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**CERTIFICATE OF AMENDMENT TO AMENDED BYLAWS  
OF  
WALNUT CREEK MUTUAL NO. FIFTY-NINE**

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I, Victor Vigil, hereby certify that:


1. I am the Secretary of Walnut Creek Mutual No. Fifty-Nine, a California nonprofit mutual benefit corporation (the "Mutual").

2. In 2006, the Mutual's Board of Directors (the "Board") and the requisite members of the Mutual approved Amended Bylaws of Walnut Creek Mutual No. Fifty-Nine ("Amended Bylaws").

3. Pursuant to a vote of the Mutual's membership conducted by the secret ballot method required by Civil Code section 1363.03 and concluded on May 8, 2012, the requisite number of Members of the Mutual approved the amendments to the Amended Bylaws set forth on Exhibit "A" attached hereto and incorporated herein by this reference.

4. In all other respects the provisions of the Amended Bylaws shall remain in full force and effect except as herein modified.

IN WITNESS THEREOF I have executed this Certificate on this 30 of May, 2012.

  
\_\_\_\_\_  
Victor Vigil, Secretary

## **EXHIBIT "A"**

ARTICLE 9 (entitled "INSURANCE") shall be deleted in its entirety and the following inserted in its place:

**9.1 Liability and Fidelity Insurance.** The Mutual shall obtain and maintain the following liability policies:

**9.1.1 Commercial General Liability Policy:** A Commercial General Liability policy insuring the Mutual, any manager, the Mutual's directors and officers, and the Owners against liability arising from any bodily injury or property damage as a result of an accident or occurrence within the Common Area. Subject to the terms and conditions of the policy, the policy also shall cover bodily injury or property damage from an accident or occurrence within any Unit related to any maintenance or repair work required to be performed by the Mutual pursuant to the Declaration and/or the Mutual's Maintenance Policies, including, but not limited to, work performed in the Common Area. The policy shall include, if obtainable, cross liability or severability of interest coverage. The limits of such insurance (including the commercial general liability and any excess liability coverage) shall not be less than the general liability insurance requirements set forth in Civil Code section 1365.9 or any successor statute thereto covering all claims for bodily injury and property damage arising out of a single occurrence. The coverage may be a combination of primary and excess policies. The insurance shall be provided with coverage terms provided by Insurance Services Offices (ISO) form CG 0001, or equivalent or better coverage. Such insurance shall include coverage against liability for owned, non-owned and hired automobiles and other liability or risk customarily covered with respect to projects similar in construction, location and use. The policy shall be primary and noncontributing with any other liability policy covering the same liability.

**9.1.2 Directors and Officers Liability Policy:** A Directors and Officers Liability policy containing such terms and conditions as are normally and customarily carried for directors and officers of a common interest development and in sufficient amounts to satisfy the insurance requirements of Civil Code section 1365.7 or any successor statute thereto.

**9.1.3 Crime Insurance:** A blanket Commercial Crime Insurance Policy covering the Mutual, any organization or person who either handles or administers or is responsible for Mutual funds, whether or not any person receives compensation for services. The policy amounts shall satisfy the Federal National Mortgage Association ("FNMA") and Federal Housing Administration ("FHA") requirements and in no event shall be less than the sum of three months of Annual and Special Assessments on all Units subject to Assessments.

**9.2 Mutual Property Insurance.** The Mutual shall obtain and maintain a master property insurance policy that satisfies each of the following conditions:

9.2.1 **Property Covered.** The Mutual's policy shall cover the following real and personal property:

(i) *Common Area.* All Common Area improvements, including buildings and any additions or extensions thereto; all fixtures, machinery and equipment permanently affixed to the building; windows; fences; monuments; lighting fixtures situated outside the Units; exterior signs; and personal property owned or maintained by the Mutual; but excluding land; excavations; and other items typically excluded from property insurance coverage.

(ii) *Units.* Permanently affixed improvements situated within the Unit, including interior walls and doors; ceiling, floor and wall surface materials (e.g., paint, wallpaper, carpets and hardwood floors); utility fixtures (including gas, electrical and plumbing); cabinets; built-in appliances; heating and air-conditioning systems; water heaters and any replacements thereto; but excluding any personal property located in the Unit. If the Unit Owner renovates, upgrades or replaces any permanently affixed improvement within the Unit or adds new improvements to the Unit (collectively, the "Alterations") and the replacement cost of the Alterations exceeds the cost of the improvements prior to the Alterations, the Unit Owner shall be responsible for procuring and maintaining insurance to cover the excess unless the Owner has obtained written approval from the Mutual to make the Alterations and, to the extent required, approval from governmental authorities.

(iii) *Landscaping.* Lawn, trees, shrubs and plants located in the Common Area.

9.2.2 **Covered Cause of Loss.** The Mutual's policy shall provide coverage against losses caused by fire and risks of direct physical loss, as insured under the ISO "Causes of Loss - Special Form (CP 1030)" or its equivalent or better coverage. Such policy shall include coverage for loss resulting from the enforcement of any ordinance or law regulating the construction, use or repair of any property, or requiring the tearing down of any property, if caused by a peril insured by such policy. Equipment Breakdown Insurance shall also be maintained covering boilers and related equipment, heating, air-conditioning, electrical and mechanical equipment that is used in the generation, transmission or utilization of energy.

9.2.3 **Dollar Limit.** The dollar limit of the Mutual's policy shall not be less than the full insurable replacement value of the covered property described in Section 9.2.1 above based on insurance industry standards for determination of replacement values, provided that there may be lower dollar limits for specified items as is customarily provided in property insurance policies.

9.2.4 **Primary.** The Mutual's policy shall be primary and noncontributing with any other insurance policy covering the same loss provided, however, that where an Owner's individual insurance policy (discussed in Section 9.6 below) provides overlapping coverage, the Owner's individual insurance policy shall be the primary coverage and the Mutual's policy shall be excess/supplemental/secondary coverage as the case may be.

9.2.5 **Endorsements.** The Mutual's policy may contain such endorsements as the Board may select after consultation with a qualified insurance consultant.

9.2.6 **Waiver of Subrogation.** The Mutual waives all subrogation rights against any Owner or occupant and their family members and invitees. The policy shall include an acknowledgment of the Mutual's right to waive all subrogation rights against the Owner.

9.2.7 **Deductible.** Except as otherwise provided by 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 circumstances: (i) where damage to Common Area and/or Unit improvements is caused by the fault of the Owner, tenants, Contract Purchasers, Residents of the Unit, and agents, invitees, family members, guests and pets 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.

The Mutual may enter into a deductible sharing agreement with other Rossmoor mutuals. In this event, to the extent there is any conflict between the payment of deductibles as set forth in this Section 9.2.7 and the agreement, the agreement shall control.

9.3 **FNMA, FHLMC and FHA Requirements.** Notwithstanding anything herein to the contrary, the Mutual shall maintain such policies, containing such terms, amount of coverage, endorsements, deductible amounts, named insureds, loss payees, standard mortgage clauses, notice of changes or cancellation, and an appropriate insurance company rating that shall satisfy the minimum requirements imposed by the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") and the Federal Housing Administration ("FHA") or any successor thereto. If the FNMA, FHLMC or FHA requirements conflict, the more stringent requirements shall be met.

9.4 **Insurance Rating and Cancellation.** The insurance company providing the Mutual's insurance under Sections 9.1 and 9.2 shall have an A.M. Best rating of not less than A:VII if licensed to do business in the State of California and a rating of not less than A:X if approved but not licensed to do

business in the State of California, provided that if the Board determines that insurance from insurance companies with the required ratings is not available at commercially reasonable rates, the Board may reduce the rating requirements after consultation with a qualified insurance consultant. If the A.M. Best ratings are no longer available, the insurance ratings shall be based on equivalent ratings issued by an independent insurance rating company used by financial institutions for insurance rating purposes.

**9.5 Board's Insurance Authority.** The Board has the authority on behalf of the Mutual and each of its Owners to participate with the Golden Rain Foundation of Walnut Creek or any successor or assign thereto (the "Foundation") and other Rossmoor mutuals in a group policy or policies procured and maintained by the Foundation as long as the group policy or policies provide equivalent or better coverage than the applicable requirements described in Sections 9.1 and 9.2 subject to the Board's right to deviate from the requirement as described herein.

The Board shall have the power and right to deviate from the insurance requirements contained in this Article 9 in any manner that the Board, in its discretion, considers to be in the best interests of the Mutual, provided that the Board shall maintain the minimum insurance requirements set forth in Civil Code sections 1365.7 and 1365.9 or in any successor statute thereto and as required in Section 9.3. If the Board elects to materially reduce the coverage from the coverage required in this Article 9, the Board shall, as soon as reasonably practicable, notify the Members, in writing, of the reduction in coverage.

The Board is authorized to negotiate and agree on the value and extent of any loss under any policy carried by the Mutual, including, but not limited to, the right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

Each Owner irrevocably appoints the Mutual, as that Owner's attorney-in-fact for purposes of procuring, negotiating, accepting, compromising, releasing, settling, distributing and taking other related actions in connection with any insurance policy maintained by the Mutual and any losses or claims related thereto and agrees to be bound by the actions so taken as if the Owner had personally taken the action.

**9.6 Owners' Individual Insurance Requirements.** Each Owner shall procure and maintain property insurance against losses to personal property located within the Owner's Unit and personal liability coverage. The Mutual's insurance policies will not provide coverage for: (i) losses to the Owner's personal property; (ii) losses to any Alterations to the extent not covered under Section 9.2.1(ii); (iii) liability from accidents or occurrences within the Owner's Unit or portions of the Common Area set aside for the exclusive use or possession of the residents of the Unit (that is, Exclusive Use Common Area); or (iv) liability from accidents or occurrences within Rossmoor for which the Owner may be held

responsible and which may not be covered under the Mutual's Commercial General Liability policy. Each Owner should seek the advice of a qualified insurance consultant regarding the Owner's property and liability insurance obligations under this Section 9.6 and other applicable coverage available to Owners of Units.

Nothing herein imposes any duty on the Mutual, its directors, officers or agents (including the Mutual's managing agent) to confirm or otherwise verify that the Owners are carrying the insurance required in this Section 9.6.

No Owner shall separately insure any property covered by the Mutual's property insurance policy described in Section 9.2 above unless the Owner's individual insurance policy permits the application of any overlapping coverage under Owner's policy as primary without a reduction in benefits from the coverage under the Mutual's policy. If any Owner violates this provision and, as a result, there is a diminution in insurance proceeds otherwise payable to the Mutual, the Owner will be liable to the Mutual to the extent of the diminution. The Mutual may, subject to Mutual's compliance with the notice and hearing requirements set forth in the Governing Documents, levy a Reimbursement Assessment against the Owner and the Owner's Unit to collect the amount of the diminution.



**ROSSMOOR**  
WALNUT CREEK

## **Walnut Creek Mutual No. Fifty-Nine**

### **Articles of Incorporation and Bylaws**

**If these documents contain any restriction based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, 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. 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.**

**State of California**  
Secretary of State



I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the attached transcript of 5 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAR 26 2007

A handwritten signature in cursive script that reads "Debra Bowen".

DEBRA BOWEN  
Secretary of State





FEB 22 2007


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**CERTIFICATE OF AMENDMENT  
OF ARTICLES OF INCORPORATION AND VERIFICATION OF  
WALNUT CREEK MUTUAL NO. FIFTY-NINE**

We, the undersigned, Kelvin Booty and Sara Cornell,

1. hereby certify that:
  - a. we are the President and Secretary, respectively, of WALNUT CREEK MUTUAL NO. FIFTY-NINE, a California nonprofit mutual benefit corporation, and are duly authorized to execute this Certificate; and
  - b. the Articles of Incorporation of this Corporation are amended in full to read as follows: See Exhibit "A" attached hereto and incorporated herein by this reference; and
  - c. the foregoing amendment has been approved by the Board of Directors and by the required vote of Members; and
2. each hereby declares under penalty of perjury pursuant to the laws of the State of California, that the matters set forth above are true of his or her own knowledge.

EXECUTED at Walnut Creek, California, this 16th day of February, 2007.

  
Kelvin Booty, President

  
Sara Cornell, Secretary

390954

**Exhibit "A"**

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**AMENDED ARTICLES OF INCORPORATION OF  
WALNUT CREEK MUTUAL NO. FIFTY-NINE**

**ARTICLE 1            NAME**

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The name of the corporation is Walnut Creek Mutual No. Fifty-Nine (hereinafter called the "Corporation").

**ARTICLE 2            ORGANIZATION, PURPOSE AND POWERS  
                         OF THE CORPORATION**

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This Corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this Corporation is to engage in any lawful act or activity, other than credit union business, for which a corporation may be organized under the Nonprofit Mutual Benefit Corporation Law. This Corporation does not contemplate pecuniary gain or profit to the Members thereof, and the specific primary purposes for which it is formed are:

(i) to provide for maintenance, protection, preservation, and architectural control of the residential Units and Common Area, including the attractiveness and value thereof, and the landscaping, structures, and facilities thereon, within that certain property located in the City of Walnut Creek, and more particularly described as Lot 1 and Lot 2 of Subdivision 7169, as shown on the Map thereof filed on July 29, 1992, in Book 362 of Maps, at Pages 24 through 27, in the Official Records of Contra Costa County, California; and

(ii) to provide for the management, administration, and operation of the above-described property comprising the Walnut Creek Mutual No. Fifty-Nine condominium project and the business and affairs of the Corporation; and

(iii) to promote the health, safety, welfare, and interests of all owners of property and residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of the Corporation; and

(iv) to take such action as in the judgment of the Board of Directors shall be necessary or proper or incidental to the foregoing purposes of the Corporation.

### ARTICLE 3

### STATEMENT REQUIRED BY CIVIL CODE SECTION 1363.5

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The Corporation is an association formed to manage a common interest development under the *Davis-Stirling Common Interest Development Act*.

The business or corporate office of the Corporation is as follows:

Walnut Creek Mutual No. Fifty-Nine  
c/o Golden Rain Foundation of Walnut Creek  
Attn: Mutual Operations Division  
800 Rockview Drive  
Walnut Creek, CA 94595

The physical location of the common interest development is:

Front Street: Terra Granada  
Nearest Cross Street: Horseman's Canyon  
Walnut Creek, California 94595-3920

The name and address of the Corporation's managing agent, as defined in *Civil Code* section 1363.1 is:

Golden Rain Foundation of Walnut Creek  
Mutual Operations Division  
800 Rockview Drive  
Walnut Creek, CA 94595

The Corporation's managing agent is not certified pursuant to *Business and Professions Code* section 11502.

### ARTICLE 4

### MEMBERSHIP

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Every person or entity that is a record owner of a fee or undivided fee interest in any Unit within the above-described real property, which is subject by covenants of record to assessment by the Corporation, including contract sellers, shall be a Member of the Corporation. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to, and may not be separated from, ownership of any Unit which is subject to assessment by the Corporation.

## **ARTICLE 5            BOARD OF DIRECTORS**

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The affairs of this Corporation shall be managed by a Board of Directors. The number of Directors, their qualifications, and the manner of their selection shall be as set forth in the Bylaws of the Corporation.

## **ARTICLE 6            LIMIT ON POWERS; TAXATION**

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Notwithstanding any of the statements of purpose or powers contained herein, the Corporation shall not engage, except to an insubstantial degree, in any activity or exercise that is not in furtherance of its specific and primary purposes. This Corporation is intended to qualify as a Homeowners Association under the applicable provisions of Section 528 of the United States *Internal Revenue Code* ("IRC") and of Section 23701f of the *Revenue and Taxation Code* of the State of California ("R&TC"), as each may be amended from time to time. No part of the net earnings of this Corporation shall inure to the benefit of any private individual, except as expressly provided in IRC Section 528 and R&TC Section 23701f with respect to the acquisition, construction, or provision for management, maintenance, and care of the Corporation property, and other than by rebate of excess membership dues, fees, or assessments.

## **ARTICLE 7            DISSOLUTION**

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To the extent provided in *Corporations Code* section 8724, so long as there is any Unit, lot or parcel for which the Corporation is obligated to provide management, maintenance, preservation, or control, the Corporation shall not transfer all or substantially all of its assets or file a certificate of dissolution without the approval of one hundred percent (100%) of the Members. In the event of the dissolution, liquidation, or winding-up of the Corporation, upon or after termination of the Walnut Creek Mutual No. Fifty-Nine condominium project, in accordance with provisions of the recorded declaration governing the property comprising the project, the Corporation's assets remaining after payment, or provision for payment, of all debts and liabilities of the Corporation shall be divided among and distributed to its Members in accordance with their respective rights therein.

## **ARTICLE 8            AMENDMENTS**

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Any amendments to these Amended Articles of Incorporation shall require the approval of the Board of Directors and the approval by the affirmative vote or written consent of Members representing at least a majority of the Members

voting on such amendment provided the number of Members voting hereon shall be sufficient to constitute a quorum.

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AMENDED BYLAWS OF  
WALNUT CREEK MUTUAL NO. FIFTY-NINE**

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**ARTICLE 1                      NAME AND LOCATION**

## ARTICLE 2 DEFINITIONS

- 2.1 Additional Charges. "Additional Charges" shall mean all costs, fees, charges, and expenditures including, but not limited to, interest, late charges, attorneys' fees, recording and filing fees, and all other costs actually incurred by the Mutual in collecting and/or enforcing payment of Assessments.
- 2.2 Articles. "Articles" shall mean the Amended Articles of Incorporation of Walnut Creek Mutual No. 59, as they may be amended from time to time, and as filed with the Office of the Secretary of State of California.
- 2.3 Assessments. "Assessments," "Annual Assessments," "Special Assessments," "Reimbursement Assessments," and "Enforcement Assessments" shall have the meanings defined for those terms in the Declaration.
- 2.4 Board of Directors. "Board of Directors" or "Board" shall mean the governing body of the Mutual.
- 2.5 Bylaws. "Bylaws" shall mean the Amended Bylaws of the Mutual as they shall duly be adopted by the Board of Directors and the Members and any duly-adopted amendments thereof.

- 2.6 Civil Code. "*Civil Code*" shall mean the California *Civil Code* as amended from time to time.
- 2.7 Committee of the Board. "Committee of the Board" shall mean a committee consisting only of directors as described in *Corporations Code* section 7212.
- 2.8 Common Area "Common Area" shall mean all of the property comprising the Project that is owned by all of the Owners in common but excluding the Units.
- 2.9 Condominium. "Condominium" shall mean an estate in real property, as defined in *Civil Code* sections 783 and 1351(f), consisting of an undivided interest in all or any portion of the Common Area together with a separate fee interest in a Unit and all easements or other interests appurtenant thereto.
- 2.10 Contract Purchaser/Contract Seller. "Contract Purchaser" and "Contract Seller" shall mean the purchaser and the seller, respectively, under an installment land contract in which title to the property is transferred after the final installment payment is made.
- 2.11 Corporations Code. "*Corporations Code*" shall mean the California *Corporations Code* as amended from time to time.
- 2.12 Declaration. "Declaration" shall mean the Amended Declaration of Covenants, Conditions and Restrictions of Walnut Creek Mutual No. 59, recorded in the Office of the Recorder of Contra Costa County, California, and any duly recorded amendments thereof.
- 2.13 Foundation. "Foundation" shall mean the Golden Rain Foundation of Walnut Creek, a California nonprofit mutual benefit corporation.
- 2.14 Governing Documents. "Governing Documents" shall mean the Articles, Bylaws, Declaration, and Rules.
- 2.15 Member. "Member" shall mean an Owner.
- 2.16 Member in Good Standing. "Member in Good Standing" shall mean a Member of the Mutual who is current in the payment of all Assessments and Additional Charges imposed in accordance with the Governing Documents and who is in compliance with all of the provisions of the Governing Documents.
- 2.17 Mutual. "Mutual" shall mean Walnut Creek Mutual No. 59, a California nonprofit mutual benefit corporation, its successors and assigns.

- 2.18 Owner. "Owner" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Unit, including Contract Sellers but excluding Contract Purchasers, and excluding those persons having such interest merely as security for the performance of an obligation.
- 2.19 Project. "Project" shall mean all of the real property described in the Declaration as comprising the Walnut Creek Mutual No. 59 condominium project.
- 2.20 Proxy. "Proxy" shall mean a written authorization signed by a Member or a Member's attorney in fact giving another person or persons power to vote for such Member, as defined in *Corporations Code* section 5069.
- 2.21 Resident. "Resident" shall mean any person who resides in a Unit within the Project whether or not such person is an Owner.
- 2.22 Rules. "Rules" shall mean the policies, rules, and regulations governing the administration, management, operation, use, and occupancy of the Project, including the use of the Common Area and facilities, the personal conduct of Members and Residents, members of their household, pets, tenants, invitees, and guests within the Project, enforcement of the Governing Documents, and any other matter which is within the jurisdiction of the Mutual, as adopted, published, or amended by the Board from time to time and subject to applicable law including *Civil Code* section 1357.100 et seq. The Rules shall include but are not limited to the Senior Housing Residency Restrictions and the Maintenance Policies, as defined in the Declaration.
- 2.23 Simple Majority. "Simple Majority" shall mean a majority of the votes cast by secret ballot in conformity with *Civil Code* section 1363.03, in which the number of votes cast equals or exceeds the number required to establish a quorum.
- 2.24 Total Voting Power. "Total Voting Power" shall mean the total number of votes of all Members entitled to vote at a particular time, calculated on the basis of one vote for each Unit, excluding any Units as to which an Owner is not then a Member in Good Standing.
- 2.25 Unit. "Unit" shall mean the elements of a Condominium which are not owned in common with the Owners of other Condominiums in the Project, as more particularly set forth in the Declaration. The Units may sometimes be referred to as "Manors" in Mutual or Foundation documents. There are 108 Units in the Project.

## ARTICLE 3

## MEMBERSHIP AND VOTING RIGHTS

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- 3.1 Membership Appurtenant to Unit Ownership. Membership in the Mutual shall include, and shall be limited to, all Owners of any Unit located within the Project. Membership shall be appurtenant to and may not be separated from ownership of a Unit. Upon becoming the Owner of a Unit, each Owner shall automatically be a Member of the Mutual and shall remain a Member until such time as his or her Unit ownership ceases for any reason. Membership in the Mutual shall not be transferred, encumbered, pledged, alienated, or hypothecated in any way, except upon the transfer or encumbrance of the Unit to which it is appurtenant and then only to the transferee or mortgagee, as the case may be, of such Unit. Any attempt to make a prohibited transfer is void. Upon any transfer of title to a Unit, including a transfer upon the death of an Owner, Membership in the Mutual shall pass automatically to the transferee.
- 3.2 Membership in the Foundation. Membership in the Foundation is distinct from membership in the Mutual and shall be as determined by the Foundation pursuant to its duly adopted articles of incorporation, bylaws, and/or other applicable instruments.
- 3.3 Notice of Transfer of Title. Upon transfer of title to a Unit, the transferee shall be responsible for notifying the Mutual of such transfer.
- 3.4 Voting Rights. Only Members in Good Standing shall be entitled to vote on any issue or matter presented to the Members for approval or Membership vote. Members in Good Standing shall be entitled to cast one vote for each Unit owned. In the event more than one person owns a given Unit, the vote for such Unit shall be exercised as the Owners among themselves shall determine, but in no event shall more than one vote be cast with respect to any Unit. If the joint Owners are unable to agree among themselves as to how their vote or votes are to be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Unit, it will thereafter be conclusively presumed for all purposes that such Owner was acting with the authority and consent of the other Owners of that Unit.
- 3.5 Delegation of Rights of Use. A Member may delegate rights of use and enjoyment in the Project as provided in Section 4.2 of the Declaration ("Delegation of Use").
- 3.6 Record Date for Voting. Consistent with *Corporations Code* section 7611(b), the Board may fix a date not more than sixty (60) days before the date of mailing or delivery of ballots as the record date for determining Members entitled to vote and only Members in Good Standing as shown

**ARTICLE 4 MEETINGS OF MEMBERS, PROXIES, VOTING**

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- 4.7 Meetings of Members. To the extent any vote or election by the Members is required by law to be conducted at a meeting of the Members, the provisions of the *Corporations Code* that would otherwise apply shall apply; any such meeting of Members shall be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Mutual may adopt; and to the extent required pursuant to *Civil Code* section 1363.05(i), a reasonable time limit for all Members to speak at a meeting of the Members shall be established by the Board.
- 4.8 Place of Member Meetings. Meetings of the Members shall be held at a location within the Project, or the Board may designate by resolution a convenient place located within Rossmoor.

- 5.1 Number of Directors. The affairs of this Mutual shall be managed by or under the direction of, and the corporate powers shall be exercised by, a Board of Directors. The authorized number of Directors shall be five (5).
- 5.2 Annual Election of Directors. Directors shall be elected annually in the month of November.
- 5.3 Qualification of Directors. Only persons who satisfy all of the following qualifications shall be eligible to be elected to or serve on the Board: (i) is a Member in Good Standing, (ii) has not been found by a court of competent jurisdiction to be of unsound mind, and (iii) has not been convicted of a felony. Co-Owners of one or more Units may not serve on the Board at the same time.
- 5.4 Nomination. Nominations of candidates for election to the Board of Directors shall be made by any of the following ways:
  - 5.4.1 By Nominating Committee. A Nominating Committee shall nominate candidates prior to any meeting of Members at which one or more Directors are to be elected. The Nominating Committee shall consist of a chairman, who shall be a member of the Board of Directors, and two (2) or more Members. The Board shall appoint a Nominating Committee not less than sixty (60) days prior to the deadline for nominations, to serve from the date of appointment until the conclusion of the voting for Directors. The Nominating Committee shall nominate as many candidates for election to the Board as it shall in its discretion determine, but not less than the number of positions on the



Board that are to be filled at a particular meeting. All nominations shall be made from among Members who satisfy the qualifications set forth in Section 5.3.

- 5.4.2 By Self Nomination. Any Member who satisfies the qualifications set forth in Section 5.3 may place his or her name in nomination for election to the Board by giving written notice to the President or Secretary of the Mutual prior to the deadline for nominations.
- 5.4.3 Deadline for Nominations. The deadline for nominations shall be set by the Board and shall be not less than thirty-five (35) and not more than forty-five (45) days prior to the date of the mailing or delivery of ballots for the annual election of Directors.
- 5.4.4 Publication of Deadline for Nominations. The date and time of the deadline for nominations shall be published at least thirty (30) days in advance of the deadline in the *Rossmoor News* or successor publications, or if there is no such publication, notice shall be given in one or more of the following manners: (i) by posting a notice in a prominent place or places within the Common Area, (ii) by mailing or delivering a notice to each Unit, or (iii) by other means reasonably designed to provide actual notice to the Members.
- 5.5 Notice of Known Candidate Names. The names of all persons known by the Board to be qualified candidates for election to the Board as of the published deadline for nominations shall be set forth on the ballot for the election.
- 5.6 Voting for Directors. In all elections of Directors, the Members in Good Standing may cast, in respect to each position on the Board to be filled, one vote for each Unit owned. The persons receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.
- 5.7 Election by Acclamation. If, as of the published deadline for nominations for a particular election of Directors, the number of people nominated is not more than the number of Directors to be elected, then the persons nominated and qualified to be elected shall be declared elected and written notice of the election shall be given to the Members.
- 5.8 Tied Votes. In the case of a tied vote, the candidates shall draw lots to determine the winner or winners.
- 5.9 Election and Term of Office. At the annual election of Directors in 2006, the Members shall elect one (1) Director; in 2007, two (2) Directors; and in

2008, two (2) Directors; and so on in successive years, for terms of three (3) years each. Each Director shall serve until the expiration of his or her term and thereafter until a successor is elected, or until the earlier disqualification, death, resignation, or removal of such Director.

- 5.10 Removal of Directors by the Members. Consistent with *Corporations Code* section 7222, any Director may be removed from the Board, with or without cause, by the vote of a Simple Majority of the Members. No reduction of the authorized number of Directors shall have the effect of removing any Director prior to the expiration of his or her term of office.
- 5.11 Vacancies, Disqualification of Directors. A vacancy shall exist on the Board in the event of the death, resignation, or removal (by the Members) of any Director, or if the authorized number of Directors is increased, or if the Members fail to elect the full authorized number of Directors. As provided in *Corporations Code* section 7221(b), the Board of Directors, by a majority vote of the Directors who meet all of the qualifications for Directors as set forth in Section 5.3, above, may declare vacant the office of any Director who fails or ceases to meet any required qualification that was in effect at the beginning of that Director's current term of office. In addition, the Board, by vote of a majority of a quorum (as established in Section 6.9), may declare vacant the office of any Director who: (i) fails within sixty (60) days after receiving notice of election to accept office, either in writing or by attending a meeting of the Board as a Director, or (ii) is absent from three (3) consecutive meetings of the Board.
- 5.12 Filling Vacancies. Any vacancy occurring on the Board of Directors, except a vacancy created by the removal of a Director by the Members, may be filled (i) by approval of the Board of Directors; or (ii) if the number of Directors then in office is less than a quorum, by the vote of a majority of the Directors then in office at a meeting of the Board, or unanimous written consent of the Directors then in office, or a sole remaining Director. The Members may elect a Director at any time to fill any vacancy not filled by the Directors. If the Board accepts the resignation of a Director tendered to take effect at a future time, the Board, including the resigning Director, may choose or, if the Board fails to act, the Members may elect, a successor to take office when the resignation becomes effective. A Director chosen in accordance with this Section 5.12 to fill a vacancy shall serve the remainder of the term of office of the Director whom he or she replaces.
- 5.13 No Compensation of Directors. No Director shall receive compensation for any service he or she may render to the Mutual as a Director. However, upon approval by the Board, any Director may be reimbursed for his or her expenses actually incurred in the performance of his or her duties.

## ARTICLE 6

## MEETINGS OF DIRECTORS

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- 6.1 Organizational Meeting. As soon as possible, but in any event within thirty (30) days, after each annual election of Directors, the Board of Directors shall hold a meeting for the purpose of organization, appointment of officers, and transaction of other business, as appropriate.
- 6.2 Regular Meetings of the Board. Regular meetings of the Board shall be held bi-monthly upon proper notice which conforms to the provisions of Sections 6.4 and 6.5 of these Bylaws, at the place, day, and time set forth in such notice. If the Board should determine that the business to be transacted by the Board does not reasonably justify bi-monthly meetings then regular meetings of the Board shall be held at such intervals as the Board may determine, but not less frequently than quarterly.
- 6.3 Special Meetings of the Board. Special meetings of the Board shall be held when called by the President of the Mutual or by any two (2) Directors.
- 6.4 Notice to Directors. Regular meetings of the Board may be held, without further notice to the Board, at a place within Rossmoor and on a day and time fixed by resolution by the Board. If not fixed by resolution of the Board, notice of each meeting of the Board shall be communicated to the Directors not less than four (4) days prior to a regular meeting, and not less than seventy-two (72) hours prior to a special meeting; provided that shorter notice may be given in the case of a bona fide emergency; and provided further that notice of a meeting need not be given to any Director who signed a waiver of notice or a written consent to holding the meeting, whether before or after the meeting.
- 6.5 Notice to Members. Except for bona fide emergency meetings and executive sessions, as defined by law, at least four (4) days prior written notice of the day, time, and place of each meeting of the Board of Directors, whether regular or special, shall be given to all Members in any of the following ways: by posting it in a prominent place or places within the Common Area, and by mail to any Member who has requested notification of Board meetings by mail. Notice of Board meetings may also be given by mailing or delivery to each Unit, by newsletter, or by other means of communication reasonably designed to provide actual prior notice of such meeting.
- 6.6 Open Meeting. To the extent required pursuant to *Civil Code* section 1363.05(b), regular and special meetings of the Board of Directors shall be open to all Members of the Mutual, except when the Board meets in

executive session. A reasonable time limit for all Members to speak to the Board shall be established by the Board; however, the right to speak to the Board shall not entitle any Member to participate in the Board's deliberations on any matters unless requested to do so by the Board.

- 6.7 Executive Session. To the fullest extent permitted by law, including *Civil Code* section 1363.05(b), the Board may meet in executive session to confer with legal counsel or to discuss and/or vote upon personnel matters, Member discipline, litigation in which the Mutual is or may become involved, matters that relate to the formation of contracts between the Mutual and others, and for the purpose of meeting with a Member, upon such Member's request, regarding the Member's payment of Assessments. In any matter relating to the discipline of a Member, the Board shall meet in executive session if requested to do so by that Member, and that Member and any other person(s) whose participation is, in the judgment of the Board, necessary or appropriate, shall be entitled to attend the executive session; except that to the extent required by *Civil Code* section 1367.1 (c)(2) a decision by the Board to record a lien for delinquent Assessments shall be made at an open meeting of the Board, and to the extent required by *Civil Code* section 1367.4(c)(2) a vote of the Board to initiate foreclosure of a lien for delinquent Assessment shall be taken in executive session but shall be recorded in the minutes of the next following open meeting of the Board.
- 6.8 Remote Participation. To the extent permitted by law, including without limitation *Civil Code* section 1363.05 and *Corporations Code* section 7211, Directors may participate in regular or special Board meetings through the use of conference telephone, electronic video screen communications, or other communications equipment or technologies.
- 6.9 Quorum. A majority of the number of Directors authorized in Section 5.1 shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly-held meeting at which a quorum is present shall be regarded as the act of the Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by a majority of the required quorum for that meeting.
- 6.10 Board Action without a Meeting. As provided in *Corporations Code* section 7211(b), any action required or permitted to be taken by the Board may be taken without a meeting, if all members of the Board shall individually or collectively consent in writing to such action. Such written consents shall be filed with the minutes of the proceedings of the Board.

- 6.11 Minutes of Meetings of Directors. To the extent required by *Civil Code* section 1363.05(d), within thirty (30) days after the date of any meeting of the Board, the Board shall make available to the Members either (i) the minutes of that meeting as adopted by the Board, (ii) if the minutes have not yet been adopted by the Board, the minutes as proposed for adoption which shall be marked to indicate draft status, or (iii) a summary of the minutes. To the extent required by *Civil Code* section 1363.05(c), any matter discussed in an executive session shall be generally noted in the minutes of the Board and minutes of executive sessions shall not otherwise be required. Copies of the minutes, proposed minutes, or summary of minutes shall be provided to any Member of the Mutual upon request and upon reimbursement of the Mutual's costs in providing such copies.

## **ARTICLE 7                      DUTIES OF THE BOARD OF DIRECTORS**

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The Board shall be ultimately responsible for the management and conduct of the affairs of the Mutual. Without limiting the generality of the foregoing, the specific duties of the Board shall include the following:

- 7.1 Supervision. The Board shall supervise all officers, agents, and employees of the Mutual, if any, and see that their duties are properly performed.
- 7.2 Records and Minutes. The Board shall cause to be kept a complete record of all its acts and the corporate affairs, including an accurate and current record of the Members setting forth their names and addresses, adequate and correct books and records of account, and minutes of the proceedings of the Members, the Board, and committees of the Board.
- 7.3 Maintain Insurance. The Board shall procure and maintain adequate casualty, liability and other insurance on the Common Area and any property owned by the Mutual, and other appropriate insurance, as the Board shall determine consistent with the provisions of Article 9 of these Bylaws ("Insurance").
- 7.4 Enforcement of Governing Documents. The Board shall enforce the Governing Documents on its own initiative or upon receipt of written complaint from an Owner or a Resident, in accordance with the procedures set forth in Article 11 of the Declaration ("Enforcement; Notice; Hearings").
- 7.5 Annual Pro Forma Operating Budget. The Board shall prepare and distribute to the Members annually, not less than thirty (30) days nor more than ninety (90) days prior to the beginning of the Mutual's fiscal year or

such other time as may be provided by statute, a "pro forma operating budget" which shall conform to the requirements of *Civil Code* section 1365 and 1365.2.5 or successor statute.

- 7.6 Annual Notification Regarding Insurance Coverage. In accordance with *Civil Code* section 1365(e), not less than 30 days and not more than 90 days prior to the beginning of the Mutual's fiscal year or such other time as may be provided by statute the Board shall prepare and distribute to all Members a summary of the Mutual's property, general liability, earthquake, flood and fidelity insurance policies, if any.
- 7.7 Notice of Certain Changes in Insurance. In accordance with *Civil Code* section 1365(e)(2), as soon as reasonably practicable, the Mutual shall notify the Members by first-class mail if any of the policies described in Section 7.6 have lapsed or been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible for any of those policies. If the Mutual receives any notice of non-renewal of a policy described in Section 7.6, the Mutual shall immediately notify the Members by first class mail if replacement coverage will not be in effect by the date the existing coverage will lapse.
- 7.8 Other Annual Notifications to Members. Annually, not less than 30 days and not more than 90 days prior to the beginning of the Mutual's fiscal year (or such other time as may be provided by statute, as in items (f) and (g) below), the Board shall distribute to the Members all of the following:
- (a) Notice Regarding Delinquent Assessment Policy. A statement describing the Mutual's policies and practices in enforcing lien rights and other legal remedies for default in payment of Assessments as required by *Civil Code* section 1365(d); and statutory notice of Members' rights and responsibilities concerning assessment collection as required by *Civil Code* section 1365.1;
  - (b) Secondary Address for Certain Notices. A notice of an Owner's right to submit to the Mutual a secondary address for notices to the Owner required pursuant to *Civil Code* section 1367.1 (concerning enforcement of delinquent Assessments);
  - (c) Notice Regarding Dispute Resolution. A summary of the statutory provisions relating to employing alternative dispute resolution procedures in certain matters related to enforcement of the governing documents which specifically references *Civil Code* sections 1369.590(a) and includes a summary of the Mutual's internal dispute resolution process as required by *Civil Code* section 1363.850. The summary of the Mutual's internal dispute

resolution procedure may consist of a copy of Sections 11.9 through 11.16 in Article 11 of the Declaration ("Enforcement; Notice; Hearings"). Alternatively, this summary may be distributed as part of a newsletter or other communication regularly sent to all Members as described in *Corporations Code* Section 5016;

- (d) Notice of Required Architectural Approval. A notice of the requirement for Mutual approval of physical changes to property, as required by *Civil Code* section 1378(c) describing the types of changes that require Mutual approval and including a copy of the procedure for review and approval or disapproval which may consist of a copy of Article 7 of the Declaration ("Architectural Approval") and a copy of the Architectural Rules, if any;
- (e) Notice Regarding Board Meeting Minutes. A statement explaining the Members' right to obtain copies of minutes of meetings of the Board as required by *Civil Code* section 1363.05(e);
- (f) Schedule of Monetary Penalties. A copy of the schedule of monetary penalties adopted by the Board, which shall be distributed when adopted and upon any changes thereto adopted by the Board in accordance with *Civil Code* section 1363(g); and
- (g) Statutory Notice Regarding Liens and Foreclosure. The statement required by *Civil Code* section 1365.1 printed in at least 12-point type, which shall be distributed during the 60-day period immediately preceding the beginning of the Mutual's fiscal year.

7.9 Notice of Assessments; Collection of Assessments. The Board shall send written notice to each Owner in advance of each fiscal year of the Regular Assessment and any Special Assessment levied against his or her Unit for that fiscal year and shall diligently pursue the collection of all Assessments.

7.10 Statement of Payment of Assessments. To the extent required by *Civil Code* section 1368(a)(4), the Board shall issue, or cause an appropriate officer to issue, upon written request of an Owner, a true statement in writing setting forth whether or not any Assessment has been paid.

7.11 Review of Annual Financial Statement. To the extent required pursuant to *Civil Code* section 1365.5(b), for any fiscal year in which the gross income to the Mutual exceeds Seventy-five Thousand Dollars (\$75,000.00), the Board shall obtain a review of the financial statements of the Mutual prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy and

shall distribute it to all Members of the Mutual within one hundred twenty (120) days after the close of such fiscal year.

- 7.12 Quarterly Review of Accounts. The Board shall review the Mutual's operating and reserve accounts at least in accordance with the minimum requirements set forth in *Civil Code* section 1365.5(a).
- 7.13 Biennial Notice to Secretary of State. The Board shall file with the Secretary of State the biennial statement of names of officers and of agent for service of process required pursuant to *Corporations Code* section 8210 and the statement required by *Civil Code* section 1363.6.
- 7.14 Three-Year Reserve Study and Annual Review. In accordance with *Civil Code* section 1365.5(e), at least once every three (3) years, the Board shall cause a study of the reserve account requirements of the Project to be conducted, which study shall include the minimum requirements specified in *Civil Code* section 1365.5(e) or successor statute. The Board shall review the reserve study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review.
- 7.15 Prudent Management of Reserve Funds. The Board shall exercise prudent fiscal management in maintaining the integrity of the reserve account and, to the extent restricted by *Civil Code* section 1365.5(c), shall not expend funds designated as reserve funds for any purpose other than the maintenance, restoration, repair, or replacement of, or litigation involving the maintenance, restoration, repair, or replacement of, major components for which the Mutual is responsible and for which the reserve fund was established; provided, however, that the Board may authorize a temporary transfer of money from a reserve fund to the Mutual's general operating fund for the purposes and subject to the procedural requirements specified in *Civil Code* sections 1365.5(c)(2) and 1365.5(d).

## ARTICLE 8      POWERS OF THE BOARD OF DIRECTORS

The Board of Directors shall have such powers as may be provided by law or expressly set forth in the Governing Documents. Without limiting the generality of the foregoing, the Board shall have the powers specified in this Article 8, subject to any limitations or conditions as may be set forth in the Articles, the Bylaws, and the Declaration.

- 8.1 Make Contracts. The Board shall have the power to authorize any officer or officers to enter into any contract in the name of, or on behalf of, the Mutual.



- 8.2 Consult Professional Advisors. The Board shall have the power to consult with, seek the advice of, and reasonably rely on the advice of attorneys, accountants, and other professionals in carrying out the Board's authority and responsibility under the Governing Documents and the law, and to pay for such professional services.
- 8.3 Hire a Manager and Others. The Board shall have the power to engage the services of a manager or management company as either an employee or an independent contractor, and engage such other employees or independent contractors as the Board may deem necessary, and to prescribe their duties.
- 8.4 Adopt and Enforce Rules. Subject to applicable law, including *Civil Code* section 1357.100 et seq., (regarding procedures for adopting or changing certain rules), the Board shall have the power to adopt, publish, amend, repeal, and enforce Rules.
- 8.5 Collect Assessments by Foreclosure and/or Legal Action. As addressed in the Declaration, the Board shall have the power to collect Assessments levied by the Mutual by foreclosing the lien against any property for which Assessments are not paid as required by the Declaration and/or by bringing an action at law against the Owner personally obligated to pay the same.
- 8.6 Impose Sanctions. Upon an explicit finding and for reasons specified by the Board following a hearing conducted in accordance with Article 11 of the Declaration ("Enforcement; Notice; Hearings"), the Board shall have the power to impose sanctions on a Member who is in default in the payment of any Assessment or other charge levied by the Board or is found to be in violation of any provision of the Governing Documents. Sanctions may include loss of good standing, suspension of other rights, and/or monetary penalties (fines), as described in Section 11.8 of the Declaration ("Imposing Sanctions").
- 8.7 Enter Unit for Repairs. The Board or its agent shall have the power to enter a Unit when necessary, pursuant to Section 9.4 of the Declaration ("Authority for Entry of Unit or Exclusive Use Common Area").
- 8.8 Pay Property Taxes. The Board shall have the power to pay all real property taxes and assessments levied upon any property within the Project to the extent not separately assessed to the Owners. Provided that any such taxes are paid or that a bond insuring the payment is posted, such taxes and assessments may be contested or compromised by the Mutual prior to the sale or other disposition of any property to satisfy the payment of such taxes.

- 8.9 Deal with Mutual Property; Certain Limitations. The Board shall have the power to acquire and deal with real and personal property of the Mutual, including but not limited to the powers set forth in Section 3.8 of the Declaration ("New Capital Improvements"), Section 3.9 of the Declaration ("Sale or Mortgage of Mutual Real Property"), Section 3.10 of the Declaration ("Sale or Transfer of Mutual Personal Property"), and Section 4.11 of the Declaration ("Board Power to Grant Easements and Licenses").
- 8.10 Open Bank Accounts, Borrow. The Board shall have the power to open bank accounts, designate signatories upon such bank accounts (subject to the requirements of Section 11.4 ("Checks, Drafts, and Evidences of Indebtedness") concerning withdrawal of reserve account funds), and borrow money on behalf of the Mutual, subject to any applicable restrictions set forth in the Governing Documents.
- 8.11 Pledge Assessments as Security. The Board shall have the power to assign or pledge Assessments of the Mutual as security for a loan, provided that such assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law to the extent required by *Civil Code* section 1367.1(g) and provided further that approval of the Members shall be required if such assignment or pledge is in conjunction with an increase in the Annual Assessment or the imposition of a Special Assessment that by law requires approval of the Members, and such Member approval shall be the same as the Member approval required for such increase in the Annual Assessment or imposition of a Special Assessment.
- 8.12 Invest Reserve Funds. The Board shall have the power to manage and invest Mutual reserve funds in prudent investments, provided it does so in a prudent manner designed to achieve the primary objective of preserving principal while realizing a reasonable return and to assure the availability of funds as they are needed based upon the Board's most recent review of the reserve fund study obtained by the Board as required in Section 7.14 ("Three-Year Reserve Study and Annual Review") and applicable law.
- 8.13 Indemnify Agents. To the extent provided in *Corporations Code* section 7237, the Board on behalf of the Mutual shall have the power to indemnify and hold harmless, to the maximum extent permitted by California law, each person who is or at any time was a director, officer, employee, or agent of the Mutual, or member of any committee appointed by the Board from and against any and all claims, liabilities, expenses, judgments, fines, settlements, and other amounts, as those terms are defined by California law, actually and reasonably incurred by any such person, and to which any such person shall become subject by reason of his or her being a

director, officer, employee, or agent of the Mutual, or member of any committee appointed by the Board; *provided, however*, that this section shall not apply to any proceeding against any trustee, investment manager, or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may otherwise also be an agent of the Mutual as provided in the statute.

8.14 Appointment of Committees. The Board may appoint such committees as it deems appropriate in carrying out the powers and purposes of the Mutual except that the Board may not delegate its authority to hold hearings or impose sanctions. Any "Committee of the Board" (that is, a committee consisting only of Directors, as referred to in *Corporations Code* section 7212) shall consist of at least two (2) Directors and shall have such powers and duties as the Board shall determine, subject to the limitations of *Corporations Code* section 7212.

8.15 Other Powers and Duties. The Board shall have the power to exercise for the Mutual all powers, duties, and authority vested in or delegated to the Mutual and not reserved to the Members by other provisions of the Governing Documents, and undertake any action on behalf of the Mutual as the Board shall deem necessary or proper in furtherance of the purposes and powers of the Mutual and/or the interests of the Mutual and its Members.

## **ARTICLE 9                      INSURANCE**

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9.1 Insurance Policies to be Maintained by the Mutual. The Board shall procure and maintain adequate casualty, liability, and other insurance, including:

- (a) a master property insurance policy with extended coverage, including current building code and ordinance upgrades, and casualty insurance policies, in the name of the Mutual for the benefit of all Owners and covering the full insurable replacement value of the Common Area, any property owned by the Mutual, and the Units as originally constructed;
- (b) liability insurance insuring the Mutual against liability to the public or to any Owner, their invitees or tenants incident to their occupancy and/or use of the Common Area, with limits of liability to be set by the Board but in no event less than those set forth in *Civil Code* section 1365.7 and/or *Civil Code* section 1365.9;
- (c) workers' compensation insurance to the extent necessary to comply with any applicable laws;



period, have such authority, and perform such duties as the Board may, from time to time, determine.

- 10.5 Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
- 10.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces, subject to the Board's right to remove an officer.
- 10.7 Multiple Offices. One person may hold two (2) or more offices except that neither the Secretary or any assistant secretary nor the Chief Financial Officer or any assistant treasurer may serve concurrently as President. This provision is intended to prohibit a single individual from having apparent authority to bind the Mutual by virtue of holding both offices, pursuant to *Corporations Code* section 7214.
- 10.8 Authority to Bind Mutual. Unless expressly authorized by resolution of the Board, no officer shall have any power or authority to bind the Mutual or to render the Mutual liable for any purpose or on any account.
- 10.9 No Compensation of Officers. No Officer shall receive compensation for any service he or she may render to the Mutual as an Officer. However, upon approval by the Board, any Officer may be reimbursed for his or her expenses actually incurred in the performance of his or her duties.
- 10.10 President. The President shall be the chief executive officer of the Mutual and shall, subject to control of the Board of Directors, have general supervision, direction, and control of the affairs and the other officers and the employees and agents of the Mutual. The President shall preside at all meetings of the Members and at all meetings of the Board, shall have the general powers and duties of management usually vested in the office of the President of a Mutual, and shall have such other powers and duties as may be prescribed by the Board of Directors and the Bylaws, subject, however, to any limitations contained in the Declaration.
- 10.11 Vice-President. In the absence or disability of the President, the Vice-President shall perform all the duties of the President, and when so acting, shall have all of the powers of, and be subject to all of the restrictions upon, the President. The Vice-President shall have such other powers and perform such other duties as, from time to time, may be prescribed by

the Board of Directors. In the absence or disability of both the President and the Vice-President, or if there is not a Vice President in office, the Board shall designate another Director to preside at a meeting of the Board or of the Members.

10.12 Secretary. The Secretary shall keep or cause to be kept, at the principal office or such other place as the Board of Directors may prescribe, a book of minutes of all meetings of Directors, Members, and Committees of the Board. The Secretary shall give, or cause to be given, notice of all meetings of the Members and of the Board of Directors required by the Bylaws or by law to be given and shall maintain a proper record of the giving of such notice; shall keep or cause to be kept in safe custody the books, records, and documents of the Mutual; and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

10.13 Chief Financial Officer. The Chief Financial Officer shall be responsible for the receipt and deposit in appropriate accounts of all monies of the Mutual and shall cause disbursement of such funds as directed by resolution of the Board of Directors; may sign all checks and promissory notes of the Mutual; shall keep or cause to be kept proper books of account; shall cause an annual review of the Mutual's books and financial statements to be made by a public accountant at the completion of any fiscal year for which such review is required by law or as determined by the Board; shall assist the Board in preparation of an annual budget and a statement of income and expenditures to be presented to the Members of the Mutual as provided by law; and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors.

## **ARTICLE 11            MINUTES; BOOKS AND RECORDS; FUNDS**

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11.1 Minutes of Meetings. To the extent required by *Corporations Code* section 8320(a)(2), the Mutual shall keep minutes of meetings and proceedings of the Members (including membership votes), meetings of the Board, and meetings of Committees of the Board. As provided in Section 6.11 ("Minutes of Meetings of Directors"), any matter discussed in executive session shall be generally noted in the minutes of the next following open meeting of the Board, and minutes of executive sessions shall not otherwise be required. Minutes shall set forth the time and place of holding of such meetings; whether regular or special, and if special, how authorized; what notice was given; the names of those present at meetings of the Directors or of any Committee of the Board; the number of votes cast in any vote or election of the Members (or, if applicable, the number of memberships and votes present at Member meetings); and all the proceedings thereof.

- 11.2 Member Access to Minutes, Books, and Records. To the extent required by *Civil Code* section 1365.2, and subject to a requesting Member's compliance with all applicable prerequisites and any applicable limitations (including but not limited to *Corporations Code* section 8332 concerning protection of constitutional rights of other Members, *Corporations Code* section 8338 concerning use of memberships lists, and *Civil Code* section 1365.2(d) concerning withholding or redacting certain records), the Mutual shall make available for inspection and copying by any Member "association records" and "enhanced association records" (as defined in the statute) maintained by the Mutual. This provision does not require the Mutual to create or maintain any records not otherwise required by law to be maintained. The Board may adopt and publish reasonable rules and regulations establishing procedures relating to a Member's inspection and obtaining copies of Mutual records, consistent with the provisions of *Civil Code* section 1365.2.
- 11.3 Directors' Inspection Rights. As provided in *Corporations Code* section 8334, every Director shall have the right at any reasonable time to inspect and copy all books, records, and documents and to inspect the physical properties of the Mutual.
- 11.4 Checks, Drafts, and Evidences of Indebtedness. All checks, drafts, or other orders for payment of money, or notes or other evidences of indebtedness issued in the name of the Mutual for operational expenditures shall be signed by the persons and in the manner specified by resolution of the Board of Directors. However, in accordance with *Civil Code* section 1365.5(b), the withdrawal of funds from the Mutual's reserve account shall require the signatures of at least two (2) persons who shall be members of the Board of Directors or one member of the Board of Directors and one officer who is not a member of the Board of Directors.
- 11.5 Funds and Deposits. Any funds of the Mutual shall be deposited to the credit of the Mutual in such banks or other depositories as the Board of Directors shall, from time to time, determine.
- 11.6 Fiscal Year. The fiscal year of the Mutual shall be as determined by resolution of the Board of Directors.

**12.2 Record of Amendments.** When an amendment or a new Bylaw provision is adopted, it shall be placed in the appropriate place in the minute book of the Mutual together with a certificate signed by the Secretary stating the date on which it was approved by the Board and whether at a meeting or by unanimous written consent of the Directors, and the date on which it was approved by the Members and whether at a meeting or by written ballot without a meeting.

13.1 Conflict in Governing Documents. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

13.2 Amendments to Referenced Statutes; Time for Performance. References in the Bylaws to particular statutes, including sections of the *Civil Code* or the *Corporations Code*, shall be deemed to include any successor statute and any amendments to existing or successor statutes. Whenever these Bylaws state a time for the performance of any act by the Mutual which by law (as it may exist from time to time) must be performed at or within a specified time, the time for the performance of such act shall be deemed to be the widest timeframe permitted under then-applicable law.



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CERTIFICATE OF AMENDMENT OF  
BYLAWS OF  
WALNUT CREEK MUTUAL NO. FIFTY-NINE

I, the undersigned, hereby certify that:

I am the Secretary of WALNUT CREEK MUTUAL NO. FIFTY-NINE.

The foregoing Amended Bylaws of WALNUT CREEK MUTUAL NO. FIFTY-NINE were duly approved by the requisite vote of the Members of the Mutual on the 25th day of October, 2006.

Executed this 21<sup>ST</sup> day of December, 2006.

Sara Cornell

~~Gresa Bent~~, Secretary  
Sara Cornell

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**CERTIFICATE OF AMENDMENT TO AMENDED BYLAWS  
OF  
WALNUT CREEK MUTUAL NO. FIFTY-NINE**

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I, Victor Vigil, hereby certify that:

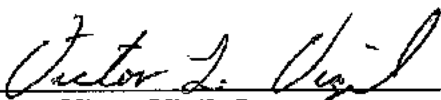
1. I am the Secretary of Walnut Creek Mutual No. Fifty-Nine, a California nonprofit mutual benefit corporation (the "Mutual").

2. In 2006, the Mutual's Board of Directors (the "Board") and the requisite members of the Mutual approved Amended Bylaws of Walnut Creek Mutual No. Fifty-Nine ("Amended Bylaws").

3. Pursuant to a vote of the Mutual's membership conducted by the secret ballot method required by Civil Code section 1363.03 and concluded on May 8, 2012, the requisite number of Members of the Mutual approved the amendments to the Amended Bylaws set forth on Exhibit "A" attached hereto and incorporated herein by this reference.

4. In all other respects the provisions of the Amended Bylaws shall remain in full force and effect except as herein modified.

IN WITNESS THEREOF I have executed this Certificate on this 30 of May, 2012.

  
\_\_\_\_\_  
Victor Vigil, Secretary

## **EXHIBIT "A"**

ARTICLE 9 (entitled "INSURANCE") shall be deleted in its entirety and the following inserted in its place:

**9.1 Liability and Fidelity Insurance.** The Mutual shall obtain and maintain the following liability policies:

**9.1.1 Commercial General Liability Policy:** A Commercial General Liability policy insuring the Mutual, any manager, the Mutual's directors and officers, and the Owners against liability arising from any bodily injury or property damage as a result of an accident or occurrence within the Common Area. Subject to the terms and conditions of the policy, the policy also shall cover bodily injury or property damage from an accident or occurrence within any Unit related to any maintenance or repair work required to be performed by the Mutual pursuant to the Declaration and/or the Mutual's Maintenance Policies, including, but not limited to, work performed in the Common Area. The policy shall include, if obtainable, cross liability or severability of interest coverage. The limits of such insurance (including the commercial general liability and any excess liability coverage) shall not be less than the general liability insurance requirements set forth in Civil Code section 1365.9 or any successor statute thereto covering all claims for bodily injury and property damage arising out of a single occurrence. The coverage may be a combination of primary and excess policies. The insurance shall be provided with coverage terms provided by Insurance Services Offices (ISO) form CG 0001, or equivalent or better coverage. Such insurance shall include coverage against liability for owned, non-owned and hired automobiles and other liability or risk customarily covered with respect to projects similar in construction, location and use. The policy shall be primary and noncontributing with any other liability policy covering the same liability.

**9.1.2 Directors and Officers Liability Policy:** A Directors and Officers Liability policy containing such terms and conditions as are normally and customarily carried for directors and officers of a common interest development and in sufficient amounts to satisfy the insurance requirements of Civil Code section 1365.7 or any successor statute thereto.

**9.1.3 Crime Insurance:** A blanket Commercial Crime Insurance Policy covering the Mutual, any organization or person who either handles or administers or is responsible for Mutual funds, whether or not any person receives compensation for services. The policy amounts shall satisfy the Federal National Mortgage Association ("FNMA") and Federal Housing Administration ("FHA") requirements and in no event shall be less than the sum of three months of Annual and Special Assessments on all Units subject to Assessments.

**9.2 Mutual Property Insurance.** The Mutual shall obtain and maintain a master property insurance policy that satisfies each of the following conditions:

9.2.1 **Property Covered.** The Mutual's policy shall cover the following real and personal property:

(i) *Common Area.* All Common Area improvements, including buildings and any additions or extensions thereto; all fixtures, machinery and equipment permanently affixed to the building; windows; fences; monuments; lighting fixtures situated outside the Units; exterior signs; and personal property owned or maintained by the Mutual; but excluding land; excavations; and other items typically excluded from property insurance coverage.

(ii) *Units.* Permanently affixed improvements situated within the Unit, including interior walls and doors; ceiling, floor and wall surface materials (e.g., paint, wallpaper, carpets and hardwood floors); utility fixtures (including gas, electrical and plumbing); cabinets; built-in appliances; heating and air-conditioning systems; water heaters and any replacements thereto; but excluding any personal property located in the Unit. If the Unit Owner renovates, upgrades or replaces any permanently affixed improvement within the Unit or adds new improvements to the Unit (collectively, the "Alterations") and the replacement cost of the Alterations exceeds the cost of the improvements prior to the Alterations, the Unit Owner shall be responsible for procuring and maintaining insurance to cover the excess unless the Owner has obtained written approval from the Mutual to make the Alterations and, to the extent required, approval from governmental authorities.

(iii) *Landscaping.* Lawn, trees, shrubs and plants located in the Common Area.

9.2.2 **Covered Cause of Loss.** The Mutual's policy shall provide coverage against losses caused by fire and risks of direct physical loss, as insured under the ISO "Causes of Loss - Special Form (CP 1030)" or its equivalent or better coverage. Such policy shall include coverage for loss resulting from the enforcement of any ordinance or law regulating the construction, use or repair of any property, or requiring the tearing down of any property, if caused by a peril insured by such policy. Equipment Breakdown Insurance shall also be maintained covering boilers and related equipment, heating, air-conditioning, electrical and mechanical equipment that is used in the generation, transmission or utilization of energy.

9.2.3 **Dollar Limit.** The dollar limit of the Mutual's policy shall not be less than the full insurable replacement value of the covered property described in Section 9.2.1 above based on insurance industry standards for determination of replacement values, provided that there may be lower dollar limits for specified items as is customarily provided in property insurance policies.

**9.2.4 Primary.** The Mutual's policy shall be primary and noncontributing with any other insurance policy covering the same loss provided, however, that where an Owner's individual insurance policy (discussed in Section 9.6 below) provides overlapping coverage, the Owner's individual insurance policy shall be the primary coverage and the Mutual's policy shall be excess/supplemental/secondary coverage as the case may be.

**9.2.5 Endorsements.** The Mutual's policy may contain such endorsements as the Board may select after consultation with a qualified insurance consultant.

**9.2.6 Waiver of Subrogation.** The Mutual waives all subrogation rights against any Owner or occupant and their family members and invitees. The policy shall include an acknowledgment of the Mutual's right to waive all subrogation rights against the Owner.

**9.2.7 Deductible.** Except as otherwise provided by 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 circumstances: (i) where damage to Common Area and/or Unit improvements is caused by the fault of the Owner, tenants, Contract Purchasers, Residents of the Unit, and agents, invitees, family members, guests and pets 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.

The Mutual may enter into a deductible sharing agreement with other Rossmoor mutuals. In this event, to the extent there is any conflict between the payment of deductibles as set forth in this Section 9.2.7 and the agreement, the agreement shall control.

**9.3 FNMA, FHLMC and FHA Requirements.** Notwithstanding anything herein to the contrary, the Mutual shall maintain such policies, containing such terms, amount of coverage, endorsements, deductible amounts, named insureds, loss payees, standard mortgage clauses, notice of changes or cancellation, and an appropriate insurance company rating that shall satisfy the minimum requirements imposed by the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") and the Federal Housing Administration ("FHA") or any successor thereto. If the FNMA, FHLMC or FHA requirements conflict, the more stringent requirements shall be met.

**9.4 Insurance Rating and Cancellation.** The insurance company providing the Mutual's insurance under Sections 9.1 and 9.2 shall have an A.M. Best rating of not less than A:VII if licensed to do business in the State of California and a rating of not less than A:X if approved but not licensed to do

business in the State of California, provided that if the Board determines that insurance from insurance companies with the required ratings is not available at commercially reasonable rates, the Board may reduce the rating requirements after consultation with a qualified insurance consultant. If the A.M. Best ratings are no longer available, the insurance ratings shall be based on equivalent ratings issued by an independent insurance rating company used by financial institutions for insurance rating purposes.

**9.5 Board's Insurance Authority.** The Board has the authority on behalf of the Mutual and each of its Owners to participate with the Golden Rain Foundation of Walnut Creek or any successor or assign thereto (the "Foundation") and other Rossmoor mutuals in a group policy or policies procured and maintained by the Foundation as long as the group policy or policies provide equivalent or better coverage than the applicable requirements described in Sections 9.1 and 9.2 subject to the Board's right to deviate from the requirement as described herein.

The Board shall have the power and right to deviate from the insurance requirements contained in this Article 9 in any manner that the Board, in its discretion, considers to be in the best interests of the Mutual, provided that the Board shall maintain the minimum insurance requirements set forth in Civil Code sections 1365.7 and 1365.9 or in any successor statute thereto and as required in Section 9.3. If the Board elects to materially reduce the coverage from the coverage required in this Article 9, the Board shall, as soon as reasonably practicable, notify the Members, in writing, of the reduction in coverage.

The Board is authorized to negotiate and agree on the value and extent of any loss under any policy carried by the Mutual, including, but not limited to, the right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

Each Owner irrevocably appoints the Mutual, as that Owner's attorney-in-fact for purposes of procuring, negotiating, accepting, compromising, releasing, settling, distributing and taking other related actions in connection with any insurance policy maintained by the Mutual and any losses or claims related thereto and agrees to be bound by the actions so taken as if the Owner had personally taken the action.

**9.6 Owners' Individual Insurance Requirements.** Each Owner shall procure and maintain property insurance against losses to personal property located within the Owner's Unit and personal liability coverage. The Mutual's insurance policies will not provide coverage for: (i) losses to the Owner's personal property; (ii) losses to any Alterations to the extent not covered under Section 9.2.1(ii); (iii) liability from accidents or occurrences within the Owner's Unit or portions of the Common Area set aside for the exclusive use or possession of the residents of the Unit (that is, Exclusive Use Common Area); or (iv) liability from accidents or occurrences within Rossmoor for which the Owner may be held

responsible and which may not be covered under the Mutual's Commercial General Liability policy. Each Owner should seek the advice of a qualified insurance consultant regarding the Owner's property and liability insurance obligations under this Section 9.6 and other applicable coverage available to Owners of Units.

Nothing herein imposes any duty on the Mutual, its directors, officers or agents (including the Mutual's managing agent) to confirm or otherwise verify that the Owners are carrying the insurance required in this Section 9.6.

No Owner shall separately insure any property covered by the Mutual's property insurance policy described in Section 9.2 above unless the Owner's individual insurance policy permits the application of any overlapping coverage under Owner's policy as primary without a reduction in benefits from the coverage under the Mutual's policy. If any Owner violates this provision and, as a result, there is a diminution in insurance proceeds otherwise payable to the Mutual, the Owner will be liable to the Mutual to the extent of the diminution. The Mutual may, subject to Mutual's compliance with the notice and hearing requirements set forth in the Governing Documents, levy a Reimbursement Assessment against the Owner and the Owner's Unit to collect the amount of the diminution.