Beach Terrace Community Association

c/o Huntington West Properties, Inc. 714-891-1522
13812 Goldenwest Street, Ste 100
P.O. Box 1098
Westminster, CA. 92684

July 19, 2024

Members of Beach Terrace Community Association, Inc.:

Re: Proposed Election Rules attached for Membership Review and Comment

Dear Members:

The Board will consider adopting the attached Election Rules at an upcoming Board meeting. The purpose and effect of the proposed Election Rules is to conform to the changes in the law effective 2022-2023 and to provide the Board and Association Members with clear election policies and procedures.

You may forward any comments you have about the proposed rules to the Board by August 15, 2024. The Board will consider your timely written comments before voting on whether to adopt these rules at an open board meeting scheduled on October 21, 2024 or sooner if desired by the Board.

Only those written comments received prior to August 15, 2024, will be considered by the Board in their voting process. Mail or email your comments to Andrew Marques, Community Manager Beach Terrace Community Association C/O Huntington West Properties P.O. Box 1098 Westminster, CA 92683 or email your comments to andrew@huntingtonwest.com

Should you have any questions, please call me.

Respectfully,

Andrew N. Marques
Account Manager
Ext. 229
andrew@huntingtonwest.com

Encl: Proposed Election Rules

Served by First Class US Mail

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ELECTION RULES

BEACH TERRACE COMMUNITY ASSOCIATION, INC.

a California nonprofit corporation

Adopted on _____

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ELECTION RULES
BEACH TERRACE COMMUNITY ASSOCIATION, INC.
a California nonprofit corporation

These Election Rules revoke all previous election rules, and all amendments thereto, and substitute in their place these Election Rules. These Election Rules apply to elections regarding assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, and the grant of exclusive use of the common area under Civil Code §4600, or any other election if required by law.

ARTICLE 1: DEFINITIONS

1.1 "Association" means the Beach Terrace Community Association, Inc., a California nonprofit corporation.

1.2 "Board" or "Board of Directors" means the Board of Directors of the Association.

1.3 "Bylaws" means the Association's bylaws.

1.4 "CC&Rs" means the Association's declaration as the term is defined in the Davis-Stirling Act.

1.5 "Davis Stirling Act" means and refers to the Davis-Stirling Common Interest Development Act, which is the portion of the California Civil Code beginning with Section 4000, that governs common interest developments.

1.6 "Development" has the same meaning as such term is defined in the Association's CC&Rs.

1.7 "Director" means any member of the Association's Board of Directors.

1.8 "Inspector of Elections" means an inspector of elections as defined in the Davis-Stirling Act.

1.9 "Member" means a Member of the Association as defined in the Association's CC&Rs.

1.10 "Quorum" means a quorum of the Membership as defined in the Association's Bylaws and hereinafter.

1.11 "Lot" means a Lot as defined in the Association's CC&Rs.

ARTICLE 2: MEMBERSHIP MEETINGS

2.1 Generally.

a. *Annual Meetings*. The Association must hold a membership meeting at least each year (1) to count ballots for any balloted election of Directors at the expiration of any Director's term, (2) to announce the outcome of any balloted Director

election, and (3) to conduct any other Association business. Such meetings may include ballot counting for other types of elections as well.

b. *Special Meetings*. Special meetings may be called for any lawful purpose by any of the following: (i) President of the Association and (ii) a majority of a quorum of the Board. In addition, special meetings of Members for any lawful purpose may be called by five percent (5%) or more of the Members in good standing, or as otherwise required by law. If a special meeting is called by Members of the Association, the request must be submitted to the Board in writing, specifying the nature of the business to be transacted. The Director or officer receiving the request must promptly deliver the request to the remaining Directors.

c. *Date, Time and Location of Meetings*.

i. *Selected by the Board.* The Board is permitted to set the date and hour to hold annual meetings. However, the annual meeting must be held in the same month as the preceding annual meeting if it is reasonably practical to do so, but not more than fifteen (15) months from the date of the preceding annual meeting.

ii. *Selected by the Membership.* If the date, time and/or location of a membership meeting selected by petitioning Members is unreasonable or contrary to the governing documents and/or statutory requirements, the Board is empowered to reschedule the date, time and/or location to something reasonable, relatively close to the original date, time and location requested by the Members calling the meeting, and compliant with the governing documents and statutory requirements.

iii. *Location of Membership Meetings.* Annual and special membership meetings will be held at a suitable location in or reasonably close to the development.

iv. *Membership Meetings Conducted Entirely By Teleconference*. A membership meeting may be conducted entirely by teleconference, without any physical location being held open for the attendance of any Director or Member, if all notices and other conditions required in Civil Code §§ 4926 or 5450 are met. This Section does not apply to teleconference membership meetings at which ballots are counted and tabulated pursuant to Civil Code §5120.

2.2 <u>Notice Requirements.</u>

a. *Notice of Annual Meetings or Special Membership Meetings Called by the Board.* Except where one or more different periods are required by superseding provisions of the Davis-Stirling Act, notice of annual meetings or special membership meetings called by the Board must be given not less than ten (10) days nor more than ninety (90) days before the date of the meeting.

b. *Notice of Special Meetings Called by Petition of the Members*. Notice of special meetings called by the Members must be given by the Board within twenty (20) days of the Board's receipt of such request. If the Board fails to give notice, the persons calling the special meeting may give notice consistent with these Election Rules. Member-initiated special membership meetings must be held not less than thirty-five (35) days nor more than one hundred and fifty (150) days following the Board's receipt of the request.

c. *Notice for Ballot-Counting Meetings*. If secret ballots are to be counted at a membership meeting or Board meeting, at least thirty (30) days' notice, or any longer period of notice required by the Bylaws or the Davis-Stirling Act, must be given to every Member before the ballots are distributed.

d. *Notice Contents and Other Requirements*.

i. *Generally*. The notice must specify at least the place, date, and time of the meeting.

ii. *Special Membership Meetings*. In the case of a special membership meeting, the notice must include the general nature of the business to be transacted as specified by those persons calling the meeting. No other business may be transacted except as specified in the notice.

iii. *Annual Membership Meetings*. In the case of the regular annual meeting, the notice must include those matters which the Board intends to present for action by the Members. When the authorized Quorum for a regular membership meeting is less than one-third of the voting power, then only matters, the general nature of which was given in the notice, may be voted upon. Otherwise, any proper matter may be presented at the meeting.

iv. *Teleconference Membership Meetings* . Notices of membership meetings held by teleconference must comply with the requirements of Civil Code §§4926 or 5450.

e. *Delivery Requirements*. Notice of any membership meeting must be delivered as follows:

i. *Method of Delivery.* Either personally, by electronic transmission (when consented to by the Member and not revoked), by first-class mail, charges prepaid, or by any other means permitted by law.

ii. *Location of Delivery.* To the Member: (a) at the Member's preferred delivery method, and, if specified, the Member's alternate or secondary delivery method as specified in a written notice provided by the Member to the Association pursuant to Civil Code §4041(a); or (b) if the Member fails to provide such notice, the last mailing address provided in writing by the Member; or (c) if none of the above, the property address of the Member's Lot.

iii. *Delivery Deemed Given.* Notice of a membership meeting is deemed given when delivered personally, deposited in the mail, or upon completion of electronic transmission to those Members who have consented to same.

2.3 Chair and Secretary of Meeting. The President of the Board or, in the President's absence, the Vice President or any other person designated by the Board must call the membership meeting to order and must chair the meeting. The Secretary of the Board must act as Secretary. In the absence of the Secretary, the presiding Officer must appoint someone to serve as acting Secretary for the meeting.

2.4 Recording of Meetings. Audio and video recording of membership meetings are prohibited by anyone other than a person authorized by the Board to record the meetings for the sole purpose of preparing official Association minutes.

ARTICLE 3: VOTING RIGHTS

3.1 Number of Votes. For each matter submitted to the membership for a vote, Members are entitled to one (1) vote for each Lot (regardless of the number of Members having an interest in the Lot). The Association may not suspend the voting rights of Members.

3.2 Co-Owners. Where there is more than one owner of a Lot subject to the Association's CC&Rs, all such co-Owners are Members and may attend any meeting of the Association, but only one co-Owner is entitled to exercise a vote to which the Lot is entitled. Fractional votes are not permitted. In the event more than one ballot is cast for a particular Lot on the same matter, only the first ballot received will be opened and counted.

3.3 Proof of Membership. No person or entity may exercise the rights of membership without an ownership interest in a Lot subject to the Association's CC&Rs. If the Board requests proof of ownership, the required proof is a recorded deed showing the required ownership or, if the property was transferred within the past thirty (30) days and a copy of the newly-recorded deed is not yet available, a completed escrow closing statement is sufficient.

3.4 Presumption of Consent. Unless the Inspector(s) of Elections receive a written objection prior to the close of balloting from a co-Owner, it is conclusively presumed that a voting owner acted with the consent of their co-Owners.

3.5 Voting for Properly Nominated Candidates. Members must vote only for those candidate(s) who have been properly nominated prior to the close of nominations.

3.6 Electing Board Seats with Different Terms. In any election where different Board seats to be filled have different terms, the elected candidate(s), in the order of the most votes received, will fill the longest terms available first.

3.7 Record Date. For membership elections where written ballots are used, the record date for voting in the election will be the first date any ballots are distributed to the membership. However, if a ballot-counting meeting (whether a membership meeting or a Board meeting) for a membership election is adjourned, the Board may establish a new record date and if so, must give notice of the adjourned meeting to each Member who, on the record date for notice of the

meeting, is entitled to vote at the meeting. Only persons who are/were Members on the original or new record date are entitled to vote for their respective Lot(s). Nothing in this subsection permits the casting of more than one ballot for each Lot. Members not on title on a record date may attend the ballot-counting election meeting but are not entitled to vote. For any membership election where a written ballot is not used, the Board is permitted to set a record date for an election no more than sixty (60) days before the date of the election meeting.

3.8 Proxies.

a. *Generally*. The Association may use and accept proxies as permitted by law and the Association's governing documents, provided that the Association is not required to prepare or distribute proxies. Proxies are not permitted to be construed or used in lieu of a ballot for any purpose.

b. *Proxy Form*. Any instruction given in a proxy issued for an election that directs the manner by which the proxyholder is to cast the vote must be set forth on a separate page of the proxy that can be detached and given to the proxyholder to retain. Proxies must meet all requirements of Chapter 6 of Article 4 of the Davis-Stirling Act, other laws, and the Association's governing documents.

c. *Vote by Proxyholder*. The proxyholder must cast the Member's vote by secret ballot unless the proxy is revoked by the Member prior to the receipt of the ballot by any Inspector of Elections as described in Corp. Code §7613.

d. *Who May Be Proxyholder*? As provided for in Civil Code §5130(a)(1), proxyholders must be Members.

3.9 Cumulative Voting. Cumulative voting is permitted. Every Member entitled to vote at any election for Directors of the Association is permitted to cumulate their votes and give one (1) candidate the total number of votes to which the Member is entitled to cast or may distribute the Member's votes among the candidates as desired.

3.10 Quorum for Director Elections. There is no Quorum required for an election of Directors.

3.11 Quorum for Membership Meetings/Elections (Other than Director Elections). Unless otherwise provided by law or these Bylaws, the Quorum requirement for membership meetings or elections (other than an election of Directors) is fifty-one percent (51%) of the voting power of the Association. A Quorum may be represented by any combination of Members physically present, virtually present by electronic video screen communication, conference telephone, or other means of remote communication, as permitted by Corp. Code § 7511(a), present by proxy as such term is defined by Civil Code § 5130, and/or present by casting a ballot as provided for in Civil Code § 5115(d). Under the Davis-Stirling Act, the Quorum for elections regarding Assessments legally requiring Membership Approval is more than fifty percent (50%) of the Members.

a. *Adjournment*. In the absence of a Quorum at the beginning of a membership meeting, no business may be transacted, except to adjourn the meeting to another

date and time by the vote of at least a majority of the Members represented at the meeting. However, excepting only the circumstances described in the first sentence of this paragraph, a ballot-counting meeting for any election by the Members (except an election of Directors), whether conducted at a membership meeting or a Board meeting, may be adjourned to another date and time selected by vote of the Board of Directors. The date of any adjourned ballot-counting or other meeting must be announced by the Board at the membership or Board meeting, and written notice of the date, time, and place the adjourned meeting must be given to the Members within the notice period required by law. Except for an election of Directors meeting, any adjournment must be to a date not less than five (5) days nor more than thirty (30) days from the date the original meeting was called and the Quorum for any adjourned meeting or election will be reduced to twenty-five percent (25%) of the voting power of the Association.

3.12 Loss of Quorum. The Members present at a duly called membership meeting at which a Quorum is initially present may continue to transact business until adjournment, notwithstanding the loss of a Quorum, so long as the business must be approved by enough Members to constitute at least a majority of a Quorum had a Quorum been present.

3.13 Approval Requirements.

a. *Generally*. The approval requirement for all matters decided by the membership is the affirmative vote of a majority of the votes represented and voting in a duly held election in which a Quorum is represented, which affirmative votes also constitute a majority of the required Quorum, unless otherwise specified in the Bylaws or the CC&Rs.

b. *By Ballot*. Approval by written ballot (secret or non-secret) is valid only when: (i) the number of votes cast by ballot by the specified deadline equals or exceeds the Quorum (if any) required to be present at a meeting authorizing the action; and (ii) the number of votes cast equals or exceeds the number of votes that would be required to approve the action at a meeting.

ARTICLE 4: NOMINATIONS

4.1 Nomination Procedures and Notice. Prior to the election of Directors, the Board must, by written notice to all Members, solicit nominees. The solicitation must specify the qualifications for candidates for the Board and the procedure and deadline for submitting a nomination. The deadline must be at least thirty (30) days after giving notice. Delivery of the solicitation must be by general notice or, if individual notice is requested by a Member before the solicitation is given, by individual notice, pursuant to Civil Code §4040. Nominees must be listed as candidates on the ballot provided (i) they meet candidate and Director qualifications and (ii) their nomination is made prior to the date and time set for the close of nominations.

4.2 Self-Nomination. Any qualified person may nominate himself or herself for election to the Board of Directors by submitting to the Association a written statement signed

and dated by the person nominating himself or herself. Self-nominations are subject to the same procedures and deadlines as nominations by others as set forth above in Section 4.1.

4.3 Floor Nominations and Write-In Candidates. Once nominations have been closed, no write-in candidates are allowed on ballots and no floor nominations of candidates can be made at the ballot-counting meeting.

4.4 Election by Acclamation (Uncontested Elections). When, as of the deadline for submitting nominations provided for in Civil Code §5115(a), the number of qualified candidates is not more than the number of vacancies to be elected, as determined by the Inspector or Inspectors of Elections, the Association may, but is not required to, consider the qualified candidates elected by acclamation if all the conditions set forth in Civil Code §5103 are met.

ARTICLE 5: DIRECTOR ELECTIONS

5.1 Number and Term of Directors. The Board will consist of five (5) Directors. The term of each Director is one (1) year and until a qualified successor is elected to fill his/her seat.

5.2 Candidate and Director Qualifications. Members must meet the qualifications in the subsections hereafter to be eligible for nomination as a candidate for, or to serve as a Director on, the Board.

a. *Candidates and Directors Must Be Members*. The Board must disqualify (1) the nomination of any candidate running for the Board and/or (2) any Director serving on the Board, who is not a Member of the Association. Further the Board is not permitted to appoint any person to serve on the Board who is not a Member of the Association. A Director who ceases to be a Member shall be disqualified from continuing to serve as a Director. Proof of membership must be a recorded deed. Persons holding a fee simple interest in a Lot merely as security for the performance of an obligation are not eligible to either be a candidate for or to serve on the Board.

b. *Prior Ownership for One Year*. To be eligible for nomination and/or to serve on the Board, a candidate for the Board or serving Director must be the record Owner of a Lot for a period of at least one year.

c. *Member in Good Standing*. To be eligible for nomination and/or to serve on the Board, the person or impersonal entity must not be delinquent in the payment of any regular or special assessment, except:

   i. A person may not be disqualified from nomination for nonpayment of fines, fines characterized as assessments, collection charges, late charges or costs levied by a third party.

   ii. A person may not be disqualified from nomination because the person has paid the regular or special assessment under protest.

iii. A person may not be disqualified from nomination due to delinquent assessments if the person has entered into a payment plan with the Association pursuant to Civil Code §5665 and is fulfilling the terms of the payment plan.

d. *Co-Owners Eligible for only One Position.* To be eligible for nomination and/or to serve on the Board, the person or impersonal entity must not have a record fee simple ownership interest in a Lot which is part of the Development with another person or impersonal entity concurrently serving as a Director. Where two or more co-Owners concurrently seek election to the Board, only the first nomination will be effective.

e. *Criminal Conviction.* The Association may disqualify a candidate or Director that discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would, if the person was elected, either prevent the Association from purchasing the insurance required by Civil Code §5806 or terminate the Association's existing insurance coverage required by Civil Code §5806 as to that person. Each nominee, at the time of nomination, shall disclose the existence of any past criminal conviction, with sufficient details to allow the Board to determine whether the criminal conviction will prevent the Association from purchasing the required insurance coverage or result in the termination of such insurance coverage.

f. *Internal Dispute Resolution.* Before any candidate for nomination or serving Director may be disqualified, the person or impersonal entity must be provided the opportunity to engage in internal dispute resolution as provided in the Davis-Stirling Act.

5.3 Impersonal Entities. If title to a Lot is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person to be a Member for the purpose of candidacy or serving on the Board. The designation by the impersonal legal entity must be in writing with documentation confirming both the designation and its authority to do so.

5.4 Trusts. If title is held in the name of one or more trustees, subject to a trust, a sole trustee or one of several trustees is permitted to be a candidate for a position on the Board or to serve on the Board subject to all qualifications and/or requirements of the Association's governing documents and/or the law. The designation of one of several trustees must be in writing with documentation confirming both the designation and the authority of the designator to do so.

5.5 One Directorship Only. No Member who is a natural person is permitted to be a candidate for and/or to hold multiple positions on the Board, regardless of the number of Lots owned by such Member. No natural person designated by a Member who is not a natural person to be a candidate for and/or to serve on the Board is permitted to hold multiple candidacies for or positions on the Board, regardless of the number of Lots owned by such Member. No Member

who is not a natural person can designate more than one person to be a candidate and/or to serve on the Board, regardless of the number of Lots owned by such Member.

ARTICLE 6: INSPECTOR(S) OF ELECTIONS

6.1 Selection.

a. *Process*. Prior to the date ballots are first sent out, the Board of Directors must, at an open meeting of the Board, select either one (1) or three (3) person(s) as Inspector(s) of Elections.

b. *Eligible Inspector(s)*. The Board may select as Inspector(s) of Elections, any person or entity or subdivision of a business entity not currently employed or under contract to the Association. Eligible Inspectors include, but are not limited to:

i. Poll Workers. A volunteer poll worker with the County Registrar of Voters;

ii. Accountants. A licensee of the California Board of Accountancy, not under contract to the Association;

iii. Notary Public. A notary public commissioned by the California Secretary of State;

iv. Association Members. Members of the Association, but not: (i) members of the Board, (ii) candidates for the Board, (iii) persons related to a member of the Board, or (iv) persons related to a candidate for the Board;

v. Professional Inspectors. Third party persons or entities who provide professional election services who contract with the Association solely to serve as an Inspector of Elections.

6.2 Duties. Duties of Inspector(s) of Elections include the following:

a. *Membership*. Determine the number of memberships entitled to vote and the voting power of each.

b. *Validity of Proxies*. Determine the authenticity, validity and effect of proxies, if any.

c. *Closing and Reopening of Polls*. Determine when the polls close, including any desired extensions of the voting period, and determine whether to reopen the polls to allow Members to cast ballots if the polls were previously closed, all consistent with the Association's other governing documents.

d. *Receive Ballots*. Receive all ballots. Once received by an Inspector of Elections, ballots are irrevocable.

e. *Custody*. Sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times be in the custody of the Inspector(s) of Elections or at a location designated by the Inspector(s) until after the tabulation of the vote, and until the time allowed by Civil Code §5145 for challenging the election has expired, at which time custody shall be transferred to the Association. No person, including a Member of the Association or an employee of the management company, is permitted to open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. The Inspector(s) of Elections or the Inspector(s) appointee(s) may verify the Member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated and, on request of the Board of the Directors, will share such information with the Board to allow it to solicit votes when necessary or desirable.

f. *Challenges*. Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote. If there is a recount or other challenge to the election process, the Inspector(s) of Elections must make the ballots available for inspection and review by an Association Member or the Member's authorized representative, upon written request. An Association Member may authorize a representative to review the ballots on their behalf. Any recount must be conducted in a manner that preserves the confidentiality of the vote.

g. *Counting Ballots*. Count and tabulate all votes. All votes must be counted and tabulated by the Inspector(s) of Elections or the Inspector(s) appointee(s) in public at a properly noticed open meeting of the Board of Directors or Members or, if the ballot counting and tabulation is conducted by video conference, as permitted by Civil Code §5450, the camera must be placed in a location to allow Members to witness the Inspector of Elections doing so. During in-person ballot counting and tabulating, candidates and Members may witness, but not interfere with, the counting and tabulation of the ballot and must remain at least two (2) feet away from the Inspector(s) and their appointee(s) at all times.

h. *Appoint Assistants*. Appoint and oversee additional independent third parties to verify signatures, and to count and tabulate votes as the Inspectors of Elections deem appropriate provided that such persons are independent third parties.

i. *Results*. Determine the tabulated results of the election.

j. *Impartiality*. Perform all duties impartially, in good faith, to the best of the ability of the Inspector(s) of Elections, as expeditiously as is practical, and in a manner that protects the interests of all Members of the Association. Any report made by the Inspector(s) of Elections is *prima facie* evidence of the facts stated in the report.

k. *Miscellaneous*. Perform any acts as may be proper to conduct the election with fairness to all Members in accordance with the Civil Code, the Corporations Code, the Association's governing documents, and all applicable rules of the

Association regarding the conduct of the election that are not in conflict with the Civil Code.

6.3 Removal. The Board has the power to remove any Inspector(s) who cease(s) to meet the required qualifications, are unable or unwilling to perform their duties, or for any other good reason, and to appoint one or more replacement Inspectors.

ARTICLE 7: ACTION BY BALLOTS

7.1 Secret Ballots. The use of secret ballots is only necessary when required by law. When secret ballots are not required by law, elections may be conducted by secret ballot, non-secret written ballot, or any other method permitted by law. Any action which may be taken at any meeting of Members may be taken without a meeting (except to count ballots, which can be done at either a membership meeting or a Board meeting) if the Association distributes a secret written ballot to every Member entitled to vote on the matter.

7.2 Power of Attorney. The Association cannot deny a ballot to a person with general power of attorney for a Member. The ballot of a person with a general power of attorney must be counted if timely returned.

7.3 Pre-Ballot Notice. For Director and recall elections only, at least thirty (30) days before the ballots are distributed, the Association must provide general notice (or individual notice to a Member who requested it) which includes:

a. The date, time, and physical address to mail or hand deliver ballots to the Inspector(s);

b. The date, time and location of the ballot counting meeting; and

c. A list of candidates to appear on the ballots.

7.4 Candidate List and Voter List. The candidate list must include the name and address of individuals nominated as a candidate for election to the board of Directors. The voter list must include name, voting power, and either the physical address of the voter's Lot, the parcel number, or both. The mailing address for the ballot shall be listed on the voter list if it differs from the physical address of the voter's Lot or if only the parcel number is used. The Association must retain, as Association election materials, both a candidate registration list and a voter list.

7.5 Verification of Lists. The Association must permit Members to verify the accuracy of their individual information on the candidate registration list, if applicable, and the voter list at least thirty (30) days before the ballots are distributed. The Association or Member must report any errors or omissions to either list to the Inspector(s) of Elections who must make the corrections within two business days. Reports of any errors or omissions should be made early enough to allow for corrections to be made before the ballots are distributed.

7.6 Ballot Package. All secret ballots mailed or otherwise delivered to the membership must include a double-envelope system and voting instructions for completing and

returning the secret ballots as provided for in the Davis-Stirling Act. Ballots seeking approval to amend or restate governing documents must be delivered to the Members with the text of the proposed amendment.

a. *Secret Ballot – Generally.* Secret ballots must be marked to indicate the Member's selections, if any. Blank ballots will still count toward Quorum requirements. Secret ballots do not require a signature but are not invalidated by Member signatures.

b. *Secret Ballot – Content.* Ballots must: (i) set forth the proposed action; (ii) provide an opportunity to approve or disapprove each item submitted for a vote; (iii) set forth the number of ballots needed to satisfy the Quorum requirement, if any; (iv) specify the percentage of votes required to pass the proposal; (v) state a deadline by which the ballot must be returned to be counted; and (vi) in the case of a Director election, the candidates' names identified in the pre-ballot notice.

c. *Inner Envelope.* The Association will provide an inner and outer (return) envelope. To preserve secrecy, the secret ballot is to be placed within an inner envelope with no identifying information. However, extraneous information written on the inner envelope by a Member will not invalidate the ballot. The inner envelope containing the secret ballot is to be placed into a second outer envelope containing identifying information.

d. *Outer Envelope.* In the upper left-hand corner of the outer envelope containing a secret ballot, the voting Member must sign their name and indicate (print, type, etc.) their name and the address entitling them to vote. The outer envelope must be addressed to the Inspector(s) of Elections.

e. *Delivery.* Delivery of the ballot materials must be made to every Member entitled to vote at least thirty (30) days before the initial voting deadline. Any Member may request a receipt for delivery. After casting of the ballot, the completed outer envelope containing the inner envelope and ballot may be returned in the manner specified in the ballot or voting instructions.

7.7 Extended Voting Deadline. The Inspector may reopen the polls and extend the voting deadline to allow additional balloting to achieve a Quorum or to permit additional participation by the Members in an election when desirable or appropriate. If the voting deadline is extended, the Board is empowered to adjourn the ballot-counting meeting to a date at or beyond the extended voting deadline and Members who have not previously voted may do so up to the extended voting deadline.

7.8 Election Rules. At least thirty (30) days before the voting deadline, the Inspector(s) of Elections must deliver, or cause to be delivered, the election operating rules to all Members. Such rules may be delivered (1) by individual delivery (Civil Code §4040) or (2) by posting the rules on an internet website and including the website address (URL) on the ballot with the phrase, in at least 12-point font: "The rules governing this election may be found here:"

7.9 Counting Ballots. The Inspector(s) of Elections must oversee the opening and tabulating of all ballots before the membership at a properly noticed open meeting of the Board or membership as provided for in the Election Rules. No person is permitted to open or otherwise review any ballot prior to the time and place at which the ballots are opened and counted.

ARTICLE 8: POST-ELECTION RESULTS

8.1 Breaking a Tie. In the event of a tie leaving the outcome of the election unresolved, the following will apply:

a. The Inspector(s) of Elections, and any designees, will immediately conduct a recount of the ballots. If there is a charge, the Association will bear the expense. Members may observe the recount under the same conditions as the original ballot counting.

b. Following the immediate recount, if the tie remains, all other newly elected Directors will immediately begin serving their terms. An incumbent Director whose seat was tied will continue in office until a runoff election determines the winner for their seat. Only candidates who tied for the seat will be in the runoff.

c. In lieu of a runoff and if the tied candidates agree, the winner may be decided by a coin toss or the drawing of names by the Inspector(s) of Elections.

8.2 Results of an Election. The tabulated results of the election must be announced immediately after all the ballots have been counted. The tabulated results of the election must be promptly reported to the Board of Directors and must be recorded in the minutes of the next Board meeting. Within fifteen (15) days of the election, the Board must publicize the tabulated results of the election in a communication directed to all Members.

8.3 Handling and Storage of Election Materials after the Election. The sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times be in the custody of the Inspector(s) of Elections or at a location designated by the Inspector(s) until after the tabulation of the vote, and until the time allowed by Civil Code §5145 for challenging the election has expired, at which time custody must be transferred to the Association. The Association must maintain Association election materials for one year after the election.

8.4 Election Recount or Other Challenge. If there is a recount or other challenge to the election process, the Inspector(s) of Elections shall, upon written request by the Board or a Member, make the ballots available for inspection and review by the requesting party or its authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote. Election recounts, other than the automatic recount following a tie leaving the outcome of an election unresolved, will be conducted as follows:

a. Any Member of the Association may demand a recount of the ballots provided (i) demand is made in writing to the Inspector(s) of Elections within five (5) days after the election results have been announced, and (ii) the Member pays in advance for the estimated cost of the recount to the Inspector(s) of Elections

before the recount begins. Monies advanced by the Member must be refunded if the outcome of the election is changed by the recount.

b. The recount must be commenced within seven (7) days of the request for the recount and must be done by or under the supervision of the Inspector(s) of Elections. If any Inspector of Elections declines to perform the recount, the Board may appoint a replacement Inspector of Elections, using the criteria specified in these rules and the replacement Inspector will assume custody of the ballots.

c. Any recount may be observed by Members of the Association. No election materials may be touched or handled by any person without the express consent of the Inspector(s) of Elections and under the supervision of the Inspector(s). The results of the recount must be reported to the Board of Directors and must be recorded in the minutes of the next Board meeting and reported to the membership.

d. The Board may request a recount on reasonable notice to the Inspector(s) of Elections at any time before the legal right to challenge the election has expired to ensure a fair and accurate result.

ARTICLE 9: CAMPAIGNING

9.1 Access to Media.

a. *Association Media.* Neither candidates nor Members may use the Association's newsletter, website, or any other Association media for campaign purposes.

b. *Membership List.* Candidates and Members have the right to request a copy of the Association's membership list for the purposes of distributing, at their own expense, materials which advocate a point of view reasonably related to an election, or as otherwise permitted by Civil Code §4515. Candidates and Members also have the right to contact Members who have opted out of the membership list through the alternate means of communication permitted under California Civil Code §5220 for the purposes of distributing, at their own expense, materials which advocate a point of view reasonably related to the election or as otherwise permitted by Civil Code §4515.

c. *Exception.* If any candidate or Member advocating a point of view is provided access to Association media, newsletters, or internet websites during a campaign, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and Members advocating a point of view, including those not endorsed by the Board, for purposes that are reasonably related to the election. The Association shall not edit or redact any content from these communications but may include a statement specifying that the candidate or Member, and not the Association, is responsible for that content. The Association and its Directors, officers, and agents are immune from liability for the content of those communications to the fullest extent provided by law.

9.2 No Use of Association Funds for Campaign Purposes. Association funds may not be used for campaign purposes in connection with any Board election and may not be used for campaign purposes in connection with any other Association election except to the extent necessary to comply with duties of the Association imposed by law. The Association is not permitted to include the photograph or prominently feature the name of any candidate on a communication from the Association or its Board. Directors, in their capacities as Members, are permitted to advocate for the election or defeat of any issue or candidate on the ballot at their own expense and are not permitted to use Association funds for that purpose in any capacity.

9.3 Improper Electioneering.

a. *Prohibited Activities*. In addition to any of the prohibitions under this Article, candidates, Members, and residents, including their tenants, families, employees, agents, visitors, and licensees, are prohibited from engaging in any of the following activities:

i. Causing any printed campaign or other election related materials to be placed upon or affixed to (1) residents' vehicles, (2) common area walls, doors, or windows, (3) mailboxes or mailbox structures, or (4) any portion of the common area not expressly permitted in these rules without prior authorization from the Board or management;

ii. Attempt to solicit either a vote or proxy from another Member, or their power of attorney, through deceit, harassment, intimidation, improper influence, undue coercion, or force;

iii. Attempt to prevent a Member from casting a vote or delegating their right to vote via proxy through deceit, harassment, intimidation, improper influence, undue coercion, or force;

iv. Interfere with the counting or tallying of votes;

v. Solicit the vote of a Member while in that Member's immediate presence or residence and during the time they know the Member is voting;

vi. Induce other Members to divert ballots away from the Inspector(s) of Elections; or

vii. Interfere with any candidate's ability to distribute authorized campaign materials.

b. *Report Violations*. Members are encouraged to report any electioneering violations they witness to the Board or management.

c. *Fines*. The Board is permitted to levy a fine of up to $100 for each violation of this Section.

ARTICLE 10: CANVASSING AND PETITIONING

10.1 Generally. Canvassing and petitioning the Members, the Board, and residents for purposes permitted in Civil Code §4515, by telephone and/or personal visits to private residences in the development, is limited to the hours of 10:00 a.m. until 8:00 p.m. However, any Member or resident who declines to be contacted on any issue, including for a purpose specified in Civil Code §4515, must not be contacted by telephone or personal visits thereafter.

10.2 Impermissible Conduct. Nothing in this Section permits a Member or resident to contact another Member or resident in a manner that constitutes (1) a breach of the Member's or resident's quiet enjoyment or (2) a nuisance.

ARTICLE 11: DISTRIBUTING INFORMATION

11.1 Generally. Reasonably distributing and circulating information for any purposes described by Civil Code §4515, is permitted and restricted as follows:

a. Members or residents may distribute or circulate printed information for purposes specified in Civil Code §4515 to other Members or residents by (1) mail, (2) placing printed materials under front doors, front door mats, in front door delivery slots, and/or behind screen doors, (3) hanging door knob hangers on front door knobs or attaching materials to front door knobs with a rubber band or similar non-destructive means of attachment, and/or (3) handing out printed material in the common area to Members and residents willing to accept such materials. The handing out of materials in the common area is limited to the hours of 10:00 a.m. until 8:00 p.m.

b. Members and residents may not cause any printed materials, including those for any purposes specified in Civil Code §4515, to be placed upon or affixed to (1) residents' vehicles, (2) common area walls, doors, or windows, (3) mail boxes or mail box structures, or (4) any portion of the common area not expressly permitted in these rules without prior authorization from the Board or management.

c. Members and residents distributing and circulating printed materials permitted in these rules, such as those left at front doors or in other permissible locations in the development, are responsible to collect and discard any such materials that remain uncollected after twenty-four (24) hours from distribution or circulation.

ARTICLE 12: PETITIONS

12.1 Purpose. The purpose of the petition for a membership meeting must be set forth in the petition so Members know what they are signing. Meetings may only be called for a proper purpose.

12.2 Signatures. Only Members may sign petitions. Signatures by persons not on title are invalid. The Association may validate signatures by comparing them against signatures on file with the Association or by contacting signers to verify their signatures. Any person on title to

a property can sign on behalf of the property but it counts only once. For example, if there are ten owners on title for one unit, all of whom sign a petition, it counts as one signature not ten.

12.3 Invalidity of Signatures. A petition can be rendered invalid if a sufficient number of signatures are found invalid or rescinded for good cause (such as fraud, mistake, undue influence, or other valid grounds for rescission), such that the number of remaining signatures falls below five percent (5%) of total voting power of the membership.

12.4 Setting the Date. The date of the special meeting for a recall must be set in the manner provided for in these Election Rules above and the law.

12.5 Recall Petitions. Recalls are not permitted to be started against the Board as a whole or any individual Director if: (a) the Board or Director has held office during the current term for less than ninety (90) days; (b) a recall election has been determined in the Board's or the Director's favor within the last six (6) months; (c) for a recall of an entire Board, when an election of Directors will be held within six (6) months or less or (d) for the recall of individual Directors, when their term will end within six (6) months or less. Additionally, if a recall of the entire Board fails, a six (6)-month waiting period must be observed before recall petitions may be filed against individual Directors who served on that Board.

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