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SB2 Fee: \$75.00



**Recording Requested By:**

Walnut Creek Mutual Fifty-Five (Mutual 55)

Total Paid: \$119.00  
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**When Recorded, Mail To:**

Walnut Creek Mutual Fifty-Five (Mutual 55)  
c/o Adams Stirling PLC  
2566 Overland Avenue, Suite 730  
Los Angeles, CA 90064

*Space above this line for recorder's use*

**FIRST AMENDMENT TO RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF**

**WALNUT CREEK MUTUAL FIFTY-FIVE (MUTUAL 55)  
a California nonprofit mutual-benefit corporation**

**If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a "Restrictive Covenant Modification" form, together with a copy of the attached document with the unlawful provision redacted to the county recorder's office. The "Restrictive Covenant Modification" form can be obtained from the county recorder's office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.**

**FIRST AMENDMENT TO RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF**

**WALNUT CREEK MUTUAL FIFTY-FIVE (MUTUAL 55)**  
a California nonprofit mutual-benefit corporation

This First Amendment to the Restated Declaration of Covenants, Conditions and Restrictions of Walnut Creek Mutual Fifty-Five (Mutual 55) (hereafter "First Amendment") is incorporated into and made a part of the Restated Declaration of Covenants, Conditions and Restrictions of Walnut Creek Mutual Fifty-Five (Mutual 55), recorded in the office of the County Recorder of Contra Costa County on February 8, 2021 as Document No. 2021-0038391 (the "CC&Rs"). The CC&Rs and this First Amendment together shall constitute the "Amended CC&Rs." If any term or provision in this First Amendment conflicts with any term or provision in the CC&Rs, the provisions of this First Amendment shall control.

The legal description of the Development is:

Lots 1 and 2, as shown on the Map of Subdivision 7002, "Mutual 55", filed March 30, 1989, in Map Book 332, Page 1, of Contra Costa County Records.

**AMENDMENTS**

The existing Article 9 "Insurance" is hereby **deleted in its entirety**, and the following is inserted in its place:

**ARTICLE 9: INSURANCE**

9.1 Mutual Insurance. The Mutual must obtain and maintain policies of insurance as described below. To help keep premiums at a reasonable level, the Mutual is authorized to establish appropriate deductibles for its policies of insurance, participate in group policies procured and maintained by GRF or any successor entity, and participate in a deductible sharing agreement with other Rossmoor mutuals. Unless otherwise determined by the Board, coverage must be on an occurrence basis.

- a. *Commercial General Liability ("CGL")*. The Mutual must maintain one or more CGL policies that provide appropriate liability limits for injury or death to one or more Persons in any one accident or occurrence. The Mutual must carry coverage in amounts that meet or exceed those called for in Civil Code §5805 and any successor statutes.

b. *Direct Physical Loss.*

- i. **Generally.** Unless unavailable, the Mutual must maintain one or more policies for loss or damage by fire or other perils covered by the standard "Special Form" policy (or its equivalent) covering all Common Area Improvements in the Development and such other Improvements in the Development as the Board may deem appropriate.
- ii. **Coverage Levels.** The amount of such insurance must be the best and highest amount available, taking into consideration availability and reasonable cost. If coverage for one hundred percent (100%) of the aggregate full insurable value of the insured property is not available through one or more carriers, the Mutual must obtain coverage for the highest percentage of the property available to the extent such percentage is also economically feasible. When determining the economic feasibility of a given amount of coverage, the Board may consider:
  - (a) The risk analysis/risk assessment is obtained from a qualified risk manager or insurance broker who is using industry standards to evaluate the cost and availability of insurance products for similarly situated communities;
  - (b) The market availability of coverage;
  - (c) The possibility of various possible maximum loss scenarios laid out by the qualified risk manager, insurance broker, or third-party consultant used by GRF;
  - (d) The overall cost-effectiveness of available coverage;
  - (e) The difference in cost between different percentages of coverage;
  - (f) The relative risks of experiencing different percentages of loss, such as the risk of a 50% loss vs. a 100% loss;
  - (g) Actual or anticipated increases in other required Mutual expenses; and
  - (h) Such other financial and economic factors that a reasonable Board would consider under the circumstances.

- iii. Blanket Basis. The coverage must be written on a blanket basis with an agreed value endorsement and an inflation guard endorsement, if available.
  - iv. Primary Coverage. The Mutual's insurance policy must be primary with respect to property damage in the event of overlapping coverage with a Member's property damage policy. Because construction costs can be unpredictable and suddenly escalate whenever large losses occur, Directors are not liable if actual construction costs are greater than the replacement cost provided by the insurance policy.
  - v. Ordinance or Law Coverage. If available and economically feasible, the Mutual must provide "Ordinance or Law Coverage" or its equivalent, including:
    - (a) Coverage for Loss to the Undamaged Portion of the building or structure.
    - (b) Demolition Cost Coverage.
    - (c) Increased Cost of Construction Coverage.
  - vi. Maintenance Fee Receivable Coverage. If available and economically feasible, the Mutual must provide "Maintenance Fees Receivable" coverage, or its equivalent, to cover the loss from unpaid or uncollected Assessments resulting from a covered property loss.
  - vii. Other Coverage. The Mutual may include such other endorsements that the Board may deem necessary or reasonable.
- c. *Directors and Officers*. The Mutual must purchase Directors and Officers errors and omission insurance, insuring the Mutual, Directors, Officers, Committee members, trustees, Mutual employees, Mutual volunteers, any community manager in contract with the Mutual, any management company in contract with the Mutual and employees of such Mutual management company who perform services on behalf of the Mutual. The Mutual must carry coverage in amounts that meet or exceed those called for in Civil Code §5800 and any successor statutes.
  - d. *Employment Practices Liability*. The Mutual should consider purchasing employment practices liability coverage (whether or not it has employees) when available and affordable.

- e. *Crime Insurance and Fidelity Bond.* The Mutual must maintain crime insurance, employee dishonesty coverage, fidelity bond coverage, or their equivalent, for its directors, officers, and employees in an amount that is equal to or more than the combined amount of the reserves of the Mutual and total Assessments for three months. The coverage maintained by the Mutual shall also include protection in an equal amount against computer fraud and funds transfer fraud. If the Mutual uses a managing agent or management company, the Mutual's crime insurance, employee dishonesty coverage, fidelity bond coverage, or their equivalent shall additionally include coverage for, or otherwise be endorsed to provide coverage for, dishonest acts by that Person or entity and its employees. Self-insurance does not meet the requirements of this section.
- f. *Umbrella Policy.* The Mutual may purchase an excess or umbrella policy over its public liability and property damage, Directors and Officers liability, and workers' compensation policies to provide higher liability limits as the Board determines.
- g. *Workers' Compensation.* The Mutual must carry workers' compensation insurance as required by law to cover employees of the association. If available, the Mutual is also permitted to purchase a Voluntary Labor Endorsement to protect its volunteers.

## 9.2 Member Obligation to Carry Insurance

- a. *Member Insurance.* At their sole expense, Members must purchase and maintain insurance covering their real and personal property, whether the Unit is Member occupied, vacant, or held out for rent. The Mutual has no obligation to police this provision and is specifically relieved any responsibility or liability from doing so or failing to do so. The required insurance must include, without limitation:
  - i. Personal property coverage that insures the contents of their Unit against damage or loss;
  - ii. Real property coverage that insures their Unit against damage or loss, including, but not limited to, all improvements to the Unit and all fixtures and components within or appurtenant to the Unit;
  - iii. Real property coverage that insures Exclusive Use Common Area servicing the Unit;

- iv. Premises liability that includes protection for bodily injury and property damage;
  - v. Personal liability coverage with a policy limit of at least One Million Dollars (\$1,000,000);
  - vi. Loss of use that protects a Member for additional living expenses, loss of rents, or any other losses should their Unit become uninhabitable due to a covered loss;
  - vii. Loss assessment coverage that protects against Special Assessments due to a loss that exceeds the Mutual's master policy limits or deductible; Master policy deductible coverage, and;
  - viii. Such other coverage as the Member deems appropriate.
- b. *Automobile Coverage.* If a Member operates a vehicle that is driven across or stored in the Mutual's Common Areas, the Member must carry appropriate automobile insurance. The Mutual has no obligation to police this provision and is specifically relieved of any responsibility or liability from doing so or failing to do so.
- c. *Waiver of Claims.* Members waive their claims against the Mutual to the extent such claims are covered under insurance, which Members are required to carry under these CC&Rs, regardless of whether Members actually carry such insurance.
- d. *Assignment of Proceeds.* If any loss intended to be covered by the Mutual's insurance occurs and the proceeds payable by the Mutual's insurance are reduced because of proceeds paid under a Member's insurance coverage, that Member must assign such insurance proceeds to the Mutual to the extent of the reduction. The Board must apply those proceeds to the same purposes as the reduced proceeds received by the Mutual.
- e. *Tenant Insurance.* Members must require Tenants to have renters or tenant insurance, including coverage for damage to or loss of personal property, personal liability, medical payment to others, and loss of use. The liability insurance must have a policy limit of at least One Million Dollars (\$1,000,000). The Mutual has no obligation to police this provision and is specifically relieved of any responsibility or liability from doing so or failing to do so.

9.3 Responsibility for Deductible.

- a. *Payment of Deductible.* Except as otherwise provided by a separate agreement, when a claim is made on the Mutual's property insurance policy, the Owner is responsible for payment of the deductible on the Mutual's policy in the circumstances: (i) where damage to Common Area and/or Unit Improvements is caused by the fault of the Owner, tenants, contract purchasers, Residents, and agents, invitees, family members, guests, and pets/animals of any of the foregoing; or (ii) where damage to Common Area and/or Unit Improvements is caused by the failure of some portion of the Unit or Common Area which the Owner is responsible for maintaining. In cases where fault cannot be determined, the Mutual shall pay the deductible.
- b. *Participation in GRF Deductible Sharing Agreement.* The Mutual may enter into a deductible sharing agreement with other Rossmoor mutuals. If the event of such an agreement, to the extent there is any conflict between the payment of deductibles as set forth in this subsection and such agreement, the agreement shall control.
- c. *Losses Triggering the Deductible Sharing Agreement.* With regard to insured losses which trigger the Rossmoor-wide Agreement to Share the Deductible ("Agreement") and which are also in excess of available coverage, the Mutual's Members shall pay for the loss according to the pro rata share formula set forth in the Agreement. The Board shall determine the best source of funds for this obligation.

9.4 Liability for Increased Insurance Rates. If any negligent act or omission of any Member, Member's Tenant, or their respective family, guests, invitees, vendors, or pets/animals causes an increase in the cost of the Mutual's insurance, the amount of the increase must be assessed against the Member and their Unit as a Reimbursement Assessment.

9.5 Choice of Contractor. With respect to any repairs for which proceeds of insurance are paid or are payable to the Mutual, the Board shall designate contractors to perform repairs to the Common Areas.

9.6 Insurance Company Rating. All policies of insurance required by this Article must be issued by either a California admitted insurance company or an approved carrier on the California List of Approved Surplus Line Insurers (LASLI). Each such carrier must hold an A.M. Best Insurance or Standard and Poor's rating of "A" or better to the extent such policies are available.

**CERTIFICATION**

WE CERTIFY this 6<sup>th</sup> day of ~~September~~, 2024, that this First Amendment to the Amended Declaration of Covenants, Conditions and Restrictions of Walnut Creek Mutual Fifty-Five (Mutual 55) has been duly approved and adopted by at least fifty percent (50%) plus one (1) of the Owners of Walnut Creek Mutual Fifty-Five (Mutual 55).

WALNUT CREEK MUTUAL FIFTY-FIVE (MUTUAL 55)

*Roberta Bennett Richards, President*

Roberta Bennett Richards, President

*Nancy Lauren Gibbs, Secretary*

Nancy Lauren Gibbs, Secretary

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Contra Costa

On 9-6-24 before me, Karen Kruth, Notary Public  
(insert name and title of the officer)

personally appeared Nancy Lauren Gibbs  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Karen Kruth (Seal)



**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Contra Costa

On 9-6-24 before me, Karen Kruth, Notary Public  
(insert name and title of the officer)

personally appeared Roberta Bennett Richards  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Karen Kruth (Seal)

