time to time by amendment of these Bylaws. Any decrease in the total number of Directors shall not have the effect of reducing the total number of Directors below three (3), nor of shortening the tenure that any incumbent Director would otherwise enjoy.

### **3.03 TERM OF OFFICE**

Unless a Director resigns or is removed, a Director shall hold office until the next annual election of Directors and until a successor is elected, appointed, or designated and qualified. Election for all Director positions, vacant or not, shall occur at each annual Members’ meeting and may be held at any special Members’ meeting called specifically for that purpose.

### **3.04 COMPENSATION**

The Corporation may pay compensation in a reasonable amount to the Directors for services provided. This policy does not preclude any Director from serving the Corporation in any other capacity and receiving compensation for such additional service.

### **3.05 VACANCIES**

Vacancies on the Board of Directors shall exist upon: (1) the failure of the Members to elect the full authorized number of Directors to be voted for at any Member's meeting at which any Director is to be elected; (2) a declaration of vacancy under Subarticle 3.05(a) of these Bylaws; (3) an increase in the authorized number of Directors; or (4) the death, resignation, or removal of any Director.

#### **3.05(a) DECLARATION OF A VACANCY**

A majority of the Board of Directors may declare the office of a Director vacant if the Director is adjudged incompetent by a court; is convicted of a crime involving moral turpitude; or fails to accept the office of Director, either by a letter of acceptance or by attending a meeting of the Board of Directors, within thirty (30) days of notice of election.

#### **3.05(b) FILLING VACANCIES BY DIRECTORS**

Vacancies other than those caused by an increase in the number of Directors may be filled temporarily by majority vote of the remaining Directors, though less than a quorum, or by a sole remaining Director. Each Director so elected shall hold office until a qualified successor is elected at a Members' meeting. Vacancies reducing the number of Directors to fewer than three shall be filled before the transaction of any other business.

#### **3.05(c) FILLING VACANCIES BY MEMBERS**

Any vacancy on the Board of Directors, including those caused by an increase in the number of Directors, shall be filled by the Members at the next annual meeting or at a special meeting called for that purpose. Upon the **resignation of a Director tendered** to take effect at a future time, the Board or the Members may elect a successor to take office when the resignation becomes effective.

### **3.06 REMOVAL OF DIRECTORS**

A Director may be removed from office, with or without cause, by the persons entitled to elect, designate, or appoint the Director. Removal requires an

affirmative vote equal to the vote necessary to elect the Director. If any or all Directors are so removed, their replacements may be elected at the same meeting.

**3.07 ACTION BY CONSENT OF BOARD WITHOUT MEETING**

Any action required to be taken at a regular, special, or other meeting of the Board of Directors or a committee of the Board of Directors, may be taken without holding a meeting, providing notice, or taking a vote if each person entitled to vote on the action signs a written consent or consents stating the action taken. The written consent has the same effect as a unanimous vote at a meeting. Such consent may be given individually or collectively.

**3.08 LOCATION OF MEETINGS**

Meetings of the Board of Directors shall be held at the principal office of the Corporation, or at such other location in or outside the State of Texas as may be provided by or fixed in accordance with the Board of Directors. The location of a meeting means either the physical location of the meeting, or in the case of a meeting by remote communications technology described below, the form of communications system to be used for the meeting and the means of accessing that communications system.

**3.09 MEETINGS BY REMOTE COMMUNICATIONS TECHNOLOGY**

Subject to the notice provisions required by these Bylaws and by the TBOC, the Directors may also hold meetings by means of a remote electronic communications system, including videoconferencing technology or the Internet, or any combination, only if each person entitled to participate in the meeting consents to the meeting being held by means of that system, and the system provides access to the meeting in a manner or using a method by which each person participating in the meeting can communicate concurrently with each other participant. Participation in such a meeting shall constitute presence in person at such meeting, except participation for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**3.10 REGULAR MEETINGS**

Regular meetings of the Board of Directors shall be held, without call or notice, immediately following each annual Members' meeting, and at any other regularly repeating times and locations as the Board of Directors may designate.

**3.11 SPECIAL MEETINGS**

Special meetings of the Board of Directors for any purpose may be called at any time by the President of, if the President is absent or unable or refused to act, by any Vice President or any two Directors. Written notice of the special meeting, stating the time and location of the meeting, shall be delivered to each Director, either by facsimile transmission, by mail, or by electronic message not

later than ten (10) days before the day appointed for the meeting, or personally delivered so as to be received by each Director not later than two (2) days before the day appointed for the meeting. The notice may include a tentative agenda, but the meeting shall not be confined to any agenda included with the notice, and none is required.

Upon providing notice, the Secretary or other officer sending notice shall sign and file in the Company Record Book a statement of the details of the notice given to each Director. If such statement should later not be found in the Company Record Book, due notice shall be presumed.

### **3.12 QUORUM**

The presence throughout any Directors' meeting, or adjournment thereof, of a majority of the authorized number of Directors shall be necessary to constitute a quorum to transact any business, except to adjourn. If a quorum is present, every act done or resolution passed by a majority of the Directors present and voting shall be the act of the Board of Directors, unless the act of a greater number is required by law, the Certificate of Formation, or these Bylaws. Directors present by proxy shall not be counted toward a quorum.

### **3.13 ADJOURNMENT AND NOTICE OF ADJOURNED MEETINGS**

A quorum of the Directors may adjourn any Directors' meeting to meet again at a stated hour on a stated day. Notice of the time and location where an adjourned meeting will be held need not be given to absent Directors if the time and location are fixed at the adjourned meeting. In the absence of a quorum, a majority of the Directors present may adjourn to a set time and place if notice is duly given to the absent members, or until the time of the next regular meeting of the Board.

### **3.14 CONDUCT OF MEETINGS**

The President shall chair all meetings of the Board of Directors. In the President's absence, the Vice President or a Chairman chosen by a majority of the Directors present shall preside. The Secretary of the Corporation shall act as Secretary of the Board of Directors' meetings. When the Secretary is absent from any meeting, the Chairman may appoint any person to act as Secretary of that meeting.

### **3.15 INDEMNIFICATION OF DIRECTORS AND OFFICERS**

The Corporation shall indemnify all officers, Directors, employees, and agents to the extent required by Chapter 8, TBOC. The Board of Directors may, by separate resolution, provide for additional indemnification as allowed by law.

### **3.16 INSURING DIRECTORS, OFFICERS, AND EMPLOYEES**

The Corporation may purchase, procure, or establish and maintain insurance, or make any other arrangement, on behalf of any person as permitted

by Section 8.151, TBOC, whether or not the Corporation has the power to indemnify that person against liability for any acts.

**3.17 BOARD COMMITTEES – AUTHORITY TO APPOINT**

By resolution adopted by the majority of the Directors in office, the Board of Directors may designate one or more committees to have and exercise the authority of the Board in the management of the Corporation to the extent provided by the resolution, the Certificate of Formation, or these Bylaws. Each committee must consist of at least (2) persons, and the majority of the persons on the committee must be Directors. The remaining persons on the committee are not required Directors. The Board shall have the power to change the powers and membership of, fill vacancies in, and dissolve any committee at any time. Members of any committee shall receive such compensation as the Board of Directors may from time to time provide. The designation of any committee and the delegation of authority thereto shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility imposed by law. The Board may also elect or appoint Members' committees, but these committees shall not conduct the business of the Corporation.

**3.18 PROXIES**

A Director may vote in person or by proxy executed in writing by the Director. NO proxy shall be valid after three (3) months from the date of its execution. Each proxy shall be revocable unless expressly provided therein to be irrevocable and otherwise irrevocable by law.

**ARTICLE FOUR – MEMBERS AND MEMBERS' MEETINGS**

**4.01 MEMBERS**

Subject to its Certificate of Formation, as amended from time to time, the Corporation shall have Members.

**4.02 ADMISSION OF MEMBERS**

Members shall be admitted by the Board of Directors. An affirmative vote of the majority of the Directors shall be required for admission. The Directors shall set, and may alter, qualifications, right, and classes of membership. Membership is not transferable or assignable.

**4.03 VOTING RIGHTS**

Members of any class(es) entitled to vote shall have one (1) vote on each matter submitted to a vote of the Members.

**4.04 TERMINATION OF MEMBERSHIP**

The Directors, by two-thirds affirmative vote, may suspend or expel a Member for cause after notice and hearing any may, by a majority vote, terminate the membership of any Member who becomes ineligible for membership, or

suspend or expel any Member who shall be in default in the payment of dues for the period fixed by the Directors.

**4.05 REINSTATEMENT**

Upon written request signed by a former Member and filed with the Secretary of the Corporation, the Board of Directors may, by two-thirds affirmative vote, reinstate such former Member on such terms, as the Directors may deem appropriate.

**4.06 RESIGNATION**

Any Member may resign by filing a written resignation with the Secretary of the Corporation, but such resignation shall not relieve the Member so resigning of the obligation to pay any dues, assessments, or other charges theretofore accrued and unpaid.

**4.07 ANNUAL MEETINGS**

The time, location, and date of the annual meeting of the Members of the Corporation, for the purpose of electing Directors and for the transaction of any other business as may come before the meeting, shall be set by a majority vote of the Board of Directors. If the day fixed for the annual meeting is a legal holiday in the State of Texas, such meeting shall be held on the next succeeding business day. If the election of Directors is not held on the day thus designated for any annual meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Members as soon thereafter as possible.

**4.08 ACTION WITHOUT MEETING**

Any action that may be taken at a meeting of the Members under any provision of the TBOC may be taken without a meeting if each person entitled to vote on the action signs a written consent stating the action taken and the consent is filed with the Secretary of the Corporation. Each such signed consent, or a true copy thereof, shall be placed in the Company Record Book.

**4.09 LOCATION OF MEETINGS**

Members' meeting shall be held at locations in or outside State of Texas as may be designated by the written consent of all persons entitled to vote at a Members' meeting. Any meeting is valid wherever held if written consent to the meeting is given by all persons entitled to vote at the meeting. The location of a meeting shall be stated in the notice of the meeting or in a duly executed waiver thereof. The location of a meeting refers either to the physical location of the meeting, or in the case of a meeting by remote communications technology described below, the form of communications system to be used for the meeting and the means of accessing that communications system.

**4.10 MEETING BY REMOTE COMMUNICATIONS TECHNOLOGY**

Subject to the notice provisions required by these Bylaws and by the TBOC, the Members may also hold meetings by means of a remote electronic communications system, including videoconferencing technology or the Internet, or any combination, only if each person entitled to participate in the meeting consents to the meeting being held by means of that system, and the system provides access to the meeting in a manner or using a method by which each person participating in the meeting can communicate concurrently with each other participant. Participation in such a meeting shall constitute presence in person at such meeting, except participation for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

#### **4.11 FAILURE TO CALL ANNUAL MEETING**

If the Board of Directors fails to call the annual meeting of Members at the designated time, a Member of the Corporation may demand that the meeting be held within a reasonable time. The demand must be made in writing and sent to an officer of the Corporation by registered mail. If the meeting is not called before the sixty-first (61st) day after the date of the demand, any Member may compel the meeting by legal action directed against the Board of Directors.

#### **4.12 CONDUCT OF MEETINGS**

Members' meetings shall be chaired by the President, or, in the President's absence, a Vice President or any other person chosen by a majority of the Members present in person or by proxy and entitled to vote. The Secretary of the Corporation, or, in the Secretary's absence, an Assistant Secretary, shall act as Secretary of the Members' meetings. In the absence of the Secretary or Assistant Secretary, the Chairman of the meeting shall appoint another person to act as Secretary of the meeting.

#### **4.13 NOTICE OF MEETINGS**

Written notice of a Members' meeting, stating the location, date, and time of the meeting, and if the meeting is a special meeting, the purpose or purposes for which the meeting is called, shall be delivered to each Director and to each Member entitled to vote at the meeting. The location refers to either the physical location of the meeting or, in the case of an alternative form of meeting, the form of communications system to be used for the meeting and the means of accessing that communications system. Notice shall be delivered either personally, by facsimile transmission, by mail, or by electronic message, not later than the tenth (10th) day and not earlier than the sixtieth (60th) day before the date of the meeting. The notice shall be addressed to each recipient at such address as appears in the Corporation's records or as the recipient has given to the Corporation for the purpose of notice. Meetings provided for in these Bylaws shall not be invalid for lack of notice if all persons entitled to notice consent to the meeting in writing or are present at the meeting in person or by proxy and do not object to the notice given. Consent may be given either before or after the meeting. Notice of the reconvening of an adjourned meeting is not necessary

unless the meeting is adjourned more than thirty (30) days past the date stated in the notice, in which case notice of the adjourned meeting shall be given as in the case of any special meeting.

#### **4.14 SPECIAL MEETINGS**

A special Members' meeting may be called at any time by the President, the Board of Directors, or one or more Members holding one-tenth or more of all the votes entitled to be cast at the meeting. Such meeting may be called for any purpose. Notice shall be sent in the manner described in Article 4.13 of these Bylaws.

#### **4.15 QUORUM**

##### **4.15(a) QUORUM OF MEMBERS**

As to each item of business to be voted on, the presence (in person or by proxy) of the persons who are entitled to vote at least one-tenth of the Member's votes on that matter shall constitute the quorum necessary for the consideration of the matter at a Members' meeting. If a quorum is present, every act done or resolution passed by a majority of the Members present shall be the act of the Members.

##### **4.15(b) ADJOURNMENT FOR LACK OF QUORUM**

No business may be transacted in the absence of a quorum, or upon the withdrawal of enough Members to leave less than a quorum, other than to adjourn the meeting from time to time by the vote of a majority of the votes represented at the meeting.

#### **4.16 VOTING AT AN ELECTION OF DIRECTORS**

A member entitled to vote at an election of Directors is entitled to vote, in person or by proxy, for as many persons as there are Directors to be elected and for whose election the Member has a right to vote. If expressly authorized by the Corporation's Certificate of Formation, the Member may cumulate the Member's vote by giving one candidate a number of votes equal to the number of the Directors to be elected multiplied by the Member's vote, or by distributing the votes on the same principle among any number of the candidates. A member who intends to cumulate votes shall give written notice of the Member's intention to the Secretary of the Corporation not later than the day preceding the date of the election.

#### **4.17 PROXIES**

A Member may vote either in person or by proxy executed in writing by the Member or his or her duly authorized attorney-in-fact. Unless otherwise provided in the proxy or by law, each proxy shall be revocable and shall not be valid after eleven (11) months from the date of its execution.

**4.18 MEANS OF VOTING**

A Member vote on any matter may be conducted by mail, by facsimile transmission, by electronic message, or by any combination of those methods.

**4.19 ANNUAL DUES**

The Board of Directors may determine from time to time the amount of initiation fee, if any, and the annual dues payable to the Corporation by each class of Members.

**4.20 PAYMENT OF DUES**

Dues shall be payable in advance on the date specified by the Board of Directors. Dues of a new Member may be prorated from the first day of the month in which such new Member is elected to membership, for the remainder of the fiscal year of the Corporation.

**4.21 DEFAULT AND TERMINATION OF MEMBERSHIP**

When any Member shall be in default in the payment of dues, as determined by the Board of Directors, his or her membership may be terminated by the Board of Directors in the manner provided in Article 4.04 of these Bylaws.

**ARTICLE FIVE – OFFICERS**

**5.01 TITLE AND APPOINTMENT**

The officers of the Corporation shall include a President and a Secretary and may include one or more Vice Presidents, a Treasurer, and other officers and Assistant officers as the Board may designate. Any two or more offices, except President and Secretary, may be held by the same person. All officers shall be elected by and hold office at the pleasure of the Board of Directors, who shall fix the compensation and tenure, not to exceed three (3) years, of all officers. The Board of Directors may delegate this power to appoint officers to any officer or committee, and such officer or committee shall have full authority over the officers they appoint, subject to the power of the Board as a whole. Election or appointment of an officer shall not itself create contract rights.

**5.02 REMOVAL AND RESIGNATION**

Any officer may be removed, with or without cause, by a vote of a majority of the Directors at any meeting of the Board or, except in the case of an officer chosen by the Board of Directors, by any committee or officer upon whom that power of removal may be conferred by the Board. Such removal shall be without prejudice to the contract rights, if any, of the person removed. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary of the Corporation. Any resignation shall take effect upon receipt or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**5.03 VACANCIES**

Should any vacancy occur in any office of the Corporation, the Board of Directors may elect an acting successor to hold office for the unexpired term or until a permanent successor is elected.

**5.04 COMPENSATION**

The compensation of the officers shall be fixed from time to time by the Board of Directors, and no officer shall be prevented from receiving a salary by reason of the fact that the officer is also a Member or a Director of the Corporation, or both.

**5.05 PRESIDENT**

The President shall be the chief executive officer of the Corporation, subject to the control of the Board of Directors. The President shall have general supervision, direction, and control of the business and officers of the Corporation; shall have the general powers and duties of management usually vested in the office of the President of a corporation; shall have such other powers and duties as may be prescribed by the Board of Directors or the Bylaws; and shall be *ex officio* a member of all standing committees, including the executive committee, if any. In addition, the President shall preside at all meetings of the Members and Board of Directors.

**5.06 VICE PRESIDENT**

The Vice President(s), in any, shall have such powers and perform such duties as from time to time may be prescribed by these Bylaws, the Board of Directors, or the President. In the absence or disability of the President, the senior Vice President shall perform all the duties of the President, pending action by the Board. While so acting, the senior Vice President shall have the powers of, and be subject to all the restrictions on, the President.

**5.07 SECRETARY**

**The Secretary shall:**

1. See that all notices are duly given as required by law, the Certificate of Formation, or these Bylaws. In case of the absence or disability of the Secretary, or the Secretary's refusal or neglect to act, notice may be given and served by an Assistant Secretary or by the President, Vice President, or Board of Directors.
2. Be custodian of the minutes of the Corporation's meetings, its Company Record Book, its other records, and any seal, which it may adopt. When the Corporation exercises its right to use a seal, the Secretary shall see that the seal is embossed upon all documents authorized to be executed under seal in accordance with these Bylaws.

3. Maintain, in the Company record Book, a record of all Members of the Corporation, together with their current mailing addresses.
4. In general, perform all duties incident to the office of Secretary, and such other duties as from time to time may be required by Article Six of these Bylaws, by these Bylaws generally, by the President, by the Board of Directors, or by law.

#### **5.08 TREASURER**

**The Treasurer, if any, shall:**

1. Have charge and custody of, and be responsible for, all funds and securities of the Corporation, and deposit all funds in the name of the Corporation in those banks, trust companies, or other depositories as the Board of Directors select.
2. Receive, and give receipt for, monies due and payable to the Corporation.
3. Disburse or cause to be disbursed the funds of the Corporation as may be directed by the Board of Directors, and take proper vouchers for those disbursements.
4. If required by the Board of Directors or the President, give to the Corporation a bond to assure the faithful performance of the duties of the Treasurer's office and the restoration to the Corporation of all corporate books, papers, vouchers, money, and other property of whatever kind in the Treasurer's possession or control, in case of the Treasurer's death, resignation, retirement, or removal from office. Any such bond shall be in a sum satisfactory to the Board of Directors, with one or more individual securities or with a surety company satisfactory to the Board of Directors.
5. In general, perform all the duties incident to the office of the Treasurer, and such other duties as from time to time may be assigned to the Treasurer by Article Seven of these Bylaws, by these Bylaws generally, by the President, by the Board of Directors, or by law.

#### **5.09 ASSISTANT SECRETARY AND ASSISTANT TREASURER**

The Assistant Secretary and Assistant Treasurer shall have such powers and perform such duties as the Secretary or Treasurer, respectively, or as the President or Board of Directors may prescribe. In the absence of the Secretary or Treasurer, the Assistant Secretary or Assistant Treasurer, respectively, may perform all the functions of the Secretary or Treasurer.

### **ARTICLE SIX – AUTHORITY TO EXECUTE INSTRUMENTS**

#### **6.01 NO AUTHORITY ABSENT SPECIFIC AUTHORIZATION**

These Bylaws provide certain authority for the execution of instruments. The Board of Directors, except as otherwise provided in these Bylaws, may

additionally authorize any officer(s) or agents(s), to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation. Such authority may be general or confined to specific instances. Unless expressly authorized by these Bylaws or the Board of Directors, no officer, agent, or employee shall have any power or authority to bind the Corporation by any contract or engagement nor to pledge its credit nor to render it liable pecuniarily for any purpose or in any amount.

**6.02 EXECUTION OF CERTAIN INSTRUMENTS**

Formal contracts, promissory notes, deeds, deeds of trust, mortgages, pledges, and other evidences of indebtedness of the Corporation, other corporate documents, and certificates of ownership of liquid assets held by the Corporation shall be signed or endorsed by the President or any Vice President and by the Secretary or the Treasurer, unless otherwise specifically determined by the Board of Directors or otherwise required by law.

**ARTICLE SEVEN – CORPORATE RECORDS AND ADMINISTRATION**

**7.01 MINUTES OF CORPORATE MEETINGS**

The Corporation shall keep at the principal office, or such other place as the Board of Directors may order, a Company Record Book containing minutes of all meetings of the Corporation's governing authority, Members, if any, and committees. The minutes shall show the time and place of each meeting, whether the meeting was regular or special, a copy of the notice given or written waiver thereof, and, if it is a special meeting, how the meeting was authorized. The minutes of all meetings shall further show the proceedings and the names of the present. Minutes of Member meetings shall also show the number of votes present or represented.

**7.02 BOOKS OF ACCOUNT AND ANNUAL REPORTS**

The Corporation shall maintain current and accurate financial records with complete entries as to all financial transaction, including all income and expenditures, in accordance with generally accepted accounting principles. Based on these records, the Board of Directors shall annually prepare or approve a report of the Corporation's financial activity for the preceding year. The report must conform to accounting standards as promulgated by the American Institute of Certified Public Accountants and must include a statement of support, revenue, and expenses, a statement of changes in fund balances, a statement of functional expenses, and a balance sheet for all funds. All records, books, and annual reports of the financial activity of the Corporation shall be kept at its principal office for at least three (3) years after the closing of each fiscal year and shall be available to the public for inspection and copying there during normal business hours. The Corporation may charge for the reasonable expense of preparing a copy of a record or report.

**7.03 MEMBERSHIP ROSTER**

The Corporation shall keep, at the principal office, a membership roster showing the names of the Members, if any, their address, the date they became a Member, and the date any former Member's membership terminated. The above-specified information may be kept on an information storage device, such as electronic data processing equipment, provided that the equipment is capable of reproducing the information in clearly legible form for the purposes of inspection by any Member, Director, officer or agent of the Corporation during regular business hours.

**7.04 CORPORATE SEAL**

The Board of Directors may at any time adopt, prescribe the use of, or discontinue the use of, such corporate seal as it deems desirable, and the appropriate officers shall cause such seal to be affixed to such documents as the Board of Directors may direct.

**7.05 FISCAL YEAR**

The fiscal year of the Corporation shall be as determined by the Board of Directors and approved by the Internal Revenue Service. The Treasurer shall forthwith arrange a consultation with the Corporation's tax advisors to determine whether the Corporation is to have a fiscal year other than the calendar year. If so, the Treasurer shall file an election with the Internal Revenue Service as early as possible, and all correspondence with the IRS, including the application for the Corporation's Employer Identification Number, shall reflect such non-calendar year election.

**7.06 MANAGEMENT OF FUNDS**

All institutional and endowment funds shall be handled pursuant to the Uniform Management of Institutional Funds Act. (Texas Property Code Sections 163.001 et seq.)

**7.07 LOANS TO OFFICERS AND DIRECTORS**

The Corporation shall not loan money to any of its Directors. Loans to officers may be made if the loans can reasonably be expected to benefit the Corporation, directly or indirectly, and are either made to finance the officer's principal residence, or do not exceed one hundred percent (100%) of the officer's annual salary if the loan is to be made before the first anniversary of the officer's employment, or fifty percent (50%) of the officer's annual salary if the loan is made in any subsequent year.

**7.08 WAIVER OF NOTICE AND CONSENT TO ACTION**

Meetings provided for in these Bylaws shall no be invalid for lack of notice if all persons entitled to notice either waive notice or consent to the meeting, in writing, or are present and do not object to the notice given. Waiver or consent may be given either before or after the meeting.

Attendance at a meeting shall constitute a waiver of notice of such meeting, unless a person participates in or attends a meeting solely to object to the transaction of business at the meeting on the ground that the meeting was not lawfully called or convened.

**ARTICLE EIGHT – ADOPTION OF INITIAL BYLAWS**

**The foregoing Bylaws were adopted by the Board of Directors on the 16th day of November, 2010.**

\_\_\_\_\_  
**Madhav Rohira, Director**

\_\_\_\_\_  
**Qusai Mahesri, Director**

\_\_\_\_\_  
**August Al-Uqdah, Director**

**Attested to, and certified by:**

\_\_\_\_\_  
**Qusai Mahesri, Secretary**

**FIRST AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS OF THE  
LATITUDE 360 APARTMENTS AND CONDO OWNERS ASSOCIATION  
AKA ALL OF BLOCK 1, SUNRISE TERRACE SUBDIVISION**

A. This Amendment to Declaration of Restrictive Covenants of the Latitude 360 Apartments and Condo Owners Association is made on August 19, 2010 at Hidalgo County, Texas, by Xsite Investments, L.P. ("Declarant"), whose mailing address is P.O. BOX 1814, Edinburg, Texas 78540.

B. Declarant is the developer of that certain real property subdivision (the "Subdivision") located in Hidalgo County, Texas, described as follows:

All of Block 1, Sunrise Terrace Subdivision (including Lots 1 through 48, Block 1, Sunrise Terrace Subdivision) an addition to the City of McAllen, Hidalgo County, Texas.

C. It is the intention of the Declarant to provide recorded notice of L360 Group, LLC, whose address is 6034 Bellaire Blvd., Houston, Texas 77081, as the successor declarant to Declarant (the "Successor Declarant").

D. Therefore, in accordance with both the doctrines of restrictive covenant and implied equitable servitude, and in accordance with the amendment power retained by Declarant in the Declaration of Restrictive Covenants of the Latitude 360 Apartments and Condo Owners Association, Inc., the Declaration is hereby amended as follows --

**Declaration of Restrictive Covenants of the Latitude 360 Apartments and Condo Owners Association**

*Declarant: L360 Group, LLC*

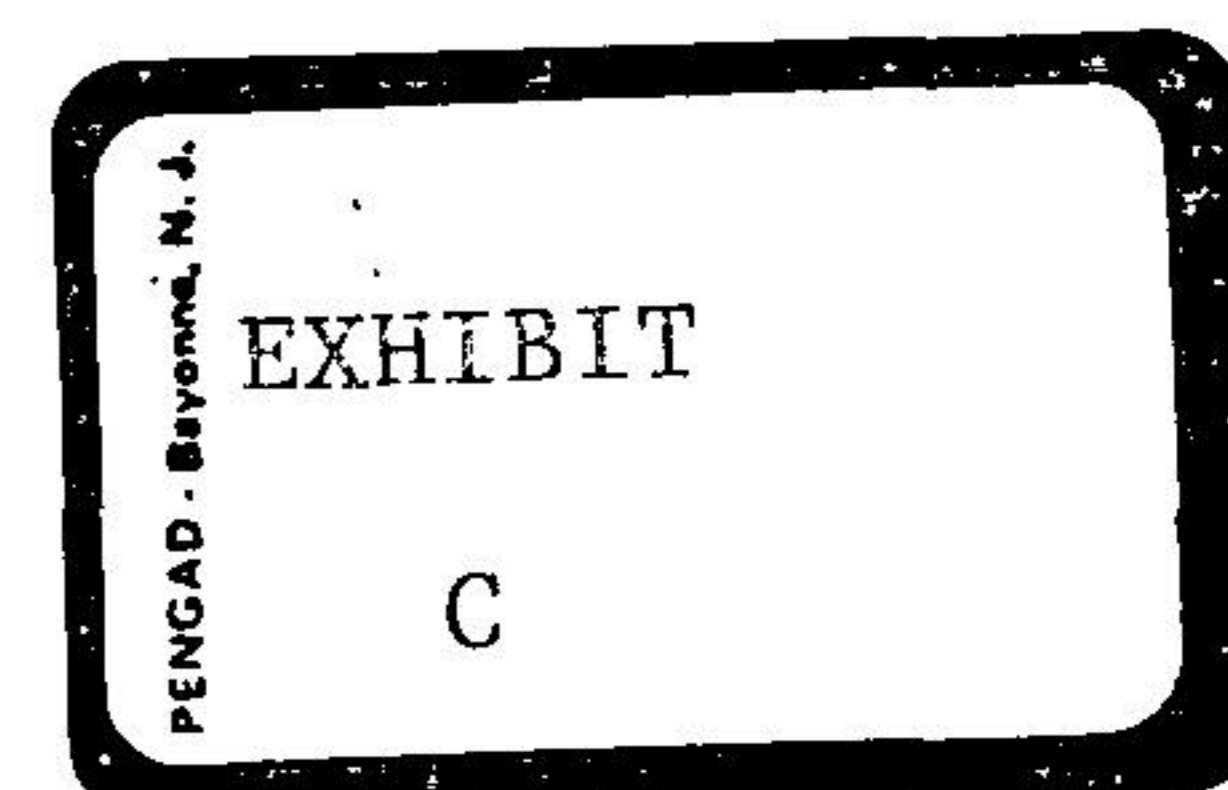
*Declarant's Address: 6034 Bellaire Blvd., Houston, Texas 77081*

**Definitions**

*"Declarant" means L360 Group, LLC, in its capacity as the successor developer, and any successor that acquires all unimproved Lots owned by Declarant for the purpose of development and is named as successor in a recorded document.*

E. In all other respects, the Declaration of Restrictive Covenants of the Latitude 360 Apartments and Condo Owners Association filed for record on February 15, 2008, under Document No. 1856546, Official Records, Hidalgo County, Texas.

This amendment is executed this 24<sup>th</sup> day of AUGUST, 2010, at Hidalgo County, Texas.



DECLARANT:

**XSITE INVESTMENTS, L.P.**  
BY: XF MANAGEMENT, LLC, the sole  
corporate general partner

*Sameer N. Saxena*  
SAMEER N. SAXENA, Managing Member

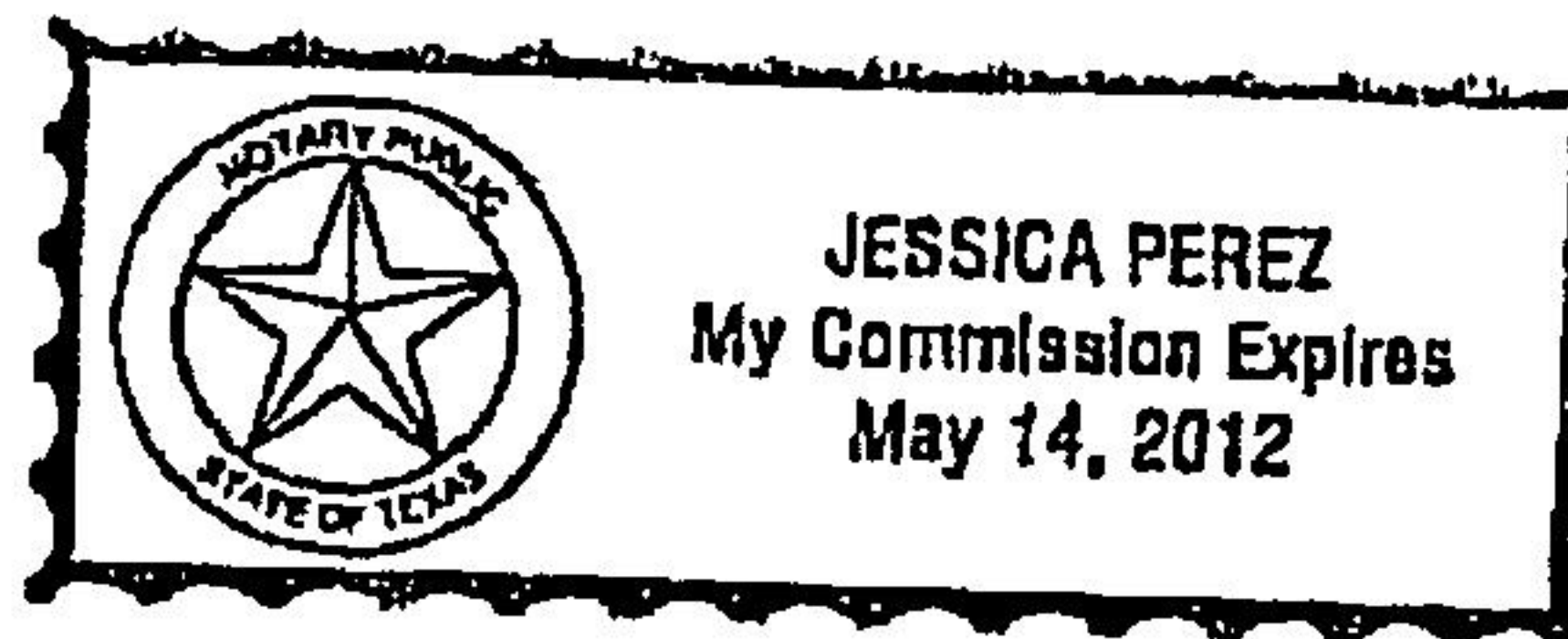
STATE OF TEXAS §

COUNTY OF HIDALGO §

BEFORE ME, a Notary Public, on this day personally appeared Sameer N. Saxena Managing Member of XF Management, LLC, the sole corporate general partner of Xsite Investments, L.P., on behalf of said company, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in the capacity stated and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 24<sup>th</sup> day of August, 2010.

*Jessica Perez*  
Notary Public, State of Texas



**Declaration of Restrictive Covenants  
Of the  
LATITUDE 360 APARTMENTS AND CONDO OWNERS ASSOCIATION  
AKA ALL OF BLOCK 1, SUNRISE TERRACE SUBDIVISION**

Date: FEBRUARY 5, 2008

Declarant: XSITE INVESTMENTS, L.P.

Declarant's Address: 4009 S. Sugar Road, Edinburg, Texas 78539

Association: LATITUDE 360 APARTMENTS AND CONDO OWNERS ASSOCIATION, INC., a nonprofit corporation

Association's Address: 4009 S. Sugar Road, Edinburg, Texas 78539

Property: All of Block 1, Sunrise Terrace Subdivision (including Lots 1 through 48, Block 1, Sunrise Terrace Subdivision) an addition to the City of McAllen, Hidalgo County, Texas.

**Definitions**

“ACC” means the Architectural Control Committee established in this Declaration.

“Association shall mean and refer to Latitude 360 Apartments and Condo Owners Association, Inc., a nonprofit corporation, its successors and assigns, which is to be formed by Declarant for the purpose of enforcing the covenants, restrictions and agreements set forth herein.

“Assessment” means any amount due to the Association by an Owner or levied against an Owner by the Association under this Declaration.

“Board” means the Board of Directors of the Association.

“Bylaws” means the Bylaws of the Association adopted by the Board.

“Common Area” means all property within the Subdivision not designated as a Lot on the plat and that has not been accepted for maintenance by the applicable governmental body. Declarant will convey the Common Area to the Association;

Common Area also includes all of the 20' Private Rear Access and Utility Easement that is part of any of the lots in Block 1 of the Property designated on the plat but is meant to serve as a common drive for the entire subdivision.

"Condominium Regime" means the execution and recording of a declaration made by the Owner of a Lot that is recorded in the records of Hidalgo County as a means to separate individual ownership of units/apartments into Condos (or Condominium) within the Four Plex while at the same time the remainder of the land and buildings within the Lot is owned in common undivided interest by the unit owners. The condominium declaration will include certain provisions required by statute (a description of the property and each unit, how the condominium will be governed, how dues are assessed, allocation of repair and maintenance responsibility, allocation of ownership interest, and the like).

"Covenants" means the covenants, conditions, and restrictions contained in this Declaration.

"Declarant" means XSITE INVESTMENTS, L.P., a Texas limited partnership, in its capacity as the initial developer, and any successor that acquires all unimproved Lots owned by Declarant for the purpose of development and is named as successor in a recorded document.

"Easements" means Easements within the Property for utilities, drainage, and other purposes as shown on the Plat or of record.

"Four Plex" means a detached building containing four apartments each designed for and used as a dwelling by a Single Family and constructed on one Lot.

"Governing Documents" means this Declaration and the certificate of formation, Bylaws, rules of the Association, and standards of the ACC, as amended.

"Lot" means Lots 1 through 48, inclusive, Block 1, Sunrise Terrace Subdivision, an addition to the City of McAllen, designated as a lot on the Plat, excluding lots that are part of the Common Area.

"Maintenance," as it relates to Common Areas, means the exercise of reasonable care to keep buildings, streets, alleys, curbs, fences, sprinklers, fountains, signs, jogging trails, landscaping, swimming pool, lighting and other related improvements and fixtures, whether enumerated or not, in the common areas, in a condition comparable to their original condition, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted garden management practices necessary to promote a healthy, weed-free environment for optimum plant growth.

"Member" means Owner.

“Owner” means every record Owner of a fee interest in a Lot or record Owner of a fee interest in a Condominium if a Four Plex is converted into a condominium regime by the Owner of a Lot.

“Plat” means the Plat of the Property recorded in Volume 54, Page 91, of the Map records of Hidalgo County, Texas, and any replat of or amendment to the Plat made in accordance with this Declaration.

“Single Family” means a group of individuals related by blood, adoption, or marriage or a number of unrelated roommates not exceeding the number of bedrooms in an apartment.

“Structure” means any improvement on a Lot (other than a Four Plex), including a sidewalk, driveway, fence, wall, tennis court, swimming pool, outbuilding, covered carports or recreational equipment.

“Subdivision” means All of Block 1 of the Property covered by the Plat and any additional property made subject to this Declaration.

“Vehicle” means any automobile, truck, motorcycle, boat, trailer, or other wheeled conveyance, whether self-propelled or towed.

## **Recreational Facilities**

### **A. Recreational Facility**

Declarant shall provide to the Association an area within the Subdivision for the use of a swimming pool and other common area to be used as a recreational area. Such areas are designated on the Plat. The Association shall construct, maintain and care for the Recreational Facility. The Association shall, from time to time, at its discretion, have the right to expand, replace, eliminate, or in any other manner change any, or all, of the Recreational Facility provided for the Subdivision. The Association shall use its discretion in determining how to, and to what extent, maintain and care for the Recreational Facility.

### **B. Regulation of Recreational Facility**

1. The Association shall have the right to adopt, from time to time, such regulations and requirements that it desires concerning the use of the Recreational Facilities, or any portions of them, subject to provisions of this Article (Recreational Facilities). Any violation of the written rules and regulations adopted by the Association, after notice and an opportunity to be heard by the Association, which the Association determines to be a serious violation, or constitute repeated violations of its rules and regulations by an Owner and/or his tenants and/or guests or invitees, may result in the suspension of such

Owner, his tenant, and their respective guest and invitees from use of the Recreational Facility, or a specified portion of them, for a period not to exceed one year, or alternatively, at the Owners election, in lieu of a suspension, pay a fine set by the Association not to exceed three times the Owner's Annual Assessment.

2. Further, the Association may suspend any Owner, his tenants, and their respective guests, and invitees' right to use the Recreational Facilities if the Owner becomes more than sixty days in arrears on any of his assessments, which suspension shall continue until such Owner is current on all of his Assessments. The suspension and/or fines provided by this section are cumulative, and not in lieu of other enforcement provision provided by these Restrictions or by law. In the event an Owner's right to use the Recreational Facility is suspended, it may be necessary for the Association to change the key codes for the locks on the gates to the swimming pool and other Recreational Facilities and then provide the other Owners, and their tenants, new codes to the gate lock. The suspended Owner, to terminate such suspension, in addition to any other matters, shall pay the cost of changing the lock codes and furnishing the new codes to the Owners, plus an administrative fee equal to the greater of 30% of the total of such cost or \$100.00. Additionally, such amount will become an Individual Assessment upon all Lot(s) owned by the suspended Owner.

#### **C. Swimming Pool**

No child under the age of fourteen (14) will be allowed to use the swimming pool or be in the fenced swimming pool area unless supervised by an adult of at least twenty-one (21) years of age. It shall be the obligation and responsibility of Owner(s) whose child(ren), guest, or invitees (or those of his tenant) who are using the pool facilities to ensure there is sufficient adult supervision present. Further rules and regulations concerning the use of the swimming pool shall also automatically include the current rules, regulations, and policies for safe use of swimming pool promulgated by the State of Texas or an agency thereof.

#### **D. Locked Recreational Facilities**

The swimming pool shall be fenced with a code locked gate. The gate is to be kept locked at all times. It shall be the responsibility of the tenant, and the Owner such tenant rents from, to, when they use the swimming pool, keep the gate locked. Each Owner will be responsible for furnishing to his tenants, from time to time, the code for the locked gates to the swimming pool, and any other locked recreational facilities.

#### **E. Alcohol Use**

The use of alcoholic beverages in and around the area encompassing the Recreational Facilities and any other common area within the subdivision is strictly prohibited.

**F. Disclaimer**

1. The Declarant and the Association shall have no duty to monitor, or police the Recreational Facilities, nor the Subdivision. It is not anticipated, nor is there any provision for a lifeguard to be present at the swimming pool or to monitor the gate to the swimming pool to ensure the gate will be kept continually locked. There is no warranty or guarantee of any lifeguard, trainer or other person(s) who will monitor, control, or supervise the use of any of the Recreational Facility or common area. The use of the swimming pool involves certain risks. The Owner shall give each of his tenants a written copy of this disclaimer when he rents a unit to such tenant.
2. Each Owner shall maintain a general liability insurance policy with a provision for medical payments.

**Clauses and Covenants**

**A. Imposition of Covenants**

1. Declarant imposes the Covenants on the Subdivision. All Owners and other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot, Apartment or Condo agree that the Subdivision is subject to the Covenants.
2. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. The Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in a Lot or an Apartment/Condo if the lot is converted into a condominium regime.
3. Each Owner agrees to comply with the Governing Documents and agrees that failure to comply may subject him to a fine, an action for amounts due to the Association, damages, or injunctive relief.

**B. Plat and Easements**

1. The Plat, Easements, and all matters shown of record affecting the Property are part of this Declaration and are incorporated by reference.
2. An Owner may use that portion of a Lot lying in an Easement for any purpose that does not interfere with the purpose of the Easement or damage any facilities. Owners do not own any utility facilities located in an Easement.

3. Neither Declarant nor any Easement holder is liable for damage to landscaping or a Structure in an Easement.

4. Declarant and each Easement holder may install, maintain, and connect facilities in the Easements.

**C. Rent or Lease of Apartments/Condominiums**

The primary goal of the Declarant/Developer in developing the Subdivision is to establish a subdivision of Four Plex or multifamily lots to be sold to investors who build a Four Plex of apartments to be rented out. Most investors of multifamily apartments require a rate of return on their investment. Declarant is cognizant of this and wishes to establish a rate of return commensurate with the risk associated with this kind of investment and one that is consistent with other similar Four Plex investment opportunities.

To this end, Declarant hereby establishes a minimum monthly rent per square foot of apartment living area of \$0.79.

In order to enforce this clause, Declarant will require that each Owner of a Four Plex or a Condominium unit submit a copy of a lease or rental agreement within 3 days of the execution of said lease or rental agreement to the Association for review to ensure compliance with this clause.

If Owner fails to: (a) submit a copy of said lease or rental agreement within 10 calendar days of receiving a written request from the Association for said copy of lease or rental agreement or (b) comply with the minimum rent requirement, Owner will be subject to an administrative fee as follows:

- (a) Failure to submit a copy of lease or rental agreement in a timely fashion is subject to a fee of \$50.00 per apartment per month from the date the letter requesting the lease or rental agreement was received by the Owner;
- (b) Failure to comply with the minimum rent per square foot requirement is subject to a monthly fee equal to the difference between the dollar amount that would have been charged per month had the Owner charged the minimum rent per square foot of \$0.79 and the actual amount of rent charged in the lease or rental agreement, however, if said difference is less than \$10.00 per month no such fee will be assessed, and if the said difference is more than \$10.00 per month, the minimum fee will be \$50.00 per month.

Any administrative fees thus accrued will become an Assessment (to be called "Minimum Rent Assessment") upon the Lot or Condominium unit and will be payable by either the Owner of the Lot or the Condominium as the case may be.

**D. Use and Activities**

1. *Permitted Use.*

- (a) A Lot may be used only for an approved Four Plex and approved Structures for use by a Single Family in each Apartment/Condo.
- (b) An owner may establish a Condominium Regime on any Lot thereby allowing for the separate sale of each Apartment/Condo in a Four Plex.

2. *Prohibited Activities.* Prohibited activities are—

- a. any activity that is otherwise prohibited by the Governing Documents;
- b. any illegal activity;
- c. any nuisance or noxious or offensive activity;
- d. any dumping of rubbish;
- e. any storage of—
  - I. building materials except during the construction or renovation of a Four Plex or a Structure;
  - ii. vehicles, except vehicles under a covered carport or Structure or operable automobiles on a driveway; or
  - iii. unsightly objects unless completely shielded by a Structure;
- f. any exploration for or extraction of minerals;
- g. any keeping or raising of animals, livestock, or poultry, except for common domesticated household pets, such as a small dog (weighing no more than 20 pounds) or cat, not to exceed one per apartment;
- h. any commercial or professional activity except reasonable home office uses;

- i. the renting of a portion of an Apartment or Structure;
- j. the drying of clothes in a manner that is visible from any street;
- k. the display of any sign except—
  - I. one not more than five square feet, advertising the Lot for sale or rent or advertising a garage or yard sale; and
  - ii. political signage not prohibited by law or the Governing Documents;
- l. installing a mobile home, manufactured home, manufactured housing, motor home, or house trailer on a Lot;
- m. moving a previously constructed house onto a Lot;
- n. interfering with a drainage pattern without ACC approval;
- o. hunting and shooting; and
- p. occupying a Structure that does not comply with the construction standards of a Residence.

**E. Construction and Maintenance Standards**

- 1. *Lots*
  - a. *Consolidation of Lots.* No consolidation of lots is allowed.
  - b. *Subdivision Prohibited.* No Lot may be further subdivided. Nothing herein, however, shall prohibit the conversion of one or more Four Plexes into one or more condominium regimes, if allowed by law.
  - c. *Easements.* No easement in a Lot may be granted without ACC approval.
  - d. *Maintenance.* Each Owner of a Lot or, if converted into a Condominium, each Condominium Association in charge of maintaining common areas within a Lot, must keep the Lot, all landscaping, the Four Plex, and all Structures in a neat, well-maintained, and attractive condition.

2. *Four Plexes and Structures*

- a. *Allowable Structure.* All Lots are intended for the construction of an attached Four Plex. Sample site plans for each Lot along with the maximum living area for each Four Plex is shown in the attached Exhibit "A"
- b. *Aesthetic Compatibility.* All Four Plexes and Structures must adhere to the architectural design indicated on the attached Exhibit "B." All exterior walls will be of stucco construction with the stucco color as designated for each Lot and indicated on the attached Exhibit "C." In addition each lot has, based on the size of the building that may be constructed, a designated elevation type (see attached Exhibit "D"): (i) Type A; (ii) Type B; (iii) Type C; or (iv) Type D. The general theme is the same for all four building types; however, the variation is a result of the maximum size of building that may be built. Each Four Plex must have the same type of covered parking and each Four Plex must have the same windows, exterior doors, exterior light fixtures and similar landscaping so as to present a very uniform exterior of all buildings and the subdivision. The construction of covered parking is mandatory, and it must be consistent with all existing covered parking previously built in the subdivision.
- c. *Roof Type.* The roof type is intended to be a simple low pitch roof sloping from front to back. Roofing materials may be metal, modified roll roofing, TPO or any other roof material used in low pitch roofs.
- d. *Mailboxes.* Each Lot will have four mailboxes housed in two (2) stucco structures to be located on the two ends of each lot as indicated on the respective site plans (see attached Exhibit "A").
- e. *Site Plans.* The site plan of each Four Plex must comply with the Master Site Plans attached as Exhibit "A"
- f. *Landscaping.* All landscaping will be as indicated on the site plans on the attached Exhibit "A" and must include an automatic sprinkler system.

Landscaping must be installed before occupancy of the Property. Grass will be used as ground cover as indicated on the site plans attached. The Owner or, if applicable, Condo Association will maintain his yard (including the area between the Lot line and the curb and all easements located thereon) in good condition. The Owner shall also plant at least two (2) Royal Palm trees in the front yard, centrally and symmetrically

located. The trees shall be, at the time of planting, no less than 1 ½ inches in diameter.

- g. *Interiors.* The interior of each building may be customized to Owner's choice.
- h. *Maximum Height.* The maximum height of a Four Plex shall not exceed two stories and shall be consistent with the maximum height for each Four Plex as indicated on the attached Exhibit "D."
- i. *Required Area.* The total area of a Four Plex, exclusive of porches, garages, or carports, must be at least 3,800 square feet.
- j. *Location on Lot.* No Four Plex or Structure may be located in violation of the setback lines shown on the Plat. The side setback, notwithstanding the General Plat Notes on the Plat, is hereby restricted to be at least 10 feet to create at least a 20 foot separation between adjacent Four Plexes.
- k. *Covered Carports.* Each Four Plex must have a covered carport to accommodate at least eight cars to be accessed from the rear access easements (alleys).
- l. *Damaged or Destroyed Four Plexes and Structures.* Any Four Plex or Structure that is damaged must be repaired within sixty (60) days (or within a period approved by the ACC) and the Lot restored to a clean, orderly, and attractive condition. Any Four Plex or Structure that is damaged to the extent that repairs are not practicable must be demolished and removed within sixty (60) days and the Lot restored to a clean and attractive condition.
- m. *Fences, Walls, and Hedges.* No fence, wall, or hedge may be located forward of the front wall line of the Four Plex.
- n. *Antennae.* No antenna, satellite dish, or associated wires may be visible from the street or be located behind the back setback line of any Lot.
- o. *Flagpoles.* No flagpole may be permanently placed on any Lot unless previously approved by the ACC.
- p. *Traffic Sight Lines.* No landscaping that obstructs traffic sight lines may be placed on any Lot.

- q. *Driveways and Sidewalks.* When the Four Plex is constructed, the Lot must be improved with sidewalks connecting with the sidewalks on adjacent Lots.  
  
All driveways and sidewalks must be surfaced with concrete.
- r. *Air Conditioning.* Window- or wall-type air conditioners may not be used.
- s. *Color Changes.* No change to the color of the exterior walls, trim, or roof of a Four Plex will be permitted, unless otherwise approved by the ACC.
- t. *Lot Identification.* Lot address numbers and name identification must be aesthetically compatible with the Subdivision and shall be as shown on the attached Exhibit "D."
- u. *Dirt Removal.* The digging of dirt or the removal of any dirt from any lot is prohibited, except as necessary in conjunction with landscaping or construction of improvements thereon or as required by the City of McAllen's regulations for drainage and water retention.

#### **F. Association**

1. *Establishment and Governance.* The Association is established by filing its certificate of formation and is governed by the certificate, the Declaration, and the Bylaws. The Association has the powers of a nonprofit corporation and the property owners association for the Subdivision under the Texas Business Organizations Code, the Texas Property Code, and the Governing Documents.

2. *Rules.* The Board may adopt rules that do not conflict with law or the other Governing Documents. On request, Owners will be provided a copy of any rules.

3. *Membership and Voting Rights.* Every Owner is a Member of the Association. Membership is appurtenant to and may not be separated from ownership of a Lot or condominium. The Association has two classes of voting Members:

- a. *Class A.* Class A Members are all Owners, other than Declarant. Class A Members have four votes per Lot. When more than one person is an Owner, each is a Class A Member, but only four votes may be cast for a Lot. If a lot is part of a condominium regime, Class A Members shall have one vote per condominium.

- b. *Class B.* The Class B Member is Declarant and has eight (8) votes per lot. The Class B Membership ceases and converts to Class A Membership on the earlier of—
  - I. when the Class A Members' votes exceed the total of Class B Member's votes or
  - ii. December 31, 2010.

G. ACC

1. *Establishment*

- a. *Purpose.* The ACC is established as a committee of the Association to assist the Association in ensuring that all Four Plexes, Structures, and landscaping within the Subdivision are aesthetically compatible and conform to the Governing Documents.
- b. *Members.* The ACC consists of at least three (3) persons appointed by the Board. The Board may remove or replace an ACC member at any time.
- c. *Term.* ACC members serve until replaced by the Board or they resign.
- d. *Standards.* Subject to Board approval, the ACC may adopt standards that do not conflict with the other Governing Documents to carry out its purpose. On request, Owners will be provided a copy of any standards.

2. *Plan Review*

- a. *Required Review by ACC.* No Four Plex or Structure may be erected on any Lot, or the exterior altered, unless plans, specifications, and any other documents requested by the ACC have been submitted to and approved by the ACC. The plans and specifications must show exterior design, height, building materials, color scheme, location of the Residence and Structures depicted horizontally and vertically, and the general plan of landscaping, all in the form and detail the ACC may require.
- b. *Procedures*
  - I. *Complete Submission.* Within thirty (30) days after the submission of plans and specifications by an Owner, the ACC must notify the submitting Owner of any other documents or information required by the ACC. In the absence of timely notice from the ACC

requesting additional documents or other information, the submission is deemed complete.

- ii. *Deemed Approval.* If the ACC fails to give notice of disapproval of the plans and specifications to the submitting Owner within thirty (30) days after complete submission, the submitted plans and specifications are deemed approved.
- c. *Appeal.* An Owner may appeal any action of the ACC to the Board. The appealing Owner must give written notice of the appeal to the Board, and if the appeal is by an Owner who is not the submitting Owner, the appealing Owner must also give written notice to the submitting Owner within ten (10) days after the ACC's action. The Board shall determine the appeal within thirty (30) days after timely notice of appeal is given. The determination by the Board is final.
- d. *Records.* The ACC will maintain written records of all requests submitted to it and of all actions taken. The Board will maintain written records of all appeals of ACC actions and all determinations made. Any Owner may inspect the records of the ACC and Board, but no Owner may inspect or copy the interior floor plan or security system design of any other Owner.
- e. *No Liability.* The Association, the Board, the ACC, and their members will not be liable to any person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove any request.

## H. Assessments

1. *Authority.* The Association may levy Assessments to promote the recreation, health, safety, and welfare of the residents in the Subdivision, to fund operating expenses of the Association, and to improve and maintain the Common Areas.
2. *Personal Obligation.* An Assessment is a personal obligation of each Owner when the Assessment accrues.
3. *Creation of Lien.* Assessments are secured by a continuing vendor's lien on each Lot, which lien is reserved by the Declarant and assigned to the Association. By acceptance of a deed to a Lot, each Owner grants the lien, together with power of judicial sale or non-judicial sale to the Association to secure Assessments. A non-judicial sale shall be conducted in the manner set forth in Section 51.002 of the Texas Property Code as now written or as hereinafter amended.

4. *Commencement.* A Lot becomes subject to Assessments on conveyance of the Lot by Declarant.

5. *Regular Assessments*

- a. *Rate.* Regular Assessments are levied by the Board, annually, to fund the anticipated operating and maintenance expenses of the Association. Until changed by the Board, the Regular Annual Assessment is \$150.00 per apartment or Condominium which is equal to \$600.00 per Four Plex.
- b. *Changes to Regular Assessments.* Regular Assessments may be changed annually by the Board. Written notice of the Regular Assessment will be sent to every Owner at least thirty days before its effective date.
- c. *Collections.* Regular Assessments will be collected either quarterly or semi-annually.

6. *Special Assessments.* In addition to the Regular Assessments, the Board may levy Special Assessments for the purpose of funding the cost of any construction, reconstruction, repair, or replacement of any capital improvement on the Common Area or for any other purpose benefitting the Subdivision but requiring funds exceeding those available from the Regular Assessments. Special Assessments must be approved by the Members. Written notice of the terms of the Special Assessment will be sent to every Owner.

7. *Approval of Special Assessments.* Any Special Assessment must be approved by a majority vote at a meeting of the Members in accordance with the Bylaws.

8. *Fines.* The Board may levy a fine against an Owner for a violation of the Governing Documents as permitted by law.

9. *Subordination of Lien to Mortgages.* The lien granted and reserved to the Association is subordinate to any lien or mortgage granted by an Owner against a Lot not prohibited by the Texas Constitution. The foreclosure of a superior lien extinguishes the Association's lien as to Assessments due before the foreclosure.

10. *Delinquent Assessments.* Any Assessment not paid within five (5) days after it is due is delinquent.

11. *Purpose of Regular Assessments.* Assessments to be collected will be used for the following, including, but not limited to:

- (a) Maintenance & repair of:

(i) perimeter fence; (ii) gates; (iii) streets; (iv) alleys (private rear access and utility easements); (v) landscaping; (vi) pool area; (vii) street lighting; and (viii) all other Common Areas not specifically mentioned;

(b) Pay for the following services:

(i) Water; (ii) sewer; (iii) garbage collection; (iv) electrical; (v) lighting; (vi) telephone; (vii) gas; and other necessary utility service pertaining to common areas;

(d) Pay for liability insurance insuring the Association, its Board of Directors, employees, and contractors/sub-contractors against any and all liability to the public, to any owner, or to the invitees or tenants of any owner arising out of their occupation;

(e) Workmen's compensation insurance to the extent necessary to comply with applicable law, and any other insurance deemed necessary by the Board of Directors of the Association;

(f) A standard fidelity bond covering all members of the Board of Directors of the Association and all other employees of the Association in an amount to be determined by the Board of Directors of the Association;

(g) Maintenance of any property or lot within the subdivision that is not being properly maintained by Lot owner.

## **I. Remedial Rights**

1. *Late Charges and Interest.* A late charge of ten (10) percent of the delinquent amount is assessed for delinquent payments. Delinquent Assessments accrue interest at the rate of six (6) percent per year. The Board may change the late charge and the interest rate.

2. *Costs, Attorney's Fees, and Expenses.* The Owner is liable to the Association for all costs and reasonable attorney's fees incurred by the Association in collecting delinquent Assessments, foreclosing the Association's lien, and enforcing the Governing Documents.

3. *Nonjudicial Foreclosure of Lien.* The Association may foreclose the Association's lien against a Lot or Condominium by power of sale as permitted by law. The Association may designate a person to act as trustee or otherwise to exercise the power of sale on behalf of the Association.

4. *Judicial Enforcement.* The Association may bring an action against an Owner to collect delinquent Assessments, foreclose the Association's lien, or enforce or enjoin a violation

of the Governing Documents. An Owner may bring an action against another Owner to enforce or enjoin a violation of the Governing Documents.

5. *Suspension of Voting.* An Owner delinquent in payment of any Assessment may not vote.

6. *Suspension of Other Rights.* If an Owner violates the Governing Documents, the Association may suspend the Owner's rights under the Governing Documents in accordance with law until the violation is cured.

7. *Damage to Property.* An Owner is liable to the Association for damage to Common Areas caused by the Owner or the Owner's family, guests, tenants, agents, independent contractors, and invitees in accordance with law.

#### J. Common Area

1. *Common Area Easements.* Each Owner has an easement in and to the Common Area, subject to the right of the Association to—

- a. charge reasonable admission and other fees for the use of recreational facilities situated on the Common Area, and if an Owner does not pay these fees, the Owner may not use the recreational facilities;
- b. suspend an Owner's rights under the Governing Documents;
- c. grant an easement approved by the Board over the Common Area for utility, drainage, or other purposes; and
- d. dedicate or convey any of the Common Area for public purposes, on approval by a vote of a majority of the Members at a meeting in accordance with the Bylaws.

2. *Permitted Users.* An Owner's right to use and enjoy the Common Area extends to the Owner's family, guests, tenants, agents, and invitees, subject to the Governing Documents.

3. *Unauthorized Improvements in Common Area.* An Owner may not erect or alter any Structure on, or clear, landscape, or disturb, any Common Area except as approved by the Board.

#### K. General Provisions

1. *Term.* This Declaration runs with the land and is binding for a term of thirty (30) years. Thereafter, this Declaration automatically continues for successive terms of ten (10) years each,

unless within six (6) months before the end of a term seventy-five (75) percent of the Members at a meeting in accordance with the Bylaws elect not to extend the term. An instrument reflecting the extension will be signed by the Association and recorded.

2. *No Waiver.* Failure by the Association or an Owner to enforce the Governing Documents is not a waiver.

3. *Corrections.* The Board may correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any correction must not impair or affect a vested property right of any Owner.

4. *Amendment.* This Declaration may be amended at any time by vote of seventy-five (75) percent of the votes in the Association at a meeting in accordance with the Bylaws. An instrument containing the approved amendment will be signed by the Association and recorded.

Until such time as Class A votes exceed Class B votes, Declarant may amend this Declaration without consent from Owners or Class A members.

5. *Conflict.* This Declaration controls over the other Governing Documents.

6. *Severability.* The provisions of this Declaration are severable. If any provision of this Declaration is invalidated or declared unenforceable, the other provisions remain valid and enforceable.

7. *Notices.* Any notice required or permitted by the Governing Documents must be in writing. To the extent required by law, notices regarding remedial rights must be given by certified mail, return receipt requested. All other notices may be given by regular mail. Notice is deemed delivered (whether actually received or not) when properly deposited with the United States Postal Service, addressed to a Member, at the Member's last known address according to the Association's records, and the Association, the Board, the ACC, or a managing agent at the Association's principal office or another address designated in a notice to the Members. Unless otherwise required by law or the Governing Documents, actual notice, however delivered, is sufficient.

8. *Annexation of Additional Property.* On written approval of the Board and not less than fifty-one (51) percent of the Members at a meeting in accordance with the Bylaws, the owner of any property who desires to subject the property to this Declaration may record an annexation agreement that will impose this Declaration and the Covenants on that property.

XSITE INVESTMENTS, L. P.

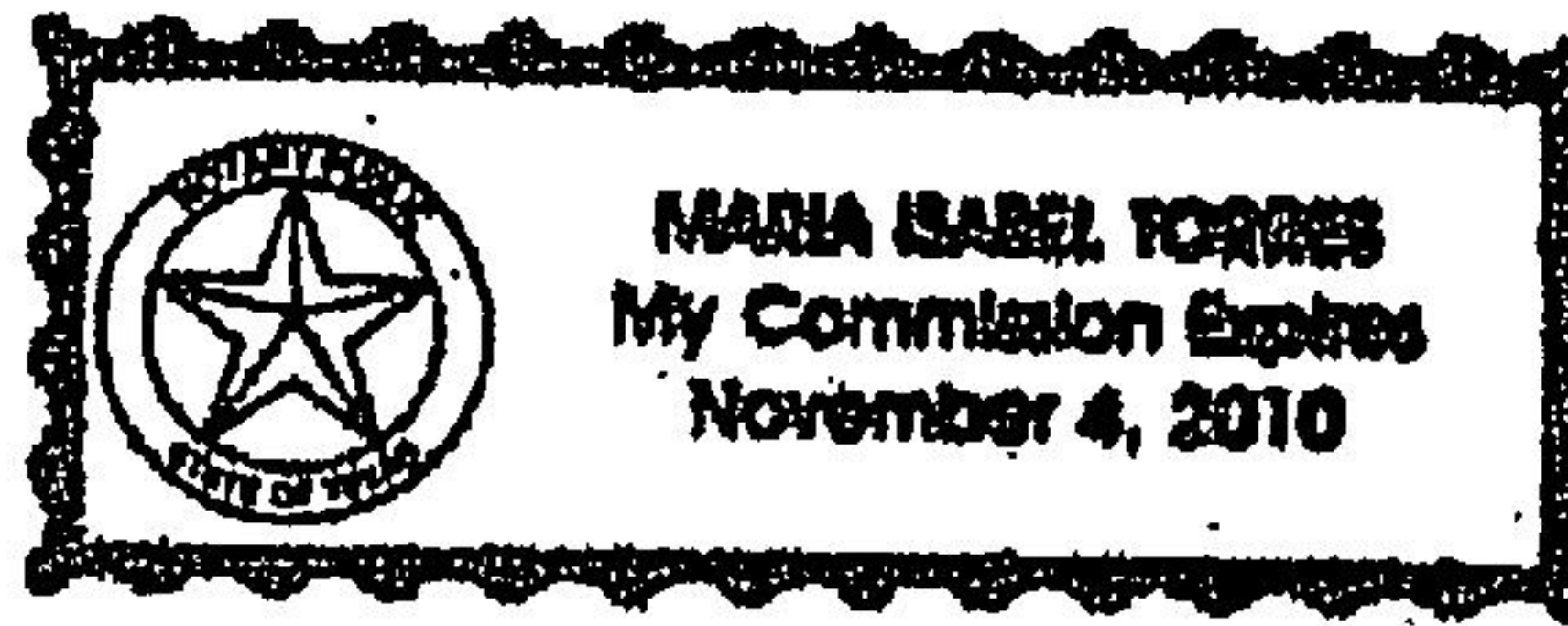
BY: Sameer Saxena  
SAMEER N. SAXENA, Managing Member  
of XF MANAGEMENT, LLC., The Sole  
Corporate General Partner of  
XSITE INVESTMENTS, L.P.

THE STATE OF TEXAS

COUNTY OF HIDALGO

This instrument was acknowledged before me on the 14<sup>th</sup> day of February  
2008, by Sameer N. Saxena, Managing Member of XF Management, LLC, the sole corporate  
general partner of Xsite Investments, L.P. a Texas Limited Liability Partnership, on behalf of said  
partnership.

Maria Isabel Torres  
Notary Public, State of Texas



After recording, please return to Xsite Investments, L.P., 4009 S. Sugar Road, Edinburg, TX 78539

**HOA ALTERNATIVE PAYMENT SCHEDULE POLICY ADOPTED  
PURSUANT TO SECTION 209.0062, TEXAS PROPERTY CODE**

**CONDOMINIUMS: Latitude 360 Apartments and Condo, as further described on  
Exhibit A attached hereto**

**ASSOCIATION: Latitude 360 Apartments and Condo Owners Association, Inc.**

The purpose of this policy is to satisfy the requirement of Texas Property Code Section 209.0062.

Purpose. If an Eligible Owner (as that term is defined below) is delinquent in the payment of regular or special assessments or any other amount owed to the Association, the Eligible Owner shall be given the opportunity to make partial payments to the Association, prior to the accrual of monetary penalties, pursuant to the alternative payment schedule set forth below. For purposes of this policy, monetary penalties do not include reasonable costs associated with administering this plan or interest.

Eligible Owner. The term "Eligible Owner" shall mean any owner of real property located in the Condominiums who has not failed to honor the terms of a previous alternative payment schedule during the two years following the owner's default under the previous payment schedule.

Alternative Payment Schedule. Simultaneously with a notice ("Default Notice") from the Association to a delinquent owner of the owner's failure to pay regular or special assessments or any other amount owed to the Association ("Delinquency Amount"), the Association shall offer any Eligible Owner an alternative payment schedule of four (4) months in duration to pay the Delinquency Amount. The first payment under the alternative payment schedule shall be due on the 1<sup>st</sup> day of the calendar month following the expiration of ten (10) days from the date of the Default Notice. Each monthly installment owing under the alternative payment schedule shall be for twenty-five percent (25%) of the Delinquency Amount.

Notice: Any notice required or permitted under this policy must be in writing. Any notice required by this policy will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified or registered mail, return receipt requested, and addressed to the Eligible Owner at the Eligible Owner's property address within the Condominiums or other alternative address as provided in writing to the Association by the Eligible Owner. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received.

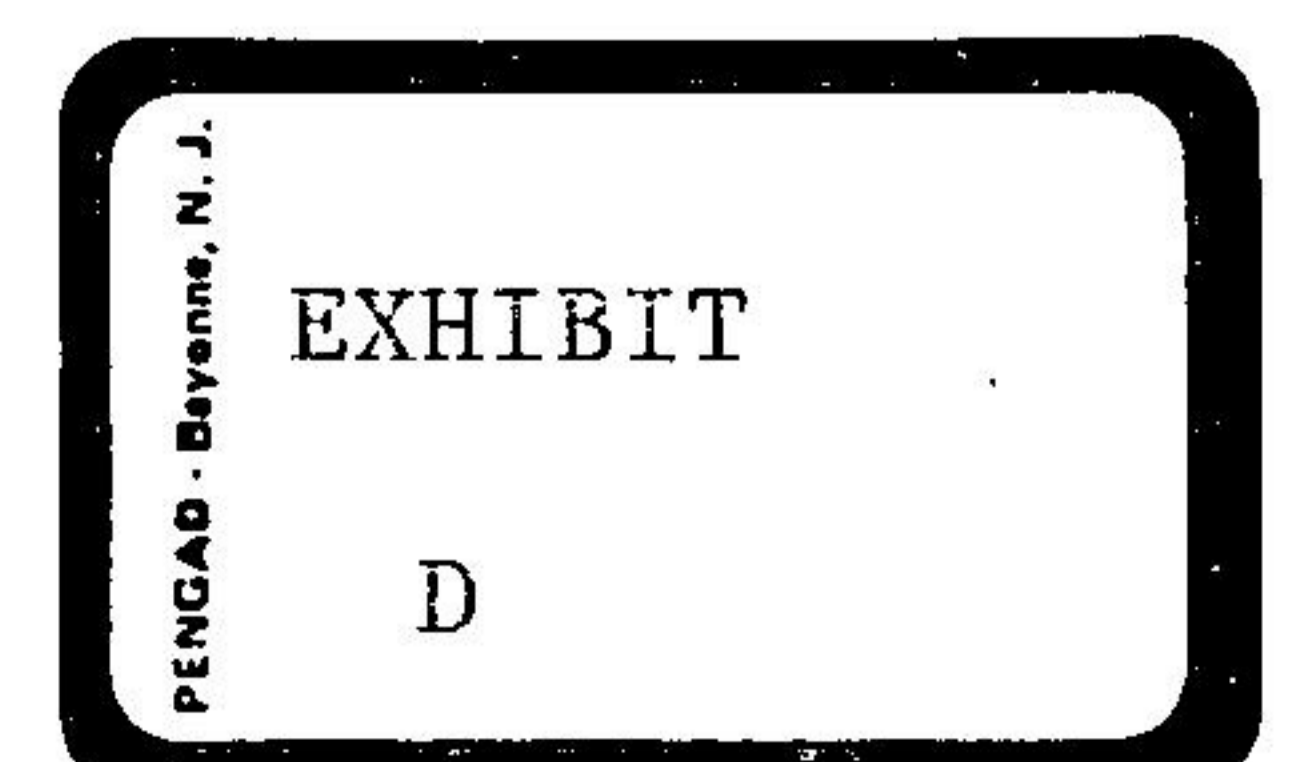




EXHIBIT A

DESCRIPTION OF CONDOMINIUMS

All of Block 1, Sunrise Terrace Subdivision (including Lots 1 through 48, Block 1, Sunrise Terrace Subdivision) an addition to the City of McAllen, Hidalgo County, Texas

**HOA DOCUMENT RETENTION POLICY &  
RECORDS PRODUCTION & COPYING POLICY  
ADOPTED PURSUANT TO §209.005, TEXAS PROPERTY CODE**

**CONDOMINIUMS: Latitude 360 Condos No. 24, as further described on Exhibit A  
attached hereto**

**ASSOCIATION: Latitude 360 Condos No. 24 Association, Inc.**

The purpose of these policies is to comply with the requirement of Texas Property Code Section 209.005, as amended.

Authority. The Association is required retain the books and records of the Association, including financial records, and make those documents open to and reasonably available for examination by an owner of real property in the Association, or a person designated in writing signed by the owner as the owner's agent, attorney, or certified public accountant, in accordance with Texas Property Code §209.005.

Document Retention Policy. The Association hereby adopted a document retention policy as follows:

- (1) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;
- (2) financial books and records shall be retained for seven years;
- (3) account records of current owners shall be retained for five years;
- (4) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;
- (5) minutes of meetings of the owners and the board shall be retained for seven years; and
- (6) tax returns and audit records shall be retained for seven years.

Production & Copying Policy. If a request for information is made to the Association, including, but not limited to a request pursuant to Texas Property Code §209.005, as amended, the Association may charge the requestor all reasonable costs of materials, labor, and overhead for compiling, producing, and reproducing the requested information, and the Association hereby adopts Exhibit B as the costs of materials, labor and overhead.

Other Procedures: The Association hereby adopted the procedures set forth in Section 209.005, Texas Property Code, for document retention procedures and procedures relating to requesting, responding and processing requests for Association information received by the Association from an owner or an owner's authorized representative. If a conflict exists between these policies and Section 209.005, Texas Property Code, then the provisions of Section 209.005, Texas Property Code, shall control. A copy of Section 209.005, Texas Property Code, in existence as of the date of the adoption of this policy is attached hereto as Exhibit C.

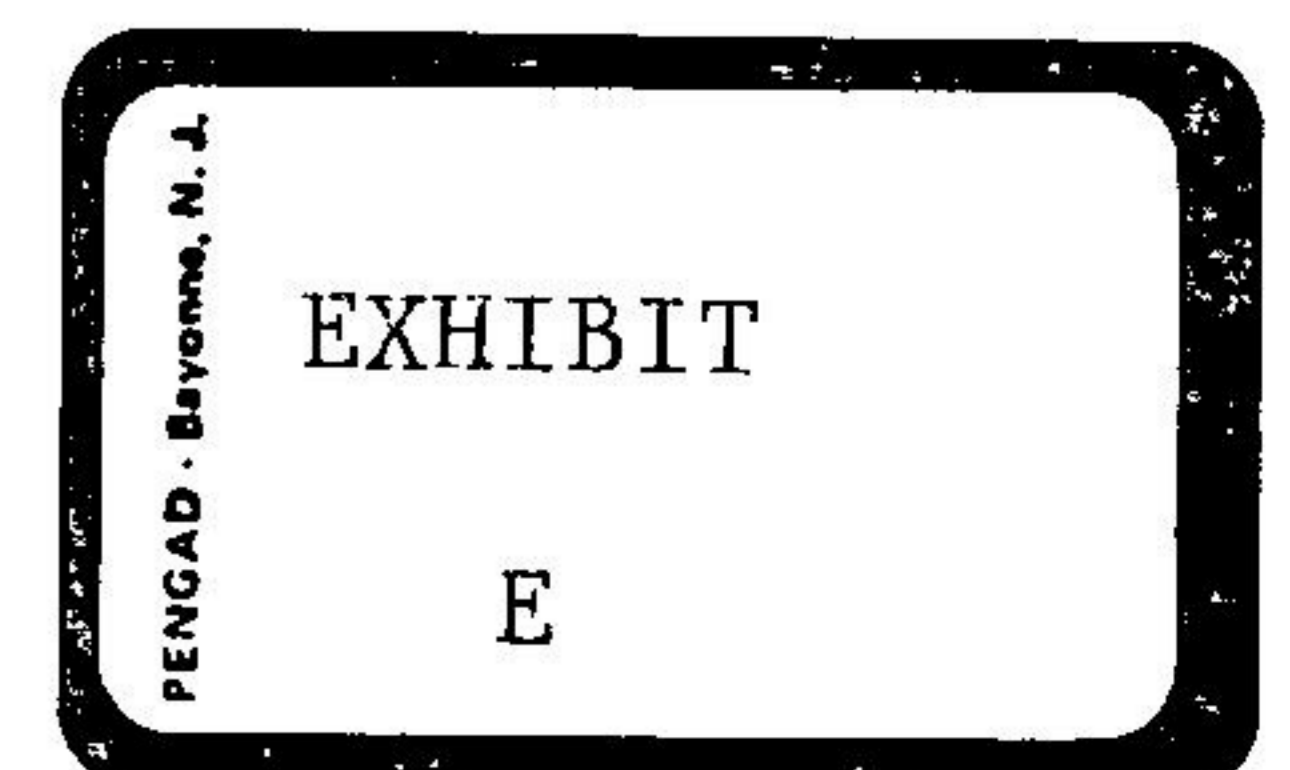




EXHIBIT A

DESCRIPTION OF CONDOMINIUMS

All of Block 1, Sunrise Terrace Subdivision (including Lots 1 through 48, Block 1, Sunrise Terrace Subdivision) an addition to the City of McAllen, Hidalgo County, Texas

EXHIBIT B

PRESCRIBED COSTS TO OWNER

**Copy Charges:**

Electronic image transmitted by email - no copy charge  
Electronic image downloaded to USB drive - actual cost of drive  
Standard paper copy or scan (letter or legal size)-\$0.10 per page (double sided is 2 pages)  
Oversize paper copy or scan (such as 11x17) - \$0.50 per page  
Diskette or CD - \$1.00  
DVD - \$3.00

**Labor Charge:**

No labor charge if the request is for 50 or fewer pages of information, unless the records must be retrieved from a storage facility that is remote from the processor's office.

\$15.00 per hour, in 1/4 hour increments, for actual time to locate, compile, manipulate data, reproduce information, and (if necessary) redact confidential information, for requests of more than 50 pages and for records in remote storage.

No labor charge for time spent to review the requested Information to determine if the information qualifies for an exemption from Open Records

**Overhead Charge:**

No overhead charge if the request is for 50 or fewer pages of information, Otherwise, the overhead charge is 20 percent of the labor charge.

**Remote Document Retrieval Charge:**

If the requested information is stored with a commercial records storage company that charges a fee to deliver and return stored records, the Association may seek reimbursement of the third-party fee from the owner if the request otherwise qualifies for a labor charge.

**Other Charges:**

Actual postage and shipping charges if necessary to transmit the reproduced information to the owner.

Actual cost of miscellaneous supplies, such as boxes, if used to produce the requested information.

If the Association accepts payment by credit card, the Association may recoup the amount of any actual transaction fee charged by the credit card company for the privilege.

No sales tax.

Sec. 209.005. ASSOCIATION RECORDS. (a) Except as provided by Subsection (b), this section applies to all property owners' associations and controls over other law not specifically applicable to a property owners' association.

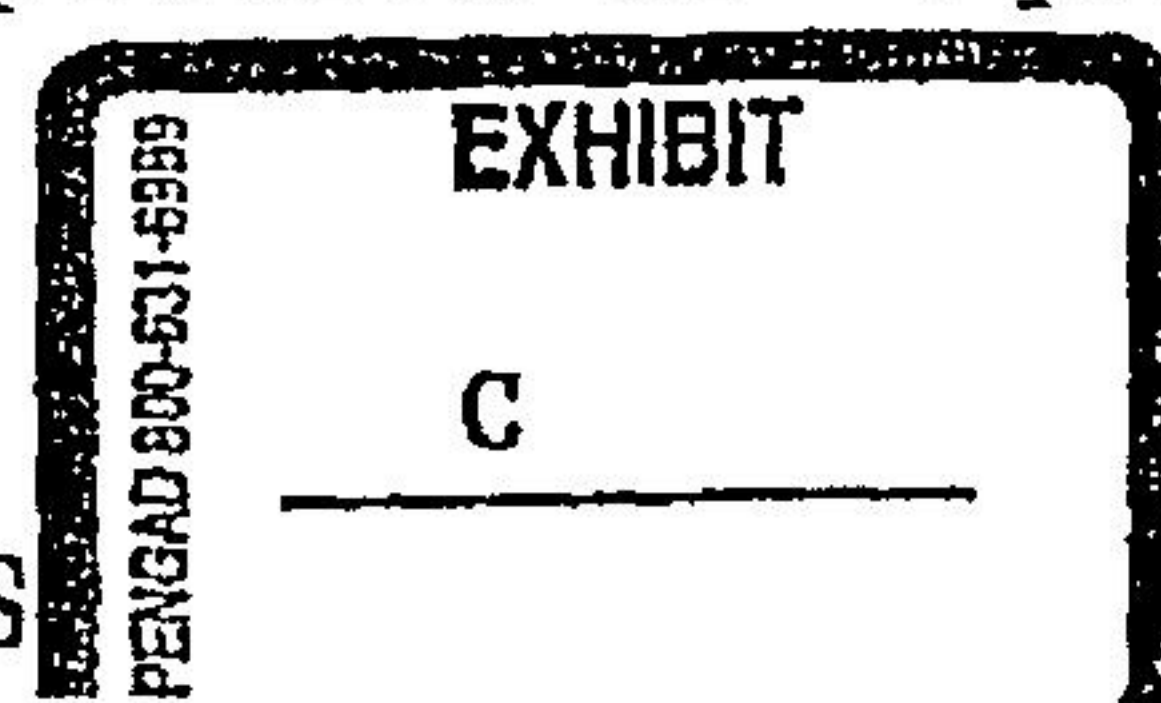
(b) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

(c) Notwithstanding a provision in a dedicatory instrument, a property owners' association shall make the books and records of the association, including financial records, open to and reasonably available for examination by an owner, or a person designated in a writing signed by the owner as the owner's agent, attorney, or certified public accountant, in accordance with this section. An owner is entitled to obtain from the association copies of information contained in the books and records.

(d) Except as provided by this subsection, an attorney's files and records relating to the property owners' association, excluding invoices requested by an owner under Section 209.008(d), are not records of the association and are not subject to inspection by the owner or production in a legal proceeding. If a document in an attorney's files and records relating to the association would be responsive to a legally authorized request to inspect or copy association documents, the document shall be produced by using the copy from the attorney's files and records if the association has not maintained a separate copy of the document. This subsection does not require production of a document that constitutes attorney work product or that is privileged as an attorney-client communication.

(e) An owner or the owner's authorized representative described by Subsection (c) must submit a written request for access or information under Subsection (c) by certified mail, with sufficient detail describing the property owners' association's books and records requested, to the mailing address of the association or authorized representative as reflected on the most current management certificate filed under Section 209.004. The request must contain an election either to inspect the books and records before obtaining copies or to have the property owners' association forward copies of the requested books and records and:

(1) if an inspection is requested, the association, on or



before the 10th business day after the date the association receives the request, shall send written notice of dates during normal business hours that the owner may inspect the requested books and records to the extent those books and records are in the possession, custody, or control of the association; or

(2) if copies of identified books and records are requested, the association shall, to the extent those books and records are in the possession, custody, or control of the association, produce the requested books and records for the requesting party on or before the 10th business day after the date the association receives the request, except as otherwise provided by this section.

(f) If the property owners' association is unable to produce the books or records requested under Subsection (e) on or before the 10th business day after the date the association receives the request, the association must provide to the requestor written notice that:

(1) informs the requestor that the association is unable to produce the information on or before the 10th business day after the date the association received the request; and

(2) states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the 15th business day after the date notice under this subsection is given.

(g) If an inspection is requested or required, the inspection shall take place at a mutually agreed on time during normal business hours, and the requesting party shall identify the books and records for the property owners' association to copy and forward to the requesting party.

(h) A property owners' association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the association.

(i) A property owners' association board must adopt a records production and copying policy that prescribes the costs the association will charge for the compilation, production, and reproduction of information requested under this section. The prescribed charges may include all reasonable costs of materials, labor, and overhead but may not exceed costs that would be applicable for an item under 1 T.A.C. Section 70.3. The policy required by this subsection must be recorded as a dedicatory instrument in accordance

with Section 202.006. An association may not charge an owner for the compilation, production, or reproduction of information requested under this section unless the policy prescribing those costs has been recorded as required by this subsection. An owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted under this subsection. The association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the estimated costs are lesser or greater than the actual costs, the association shall submit a final invoice to the owner on or before the 30th business day after the date the information is delivered. If the final invoice includes additional amounts due from the owner, the additional amounts, if not reimbursed to the association before the 30th business day after the date the invoice is sent to the owner, may be added to the owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the owner is entitled to a refund, and the refund shall be issued to the owner not later than the 30th business day after the date the invoice is sent to the owner.

(j) A property owners' association must estimate costs under this section using amounts prescribed by the policy adopted under Subsection (i).

(k) Except as provided by Subsection (l) and to the extent the information is provided in the meeting minutes, the property owners' association is not required to release or allow inspection of any books or records that identify the dedicatory instrument violation history of an individual owner of an association, an owner's personal financial information, including records of payment or nonpayment of amounts due the association, an owner's contact information, other than the owner's address, or information related to an employee of the association, including personnel files. Information may be released in an aggregate or summary manner that would not identify an individual property owner.

(l) The books and records described by Subsection (k) shall be released or made available for inspection if:

(1) the express written approval of the owner whose records are the subject of the request for inspection is provided to the property owners' association; or

(2) a court orders the release of the books and records or orders that the books and records be made available for inspection.

(m) A property owners' association composed of more than 14 lots shall adopt and comply with a document retention policy that includes, at a minimum, the following requirements:

(1) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;

(2) financial books and records shall be retained for seven years;

(3) account records of current owners shall be retained for five years;

(4) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;

(5) minutes of meetings of the owners and the board shall be retained for seven years; and

(6) tax returns and audit records shall be retained for seven years.

(n) A member of a property owners' association who is denied access to or copies of association books or records to which the member is entitled under this section may file a petition with the justice of the peace of a justice precinct in which all or part of the property that is governed by the association is located requesting relief in accordance with this subsection. If the justice of the peace finds that the member is entitled to access to or copies of the records, the justice of the peace may grant one or more of the following remedies:

(1) a judgment ordering the property owners' association to release or allow access to the books or records;

(2) a judgment against the property owners' association for court costs and attorney's fees incurred in connection with seeking a remedy under this section; or

(3) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Subdivision (2) from any future regular or special assessments payable to the property owners' association.

(o) If the property owners' association prevails in an action under Subsection (n), the association is entitled to a judgment for

court costs and attorney's fees incurred by the association in connection with the action.

(p) On or before the 10th business day before the date a person brings an action against a property owners' association under this section, the person must send written notice to the association of the person's intent to bring the action. The notice must:

(1) be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the mailing address of the association or authorized representative as reflected on the most current management certificate filed under Section 209.004; and

(2) describe with sufficient detail the books and records being requested.

(q) For the purposes of this section, "business day" means a day other than Saturday, Sunday, or a state or federal holiday.

Added by Acts 2001, 77th Leg., ch. 926, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1367, Sec. 6, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1026, Sec. 2, eff. January 1, 2012.