

OFFICIAL RECORDS INSTRUMENT # \_\_\_\_\_

(Amends OFFICIAL RECORDS INSTRUMENT # 200212129)

DECLARATION OF LANDOWNERS ASSOCIATION

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF BASTROP

THAT for and in consideration of the benefits to be obtained and more particularly described herein, the following is and shall be a Declaration of Landowners Association, hereinafter called "Association,"

1. Each owner purchasing a tract or tracts within the hereinafter described property shall automatically become a member of the Association, and shall remain a member until such time as ownership ceases for any reason, at which time membership in the Association shall succeed, pass or transfer to the new owner acquiring ownership rights.
2. The Association shall be the governing and administrative body for all owners for the maintenance of all roads, easements, rights of way or property in common which serves the tract herein described as Exhibit "A" and which is within the boundaries of the property described in Exhibit "B". **The Association shall be responsible for the collection of due and payable road fees from owners.**
3. **In matters of Association business, each tract or group of tracts owned by one purchaser or group of purchasers shall be allotted one vote.** ~~Each tract shall have one (1) vote per acre.~~ Only one owner representing each tract ~~or tracts~~ may exercise the votes allocated to such tract. Proxy votes must be authorized by written statement from owner(s).
4. Each owner shall be bound and obligated to pay and agrees to pay as assessments are made, the per acre proportionate share of the expenses for maintenance. The amount of common expenses assessed against each tract shall be the debt and obligation of each owner, or joint ownership, at the time the assessment is made. The subsequent transfer of ownership shall not terminate any outstanding obligation owed by owner(s).
5. One Hundred Twenty Dollars (\$120.00) per year is hereby established as the assessment rate to be assumed by each purchaser. Assessments shall become due and payable on November 1 of each year beginning in 2010. Owners shall pay a prorated share of the assessment for each month acreage is owned.
6. Assessments shall be paid to MSLA (McElwreath Subdivision Landowners' Association), P.O. Box 564, Red Rock, Texas 78662, each year as assessments become due.
7. **A Board of Directors for the Association shall exist and consist of three members as follows:**  
  
**PRESIDENT:** ~~Shall direct activities of other Board Members,~~ **Facilitates initiatives approved by the membership, chairs meetings, conduct public relations and represent the Association in contacts with outside entities with the limitation that all agreements with outside entities must be approved at a meeting of the Association before becoming valid.**  
  
**SECRETARY:** **Makes record of quarterly meetings, sends meeting notices to landowners &/or members, tracks county records for sales or changes, maintains owner data.**

~~VICE PRESIDENT/TREASURER: Shall perform duties as assigned by President, oversee maintenance work, take over for President in his/her absence.~~  
Receives and records road fees, writes checks for goods and services, contacts landowners who are in arrears, file liens with county for delinquent accounts.

~~MAINTENANCE DIRECTOR: Oversees road maintenance, presents an annual road assessment to the Association to set priorities, presents quarterly updates and project recommendations at meetings of the Association. Shall supervise work on maintainer, notify board of need for road repairs, order materials for repairs.~~

~~All members of the board must be landowners within the MSLA. A "landowner" is defined as one individual or entity recorded by the county and billed by the county at the same address. \*Note- the definition of a Landowner is covered in Section 1.~~

~~Elections shall be held at a November meeting of the Association unless an opening requires an earlier election. Landowners wishing to run for an office may have their name included in the quarterly meeting notice or may be nominated from the floor of a meeting. Election requires a simple majority vote of landowners present or represented by proxy.~~

~~All positions on the Board are for two years. All board members shall stand for reelection every two years. Any Board Member may be removed by a simple majority vote of the owners eligible to vote during a regular or special meeting as long as the intent to remove is on the agenda of said meeting.~~

~~Board members shall not receive any compensation for their board duties although they may be reimbursed for approved expenditures. This does not prevent a board member from bidding on a contract for services required for road maintenance or other services.~~

8. All official business of the Association shall be directed or delegated by meetings of the membership and shall be divided into two classes:

A) Those matters that may be voted on by landowners (owners) at regular meetings of the Association.

Matters of official business, other than those specified in section (B) below, may be decided at regular meetings of the Association.

In order for a measure to be enacted, it must be approved by a majority of votes by landowners represented at the meeting. Landowners may be represented by physical presence or written proxy. ~~A proxy must be dated as to the date issued and the period for which it is valid up to one year. A one-use proxy shall so state or be dated as valid for the meeting for which it was issued. All proxies shall be made part of the record and retained for at least two years.~~

For any business to be considered valid, at least 15% of McElwreath Subdivision's total acreage and at least 15% of MSLA landowners must be represented at the meeting.

Any deciding majority must include at least 40% of voting landowners represented at the meeting. A person owning one or more tracts of land in the subdivision is considered a single landowner.

B) Those matters that require ballots to be sent to all landowners of record via U.S. Mail.

Such matters shall include (1) Any amendment to the Declaration of Landowners Association, and (2) Creation of and amendments to the basic operational structure and procedures adopted by the Association.

Ballots for such matters shall be created by members or delegates of the Association and approved for mail-out at a subsequent Association meeting using the voting requirements outlined in section (A). Once approved, the ballot shall be mailed to all landowners of record currently known to the Association.

Deposit of these ballots at a U.S. Post Office shall satisfy this requirement. Completed and signed ballots received within 30 days of original postmark, or by the date stated on such ballots, shall be considered valid. Ballots must be signed and dated by a legal landowner for each tract owned and returned to the current legal mailing address of the Association. A majority of favorable votes taken from valid ballots shall be required for adoption of any ballot item. At least 25% of the landowners of record must return valid ballots in order for such a vote to be considered valid.

Voting in either case will be based on one vote per acre subject to the stated qualifications.

9. All regular meetings shall be held on the second Saturday of February, May, August, and November at 10:00am\*\*\*. ~~Meetings may be held at various owners' homes, the Red Rock Community Center, or any other appropriate place.~~ Notice of regular Association meetings, along with proposed agenda items, shall be issued at least 21 days prior to any regular meeting. Good faith attempts shall be made to notify all landowners of such meetings by U.S. mail, electronic mail, or ~~telephone~~ any other electronic means acceptable to the landowner. Failure of electronic notification shall require that the owner be notified by first class mail (USPS) or, if time is critical, by phone. Additionally, signs shall be posted at the subdivision entrance stating time, date, and location of each meeting. Emergency meetings, which will be defined by the Association, must meet the voting requirements established in section (A); however, such meetings may not be subject to advance notification requirements. An invoice for payable road fees shall be included with each notice declaring a November meeting. Special meetings may be held at the request of five landowners. All landowners must be given notice of special meetings using the means stated above at least 14 days prior to each special meeting.\*\*\* ~~Executive meetings of the Board are permitted, but only under extraordinary circumstances when matters of a confidential nature arise such as discussions of members in arrears or requests for fee forgiveness.~~

10. The secretary or their designee shall record the minutes of all meetings and archive the minutes in hard copy or electronically. These minutes shall be sent out with the subsequent meeting notice.... shall be retained indefinitely.

Minutes of any executive meeting shall be retained separate from the regular minutes and held private.

All proxies, invoices, purchase orders and any other documents of the MSLA shall be retained for at least two years.

Electronic copies of records shall be kept in at least two locations as complete duplications either on hard drives or as CD/DVD copies.

11. In the event any owner shall fail or refuse to pay the owner's proportionate share of the assessment as the same shall by January 15<sup>th</sup> 1st of the year following the date it has become due and payable, the owner shall be considered in default. ~~then~~ Landowners in default shall be sent a notice of delinquency once they are considered in default. All such assessments which have

become due and payable and which have not been paid by January 30<sup>th</sup> ~~\*\*of the year following the date they have become due and payable shall incur a 10% penalty and~~ constitute a lien upon owner's tract(s) of land within the property so described in Exhibit "B" exclusively. Such lien shall be prior to all other liens except that such assessment lien shall be subordinate, secondary and inferior to

- (a) Taxes by State or County
- (b) Liens due under mortgage, Vendor's Lien or Deed of Trust filed for record prior to date payment for such assessment became due and payable
- (c) All liens securing any loan made to a purchaser for any part of the purchase price of said tract of land from the developer.

~~Trustee, his agents, successors or assigns,~~ The Association shall have the full right to enforce the covenants herein contained.