



BRIGHTWATER HOMEOWNERS ASSOCIATION, INC.
LARGE CONTRACT BID SOLICITATION POLICY

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

WHEREAS, Brightwater Homeowners Association, Inc. (the "Association"), is the governing entity for Lakeside Meadow at Brightwater, Sections 1 and 2, Lakeshore at Brightwater, Sections 1 and 2, Lakeshore Park at Brightwater, Section 1, Southshore at Brightwater, Section 1, Lakeshore Point at Brightwater, Section 1, Brightwater Estates, and Brightwater Point Estates, additions in Fort Bend County, Texas, according to the maps or plats thereof, recorded in the Map Records of Fort Bend County, Texas, at Slide Nos. 1267/B, 1355/A, 672/B, 1042/A, 1442/A, 671/B, 1259/B, 1260/B, and 1356/A, respectively, along with any amendments and replats thereto, (the "Subdivision"); and

WHEREAS, this Large Contract Bid Solicitation Policy is applicable to the Subdivision and Association; and

WHEREAS, all terms used herein that are defined in Chapter 209 of the Texas Property Code shall have the meaning as defined in the statute; and

WHEREAS, Section 209.0052 of the Texas Property Code was amended to require that property owners associations establish a bid process for any proposed contract for services that will cost more than \$50,000.00;

WHEREAS, to the extent this policy conflicts with any existing governing document or dedicatory instrument of the Association or Subdivision, this Policy controls over such provision. To the extent any existing governing document or dedicatory instrument does not conflict with this policy, such provision remains in full force and effect; and

WHEREAS, this Dedicatory Instrument constitutes Restrictive Covenants as those terms are defined by Texas Property Code §202.001, et. seq, and the Association shall have and may exercise discretionary authority with respect to these Restrictive Covenants;

NOW THEREFORE, in view of the foregoing and in compliance with the Texas Property Code, the Association hereby adopts and imposes on the Subdivision and the Association the following policies, rules, and regulations:

If the Association proposes to contract for services that will cost more than \$50,000.00, it shall solicit bids or proposals for such services contract as provided below. If a bid or proposal is from a board member or related person or entity as defined by Texas Property Code 209.0052, the additional procedures provided by Property Code 209.0052 will be applicable.

1. The following criteria apply to determine whether a services contract will cost more than \$50,000.00:

- a. The bid process is applicable to service contracts which upon execution of the agreement obligates the Association to pay more than \$50,000.00 during the term of the contract.
 - b. Amounts under a services contract that are contingent are not included in determining the amount the contract will cost. Costs under a services contract which are unfixed, but certain, shall be estimated to the best of the Association's ability.
 - c. Amounts that may be incurred in the future under a services contract such as would occur upon the renewal of the contract are not to be included in determining the amount the contract will cost.
 - d. Notwithstanding any language to the contrary in this policy, the Association is not required to solicit bids for contracts that renew automatically or that renew on a month-to-month basis per the terms of the contract. The renewal of an existing contract does not necessitate the seeking of bids however the Board may, at its discretion, seek bids for any renewing contract, without regard to whether the price is to be increased.
2. A proposed services contract that will cost more than \$50,000.00 shall be awarded using the following process:
- a. The Association shall attempt to obtain a total of three bids or proposals from contractors for the services desired.
 - b. The Board shall notify potential bidders of an opportunity to submit a bid for services. Such notification may consist of an invitation to bid, a request for proposals, the submission of a master services agreement, or such other method that the Board, in its sole discretion, may deem appropriate for the solicitation of the services sought.
 - c. The Board may implement deadlines by which Contractors must respond to a solicitation for a bid, which deadlines, if implemented, will be stated in the solicitation. The Board has the right, but not the obligation, to remove from consideration any Contractor who fails to respond to the solicitation by the deadline, if implemented.
 - d. Contractors providing bids or proposals should be insured against liability, have experience providing the desired services, and licensed where required by law.
 - e. If after diligent attempts are made to obtain the three bids or proposals, the Association is unable to obtain three bids or proposals from contractors, the Board may consider the proposals obtained and award the contract.
 - f. The Association may determine on a case-by-case basis the specific steps it will use to contact potential contractors and solicit bids or proposals. However, in all cases at least three contractors shall be contacted, and bids or proposals solicited. In the event there are not three qualified contractors for a particular service in the market area, the association may limit the process to those contractors that are qualified.

- g. The Board may waive the requirement to solicit bids in its discretion by a majority affirmative vote of the Board in instances where specialty trades are needed for contracts in which the contractor would be the company maintaining the project after completion (i.e., the pool contractor that replastered the pool and will be maintaining the pool chemicals or the landscape company that installed the plants and will be maintaining them) and getting another contractor to do the work would endanger the warranty or disrupt ongoing services.
- h. In the case of emergencies, the Association may employ a contractor to best resolve the emergency without following the bid/proposal process.

The Board shall determine the method and criteria by which each bid received will be evaluated. In conducting its evaluation, the Board may rely on factors such as, by way of illustration and not limitation, the scope of services, pricing and payment terms, insurance available to the contractor, contractor warranties and indemnification obligations, references obtained and past experiences with the contractor. The Board shall have the sole discretion to determine which bid to select, and the Board is not obligated to award contracts to the low bidder but must use due diligence in considering all relevant factors regarding the contractor and their proposal.

CERTIFICATION

“I, the undersigned, being a Director of the Brightwater Homeowners Association, Inc., hereby certify that the foregoing was adopted by at least a majority of the Brightwater Homeowners Association, Inc.’s board of directors, at an open and properly noticed meeting of the board, at which a quorum of the board was present.”

By: Diane Mauricio

Print name: Diane Mauricio

Title: President,

Brightwater HOA

ACKNOWLEDGEMENT

STATE OF TEXAS

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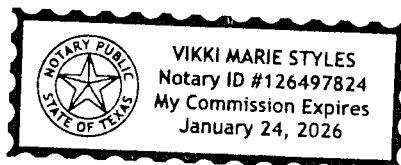
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COUNTY OF FORT BEND

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BEFORE ME, the undersigned authority, on this day personally appeared the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that he is the person who signed the foregoing document in his representative capacity and that the statements contained therein are true and correct.

Given under my hand and seal of office this the 23rd day of March, 2022.



Vikki Marie Styles
Notary Public, State of Texas