

SOLAR ENERGY POLICY

A. DEFINITIONS

Solar Energy System (SES): Any photovoltaic solar system providing collection, storage, and distribution of solar energy into the structural and electrical systems of the unit. Included in the solar module are solar panels, mounting systems, and wiring systems (disconnects for the DC and AC sides of the inverter, ground-fault protection, and overcurrent protection).

Exclusive Use Common Area: A portion of the Common Area that is set aside for the exclusive use of one or more, but fewer than all, of the Owners, and is appurtenant to the Manor(s), including patios, decks, verandas, balconies, storage spaces, parking spaces, and carports (as applicable) that are assigned and/or appurtenant to a Manor.

Additionally, the Common Area roof of the building of the Manor in which the owner resides or the roof of the Exclusive Use Common Area carport appurtenant to the Manor may be assigned for exclusive use to an Owner for the installation of a roof-top solar energy system (SES).

B. SOLAR ENERGY SYSTEMS (SES)

This section sets forth First Walnut Creek Mutual's rules for the installation and maintenance of SES (as defined) pursuant to Public Resource Code Section 25982, Civil Code Section 714, Civil Code Section 714.1, and Civil Code Section 4746, as amended.

An SES may be installed within the Common Areas or Exclusive Use Common Areas of the First Walnut Creek Mutual ("Mutual"), only as permitted under this policy. Any systems installed in violation of this policy will be removed, and the surrounding areas and electrical connections will be restored to their previous condition at the violating Owner's expense.

The Mutual is required to maintain, repair and replace Common Area roof systems, including the Common Area roofs or the roofs of the Exclusive Use Common Area carports. It is the intent of this Policy to recognize the statutory rights of Owners to install rooftop SES's, and to enable the Mutual to perform its exterior maintenance, repair, and replacement obligations.

1. SELECTION OF AN SES PROVIDER

The selection of an SES Provider is the sole responsibility of the Owner who wishes to become an SES Owner. All requirements and responsibilities

regarding solar policies must be agreed to and met by the SES Owner before the Alteration Application for the installation of a SES will be approved by the Mutual.

1.1 Prior to approval, the SES installer must be licensed and have insurance coverage that meets the following minimums:

- (a) Worker's Compensation with minimum coverage required by California law, and
- (b) Contractor's General Liability (including completed operations) with policy limits of at least \$1,000,000.
- (c) The SES installer must provide copies of certificates of insurance for the above policies, which name the SES Owner and the Mutual as insureds.

1.2 The SES Provider must utilize only the components agreed upon by the Board for all installations to maintain uniformity of all installations within the Mutual. These include:

- (a) Only non-glare, black solar panels and black frames (racking) will be approved.
- (b) Adherence to the distributive solar generating allotment of roof space for the project as plotted in the solar survey.
- (c) Duration of installation project must be specified and adhered to.
- (d) The installed SES must operate at less than 50 decibels.

2. ALLOCATION OF AVAILABLE SOLAR SPACE

The installation of an SES will be limited to the Common Area roof of the building of the Manor in which the SES Owner resides or the roof of the Exclusive Use Common Area carport appurtenant to the Manor. SES installations on the Common Area roof or the roof of an Exclusive Use Common Area carport will be initially limited to the flat portions of the roof unless the solar survey indicates there is insufficient solar space on the flat portion.

2.1. Installation of all SES's on the Common Area roofs or the roofs of the Exclusive Use Common Area carports will be based on a solar survey containing the following information:

- (a) A determination of total usable area of the Common Area roof or the Exclusive Use Common Area carport roof on which the SES will be installed;

- (b) A determination of the maximum number of SES's which can be installed on the Common Area roof or the Exclusive Use Common Area carport roof; and
 - (c) A determination of the equitable allocation of the total usable area of the Common Area roof or the Exclusive Use Common Area carport roof among all Owners sharing the same roof.
- 2.2. Installation of all SES's on the Common Area roofs or the roofs of the Exclusive Use Common Area carports will also be based on equitable apportionment of available solar space for current and future SES applicants within a building. The Board's goal is to ensure fair distribution of usable solar space for all SES Owners based on:
- The availability of usable solar space as determined by a solar survey, and
 - The roof plan.
- 2.3. The solar survey and the roof plan, prepared by a licensed contractor or the contractor's registered salesperson knowledgeable in the installation of an SES, must be performed and submitted to the Mutual's Building Committee or the Board (if no Building Committee is appointed) for determination of the usable solar space available to all Owners sharing the same roof. The roof plan must be to scale showing the physical plant and locations of existing roof vents, skylights, etc. These documents will identify the available and usable solar space on the roof.
- 2.4. Based on the solar survey, usable solar space for a roof will be reasonably apportioned by the Mutual taking into consideration the following constraints:
- (a) Walkways for the maintenance of existing roof equipment, vents, skylights, and gutters;
 - (b) Walkways deemed necessary by the Walnut Creek Fire Department;
 - (c) A number of plots (with the same square footage) equal to the number of Owners sharing the same roof, and
 - (d) Any other constraints outlined in the solar survey.
- NOTE: The resulting allocation of roof space may not be able to fully accommodate the solar generation needs of an SES applicant.
- 2.5. An SES applicant will identify one unused plot for the installation of their SES.

- 2.6. This roof plan will be used to identify a plot for future SES Owners sharing the same roof.

3. APPROVAL PROCESS

No SES may be installed or maintained within the Common Area of the Mutual without the written consent of the Mutual Board. The Board will generally utilize the same review and approval process used for other proposed physical changes to the Manor, the Exclusive Use Common Area, or the Common Area. Alteration permits, will be required as delineated in Mutual's Operating Rule 1.0.

- 3.1. SES applicants must notify each Owner sharing the same roof on which the installation will be located of their intentions to install an SES and attach to the Alteration Application:

- Certification of the names, addresses and dates of the notifications, and
- Any written comments by those Owners notified.

No application may be denied because of objections by an Owner sharing the same roof, but may be used by the Mutual in establishing any reasonable restriction on the installation.

- 3.2. The Mutual Building Committee or the Board (if no Mutual Building Committee is appointed) will review the Alteration Application for reasonable restrictions on the installation within time limits prescribed in Civil Code Section 714. Any Alteration Application that complies with this policy will be not be denied by the Board.
- 3.3. The SES applicant must provide satisfactory evidence of compliance with all requirements of the City of Walnut Creek by obtaining applicable permits, authorizations, and approvals through the City of Walnut Creek.
- 3.4. Before approving installation of any SES within the Mutual, the Board requires every SES applicant to execute a separate Solar Energy Systems Maintenance and Indemnity Agreement, in substantially the form attached hereto as Exhibit A ("Indemnity Agreement"). In the Indemnity Agreement, SES Owner shall acknowledge that he or she has read and understands all related Solar Energy Systems (SES) rules and agrees to comply with all of them.
- 3.5. In reviewing an Alteration Application for the installation of a SES, the Mutual may have its own solar survey prepared at the SES Owner's

expense. The Mutual also may hire a consultant, at the SES Owner's expense, to review all information and documentation provided by the SES Owner, including, but not limited, to the solar survey.

- 3.6. In the event that the SES Owner is leasing the SES from a third party (rather than purchasing it outright), the SES Owner agrees to include a provision in the lease with the third party that the Mutual shall not be responsible for any damages or losses resulting from the Mutual removing the SES to enable the Mutual to meet its maintenance, repair and/or replacement obligations as imposed by the Mutual's governing documents and/or California law.

Furthermore, in this Indemnity Agreement, the SES applicant agrees to indemnify, defend, and hold harmless the Mutual, Golden Rain Foundation and their respective officers, directors, employees, agents, members, and their respective successors, and assigns (hereinafter "Indemnitees"), from and against all losses, claims, expenses, causes of action, costs, demands, damages, expenses, judgment or liabilities, including, but not limited to, any such fees and expenses incurred in enforcing the Indemnity Agreement, resulting from, arising out of or in any way connected with the installation, maintenance, repair, operation, use, removal or reinstallation of the SES.

- 3.7. The SES Owner is financially responsible for any harm or damage to the Common Area, Exclusive Use Common Area, or other Manors. The SES Owner must maintain liability insurance coverage for any harm or damages to the SES or related to the SES. Before MOD issues final approval of the installation to allow operational use of the SES, the SES

Owner must provide MOD with the corresponding written certificate of liability insurance. The Mutual shall be named as an additional insured under the SES Owner's liability insurance.

- 3.8. The SES Owner who installs the system and each successive Owner must maintain a homeowner liability coverage policy with policy limits of at least \$1,000,000 until the permanent removal of the SES, providing MOD with a written copy of the annual renewal. The Mutual shall be named as an additional insured under the SES Owner's homeowner liability coverage policy.

4. SES INSTALLATION REQUIREMENTS

- 4.1 The visible ancillary components of the SES such as conduits and supports must be painted to match the exterior of adjacent structures,

unless such painting would void a manufacturer's warranty, result in an increase of more than \$1,000 for an SES, or reduce the efficiency of the SES by more than 10%.

- 4.2 All installations of the SES components must not materially harm or damage the Common Area, the Exclusive Use Common Area, or the Manor, nor void any warranties held by the Mutual or other Owners and/or impair the integrity of a building or structure.
- 4.3 All portions of an SES will be secured in a manner which does not jeopardize the safety or soundness of any structure or the safety of any person within the Mutual.
- 4.4 There will not be any exposed penetrations into the building structures, including, but not limited to, walls, ceilings, floors, and roofs, unless it is necessary for the installation and operation of the SES and/or to avoid an unreasonable increase in the cost of the installation of more than \$1,000, and/or an unreasonable decrease of more than 10% in the efficiency of the SES as originally specified and proposed in the Alteration Application.
 - (a) Any penetrations for wiring, piping, or anchoring of an SES into the building structures must be properly sealed and waterproofed in accordance with industry standards and building codes in order to prevent moisture penetration, resulting structural damage, or loss of warranty.
 - (b) For installations on Durolast surfaces, a Durolast certified roofing company must reseal the penetrations and the Durolast manufacturer must recertify the warranty. A new certificate of warranty must be provided to MOD prior to project completion.
- 4.5 The SES Owner is responsible for any damage to the building structures, building interiors, or personal property caused by such penetrations through the existing rooftop, even if the Mutual has primary maintenance responsibility for such elements, such as roofing, under the Mutual's governing documents.

5. SAFETY

Each SES must be installed and secured in compliance with manufacturer's specifications and/or instructions and all city, state and federal ordinances, regulations and laws.

- (a) Each SES must meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronic Engineers and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.
- (b) An SES must not obstruct access to or from any Manor, carport, walkway, or ingress or egress into any area of the Mutual in order to ensure the safety of individuals and allow safe access to the Mutual's physical plant.

In approving the installation of any SES, the Board is entitled to rely upon the representation of the designated contractor that the SES fully complies with the safety criteria set forth in this policy or the Alteration Application. Should the Board later determine that the SES is not in conformance with this policy or the Alteration Application, the Board may require the SES Owner to remove or modify the SES to bring it into compliance and assume all associated costs.

6. MAINTENANCE

- 6.1. SES Owner is responsible for all associated costs including, but not limited to:
 - (a) Maintaining the SES in good condition and repair.
 - (b) Replacement, repair, maintenance, moving or removal of the SES and any of its components until the SES has been permanently removed.
 - (c) Repair or replacement of any property damaged by the installation, maintenance and/or use of the SES.
 - (d) Restoration of SES installation sites to their original condition after removal.
 - (e) Correction of any SES safety hazards.
 - (f) Painting or replacing visible SES components, such as conduits and supports when deterioration occurs.
 - (g) Any increased costs incurred by the Mutual for maintenance or repair caused by the presence of an SES on the Common Area or those portions of a Manor or Exclusive Use Common Area (for which the Association is responsible under the Mutual's governing documents).
 - (h) Temporary removal and reinstallation of an SES or any of its affected system components so that the Mutual may perform required maintenance, repairs, and replacement (under the Mutual's governing documents), to the adjacent Common Area, the adjacent carport, or portions of a Manor, along with all their associated costs after the required Mutual maintenance or repair

is completed. When the SES Owner does not respond to a request in a reasonable time:

- The Mutual may remove and reinstall the system or components and charge the responsible SES Owner for all the associated costs.
- As long as reasonable care is used to remove and reinstall the SES and any of its components, the Mutual will not be responsible for any damage caused to the SES.

- (i) When an SES is moved or removed for any reason, the roof warranty must be recertified (refer to Section 1.0.D).

6.2. The Board of Directors must take into account the effect on SES's resulting from shade created by trees or shrubs within the boundaries of the Mutual. The Mutual will be guided by the principal of "first in time is first in right."

(a) If a tree or shrub was planted before the SES was installed, the tree or shrub may grow without regard to its effect on the SES. The Mutual will not be required to prune, or allow pruning, of trees and/or shrubs which were planted before the SES was installed.

- (b) Trees or shrubs planted after installation of the SES may not be allowed to grow to cast a shadow greater than 10% of the collector absorption area of the SES at any one time between the hours of 10:00 a.m. and 2:00 p.m. local time (Public Resources Code Section 25982). Pruning needs will be dictated and determined by the Mutual's landscape or tree experts.

7. REMOVAL OF SOLAR ENERGY SYSTEM

7.1. The sale or removal of an SES must be approved by the Mutual and all costs relating to the sale or removal of the SES and restoration of the Common Area or the Exclusive Use Common Area shall be the sole responsibility of the SES Owner.

7.2. If the SES becomes inoperable, either by damage or termination of service, the SES must be removed within twenty (20) days after receiving written notice from the Mutual and any damage to the Common Area, the Exclusive Use Common Area, and/or the Manor repaired at the SES Owner's expense.

8. RESALE OR TRANSFER OF THE OWNER'S UNIT

- 8.1 Upon resale or transfer of any SES Owner's interest in his or her Manor which has a permitted SES, the buyer or transferee (as the case may be) must assume in writing all of the SES Owner's duties and responsibilities as outlined in this policy, including removal of the SES no longer in service. The new SES Owner's (or Transferee's) written assumption of duties and responsibilities must be executed by all of the parties before escrow can close and the transfer of the ownership can be legally completed.
- 8.2 If the buyer or transferee does not agree in writing to assume the SES Owner's duties and responsibilities as outlined in this policy:
- (a) The current SES Owner may either sell the SES to another Owner sharing the same roof, or
 - (b) Remove the SES and all its components and restore the areas where they were located or attached to its original condition by completing the following:
 - (i) Obtain a Mutual Alteration Permit and a Walnut Creek city permit.
 - (ii) Seal any penetration points with paintable sealant, then paint to match adjacent surfaces.
 - (iii) Patch all holes in interior Manors and all other exterior penetrations where solar panel appurtenances were installed.
 - (iv) If deemed necessary by the Mutual's Building Maintenance Manager, the SES Owner may be required to remove roofing and plywood in areas previously covered by the SES, and install a new roofing system matching the pre-existing roofing design.
 - (v) If an SES is removed from a Durolast surface, the Durolast manufacturer must recertify the warranty (refer to Section 1.0.D).

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EXHIBIT A

**SOLAR ENERGY SYSTEMS MAINTENANCE AND INDEMNITY AGREEMENT
(First Walnut Creek Mutual)**

UNDERTAKEN BY:

Name(s): _____

Manor Address: _____
Walnut Creek, California 94595

Alteration Permit Number: _____

I/we, as the Owner(s) and as the Undersigned, of the above manor in First Walnut Creek Mutual ("Mutual") of Rossmoor, a California nonprofit mutual benefit corporation, and in consideration of the approval of my/our application to allow the installation of a Solar Energy System (SES) on the Common Area roof of the building located at the above Manor address or on the roof of the Exclusive Use Common Area carport appurtenant to the Manor, have read First Walnut Creek Mutual's Policies ("Policies") on Solar Energy Systems, understand the contents, and agree to all of the following:

1. The proposed Solar Energy System (SES) will be installed and maintained in full compliance with the Policies and the Alteration Permit that has been issued by the Mutual for this installation and agree to comply with all the terms and conditions set forth in the Policies and the Alteration Permit.
2. I/We indemnify, defend and hold harmless the Mutual, Golden Rain Foundation of Walnut Creek, and their respective officers, directors, employees, agents, members, and their respective successors, and assigns (hereinafter "Indemnitees"), from and against all losses, claims, expenses, causes of action, costs, demands, damages, expenses, judgment or liabilities, including, but not limited to, any such fees and expenses incurred in enforcing this Indemnity Agreement, resulting from, arising out of or in any way connected with the installation, maintenance, repair, operation, use, removal or reinstallation of the Solar Energy System (SES) described in our/my above Alteration Permit. I/We further agrees to indemnify, defend and hold harmless the Indemnitees for any economic damage they suffer, including the voiding of any roof warranty, resulting from, arising out of or in any way connected with the installation, maintenance, repair, operation, use, removal or reinstallation of the Solar Energy System (SES) described in our/my above Alteration Permit.
3. The planned Solar Energy System (SES) under the above Alteration Permit will be installed on the Common Area roof of the building located at the above manor address or the Exclusive Use Common area carport appurtenant to the Manor in a manner and

- location approved by the Mutual. The roof is defined under the Second Amended and Restated Bylaws of the First Walnut Creek Mutual ("Bylaws") to be part of the Mutual's Common Area. The carport is defined under the Bylaws to be part of the Mutual's Exclusive Use Common Area.
4. Should the Undersigned sell the Manor, the transferee shall accept in writing the obligations under this Indemnity Agreement or the Undersigned agrees to remove the installation at its own cost and restore the Common Area roof or the Exclusive Use Common Area carport roof to its original condition and in compliance with the Policies before close of Escrow.
 5. Should the Undersigned fail to meet any obligations to indemnify, defend, and/or hold harmless the Indemnitees in accordance with this Indemnity Agreement, then all Indemnitees shall have full right to defend, pay or settle said claim on their own behalf with or without notice to the Undersigned for all fees, costs and payments made or agreed to be paid to discharge said claim.
 6. In the event of enforcement of said maintenance and indemnification obligations as set forth herein, the Undersigned agrees to pay all reasonable attorneys' fees necessary to enforce said maintenance and indemnification obligations.

THIS AGREEMENT SHALL BE UNLIMITED AS TO AMOUNT OR DURATION, and shall be binding upon and inure to the benefit of the parties, their respective successors, assigns, personal agents and representatives.

SIGNED BELOW BY ALL OWNERS of the Manor making application for the installation of a solar energy system, on Day _____ Month _____ Year 20 _____.

Name of Owner (Print): _____

Signature of Owner: _____

Name of Owner (Print): _____

Signature of Owner: _____