

MEMBER DRAFT 2/10/2021

**AMENDED AND RESTATED BYLAWS OF
CASA DEL REY HOA OF SANTA CLARA**

NOTICE

If this document contains any restriction based on 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 California *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.

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CASA DEL REY HOA OF SANTA CLARA**

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1
2
3 **AMENDED AND RESTATED BYLAWS OF**
4 **CASA DEL REY HOA OF SANTA CLARA**
5
6

7 **ARTICLE 1 ORGANIZATION**
8

- 9 1.1 Name and Location. The name of the corporation is Casa del Rey HOA of Santa
10 Clara, which is hereinafter referred to as the "Association." The principal office of
11 the Association shall be located in Santa Clara County, State of California, or at
12 such other place reasonably convenient to the Development as the Board of
13 Directors may from time to time establish.
14
15 1.2 Purpose. The purpose of the Association shall be as set forth in its Articles of
16 Incorporation.
17
18 1.3 Successor Entity. In the event the Association as a corporate entity is dissolved,
19 a nonprofit unincorporated association shall forthwith and without further action
20 or notice be formed to succeed to all the rights and duties of the Association.
21 The affairs of such unincorporated association will be governed by the laws of
22 the State of California, and to the extent consistent therewith, by the Declaration,
23 the Articles, and these Bylaws as if they were created for the purpose of
24 governing the affairs of an unincorporated association.
25
26

27 **ARTICLE 2 DEFINITIONS**
28

29 Any capitalized terms that are not defined below shall have the meaning set forth
30 in Article 1 of the Declaration ("Definitions").
31

- 32 2.1 Additional Charges. "Additional Charges" shall mean all costs, fees, charges,
33 and expenditures including, but not limited to, interest, late charges, attorney
34 fees, recording and filing fees, and all other costs actually incurred by the
35 Association in collecting and/or enforcing payment of Assessments.
36
37 2.2 Articles of Incorporation. "Articles of Incorporation" shall mean the Amended and
38 Restated Articles of Incorporation of Casa del Rey HOA of Santa Clara, as they
39 may be amended from time to time, and as filed with the Office of the Secretary
40 of State of California.
41
42 2.3 Assessments. "Assessments," "Annual Assessments," "Special Assessments,"
43 "Reimbursement Assessments," and "Enforcement Assessments" shall have the
44 meanings defined for those terms in the Declaration.
45

- 1 2.4 Association. “Association” shall mean Casa del Rey HOA of Santa Clara, a
2 California nonprofit mutual benefit corporation, its successors and assigns.
3
- 4 2.5 Board of Directors. “Board of Directors” or “Board” shall mean the governing
5 body of the Association.
6
- 7 2.6 Bylaws. “Bylaws” shall mean the Amended and Restated Bylaws of the
8 Association as they shall be duly adopted by the Board of Directors and the
9 Members and any duly-adopted amendments thereof.
10
- 11 2.7 Civil Code. “*Civil Code*” shall mean the California *Civil Code* as amended from
12 time to time.
13
- 14 2.8 Committee of the Board. “Committee of the Board” shall mean a committee
15 consisting only of directors as described in *Corporations Code* section 7212.
16
- 17 2.9 Common Area. “Common Area” shall mean all real property, together with all
18 improvements and appurtenances thereon, owned or held by the Association
19 from time to time for the common use and enjoyment of the Owners and
20 Residents of the Development. The Common Area consists of Lot 41 as shown
21 on the Subdivision Map of the Development.
22
- 23 2.10 Contract Purchaser / Contract Seller. “Contract Purchaser” and “Contract Seller”
24 shall mean the purchaser and the seller, respectively, under an installment land
25 contract in which title to the property is transferred after the final installment
26 payment is made.
27
- 28 2.11 Corporations Code. “*Corporations Code*” shall mean the California *Corporations*
29 *Code* as amended from time to time.
30
- 31 2.12 Declaration. “Declaration” shall mean the Amended and Restated Declaration of
32 Covenants, Conditions and Restrictions of Casa del Rey HOA of Santa Clara,
33 recorded in the Office of the County Recorder of Santa Clara County, State of
34 California, and any duly-recorded amendments thereof.
35
- 36 2.13 Delivery, When Effective. As provided for in *Civil Code* section 4050: (i) if notice
37 is sent by United States mail, such notice shall be deemed delivered upon
38 deposit in the United States mail, postage prepaid; (ii) if such notice is sent by
39 electronic means, delivery is complete at the time of the transmission.
40
- 41 2.14 Development. “Development” shall mean all the real property described in the
42 Declaration as comprising the Casa del Rey HOA of Santa Clara planned
43 development and any additional real property as may hereafter be brought within
44 the jurisdiction of the Association.
45

1 2.15 General Delivery / General Notice. “General Delivery” or “General Notice” shall
2 mean delivery to a Member or Members by one (1) or more of the following
3 methods, as provided in *Civil Code* section 4045:
4

- 5 (a) By any method provided for delivery of an Individual Notice pursuant to
6 *Civil Code* section 4040 which includes but is not limited to first-class mail
7 or express mail or by overnight delivery by an express service carrier;
8
9 (b) By inclusion in a billing statement, newsletter, or other document that is
10 delivered by General Delivery;
11
12 (c) By posting a printed document in a prominent location that is accessible to
13 all Members, if the location has been designated for the posting of
14 General Notices by the Association in the annual policy statement,
15 prepared pursuant to *Civil Code* section 5310;
16
17 (d) If the Association broadcasts television programming for the purpose of
18 distributing information on Association business to its Members, by
19 inclusion in the Association broadcast television programming.
20

21 Notwithstanding the foregoing, if a Member has requested to receive General
22 Notices by Individual Delivery, then all “General Notices” to that Member shall be
23 delivered by “Individual Delivery.”
24

25 2.16 Governing Documents. “Governing Documents” shall mean the Articles, Bylaws,
26 Declaration, and Rules.
27

28 2.17 Individual Delivery / Individual Notice. “Individual Delivery” or “Individual Notice”
29 shall mean delivery to a Member or Members by one (1) of the following
30 methods, as provided in *Civil Code* section 4040:
31

- 32 (a) By first-class mail with postage prepaid, registered or certified mail,
33 express mail, or overnight delivery by an express service carrier,
34 addressed to the recipient at such recipient’s address last shown on the
35 books of the Association; or
36
37 (b) By email, facsimile, or other electronic means if the recipient has
38 consented in writing or by email to that method of delivery. The consent
39 may be revoked, in writing or by email, by the recipient. Delivery by
40 electronic transmission must also comply with *Corporations Code* sections
41 20 and 21. Among other things, Section 20 of the *Corporations Code*
42 requires the Association to obtain consent from the person to whom the
43 document is transmitted to receive it by means of electronic transmission
44 as well as other technical requirements.
45

46 2.18 Lot. “Lot” shall mean Lots 1 through 40, inclusive, as shown upon the
47 Subdivision Map. There are forty (40) Lots in the Development.

- 1
2 2.19 Majority of a Quorum. “Majority of a Quorum” shall mean a majority of the votes
3 cast in any lawful vote or election by the Members in which the number of ballots
4 cast equals or exceeds the number required to establish a quorum as provided in
5 Section 4.6 (“Quorum Requirements”).
6
7 2.20 Member. “Member” shall mean an Owner.
8
9 2.21 Member in Good Standing. “Member in Good Standing” shall mean a Member of
10 the Association who is current in the payment of all Annual Assessments and
11 Special Assessments imposed in accordance with the Governing Documents and
12 who is in compliance with all of the provisions of the Governing Documents. A
13 Member shall be deemed to be in Good Standing unless, after notice and an
14 opportunity for hearing, pursuant to Article 14 of the Declaration (“Enforcement;
15 Notice; Hearings”), the Board has found the Member to be not in Good Standing
16 and has so notified the Member in accordance with *Civil Code* section 5855.
17
18 2.22 Owner. “Owner” shall mean the record owner, whether one (1) or more persons
19 or entities, of the fee simple title to any Lot, including Contract Sellers but
20 excluding Contract Purchasers, and excluding those persons having such
21 interest merely as security for the performance of an obligation.
22
23 2.23 Resident. “Resident” shall mean any person who resides on a Lot within the
24 Development whether or not such person is an Owner.
25
26 2.24 Rules. “Rules” shall mean the policies, rules, and regulations governing the
27 administration, management, operation, use, and occupancy of the
28 Development, including the use of the Common Area and facilities, the personal
29 conduct of Members and Residents, members of their household, pets, tenants,
30 invitees, and guests within the Development, enforcement of the Governing
31 Documents, and any other matter that is within the jurisdiction of the Association,
32 as adopted, published, or amended by the Board from time to time and subject to
33 applicable law including *Civil Code* section 4340 and following.
34
35 2.25 Total Voting Power. “Total Voting Power” shall mean the total number of votes of
36 all Members entitled to vote at a particular time, calculated on the basis of one
37 (1) vote for each Lot.
38
39

40 **ARTICLE 3 MEMBERSHIP AND VOTING RIGHTS**

- 41
42 3.1 Membership Appurtenant to Lot Ownership. Membership in the Association shall
43 include, and shall be limited to, all Owners of any Lot located within the
44 Development. Ownership of a Lot is the sole qualification to be a Member.
45 Membership shall be appurtenant to and may not be separated from ownership
46 of a Lot. Upon becoming the Owner of a Lot, each Owner shall automatically be
47 a Member of the Association and shall remain a Member until such time as his or

1 her or its Lot ownership ceases for any reason. Membership in the Association
2 shall not be transferred, encumbered, pledged, alienated, or hypothecated in any
3 way, except upon the transfer or encumbrance of the Lot to which it is
4 appurtenant and then only to the transferee or mortgagee, as the case may be,
5 of such Lot. Any attempt to make a prohibited transfer is void. Upon any transfer
6 of title to a Lot, including a transfer upon the death of an Owner, membership in
7 the Association shall pass automatically to the transferee.
8

9 3.2 Owner's Address for Notice. It shall be each Owner's responsibility to notify the
10 Association in writing of any change in the Owner's address for the purpose of
11 receiving notices from the Association. The fact that a different address appears
12 on correspondence to the Association from an Owner shall not constitute such
13 written notice, unless it is expressly stated in writing that such address is a
14 change of address for the purpose of receiving notice from the Association.
15

16 3.3 Owner's Duty to Annually Provide Address, Other Information. As required by
17 *Civil Code* section 4041, each Owner shall annually provide written notice to the
18 Association of (i) the Owner's address for the purpose of receiving notices from
19 the Association, (ii) an alternative or secondary address, if any, to which notices
20 from the Association are to be delivered, (iii) the name and address of the
21 Owner's legal representative, if any, including any person with power of attorney
22 or other person who can be contacted in the event of the Owner's extended
23 absence from the Lot, and (iv) whether the Lot is Owner-occupied, is rented out,
24 if the Lot is developed but vacant, or if the Lot is undeveloped land. If an Owner
25 fails to provide notice to the Association as set forth in (i) and (ii), above, the last
26 address provided in writing by the Owner or, if none, the Lot property address, is
27 deemed the address to which the Association shall deliver notices.
28

29 3.4 Notice of Transfer of Title. Upon transfer of title to a Lot, the transferee shall be
30 responsible for notifying the Association of such transfer. The notification shall
31 set forth the address of the Lot, the names of the transferee and the transferor,
32 and the date of sale or other transfer. Prior to receipt of such notification, any
33 and all communications required or permitted to be given by the Association or
34 the Board to the Lot Owner shall be deemed to be duly made and given to the
35 transferee if duly and timely made and given to the person shown as the Owner
36 of the Lot and at the address in the Association's records.
37

38 3.5 Proof of Membership. No person shall exercise the rights of a Member until
39 satisfactory proof of membership has been furnished to the Association. Such
40 proof may consist of either a copy of a duly-executed and acknowledged grant
41 deed or a copy of a title insurance policy showing that the person is an Owner as
42 defined in **Section 2.22** ("Owner"). Such deed or policy shall be deemed
43 conclusive proof of ownership in the absence of a conflicting claim based on a
44 later deed or policy.
45

1 3.6 Voting Rights; Joint Owners.

2
3 3.6.1 One Vote Per Lot. Only Members shall be entitled to vote on any issue
4 or matter presented to the Members for approval or membership vote.
5 Members shall be entitled to cast one (1) vote for each Lot owned.
6

7 3.6.2 Joint Owners. In the event more than one (1) person owns a given
8 Lot, the vote for such Lot shall be exercised as the Owners among
9 themselves shall determine, but in no event shall more than one vote
10 be cast with respect to any Lot. If the joint Owners of a Lot are unable
11 to agree among themselves as to how their vote is to be cast, they
12 shall lose their right to vote on the matter in question. If any joint
13 Owner of a Lot casts a vote representing a certain Lot, it will thereafter
14 be conclusively presumed for all purposes that such Owner was acting
15 with the authority and consent of the other Owners of that Lot.
16

17 3.6.3 Trusts, Corporations, Other Entities. In the case of an Owner that is a
18 not a natural person (such as a corporate trustee, corporation or other
19 entity), the vote of such Owner may be cast by any authorized
20 representative of the Owner designated by notice in writing to the
21 Association.
22

23 3.6.4 Conservator, Guardian, Parent of Minor, Executor, General Power of
24 Attorney. The power to cast a particular Member's vote may be
25 exercised by (i) the Member's conservator, (ii) the guardian of the
26 Member's estate, (iii) the parent(s) entitled to custody of a Member if
27 the Member is a minor, (iv) the executor or administrator of a deceased
28 Member's estate if the Member's interest in the Lot is subject to
29 administration in his or her estate, or (v) a person with a general power
30 of attorney for a Member.
31

32 3.7 Record Date for Voting. Consistent with *Corporations Code* section 7611(c), the
33 Board may fix a date not more than sixty (60) days before the date of any mailing
34 or delivery of ballots as the record date for determining Members entitled to vote
35 and only Members as shown in the records of the Association as of the record
36 date for voting shall be entitled to vote in such vote or election. If no record date
37 for voting is set by the Board, Members on the day of the mailing or delivery of
38 ballots who are otherwise eligible to vote shall be entitled to vote in such vote or
39 election.
40

41
42 **ARTICLE 4 VOTING BY MEMBERS**
43

44 4.1 Voting by Members; Members' Request for Vote. All membership votes,
45 including any vote pursuant to a written request of Members as described in
46 *Corporations Code* section 7510(e), shall be by "secret ballot" pursuant to *Civil*
47 *Code* sections 5100 through 5145; *provided, however,* that in the case of a

1 membership vote on any matter not specified in *Civil Code* section 5100(a), the
2 deadline for returning a secret ballot may be a reasonable time that is less than
3 thirty (30) days. Voting by the written ballot method described in *Corporations*
4 *Code* section 7513 shall not be permitted.

5
6 4.2 Proxies Are Prohibited. Use of proxies in connection with membership votes or
7 membership meetings is expressly prohibited. "Proxy" shall mean a written
8 authorization signed by a Member or a Member's attorney-in-fact giving another
9 person or persons power to vote for such Member, as defined in *Corporations*
10 *Code* section 5069, other than (i) a designated authorized representative casting
11 a vote pursuant to Section 3.6.3 ("Trusts, Corporations, Other Entities") or (ii) a
12 person casting a vote pursuant to Section 3.6.4 ("Conservator, Guardian, Parent
13 of Minor, Executor, General Power of Attorney").

14
15 4.3 Inspector(s) of Election. To the extent required pursuant to *Civil Code* section
16 5110, prior to any election or vote by the Members, the Board shall appoint one
17 (1) or three (3) inspectors of election, whose powers and duties shall be as set
18 forth in such statute and in the Rules described in Section 4.4 ("Voting and
19 Election Rules").

20
21 4.4 Voting and Election Rules. The Board shall adopt Rules governing membership
22 voting and elections of directors in conformity with *Civil Code* section 5105.
23 Election Rules adopted pursuant to *Civil Code* section 5105 shall not be
24 amended less than ninety (90) days prior to an election.

25
26 4.5 Open Forums. Notwithstanding the provisions of Section 4.1 ("Voting by
27 Members; Members' Request for Vote"), the Secretary of the Association shall be
28 entitled to call informal meetings of the Members, to be known as open forums,
29 for the purpose of discussing issues common to Members residing in one
30 particular area within the Development property or issues common to all
31 Members. Open forums shall be called on written notice delivered to all
32 interested Members at least five (5) days before the date of the open forum. The
33 notice shall set forth the date, time, and place of the open forum and the general
34 nature of each item to be discussed. The Members may discuss at an open
35 forum any topic that has been noticed, but no formal action of the Members may
36 be taken, such action being reserved to Member votes conducted pursuant to
37 Section 4.1; however, reports and other informational presentations may be
38 made.

39
40 4.6 Quorum Requirements. The number of ballots that must be cast in order to
41 establish a quorum shall be as follows:

42
43 4.6.1 Election of Directors. In any election of one (1) or more directors, the
44 number of valid ballots received shall constitute a quorum.

45
46 4.6.2 Assessment Votes. To the extent required by *Civil Code* section 5605,
47 notwithstanding any other provision in the Governing Documents, for

1 purposes of voting on a Special Assessment or an increase in the
2 Annual Assessment that by law must be approved by the Members, a
3 quorum shall mean more than fifty percent (50%) of the Members (as
4 distinguished from percentage of the Total Voting Power), or such
5 other quorum requirement as may be specified by law.
6

7 4.6.3 All Other Member Votes. For any other vote or election by the
8 Members, a quorum shall mean one-third (1/3) of the Total Voting
9 Power.
10

11 4.6.4 Meetings to Count Ballots. There shall be no quorum requirement for
12 Member attendance at any meeting of the Members held for the
13 purpose of tabulating ballots pursuant to *Civil Code* section 5120(a)
14 and no action by the Members shall be conducted at any such meeting
15 other than the tabulation of ballots by the inspector(s) of election.
16

17 4.7 Act of Members Requires Majority of a Quorum. Except where the Governing
18 Documents specify a higher percentage of a quorum or require a specified
19 percentage of the Total Voting Power of the Members for any action that may be
20 taken by the Members, the affirmative vote of a Majority of a Quorum of the
21 Members shall constitute the action of the Members.
22

23 4.8 Results of Membership Votes. To the extent required by *Civil Code* section
24 5120(b), the Board shall within fifteen (15) days of an election give General
25 Notice of the tabulated results to all the Members. To the extent required by
26 *Corporations Code* section 8325, for a period of sixty (60) days following the
27 conclusion of any membership vote (or, if applicable, an annual, regular, or
28 special meeting of Members), a Member shall, upon written request, be informed
29 forthwith of the result of any particular vote of the Members, including the number
30 of memberships voting for, the number of memberships voting against, and the
31 number of memberships abstaining or withheld from voting. If the matter voted
32 on was the election of directors, the Association shall report the number of votes
33 cast for each nominee for director.
34

35 4.9 Meetings of Members. To the extent any vote or election by the Members is
36 required by law to be conducted at a meeting of the Members, the provisions of
37 the *Corporations Code*, including *Corporations Code* sections 7510 and 7511,
38 that would otherwise apply shall apply; any such meeting of Members shall be
39 conducted in accordance with a recognized system of parliamentary procedure
40 or such parliamentary procedures as the Association may adopt; and to the
41 extent required pursuant to *Civil Code* sections 4925(b) and 5000(b), a
42 reasonable time limit for all Members to speak at a meeting of the Members shall
43 be established by the Board.
44

45 4.10 Place of Member Meetings. Meetings of the Members shall be held at a location
46 within the Development, or the Board may designate by resolution a convenient
47 place located as close as reasonably practicable to the Development.

- 1
2 4.11 Annual Meeting. The annual meeting of Members shall be held in the month of
3 April or as soon thereafter as is practical.
4
5 4.12 Special Meetings of Members. Special meetings of the Members shall be held in
6 response to a request by the Board President, or by vote of a majority of the
7 Board, or upon written request of Members representing five percent (5%) of the
8 Total Voting Power of the Members.
9
10 4.13 Notice of Member Meetings. Written notice of Member meetings shall be given
11 to each Member by Individual Delivery at least ten (10) days but not more than
12 ninety (90) days before such meeting; *except that*, in the case of a special
13 meeting called pursuant to written request of Members, notice of such special
14 meeting shall be given to Members by Individual Delivery within twenty (20) days
15 after receipt of a written request by the Board, and the date for such special
16 meeting shall be not less than thirty-five (35) days nor later than ninety (90) days
17 after the date of the Board's receipt of the written request. The notice shall state
18 the date, time and place of the meeting, and in the case of a special meeting,
19 shall state the purpose for the meeting.
20
21

22 **ARTICLE 5 BOARD OF DIRECTORS: NOMINATION, SELECTION, TERM**
23 **OF OFFICE, REMOVAL**

- 24
25 5.1 Number of Directors. The affairs of this Association shall be managed by or
26 under the direction of, and the corporate powers shall be exercised by, a Board
27 of Directors. The authorized number of directors shall be three (3).
28
29 5.2 Annual Election of Directors. Directors shall be elected annually in the month of
30 April or as soon thereafter as is practical.
31
32 5.3 Qualification of Directors. Only persons who satisfy all of the following
33 qualifications shall be eligible to be elected to or serve on the Board: (i) is a
34 Member in Good Standing or in the case of a Member in Good Standing that is
35 not a natural person (such as a corporation or other entity), an officer, director,
36 principal, or authorized representative of the entity, (ii) is at least eighteen (18)
37 years of age, (iii) has not been found by a court of competent jurisdiction to be of
38 unsound mind, and (iv) does not have a criminal conviction that would, if elected,
39 prevent the Association from purchasing the fidelity bond coverage required by
40 *Civil Code* section 5806 or terminate the Association's existing fidelity bond
41 coverage. Co-Owners of one (1) or more Lots may not be nominated for or serve
42 on the Board at the same time.
43
44 5.4 Nomination Procedures. Nominations of candidates for election to the Board of
45 Directors may be made by a nominating committee (hereinafter, "Nominating
46 Committee") or by self-nomination, as follows:
47

1 5.4.1 By Nominating Committee. Prior to any election of directors, the Board
2 may appoint a Nominating Committee to nominate candidates for
3 election to the Board. If appointed, the Nominating Committee shall
4 nominate as many candidates for election to the Board as it shall in its
5 discretion determine, but shall endeavor to nominate not less than the
6 number of positions on the Board that are to be filled in the election.
7 All nominations shall be made from among persons who satisfy the
8 qualifications set forth in Section 5.3 ("Qualification of Directors") and
9 shall be made prior to the deadline for nominations.

10
11 5.4.2 By Self-nomination. Any Member who satisfies the qualifications set
12 forth in Section 5.3 ("Qualification of Directors") may place his or her
13 name in nomination for election to the Board by giving written notice to
14 the President or Secretary of the Association. Notice of self-
15 nomination must be received prior to the deadline for nominations.

16
17 5.5 Deadline for Nominations. The deadline for nominations shall be set by the
18 Board and shall be not less than five (5) and not more than forty-five (45) days
19 prior to the date of the mailing or delivery of ballots for any election of directors.

20
21 5.6 Publication of Deadline for Nominations. The date and time of the deadline for
22 nominations and the procedure for submitting a nomination shall be provided to
23 the Members by General Delivery (and by Individual Delivery if so requested by a
24 Member) at least thirty (30) days in advance of the nomination deadline.

25
26 5.7 Election by Acclamation. If, as of the published deadline for nominations, the
27 number of people nominated is not more than the number of directors to be
28 elected, then the persons nominated and qualified to be elected shall, unless
29 election by acclamation is prohibited by law, be declared elected and shall take
30 office at the first Board meeting following the deadline for nominations or, if later
31 and an annual meeting is held, then at the first Board meeting after the annual
32 meeting. Written notice of the election by acclamation shall be given to the
33 Members.

34
35 5.8 List of Known Candidate Names. A list of the names of all persons known by the
36 Board to be qualified candidates for election to the Board as of the published
37 deadline for nominations shall be prepared and distributed as set forth in *Civil*
38 *Code* section 5115(b) and in the Rules described in Section 4.4 ("Voting and
39 Election Rules").

40
41 5.9 Voting for Directors; No Cumulative Voting Permitted; No Write-ins. In all
42 elections of directors, Members may cast, in respect to each position on the
43 Board to be filled, one (1) vote for each Lot owned. The persons receiving the
44 largest number of votes shall be elected. Cumulative voting (i.e., giving more
45 than one vote to any candidate) shall not be permitted. Voting for write-in
46 candidates (that is, voting for any person not nominated prior to the deadline for
47 nominations) is not permitted.

1
2 5.10 Tied Votes. In the case of a tied vote for one (1) or more positions on the Board,
3 the candidates shall draw lots to determine the winner or winners.
4

5 5.11 Election and Term of Office. In the next annual election of directors following the
6 approval of these Bylaws, the Members shall elect three (3) directors. Of the
7 three directors elected, the director who receives the largest number of votes
8 shall serve a three (3) year term, the director who receives the next highest
9 number of votes shall serve a two (2) year term, and the other director shall
10 serve a one (1) year term, in order to create a Board with staggered terms of
11 office. In each annual election of directors thereafter, the Members shall elect
12 directors for a term of three years each to replace those directors whose terms
13 are then expiring. Each director shall serve until the expiration of his or her term
14 and thereafter until a successor is elected, or until the earlier disqualification,
15 death, resignation, or removal of such director.
16

17 5.12 Removal of Directors by the Members. Consistent with *Corporations Code*
18 section 7222, any director may be removed from the Board, with or without
19 cause, by the vote of a majority of the Total Voting Power of the Association.
20

21 5.13 Reduction of Number of Directors. Any reduction of the authorized number of
22 directors shall be subject to the provisions of *Corporations Code* section 7222(c).
23

24 5.14 Vacancies, Resignation, Disqualification of Directors. A vacancy shall exist on
25 the Board (i) in the event of the death, resignation, or removal (by the Members)
26 of any director, (ii) in the event of a declaration of a vacancy by the Board as
27 provided below in this **Section 5.15** ("Filling Vacancies"), (iii) if the authorized
28 number of directors is increased, or (iv) if the Members fail to elect the full
29 authorized number of directors.
30

31 5.14.1 Resignation. Any director may resign by giving written notice to the
32 Board. The resignation shall be effective on the date specified in the
33 notice. Unless otherwise provided in the notice, the acceptance of a
34 resignation shall not be necessary to make it effective.
35

36 5.14.2 Disqualification of a Director. As provided in *Corporations Code*
37 section 7221(b), the Board of Directors, by a majority vote of the
38 directors who meet all of the qualifications for directors as set forth in
39 **Section 5.3** ("Qualification of Directors"), may declare vacant the office
40 of any director who fails or ceases to meet any required qualification
41 that was in effect at the beginning of that director's current term of
42 office.
43

44 5.14.3 Failure to Perform Duties. Pursuant to *Corporations Code* section
45 7221(a), the Board, by vote of a majority of a quorum, may declare
46 vacant the office of any director who: (i) fails within sixty (60) days
47 after receiving notice of election to accept office, either in writing or by

1 attending a meeting of the Board as a director, or (ii) is absent without
2 excuse from three (3) consecutive meetings of the Board without
3 permission from the Board.
4

5 5.15 Filling Vacancies.
6

7 5.15.1 Removal by Members. Pursuant to *Corporations Code* section 7224,
8 vacancies on the Board created by the removal of a director by the
9 Members shall be filled by approval of the Members. A director
10 elected by the Members to fill such a vacancy shall serve the
11 remainder of the term of office of the director whom he or she replaces.
12

13 5.15.2 Other Vacancies. Any vacancy occurring on the Board of Directors,
14 except a vacancy created by the removal of a director by the Members,
15 may be filled (i) by approval of the Board of Directors; or (ii) by a sole
16 remaining director. If the Board accepts the resignation of a director
17 tendered to take effect at a future time, the Board, including the
18 resigning director, may choose or, if the Board fails to act, the
19 Members may elect, a successor to take office when the resignation
20 becomes effective. The Members may elect a director at any time to
21 fill any vacancy not filled by the directors. A director chosen by the
22 Board in accordance with this Section 5.15.2 to fill a vacancy shall
23 serve the remainder of the term of office of the director whom he or
24 she replaces.
25

26 5.16 Removal of Entire Board; Replacement Directors. In the case of a vote by the
27 Members to remove the entire Board of Directors, the incumbent directors shall
28 not be removed from office unless and until one (1) or more replacement
29 directors have been elected by the Members. If, in such election, the Members
30 fail to elect the full number of replacement directors, the vacancies then existing
31 on the Board may be filled by the elected replacement directors pursuant to
32 clause (i) or clause (ii) of Section 5.15.2 ("Other Vacancies"). All of the directors
33 replacing those removed by the Members shall serve until the next annual
34 election of directors, at which time (i) three (3) directors shall be elected and the
35 director who receives the largest number of votes shall serve a three-year term,
36 the director who receives the next largest number of votes shall serve a two-year
37 term and the other director shall serve a one-year term, in order to create
38 staggered terms of office; or (ii) alternatively, if the number of qualified
39 candidates for the next annual election is less than or equal to three (3), the
40 directors shall be elected by acclamation pursuant to Section 5.7 ("Election by
41 Acclamation") and shall draw lots to determine one-year, two-year or three-year
42 terms to create staggered terms of office.
43

44 5.17 Directors' Conflict of Interest. As provided in *Civil Code* section 5350, no director
45 or member of a committee shall be permitted to vote on matters of (i) discipline of
46 the director or committee member, (ii) an Assessment against the director or
47 committee member for damage to the Common Area or facilities, (iii) a request,

1 by the director or committee member, for a payment plan for overdue
2 Assessments, (iv) a decision whether to foreclose on a lien on the separate
3 interest of the director or committee member, (v) review of a proposed physical
4 change to the separate interest of the director or committee member, (vi) a grant
5 of exclusive use of Common Area to the director or committee member, and (vii)
6 as provided in *Corporations Code* section 7233, any contract or other transaction
7 in which a director or committee member has a material financial interest. As
8 provided in *Corporations Code* section 7234, the interested director or committee
9 member may be counted in determining the presence of a quorum at a meeting
10 of the Board or of a committee.
11

12 5.18 No Compensation of Directors. No director shall receive compensation for any
13 service he or she may render to the Association as a director. However, upon
14 approval by the Board, any director may be reimbursed for his or her expenses
15 actually incurred in the performance of his or her duties.
16

17 5.19 Directors' Standard of Care. As provided in *Corporations Code* section 7231, a
18 director shall perform the duties of a director, including duties as a member of
19 any Committee of the Board upon which the director may serve, in good faith, in
20 a manner such director believes to be in the best interests of the corporation and
21 with such care, including reasonable inquiry, as an ordinarily prudent person in a
22 like position would use under similar circumstances.
23

24 5.20 Limitation of Liability of Officers and Directors. As provided in *Corporations Code*
25 section 7231, no director, officer, committee member, employee, or other agent
26 of the Association shall be liable to any Owner or any other person or entity,
27 including the Association, for any damage, loss, or prejudice suffered or claimed
28 on account of any act, omission, error, or negligence of any such person if such
29 person acted in good faith and in a manner such person reasonably believed to
30 be in the best interests of the Association.
31
32

33 **ARTICLE 6 MEETINGS OF DIRECTORS**

34
35 6.1 Definition of Meeting of the Board. As defined in *Civil Code* section 4090, a
36 "meeting" of the Board shall mean either: (a) a congregation, at the same time
37 and place, of a sufficient number of directors to establish a quorum of the Board,
38 to hear, discuss, or deliberate upon any item of business that is within the
39 authority of the Board or (b) a teleconference, where a sufficient number of
40 directors to establish a quorum of the Board, in different locations, are connected
41 by electronic means, through audio or video or both. The foregoing includes
42 executive session meetings of the Board.
43

44 6.2 Teleconference Meetings. As provided in *Civil Code* section 4090(b), a
45 teleconference meeting shall be conducted in a manner that protects the rights of
46 Members of the Association and otherwise complies with the requirements of the
47 Davis-Stirling Common Interest Development Act (*Civil Code* section 4000 and

1 following). Except for a meeting that will be held solely in executive session, the
2 notice of the teleconference meeting shall identify at least one (1) physical
3 location so that Members of the Association may attend, and at least one (1)
4 director or a person designated by the Board shall be present at the location.
5 Participation by directors in a teleconference meeting constitutes presence at
6 that meeting as long as all directors participating are able to hear one another, as
7 well as Members of the Association speaking on matters before the Board.
8

9 6.3 Organizational Meeting. As soon as possible, but in any event within thirty (30)
10 days after each annual election of directors, the Board of Directors shall hold a
11 meeting for the purpose of organization, appointment of officers, and transaction
12 of other business, as appropriate.
13

14 6.4 Regular Meetings of the Board. Regular meetings of the Board shall be held
15 monthly upon proper notice which conforms to the provisions of **Section 6.7**
16 (“Notice to Directors”) and **Section 6.8** (“Notice to Members; Agenda”), at the
17 place, day, and time set forth in such notice. In the event the Board should
18 determine that the business to be transacted by the Board does not reasonably
19 justify monthly meetings, then regular meetings of the Board shall be held at
20 such intervals as the Board may determine, but not less frequently than once
21 every three (3) months.
22

23 6.5 Special Meetings of the Board. Special meetings of the Board shall be held
24 when called by the President of the Association or by any two (2) directors.
25

26 6.6 Emergency Meetings of the Board. As provided in *Civil Code* section 4923,
27 emergency meetings of the Board may be called by the President or by any two
28 (2) directors other than the President, if there are circumstances that could not
29 have been reasonably foreseen which require immediate attention and possible
30 action by the Board, and which of necessity make it impracticable to provide the
31 notice required by *Civil Code* section 4920.
32

33 6.7 Notice to Directors. Regular meetings of the Board may be held, without further
34 notice to the Board, at a place within the Development and on a day and time
35 fixed by resolution of the Board. If not fixed by resolution of the Board, notice of
36 each meeting of the Board shall be communicated to the directors not less than
37 four (4) days prior to a regular meeting, and not less than forty-eight (48) hours
38 prior to a special meeting; provided that shorter notice may be given in the case
39 of a bona fide emergency; and *provided, further*, that notice of a meeting need
40 not be given to any director who signed a waiver of notice or a written consent to
41 holding the meeting, whether before or after the meeting.
42

43 6.8 Notice to Members; Agenda. To the extent required pursuant to *Civil Code*
44 section 4920, except for bona fide emergency meetings (whether open meeting
45 or executive session), prior written notice of the day, time, and place of each
46 meeting of the Board of Directors shall be given to all Members. The notice shall

1 contain the agenda for the meeting, subject to the provisions of *Civil Code*
2 section 4930.

3
4 6.8.1 Timing of Notice to Members. Notice of open Board meetings shall be
5 given at least four (4) days before the meeting. Notice of a Board
6 meeting that is held exclusively in executive session shall be given at
7 least two (2) days before the meeting.

8
9 6.8.2 Delivery of Notice to Members. The notice to the Members shall be
10 given by General Delivery in accordance with *Civil Code* section 4045.

11
12 6.9 Open Meeting. To the extent required pursuant to *Civil Code* section 4925(a),
13 regular and special meetings of the Board of Directors shall be open to all
14 Members of the Association, except when the Board meets in executive session.
15 Pursuant to *Civil Code* section 4925(b), a reasonable time limit for all Members to
16 speak to the Board shall be established by the Board; however, the right to speak
17 to the Board shall not entitle any Member to participate in the Board's
18 deliberations on any matters unless requested to do so by the Board.

19
20 6.10 Executive Session. To the fullest extent permitted by law, including *Civil Code*
21 section 4935, the Board may meet in executive session to confer with legal
22 counsel or to discuss and/or vote upon personnel matters, Member discipline,
23 litigation in which the Association is or may become involved, matters that relate
24 to the formation of contracts between the Association and others, and for the
25 purpose of meeting with a Member, upon such Member's request, regarding the
26 Member's payment of Assessments. In any matter relating to the discipline of a
27 Member, the Board shall meet in executive session if requested to do so by that
28 Member, and that Member and any other person(s) whose participation is, in the
29 judgment of the Board, necessary or appropriate, shall be entitled to attend the
30 executive session; *provided, however*, that (i) to the extent required by *Civil Code*
31 section 5673, a decision by the Board to record a lien for delinquent
32 Assessments shall be made at an open meeting of the Board, and (ii) to the
33 extent required by *Civil Code* section 5705(c), a vote of the Board to initiate
34 foreclosure of a lien for delinquent Assessment shall be taken in executive
35 session but shall be recorded in the minutes of the next following open meeting
36 of the Board. There shall be no requirement that the Board convene an open
37 meeting in order to meet in executive session.

38
39 6.11 Board's Action by Unanimous Written Consent. To the extent provided in *Civil*
40 *Code* section 4910, the Board may not take action by unanimous written consent
41 without a meeting except in case of emergency and then only by electronic
42 transmission, including email as provided in *Civil Code* section 4910(b)(2). Any
43 such written consents shall be filed with the minutes of the proceedings of the
44 Board.

45
46 6.12 Quorum for Board's Action. A majority of the number of directors then in office
47 (but not less than two) shall constitute a quorum for the transaction of business.

1 Every act or decision done or made by a majority of the directors present at a
2 duly-held meeting at which a quorum is present shall be regarded as the act of
3 the Board. A meeting at which a quorum is initially present may continue to
4 transact business, notwithstanding the withdrawal of directors, if any action taken
5 is approved by a majority of the required quorum for that meeting.
6

7 6.13 Voting by Directors. Pursuant to *Corporations Code* section 7211(c), each
8 director shall be entitled to one (1) vote and a director may not vote by proxy or
9 otherwise delegate his or her right to vote on any matter before the Board
10

11 6.14 Minutes of Meetings of Directors. To the extent required by *Civil Code* section
12 4950(a), within thirty (30) days after the date of any meeting of the Board, the
13 Board shall make available to the Members either (i) the minutes of that meeting
14 as adopted by the Board, (ii) if the minutes have not yet been adopted by the
15 Board, the minutes as proposed for adoption which shall be marked to indicate
16 draft status, or (iii) a summary of the minutes. To the extent required by *Civil*
17 *Code* section 4935(e), any matter discussed in an executive session shall be
18 generally noted in the minutes of the Board and minutes of executive sessions
19 shall not otherwise be required. Copies of the minutes, proposed minutes, or
20 summary of minutes shall be provided to any Member of the Association upon
21 request and upon reimbursement of the Association's costs in providing such
22 copies.
23
24

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

26
27 The Board shall be ultimately responsible for the management and conduct of
28 the affairs of the Association. Without limiting the generality of the foregoing, the
29 specific duties of the Board shall include the following:
30

31 7.1 Supervision. The Board shall supervise all officers, agents, and employees of
32 the Association, if any, and see that their duties are properly performed.
33

34 7.2 Records and Minutes. The Board shall cause to be kept a complete record of all
35 its acts and the corporate affairs, including a membership list described in *Civil*
36 *Code* section 5200(a)(9), adequate and correct books and records of account,
37 and minutes of the proceedings of the Members, the Board, Committees of the
38 Board, and any other committee appointed by the Board having decision-making
39 authority.
40

41 7.3 Maintain Insurance. The Board shall procure and maintain adequate casualty,
42 liability and other insurance, as the Board shall determine consistent with the
43 provisions of Article 11 of the Declaration ("Insurance").
44

45 7.4 Enforcement of Governing Documents. The Board shall enforce the Governing
46 Documents on its own initiative or upon receipt of written complaint from an

1 Owner or a Resident, in accordance with the procedures set forth in Article 14 of
2 the Declaration (“Enforcement; Notice; Hearings”).

3
4 7.5 Annual Budget Report. In accordance with *Civil Code* section 5300(a), the
5 Association shall distribute an annual budget report, not less than thirty (30) days
6 and not more than ninety (90) days prior to the end of the Association’s fiscal
7 year. The annual budget report shall conform to the requirements of *Civil Code*
8 section 5300(b) and (e) and section 5550.

9
10 7.6 Notice of Certain Changes in Insurance. In accordance with *Civil Code* section
11 5810, as soon as reasonably practicable, the Association shall provide Individual
12 Notice to all Members if any of the Association’s policies described in the
13 Association’s annual budget report have lapsed or been canceled, and are not
14 immediately renewed, restored, or replaced, or if there is a significant change,
15 such as a reduction in coverage or limits or an increase in the deductible for any
16 of those policies. If the Association receives any notice of non-renewal of an
17 Association’s policy described in the Association’s annual budget report and
18 replacement coverage will not be in effect by the date the existing coverage will
19 lapse, the Association shall immediately provide Individual Notice thereof to the
20 Members.

21
22 7.7 Annual Policy Statement; Notifications to Members. In accordance with *Civil*
23 *Code* section 5310(a)(1) through (12), not less than thirty (30) days and not more
24 than ninety (90) days before the end of the fiscal year, the Board shall distribute
25 to the Members an annual policy statement.

26
27 7.8 Documents Provided to Prospective Purchasers. To the extent required by *Civil*
28 *Code* section 4530(a), the Board shall provide or cause to be provided to a
29 requesting Owner, within ten (10) days of a written request therefor, the items
30 specified in *Civil Code* section 4525(a), or any of them.

31
32 7.9 Association’s Duty to Annually Solicit Owner’s Notice of Address, Other
33 Information. As required by *Civil Code* section 4041, the Association shall
34 annually solicit from each Owner notice of the following: (i) the Owner’s address
35 for the purpose of receiving notices from the Association, (ii) an alternative or
36 secondary address, if any, to which notices from the Association are to be
37 delivered, (iii) the name and address of his or her legal representative, if any,
38 including any person with power of attorney or other person who can be
39 contacted in the event of the Owner’s extended absence from the Lot, and (iv)
40 whether the Lot is Owner-occupied, is rented out, if the Lot is developed but
41 vacant, or if the Lot is undeveloped land. The information obtained from each
42 Owner shall be entered into its books and records of the Association at least
43 thirty (30) days prior to sending its annual budget report as set forth in Section
44 7.5 (“Annual Budget Report”). If an Owner fails to provide notice to the
45 Association as set forth in (i) and (ii), above, the last address provided in writing
46 by the Owner or, if none, the Lot property address, is deemed the address to
47 which the Association shall deliver notices.

- 1
2 7.10 Review of Annual Financial Statement. To the extent required pursuant to *Civil*
3 *Code* section 5305, for any fiscal year in which the gross income to the
4 Association exceeds Seventy-five Thousand Dollars (\$75,000), the Board shall
5 obtain a review of the financial statements of the Association prepared in
6 accordance with generally accepted accounting principles by a licensee of the
7 California State Board of Accountancy and shall distribute it to all Members of the
8 Association within one hundred twenty (120) days after the close of such fiscal
9 year by Individual Delivery.
10
11 7.11 Monthly Review of Accounts. The Board shall review the Association's operating
12 and reserve accounts monthly in accordance with the minimum requirements set
13 forth in *Civil Code* section 5500.
14
15 7.12 Biennial Notice to Secretary of State. The Board shall file with the Secretary of
16 State the biennial (every two years) statement of names of officers and of agent
17 for service of process required pursuant to *Corporations Code* section 8210 and
18 the statement required by *Civil Code* section 5405(a).
19
20 7.13 Three-year Reserve Study and Annual Review. In accordance with *Civil Code*
21 section 5550, at least once every three (3) years, the Board shall cause a study
22 of the reserve account requirements of the Development to be conducted, which
23 study shall include the minimum requirements specified in *Civil Code* section
24 5550(b) or successor statute. The Board shall review the reserve study annually
25 and shall consider and implement necessary adjustments to the Board's analysis
26 of the reserve account requirements as a result of that review.
27
28 7.14 Prudent Management of Reserve Funds. The Board shall exercise prudent fiscal
29 management in maintaining the integrity of the reserve account and, to the extent
30 restricted by *Civil Code* section 5510(b), shall not expend funds designated as
31 reserve funds for any purpose other than the maintenance, restoration, repair, or
32 replacement of, or litigation involving the maintenance, restoration, repair, or
33 replacement of, major components for which the Association is responsible and
34 for which the reserve fund was established; *provided, however*, that the Board
35 may authorize a temporary transfer of money from a reserve fund to the
36 Association's general operating fund for the purposes and subject to the
37 procedural requirements specified in *Civil Code* section 5520.
38
39

40 **ARTICLE 8 POWERS OF THE BOARD OF DIRECTORS**

41
42 The Board of Directors shall have such powers as may be provided by law or
43 expressly set forth in the Governing Documents. Without limiting the generality
44 of the foregoing, the Board shall have the powers specified in this **Article 8**,
45 subject to any limitations or conditions as may be set forth in the Articles, the
46 Bylaws, or the Declaration.
47

1 8.1 Make Contracts. The Board shall have the power to authorize any officer or
2 officers to enter into any contract in the name of, or on behalf of, the Association.
3 No contract with a third party to supply or furnish the Association with goods or
4 services shall be for a term in excess of one (1) year except upon the prior
5 affirmative vote of a Majority of a Quorum of the Members; *provided, however,*
6 that the foregoing shall not apply to:

7
8 (a) A contract with a public utility company, if the rates charged for the
9 materials or services to be furnished are regulated by the California Public
10 Utilities Commission, the term of which contract shall not exceed the
11 shortest term for which the supplier will contract at the regulated rate;

12
13 (b) Prepaid casualty and/or liability insurance policies not to exceed three (3)
14 years' duration, which policy or policies shall permit short term
15 cancellation by the insured;

16
17 (c) Contracts in which the Association enters into litigation or any alternative
18 dispute resolution procedures when the Association's obligation to pay for
19 services is set in whole or in part on a contingency basis.

20
21 8.2 Consult Professional Advisors. The Board shall have the power to consult with,
22 seek the advice of, and reasonably rely on the advice of attorneys, accountants,
23 and other professionals in carrying out the Board's authority and responsibility
24 under the Governing Documents and the law, and to pay for such professional
25 services.

26
27 8.3 Hire a Manager and Others. The Board shall have the power to engage the
28 services of a manager or management company as either an employee or an
29 independent contractor, and engage such other employees or independent
30 contractors as the Board may deem necessary, and to prescribe their duties.
31 Any management contract shall provide that the agreement may be terminated
32 by either party without payment of a termination fee (i) upon not more than ninety
33 (90) days' written notice without cause and (ii) for cause upon thirty (30) days'
34 written notice provided notice and an opportunity to cure have been given.

35
36 8.4 Adopt and Enforce Rules. Subject to applicable law, including *Civil Code*
37 sections 4340 through 4370 (regarding procedures for adopting or changing
38 certain rules), the Board shall have the power to adopt, publish, amend, repeal,
39 and enforce Rules.

40
41 8.5 Collect Assessments by Foreclosure and/or Legal Action. As addressed in the
42 Declaration, the Board shall have the power to collect Assessments levied by the
43 Association by foreclosing the lien against any property for which Assessments
44 are not paid as required by the Declaration and/or by bringing an action at law
45 against the Owner personally obligated to pay the same.

- 1 8.6 Impose Sanctions. Upon an explicit finding and for reasons specified by the
2 Board following a hearing conducted in accordance with Article 14 of the
3 Declaration (“Enforcement; Notice; Hearings”), the Board shall have the power to
4 impose sanctions on a Member who is in default in the payment of any
5 Assessment or other charge levied by the Board or is found to be in violation of
6 any provision of the Governing Documents. Sanctions may include loss of Good
7 Standing, suspension of other rights, and/or monetary penalties (fines), as
8 described in Section 14.8 of the Declaration (“Imposing Sanctions”).
9
- 10 8.7 Pay Property Taxes. The Board shall have the power to pay all real property
11 taxes and assessments levied upon any property within the Development to the
12 extent not separately assessed to the Owners. Provided that any such taxes are
13 paid or that a bond insuring the payment is posted, such taxes and assessments
14 may be contested or compromised by the Association prior to the sale or other
15 disposition of any property to satisfy the payment of such taxes.
16
- 17 8.8 Deal with Association’s Property; Certain Limitations. The Board shall have the
18 power to acquire and deal with real and personal property of the Association,
19 subject to any applicable limitations set forth in the Governing Documents,
20 including Section 3.6 of the Declaration (“Mergers, Consolidations and
21 Annexations”), Section 3.7 of the Declaration (“Capital Improvements”), Section
22 3.8 of the Declaration (“Borrow; Mortgage Common Area”), and Section 3.9 of
23 the Declaration (“Dedication, Sale or Transfer of Common Area to Public
24 Agencies/Utilities”).
25
- 26 8.9 Open Bank Accounts; Borrow. The Board shall have the power to open bank
27 accounts, designate signatories upon such bank accounts (subject to the
28 requirements of Section 10.4 (“Checks, Drafts, and Evidences of Indebtedness”)
29 concerning withdrawal of reserve account funds), and borrow money on behalf of
30 the Association, subject to any applicable provisions of Section 3.7 of the
31 Declaration (“Capital Improvements”), Section 3.8 of the Declaration (“Borrow;
32 Mortgage Common Area”), and Section 3.9 of the Declaration (“Dedication, Sale
33 or Transfer of Common Area to Public Agencies/Utilities”).
34
- 35 8.10 Pledge Assessments As Security. The Board shall have the power to assign or
36 pledge Assessments of the Association as security for a loan, provided that such
37 assignment or pledge is made to a financial institution or lender chartered or
38 licensed under federal or state law to the extent required by *Civil Code* section
39 5735; and *provided, further*, that approval of the Members shall be required if
40 such assignment or pledge is in conjunction with an increase in the Annual
41 Assessment or the imposition of a Special Assessment that by law requires
42 approval of the Members, and such Member approval shall be the same as the
43 Member approval required for such increase in the Annual Assessment or
44 imposition of a Special Assessment.
45
- 46 8.11 Invest Reserve Funds. The Board shall have the power to manage and invest
47 Association reserve funds in prudent investments, provided it does so in a

1 prudent manner designed to achieve the primary objective of preserving principal
2 while realizing a reasonable return and to assure the availability of funds as they
3 are needed based upon the Board's most recent review of the reserve fund study
4 obtained by the Board as required in **Section 7.13** ("Three-year Reserve Study
5 and Annual Review") and applicable law.
6

7 8.12 Indemnify Agents. To the extent provided in *Corporations Code* section 7237,
8 the Board on behalf of the Association shall have the power to and shall
9 indemnify and hold harmless, to the maximum extent permitted by California law,
10 each person who is or at any time was a director, officer, employee, or agent of
11 the Association, or member of any committee appointed by the Board from and
12 against any and all claims, liabilities, expenses, judgments, fines, settlements,
13 and other amounts, as those terms are defined by California law, actually and
14 reasonably incurred by any such person, and to which any such person shall
15 become subject by reason of his or her being a director, officer, employee, or
16 agent of the Association, or member of any committee appointed by the Board.
17

18 8.13 Appoint Committees. The Board may appoint an Architectural Committee, as
19 provided in the Declaration, or may appoint a Nominating Committee, as
20 provided in **Section 5.4** ("Nomination Procedures"), and may appoint such other
21 committees as it deems appropriate in carrying out the powers and purposes of
22 the Association except that the Board may not delegate its authority to hold
23 hearings or impose sanctions. Any "Committee of the Board" (as defined in
24 **Section 2.8**) shall consist of at least two (2) directors and shall have such powers
25 and duties as the Board shall determine, subject to the limitations of *Corporations*
26 *Code* section 7212. As provided in *Corporations Code* section 7212(b), a
27 committee exercising the authority of the Board shall not include as members
28 any persons who are not directors. All committees and committee members
29 shall serve at the pleasure of the Board.
30

31 8.14 Other Powers and Duties. The Board shall have the power to exercise for the
32 Association all powers, duties, and authority vested in or delegated to the
33 Association and not reserved to the Members by other provisions of the
34 Governing Documents, and undertake any action on behalf of the Association as
35 the Board shall deem necessary or proper in furtherance of the purposes and
36 powers of the Association and/or the interests of the Association and its
37 Members.
38

39 **ARTICLE 9 OFFICERS AND THEIR DUTIES**

40
41
42 9.1 Enumeration of Principal Officers. The principal officers of this Association shall
43 be a President, a Secretary, and a Treasurer, who shall at all times be members
44 of the Board of Directors. The Board may, from time to time, by resolution
45 appoint other officers as the Board may determine, as provided in **Section 9.4**
46 ("Special Appointments").
47

1 9.2 Appointment of Principal Officers. The appointment of the principal officers shall
2 take place at the first meeting of the Board following each annual election of
3 directors.

4
5 9.3 Term. The principal officers of this Association shall be appointed annually by
6 the Board, and each shall hold office for one (1) year, unless he or she shall
7 sooner resign, be removed by the Board, or otherwise be disqualified to serve.

8
9 9.4 Special Appointments. The Board may appoint such other officers as the affairs
10 of the Association may require (for example, one or more assistant vice
11 presidents or assistant secretaries or assistant treasurers), each of whom shall
12 hold office for such period, have such authority, and perform such duties as the
13 Board may, from time to time, determine. Officers appointed pursuant to this
14 Section 9.4 need not be members of the Board or Members of the Association.

15
16 9.5 Resignation and Removal. Any officer may be removed from office, with or
17 without cause, by the Board at any time. Any officer may resign at any time by
18 giving written notice to the Board, the President, or the Secretary. Such
19 resignation shall take effect on the date of receipt of such notice or at any later
20 time specified therein and, unless otherwise specified therein, the acceptance of
21 such resignation shall not be necessary to make it effective.

22
23 9.6 Vacancies. A vacancy in any office may be filled by appointment by the Board.
24 The officer appointed to such vacancy shall serve for the remainder of the term of
25 the officer he or she replaces, subject to the Board's right to remove an officer.

26
27 9.7 Multiple Offices. One (1) person may hold two (2) or more offices except that
28 neither the Secretary or any assistant secretary nor the Treasurer or any
29 assistant treasurer may serve concurrently as President. This provision is
30 intended to prohibit a single individual from having apparent authority to bind the
31 Association by virtue of holding both offices, pursuant to *Corporations Code*
32 section 7214.

33
34 9.8 Authority to Bind Association. Unless expressly authorized by resolution of the
35 Board, no officer shall have any power or authority to bind the Association or to
36 render the Association liable for any purpose or on any account.

37
38 9.9 No Compensation of Officers. No officer shall receive compensation for any
39 service he or she may render to the Association as an officer. However, upon
40 approval by the Board, any officer may be reimbursed for his or her expenses
41 actually incurred in the performance of his or her duties.

42
43 9.10 President. The President shall be the chief executive officer of the Association
44 and shall, subject to control of the Board of Directors, have general supervision,
45 direction, and control of the affairs of the Association and of the other officers and
46 the employees and agents of the Association. The President shall preside at all
47 meetings of the Members and at all meetings of the Board, shall have the

1 general powers and duties of management usually vested in the office of the
2 President of an Association, and shall have such other powers and duties as may
3 be prescribed by the Board of Directors and the Bylaws, subject, however, to any
4 limitations contained in the Declaration. In the absence or disability of the
5 President, the Board shall designate another director to preside at a meeting of
6 the Board or of the Members.
7

8 9.11 Secretary. The Secretary shall keep or cause to be kept, at the principal office or
9 such other place as the Board of Directors may prescribe, a book of minutes of
10 all meetings of directors and Committees of the Board, all meetings of any other
11 committee appointed by the Board that has decision-making authority, and all
12 meetings and votes of Members. The Secretary shall give, or cause to be given,
13 notice of all meetings of the Members and of the Board of Directors required by
14 the Bylaws or by law to be given and shall maintain a proper record of the giving
15 of such notice; shall keep or cause to be kept in safe custody the books, records,
16 and documents of the Association; and shall have such other powers and
17 perform such other duties as may be prescribed by the Board of Directors or the
18 Bylaws.
19

20 9.12 Treasurer. The Treasurer shall be responsible for the receipt and deposit in
21 appropriate accounts of all monies of the Association and shall cause
22 disbursement of such funds as directed by resolution of the Board of Directors;
23 may sign all checks and promissory notes of the Association; shall keep or cause
24 to be kept proper books of account; shall cause an annual review of the
25 Association's books and financial statements to be made by a public accountant
26 at the completion of any fiscal year for which such review is required by law or as
27 determined by the Board; shall assist the Board in preparation of an annual
28 budget and a statement of income and expenditures to be presented to the
29 Members of the Association as provided by law; and shall have such other
30 powers and perform such other duties as may be prescribed by the Board of
31 Directors.
32
33

34 **ARTICLE 10 MINUTES; BOOKS AND RECORDS; FUNDS**

35
36 10.1 Minutes of Meetings. To the extent required by *Corporations Code* section
37 8320(a)(2), the Association shall keep minutes of meetings and proceedings of
38 the Members (including membership votes), meetings of the Board and
39 Committees of the Board, and meetings of any other committee appointed by the
40 Board that has decision-making authority. As provided in **Section 6.14** ("Minutes
41 of Meetings of Directors"), any matter discussed in executive session shall be
42 generally noted in the minutes of the next following open meeting of the Board,
43 and minutes of executive sessions shall not otherwise be required. Minutes shall
44 set forth the time and place of holding of such meetings; whether regular or
45 special, and if special, how authorized; what notice was given; the names of
46 those present at meetings of the directors or of any Committee of the Board or of
47 any other committee appointed by the Board that has decision-making authority;

1 the number of votes cast in any vote or election of the membership (or, if
2 applicable, the number of memberships and votes present at Member meetings);
3 and all the proceedings thereof.
4

5 10.2 Members' Access to Minutes, Books, and Records. To the extent required by
6 *Civil Code* sections 5200, 5205, 5210, 5215, 5220, 5225, and 5230, and subject
7 to a requesting Member's compliance with all applicable prerequisites and any
8 applicable limitations (including but not limited to *Corporations Code* section
9 8332 concerning protection of constitutional rights of other Members,
10 *Corporations Code* section 8338 concerning use of memberships lists, and *Civil*
11 *Code* section 5215 concerning withholding or redacting certain records), the
12 Association shall make available for inspection and copying by any Member
13 "Association records" (as defined in *Civil Code* section 5200) maintained by the
14 Association. This provision does not require the Association to create or
15 maintain any records not otherwise required by law to be maintained. The Board
16 may adopt and publish reasonable Rules and regulations establishing
17 procedures relating to a Member's inspection and obtaining copies of Association
18 records.
19

20 10.3 Directors' Inspection Rights. As provided in *Corporations Code* section 8334,
21 and subject to any limitations established by law, every director shall have the
22 right at any reasonable time to inspect and copy all books, records, and
23 documents and to inspect the physical properties of the Association.
24

25 10.4 Checks, Drafts, and Evidences of Indebtedness.

26
27 10.4.1 Operational Expenditures. All checks, drafts, or other orders for
28 payment of money, or notes or other evidences of indebtedness issued
29 in the name of the Association for operational expenditures shall be
30 signed by at least two (2) persons who shall be members of the Board
31 of Directors.
32

33 10.4.2 Reserve Expenditures. In accordance with *Civil Code* section 5510(a),
34 the withdrawal of funds from the Association's reserve account shall
35 require the signatures of at least two (2) persons who shall be
36 members of the Board of Directors.
37

38 10.5 Funds and Deposits. Any funds of the Association shall be deposited to the
39 credit of the Association in such banks or other depositories as the Board of
40 Directors shall, from time to time, determine. The managing agent of the
41 Association, if any, shall manage the Association's funds in accordance with *Civil*
42 *Code* section 5380.
43

44 10.6 Fiscal Year. The fiscal year of the Association shall be from January 1 to
45 December 31.
46
47

1 **ARTICLE 11** **AMENDMENTS**
2

3 11.1 Amendments Generally. These Bylaws may be amended by approval of the
4 Board and the affirmative vote of a Majority of a Quorum of the Members;
5 *provided, however,* that, upon advice of legal counsel licensed to practice law in
6 the State of California, including the drafting by legal counsel of appropriate
7 amendatory provisions, the Board shall have the authority without the
8 requirement of Member approval to amend any provision of the Bylaws: (i) to
9 resolve any conflict between the Bylaws and applicable law which may arise due
10 to the enactment or amendment of a statute or due to a development in
11 applicable case law or (ii) to conform the provisions of the Bylaws to changes in
12 applicable statutory law that impose requirements that are non-discretionary.

13
14 11.2 Record of Amendments. When an amendment or a new Bylaw provision is
15 adopted, it shall be placed in the appropriate place in the minute book of the
16 Association together with a certificate signed by the Secretary stating the date on
17 which it was approved by the Board and whether at a meeting or by unanimous
18 written consent of the directors, and the date on which it was approved by the
19 Members.
20

21
22 **ARTICLE 12** **MISCELLANEOUS**
23

24 12.1 Conflict in Governing Documents. In the case of any conflict between the
25 Articles of Incorporation and these Bylaws, the Articles shall control; and in the
26 case of any conflict between the Declaration and these Bylaws, the Declaration
27 shall control.
28

29 12.2 Amendments to Referenced Statutes; Time for Performance. References in the
30 Bylaws to particular statutes, including sections of the *Civil Code* or the
31 *Corporations Code*, shall be deemed to include any successor statute and any
32 amendments to existing or successor statutes. Whenever these Bylaws state a
33 time for the performance of any act by the Association which by law (as it may
34 exist from time to time) must be performed at or within a specified time, the time
35 for the performance of such act shall be deemed to be the widest timeframe
36 permitted under then-applicable law.