

HUNTINGTON CONTINENTAL TOWNHOUSE ASSOCIATION, INC

Managed by Optimum Professional Property Management, Inc. (AAMC)

Accredited Association Management Company

"Making a Difference...TOGETHER"

DATE: March 6, 2023
TO: All Members of Huntington Continental Townhouse Association, Inc
FROM: Your Board of Directors
SUBJECT: Proposed Solar Energy System Policy

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Pursuant to California Civil Code §4360 "Rule – Making Procedures", the Board of Directors will be considering adoption of the enclosed proposed Solar Energy System Policy at the Board of Directors meeting following twenty-eight (28) days' notice to be held on the following date or any adjournment thereafter:

DATE: April 5, 2023
TIME: 6:30 P.M.
PLACE: Association Clubhouse

Purpose and Effect of Proposed Policy

The intended effect of the proposed Solar Energy System Policy is to establish specific guidelines for installation of solar within the community in response to AB 634.

If you wish to make comments with regard to the proposed Policy, please submit them in writing to the Association, c/o Optimum Professional Property Management, Inc. at the address listed below. You may also attend the meeting to present your constructive comments to the Board of Directors prior to making a decision on the proposed policy.

Thank you. We sincerely appreciate your continued support of our efforts to protect, maintain and enhance our property values.

Los Angeles: 21250 Hawthorne Boulevard * Torrance * CA * 90503 * (310) 218-4010

Orange County: 230 Commerce, Suite 250 * Irvine * CA * 92602 * Office (714) 508-9070 * Fax (714) 665-3000

www.optimumpm.com

**HUNTINGTON CONTINENTAL TOWN HOUSE ASSOCIATION, INC.
SOLAR ENERGY SYSTEM APPLICATION AND INSTALLATION POLICY**

Adopted: _____, 2023

1. Huntington Continental Town House Association, Inc. (“Association”) is dedicated to assisting each Owner and all Occupants to enjoy their Lot to the fullest extent possible.
2. To the extent that the Association has an obligation to maintain or repair the roofs of any separate interest, the Association has a mutual or reciprocal easement right appurtenant to the separate interests in the form of a Maintenance and Repair Access Easement such that the Association’s interests in the roofs shall constitute Common Area pursuant to Civil Code Section 4095(b).
3. The Association is supportive of measures aimed at protecting the environment and solar power generation and supports the proper installation and use of solar energy systems, including panels and all accompanying equipment and component parts (“Solar Energy System”) as a way to produce clean energy and reduce dependence on other pollution-generating sources of power. However, these objectives must be balanced against reasonable community architectural and aesthetic standards and safety.
4. When adopted by the Board, this Solar Energy System Application and Installation Policy (“Solar Policy”) will become part of Rules and Regulations for conduct within and use of the Property.
5. Unless otherwise defined herein, the capitalized terms in this Solar Policy shall have the meaning set forth in the First Amended and Restated Declaration of Covenants, Conditions Restrictions, and Easements and any amendments thereto (“CC&Rs”).
6. A Solar Energy System must meet applicable health and safety standards imposed by state and local authorities. Moreover, an Owner’s installation of a Solar Energy System potentially impacts the entire Property, specifically including areas of the roof or roof structure maintained by the Association and could possibly lead to water intrusion or other types of damage to adjacent Lots. Therefore, strict adherence to this Solar Policy is required prior to any Owner’s installation and use of a Solar Energy System.
7. All applications for installation of a Solar Energy System shall be reviewed in accordance with this Solar Policy and shall comply in all respects with California Civil Code §§ 714, 714.1, and 4746 and the Association’s CC&Rs.
8. Prior Approval Required

- (a) An Owner may not install or use a Solar Energy System until the plans and specifications have been submitted to and approved by the Association's Board of Directors or Architectural Committee ("Committee") in accordance with this Solar Policy and other Association Governing Documents.
- (b) Compliance with this Solar Policy and the CC&Rs is separate and apart from compliance with City or County building permit requirements. Approval by the Board or Committee of any Solar Energy System does not waive the necessity of obtaining any City and/or County permits and obtaining required City and/or County permits does not waive the need for Board or Committee approval.

9. Conditions of Approval

- (a) Any Owner applying for installation and use of a Solar Energy System must submit a report prepared by a qualified consultant, showing that the proposed installation site is suitable for the Solar Energy System, and that installation of same will not present a risk of damage to another Owner's Lot and/or areas maintained by the Association.
- (b) Prior to installation of a Solar Energy System, the Owner must comply with the following:
 - (1) Notify Owners of Lots adjacent to the Lot where the Solar Energy System is intended to be installed and used;
 - (2) Assume sole responsibility for and pay the cost of the solar site suitability survey.
 - (3) Provide for and ensure that installation of a Solar Energy System is completed by a state-licensed and properly insured installer, who is knowledgeable and experienced in the installation of a Solar Energy System. Prior to installation, the installer shall provide Owner with copies of certificates of insurance for the policies described below and endorsements naming the Association as an additional insured, and such insurance coverage must meet the following minimums:
 - Worker's compensation insurance with minimum coverage required by California law;
 - Contractor's general liability and property damage insurance with policy limits of at least \$1,000,000.

- Contractor's insurance must contain completed operations coverage.
 - Contractor's insurance must not have any limitations or exclusion on work performed in a community association.
- (4) Assume sole responsibility for and pay the cost of all maintenance, repair, replacement, and/or removal of the Solar Energy System as well as the cost to restore or repair damage to another Owner's Lot and/or areas maintained by the Association resulting from the installation, maintenance, repair, use, replacement, or removal of the Solar Energy System.
 - (5) Assume sole responsibility for and pay the cost of removal and reinstallation of the Solar Energy System to allow for roof and roof-related maintenance, repair, or replacement.
 - (6) Ensure that the Solar Energy System does not become a hazard or fall into disrepair. Owner shall assume sole responsibility for and pay the cost of correction of any safety hazards as well as repair and/or replacement of the Solar Energy System.
 - (7) Assume sole responsibility to disclose to prospective buyers the existence of the Solar Energy System Installation, Maintenance, and Indemnification Agreement ("Covenant Agreement") referenced below, and the responsibility for same. Assume sole responsibility to obtain written confirmation from prospective buyers that prospective buyers are aware of the existence of and their responsibility for the Solar Energy System. Owner's failure to do so does not invalidate this Solar Policy or in any way impact the Association's ability to enforce the Solar Policy against current Owners or subsequent Owners.
 - (8) Take all steps necessary to protect any existing roof warranty and assume sole responsibility and pay the cost for damage to the Association as a result of a roof warranty voided from the Solar Energy System.
 - (9) Ensure that there shall be no exposed penetrations into building structures, materials, walls, and roofs, from the installation and operation of the Solar Energy System. Any penetrations for wiring or piping for the Solar Energy System shall be properly sealed and waterproofed in accordance with industry standards and building codes in order to prevent moisture penetration and resulting structural damage.

- (c) To secure the Owner's agreement and obligations associated with installation of the Solar Energy System, Owner shall execute a Covenant Agreement regarding installation of the Solar Energy System, which shall be recorded with the County Recorder's Office and run with the land and shall be binding on all future owners of the Lot. Such Covenant Agreement shall contain the requirements identified in this Solar Policy, as well as the following provisions, along with any other requirements the Association deems necessary and reasonable and shall be in the form and contain the provisions set forth in **Exhibit "1"** hereto. The Covenant Agreement shall be prepared by Association legal counsel and paid for by Owner, including cost of recording.
- (1) Owner shall covenant, warrant, promise, and agree that the Solar Energy System will be installed in accordance with the manufacturer's instructions and all applicable building codes and regulations.
 - (2) Owner shall assume all liability for damage in the Property and injury to persons, which is caused or contributed to by the installation, maintenance, use, repair and/or removal of the Solar Energy System.
 - (3) Owner shall defend, indemnify, and hold harmless the Association, its managers, attorneys, and agents as well as any other Owner or his or her resident, tenant, or guest/invitee for any loss, damage, or from any claim or liability caused by or arising from the installation, maintenance, use, repair and/or removal of the Solar Energy System.
 - (4) Owner shall maintain the Solar Energy System and any portion of property affected by the installation of the Solar Energy System, including, but not limited to any required repairs in and around the area of the installation of the Solar Energy System.
 - (5) Owner understands and agrees that the Solar Energy System shall be used by Owner only for the purpose of generating electricity for use by Owner's Lot. Failure to abide by this provision shall constitute a breach of the Covenant Agreement.
 - (6) At such time as the Covenant Agreement ceases or is terminated, or at such earlier time as the Owner removes the Solar Energy System, Owner shall, at Owner's sole expense, restore the affected area of the property, including but not limited to, any roof and roof system, to its prior condition.
 - (7) Owner understands and agrees that, at any time the Association requires the Solar Energy System to be removed to allow the Association access to

the area, Owner shall remove the Solar Energy System at Owner's sole cost and expense within ten (10) business days of being provided notice. If the Solar Energy System is not removed within ten (10) business days of being provided notice, the Association may remove it, and specially assess the Owner for any and all costs associated with the removal. Owner understands and agrees that such a Reimbursement Assessment shall be subject to enforcement and lien pursuant to the Governing Documents and applicable Civil Code provisions.

- (8) If Owner fails to comply with any of the obligations under the Covenant Agreement, after ten (10) business days' written notice, the Association may remove the Solar Energy System, restore the affected area, and specially assess the Owner for any and all costs associated with the removal and restoration. Owner understands and agrees that such a Reimbursement Assessment shall be subject to enforcement and lien pursuant to the Governing Documents and applicable Civil Code provisions.
- (9) Owner agrees to ensure that the Solar Energy System is regularly maintained and in good repair. If Owner fails to maintain the Solar Energy System, the Association, after providing (10) business days' notice, may cause the removal of the Solar Energy System and restoration of any areas maintained by the Association or other affected areas. The Association shall specially assess the Owner for any and all costs associated with the removal of the Solar Energy System and restoration of the above referenced areas. Owner understands and agrees that such a Reimbursement Assessment shall be subject to enforcement and lien pursuant to the Governing Documents and applicable Civil Code provisions.
- (10) Owner understands and agrees that the Association shall have no liability or responsibility to Owner arising out of the approval of any plan, drawing, and/or design. Moreover, by approving Owner's application, the Association shall have no liability or responsibility arising out of: (1) the safety, structural integrity, workmanship, engineering, and/or the soundness of the plan, drawing, and/or design in the application itself or the work performed pursuant thereto; and/or (2) the compliance with Health & Safety or building codes or other laws or ordinances applicable to the proposed plan, drawing or design.

10. Application Process

- (a) Owners shall submit all applications for installation and use of a Solar Energy System to the Board or Committee care of the Association's Manager. Each

application must be complete at the time of submission, and shall include all of the following:

- (1) A sketch, drawing, or architectural plans detailing the location and dimensions of the installation of the Solar Energy System, including, to the extent possible, photographs depicting the Solar Energy System as proposed to be installed. The application shall identify the manufacturer and model number of the Solar Energy System proposed to be installed.
- (2) The name and license number of the contractor(s) performing the work.
- (3) Detailed specifications for the Solar Energy System.
- (4) Proof of notification to all Owners whose Lots are adjacent to the Lot where the Solar Energy System is intended to be installed and used.
- (5) A non-refundable payment in the amount of Six Hundred Fifty Dollars (\$650), which shall cover the costs of pulling documents from the title company; review, preparation, and recording of the Covenant Agreement by Association's counsel; and costs of recording the Covenant Agreement. This payment amount is subject to change.
- (6) Should any Owner fail to commence installation of the Solar Energy System within six (6) months of approval by the Board or Committee, the approval shall be deemed revoked and Owner must submit a new application for approval prior to commencement of any installation.

11. Enforcement

- (a) Upon approval by the Association and completion of installation of the Solar Energy System, Owner shall provide the Association with photographs depicting the Solar Energy System as installed.
- (b) Failure to obtain the necessary approval from the Association's Board or Committee constitutes a violation of the Governing Documents and may require removal of the Solar Energy System at the Owner's sole expense. The Association has the authority to commence legal action to restrain any threatened breach of this Solar Policy or CC&Rs and to enforce all their provisions, which provide for the reimbursement to the Association for attorney fees and costs to enforce compliance.

solar policy draft - dch 02162023

Exhibit “1”

**RECORDING REQUESTED BY
AND, WHEN RECORDED, MAIL TO:**

Huntington Continental Town House
Association, Inc.
c/o Optimum Professional Property
Management, Inc.
230 Commerce, Suite 250
Irvine, CA 92602

(Space Above for Recorder's Use)

Solar Energy System Installation, Maintenance, and Indemnification Agreement

This Solar Energy System Installation, Maintenance, and Indemnification Agreement ("Covenant Agreement") dated _____, 20__ ("Effective Date") is entered into by and between Huntington Continental Town House Association, Inc. ("Association") and _____ (collectively "Owner"), who may hereafter collectively be referred to as "Parties." For valuable consideration, the receipt of which is hereby affirmed, the Parties agree as follows:

1. Owner is the record owner of the real property commonly known as _____, Huntington Beach, California ("Lot").
2. The Lot is located within the common interest development known as Huntington Continental Town House Association, Inc. in the City of Huntington Beach, County of Orange, and State of California, and is more particularly described in **Exhibit "A,"** attached hereto and incorporated herein by this reference.
3. Owner, the Lot, and the Association are subject to the First Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements, recorded in the County of Orange Recorder's Office on _____, 202_, as Document No. _____ and any amendments thereto ("CC&Rs") as well as the Association's duly adopted First Amended and Restated Bylaws ("Bylaws"), Rules and Regulations, policies, and guidelines.
4. Owner has requested permission from the Association to install a solar energy system, including panels and all accompanying equipment and component parts ("Solar Energy System") on the roof above and within Owner's Lot, which is an area maintained by the Association. In its Solar Energy System Application and Installation Policy ("Solar Policy"), adopted _____, 2023, the Association set forth certain provisions regarding the installation, maintenance, use, and repair of a Solar Energy System in compliance with Public Resource Code § 25982, Civil Code § 714,

Civil Code § 714.1, and Civil Code § 4746, which impose reasonable conditions for the approval of such applications.

5. This Agreement shall run with the Subject Property and shall be binding on and inure to the benefit of the Owners, the Association and all Persons having or acquiring any interest in the Subject Property. The Owners and their successors and assigns shall disclose the existence of this Agreement to each transferee and prospective transferee of the Subject Property.

6. Owner covenants, warrants, promises, and agrees that the Solar Energy System will be installed in accordance with the manufacturer's instructions and all applicable building codes and regulations.

7. Owner assumes all liability for damage in the Property, including but not limited to all areas maintained by the Association, Owner's Lot, and other Lots in the Property and injury to persons, which is caused or contributed to by the installation, maintenance, use, repair and/or removal of the Solar Energy System.

8. Owner shall comply with all applicable governmental laws, regulations, and procedures, and shall obtain all required City of Huntington Beach and County of Orange permits and authorizations before installing the Solar Energy System. The Solar Energy System shall meet all applicable governmental and industry safety standards and local permitting requirements.

9. Owner shall comply with all requirements of the Association's Governing Documents, including, but not limited to, the CC&Rs, Bylaws, Rules and Regulations, Solar Policy, and other adopted Association policies.

10. Owner shall be responsible, at Owner's sole cost and expense, to maintain a homeowners' liability insurance policy providing One Million Dollars (\$1,000,000) in coverage, which names the Association as an additional insured under the policy with a right to notice of cancellation, as well as a worker's compensation insurance policy with minimum coverage required by California law. Owner shall provide, on an annual basis, proof of such insurance coverage.

11. Owner shall be responsible for and maintain the Solar Energy System and any portion of the Property affected by the installation, maintenance, use, repair and/or removal of the Solar Energy System, including, but not limited to any required repairs in and around the area of the installation of the Solar Energy System.

12. Owner understands and agrees that the Solar Energy System shall be used by Owner only for the purpose of generating electricity for use by Owner's Lot. Failure to abide by this provision shall constitute a breach of the Covenant Agreement.

13. Owner understands and agrees to have sole responsibility to disclose to prospective buyers the existence of a Solar Energy System and this Covenant Agreement, and the responsibility for same. Owner further understands and agrees to obtain written confirmation from prospective buyers that prospective buyers are aware of the existence of and their responsibility for the Solar Energy System. Owner further understands and agrees that failure to do so does not invalidate the Solar Policy or this Covenant Agreement or in any way impact the Association's ability to enforce the Solar Policy or this Covenant Agreement against current Owner or subsequent owners.

14. At such time as the Covenant Agreement ceases or is terminated, or at such earlier time as Owner removes the Solar Energy System, Owner shall, at Owner's sole expense, restore the affected area of the property, including but not limited to, any roof and roof system, to its condition prior to the installation.

15. Owner understands and agrees that, at any time the Association requires the Solar Energy System to be removed to allow the Association access to the area under, adjacent, or in any way near the location where the Solar Energy System is installed, so that the Association may perform its assigned maintenance responsibilities as required by the CC&Rs, Owner shall remove the Solar Energy System within ten (10) business days of being provided notice at Owner's sole cost and expense. If the Solar Energy System is not removed within ten (10) business days of being provided notice, the Association may remove it, and specially assess Owner for any and all costs associated with the removal. Owner understands and agrees that such a Reimbursement Assessment shall be subject to enforcement and lien pursuant to the CC&Rs and applicable Civil Code provisions. Owner shall be responsible for restoration of the Solar Energy System once the Association has determined that it may be restored to its prior and previously approved location. Any work performed by or on behalf of the Owner for the removal and restoration of the Solar Energy System shall be subject to the same conditions required of initial installation as set forth in the Solar Policy.

16. If Owner fails to comply with any of the obligations under the Covenant Agreement, after ten (10) business days written notice, the Association may remove the Solar Energy System, restore the affected area, and specially assess Owner for any and all costs associated with the removal and restoration. Owner understands and agrees that such a Reimbursement Assessment shall be subject to enforcement and lien pursuant to the CC&Rs and applicable Civil Code provisions.

17. Owner's right to maintain the Solar Energy System may be terminated ten (10) business days after the Association issues written notice of Owner's breach of the Covenant Agreement, if said breach is still not corrected by the tenth (10th) day after issuance of the notice.

18. Owner agrees to ensure that the Solar Energy System is regularly maintained and in good repair. If Owner fails to maintain the Solar Energy System, the Association, after providing (10) days' written notice, may cause the removal of the Solar Energy System and restoration of the roof

and/or any areas maintained by the Association or other affected areas. The Association shall specially assess Owner for any and all costs associated with the removal of the Solar Energy System and restoration of roof and/or other areas maintained by the Association or other affected areas. Owner understands and agrees that such a Reimbursement Assessment shall be subject to enforcement and lien pursuant to the CC&Rs and applicable Civil Code provisions.

19. Owner understands and agrees that the Association shall have no liability or responsibility to Owner arising out of the approval of any plan, drawing, and/or design. Moreover, by approving Owner's application, the Association shall have no liability or responsibility arising out of: (1) the safety, structural integrity, workmanship, engineering, and/or the soundness of the plan, drawing, and/or design in the application itself or the work performed pursuant thereto; and/or (2) the compliance with Health and Safety or building codes or other laws or ordinances applicable to the proposed plan, drawing or design.

20. Owner shall be solely responsible for all costs related to architectural review and for the cost to prepare and record this Covenant Agreement prior to the commencement of the installation.

21. Owner shall be responsible for all costs to repair any damage to the Lot and the Property, specifically including those areas maintained by the Association and/or any other property damage and/or personal injury resulting from the installation, maintenance, repair, replacement, use, removal, and/or reinstallation of the Solar Energy System, including, but not limited to, roof leaks and damage caused by roof leaks which are the result of the installation, maintenance, repair, replacement, use, removal, and/or reinstallation of the Solar Energy System.

22. Owner shall be responsible for all costs for the installation, maintenance, use, repair, removal, replacement, and/or reinstallation of the Solar Energy System (including, but not limited to costs for maintenance of the surrounding roof areas) until it has been permanently removed, and for the restoration of the Lot and Property and/or other areas maintained by the Association and other affected property after the permanent removal of the Solar Energy System.

23. The Association shall not be responsible for any accidents or incidents which may occur during installation, maintenance, repair, replacement, use, removal, and/or reinstallation of the Solar Energy System. Additionally, the Association shall not be responsible for the installation, maintenance, repair, replacement, use, removal, and/or reinstallation of the Solar Energy System, subject to the rights as stated above.

24. Owner agrees to defend, indemnify, and hold harmless the Association, its directors, officers, managers, attorneys, and agents as well as any other Owner or resident in the community from and against all losses, claims, expenses, causes of action, costs, demands, damages, expenses, judgment or liabilities, arising out of or relating in any way to the installation, maintenance, repair, replacement, use, removal, and/or reinstallation of the Solar Energy System.

25. The Association shall be entitled to recover from Owner all costs, including attorney fees, necessary to enforce the provisions of this Covenant Agreement. In the event of any litigation, arbitration, or other legal proceeding arising out of this Covenant Agreement, the prevailing party shall be entitled to recover its attorney fees and costs incurred as a result.

26. This Covenant Agreement and each covenant contained herein shall run with the land and shall be binding on and inure to the benefit of the Parties and their successors-in-interest, including any future owners, purchasers, and transferees of the Lot.

27. This Covenant Agreement may be executed in counterparts by the Parties hereto and shall be effective when all Parties have executed the Covenant Agreement. Each counterpart will constitute an original.

28. The Parties agree that this Covenant Agreement may be recorded in the Official Records of the County of Orange, State of California, and further agree to take such further actions and execute such additional documents as are reasonably necessary to effectuate recording of this Covenant Agreement.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS COVENANT AGREEMENT AS OF THE EFFECTIVE DATE.

Dated: _____, 20__

By: _____

Huntington Continental Town House Association, Inc.

Its:

Dated: _____, 20__

Dated: _____, 20__

EXHIBIT "A"
Legal Description

[insert legal description of the Lot]

SAMPLE

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA
COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA
COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____ **(Seal)**