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**RESOLUTION OF THE BOARD OF DIRECTORS OF
HARBOR POINT PROPERTY OWNERS ASSOCIATION
CONCERNING BIDDING PROCESS FOR PROJECTS
EXCEEDING \$50,000.00**

The Board of Directors (the "Board") of the HARBOR POINT PROPERTY OWNERS ASSOCIATION (The "ASSOCIATION"), at a meeting of the Board on October 5, 2021, at which a quorum of the Directors were present as required by the Bylaws of the Association, and after consideration, motion and vote, adopted by unanimous vote of the directors present, the following resolution concerning the bidding process for projects exceeding \$50,000.00 by the Board of Directors in accordance with Section 209.0052 of the State of Texas Property Code within the Harbor Point Subdivision.

RESOLVED that the Association's formal policy as to the bidding process and contract award by the Board of Directors of the Harbor Point Property Association for projects exceeding \$50,000.00 shall be as follows:

Tx. Code Sec. 209.0052. ASSOCIATION CONTRACTS. (a) This section does not apply to a contract entered into by an association during the development period.

(b) An association may enter into an enforceable contract with a current association board member, a person related to a current association board member within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, a company in which a current association board member has a financial interest in at least 51 percent of profits, or a company in which a person related to a current association board member within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a financial interest in at least 51 percent of profits only if the following conditions are satisfied:

(1) the board member, relative, or company bids on the proposed contract and the association has received at least two other bids for the contract from persons not associated with the board member, relative, or company, if reasonably available in the community;

(2) the board member:

(A) is not given access to the other bids;

(B) does not participate in any board discussion regarding the contract; and

(C) does not vote on the award of the contract;

(3) the material facts regarding the relationship or interest with respect to the proposed contract are disclosed to or known by the association board and the board, in good faith and with ordinary care, authorizes the contract by an affirmative vote of the majority of the board members who do not have an interest governed by this subsection; and

(4) the association board certifies that the other requirements of this subsection have been satisfied by a resolution approved by an affirmative vote of the majority of the board members who do not have an interest governed by this subsection.

Added by Acts 2013, 83rd Leg, R.S., Ch. 863 (H.B. 503), Sec. 2, eff. September 1, 2013.

(c) In addition to the other applicable requirements of this section, an association that proposes to contract for services that will cost more than \$50,000 shall solicit bids or proposals using a bid process established by the association.

1. Three bids shall be requested at least 14 days in advance of a designated closing date either in writing, other electronic means or by telephone. In the case of telephone requests a memorandum shall be made as to the institution, date and time of the request.

The bid process may be exempt from the above process for:

(A) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;

[A natural monopoly is a type of monopoly that occurs when one company can provide a good or service more efficiently than can many companies.]

(B) paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements.

2. Tx. Code Sec. 252.043. AWARD OF CONTRACT. (a) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the [Association].

(b) In determining the best value for the [Association], the [Association] may consider:

- (1) the purchase price;
- (2) the reputation of the bidder and of the bidder's goods or services;
- (3) the quality of the bidder's goods or services;
- (4) the extent to which the goods or services meet the [Association's] needs;
- (5) the bidder's past relationship with the [Association];
- (6) the total long-term cost to the [Association] to acquire the bidder's goods or services; and
- (7) any relevant criteria specifically listed in the request for bids or proposals.

(c) The governing body may reject any and all bids.

(d) A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. This chapter does not change the common law right of a bidder to withdraw a bid due to a material mistake in the bid.

(e) If the competitive sealed proposals requirement applies to the contract, the contract must be awarded to the responsible offer or whose proposal is determined to be the most advantageous to the [Association] considering the relative importance of price and the other evaluation factors included in the request for proposals.

(f) Before awarding a contract under this section, an [Association] must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the [Association].

(g) Except as provided by Subsection (g-1), the contract must be awarded to the lowest responsible bidder if the competitive sealed bidding requirement applies to the contract for construction of:

- (1) highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or
- (2) buildings or structures that are incidental to projects that are primarily civil engineering construction projects.

Tx. Code Sec. 252.022. **GENERAL EXEMPTIONS.** (a) This chapter does not apply to an expenditure for:

- (1) a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the [Association's] residents or to preserve the property of the [Association];
- (2) a procurement necessary to preserve or protect the public health or safety of the [Association's] residents;
- (3) a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
- (4) a procurement for personal, professional, or planning services;
- (5) a procurement for work that is performed and paid for by the day as the work progresses;
- (6) a purchase of land or a right-of-way;

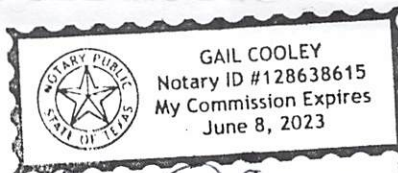
This resolution is effective upon approval of the Board of Directors

Signed this 14 day of Oct, 2021

Donald R. Motley
Donald R. Motley, President

This instrument was acknowledged before me by Donald R. Motley

Attest:



Gail Cooley

THE STATE OF TEXAS
COUNTY OF TRINITY

I hereby certify that the instrument was FILED on the date and at the time stamped herein by me and was duly RECORDED in the Official Public Records of Trinity County, Texas in the Volume and Page as noted herein by me.

Shasta Bergman
County Clerk, Trinity County

By: *Shasta Bergman*



FILED
at 11:40 o'clock A M

NOV 12 2021

SHASTA BERGMAN
COUNTY CLERK, TRINITY CO., TEXAS

Shasta Bergman