

*Although we believe the following to be a true and faithful rendering of Policy Resolution No 6 of the Heritage Harbour Community Association, Inc., in the case of any conflict, the copy recorded in the Homeowners Depository of the Circuit Court of Anne Arundel County shall prevail.*

## **HERITAGE HARBOUR COMMUNITY ASSOCIATION**

### **POLICY RESOLUTION NO. 6**

#### **PROCUREMENT POLICIES**

(Includes Amendments 1 and 2)

#### **I. General**

A. Except as authorized by the Board of Directors and in accordance with the policies contained in this Resolution, no person may obligate the Association for the payment for goods or services nor may any person direct or cause any other person to obligate the Association for the payment for goods or services.

B. All persons representing the Association in the procurement of goods or services shall conduct themselves in such a manner as to avoid any conflict of interest or the appearance of any conflict of interest.

C. The policies contained in this Resolution are not intended to supercede any provision of law or contract between the Association and any of its contractors.

#### **II. Authorities and Responsibilities**

##### **A. The Board of Directors.**

1. Prior to the beginning of each fiscal year, the Board of Directors shall establish budget authority for the procurement of goods and services needed by the Association during the next fiscal year, with out-year projections for the succeeding four fiscal years.

2. The Board of Directors, meeting in regular or special sessions, shall be responsible for the approval of contracts or open market purchase from funds in the Operations Budget or Replacement Budget when the total costs are estimated to exceed \$5,000. The Board of Directors shall be responsible for the approval of all procurement using Capital Improvement funds.

3. Each Director is responsible for compliance with the Common or Interested Directors provisions of the By-Laws of the Association.

##### **B. The Management Agent.**

1. The Management Agent is authorized, without specific approval by the Board of Directors, to procure goods and services using Operations or Replacement funds under the following conditions.

(a) The item was included in the approved budget and is estimated to cost five thousand dollars (\$5,000) or less.

(b) The item or service is not included in the approved budget or the budgeted cost for the item or service is insufficient or has already been spent, and the cost can be accommodated through the Operations (contingency) Reserve Fund, and the estimated cost is five thousand dollars (\$5,000) or less.

(c) For making emergency repairs to any real or personal property up to a total cost of ten thousand dollars (\$10,000) in order to remedy hazardous conditions involving danger to life of property or to avoid suspension of any services or activities of the Association.

(d) Whenever a question arises whether the cost of an item or service, estimated to cost five thousand dollars (\$5,000) or less, should be reflected in the Operations, Replacement, or Capital Improvements Fund, the Management Agent, in consultation with the Association Treasurer, when necessary, shall determine the appropriate fund.

2. The Management Agent shall obtain prior approval by the Board of Directors for the procurement of any item not included in the above authorization. To obtain approval, the Management Agent shall submit a proposal, in the form of a motion, at a regular meeting or at a special meeting called for the purpose of considering the proposal at least thirty (30) days prior to the execution of the contract or other binding instrument. However, contracts for continuing services, such as swimming pool management or grounds management, shall be submitted to the Board of Directors for approval at least ninety (90) days prior to the execution of the contract. (See Section III.B.4 for related requirements.)

3. The Management Agent shall report to the President whenever a contract or a purchase has been executed without specific approval of the Board of Directors. Such reports shall be separate from the routine Management Agent reports, and shall include the following information:

(a) Budget amount of project; and

(b) Amount to be expended or obligated for the project; and

(c) Number of bids solicited; and

(d) Number of bids received; and

(e) Explanation of rationale for selection of the contractor.

4. The Management Agent is responsible for the development of specifications, solicitation for bids and proposals, evaluation of bids and proposals, and selection of contractors. The Management Agent may consult with appropriate Committee Chairpersons on the development of specifications.
5. The Management Agent is responsible for monitoring performance of all contractors to ensure that the work is conducted in accordance with contract terms and specifications.
6. The Management Agent shall maintain records for the Association related to all contracts executed on behalf of the Association. Such records shall be retained for a period of five years after the delivery of goods and services or completion of the project.

### **III. Procurement Practices.**

#### **A. Open Market Purchases.**

1. Purchases on the open market are generally limited to supplies, materials and items of minor equipment.
2. The Management Agent is expected to exercise sound business practices in the selection of vendors and to obtain the best price for the Association, to include any discounts or rebates.

#### **B. Contracting Policies and Procedures.**

1. Contracts awarded without competition, i.e. sole source contracts, are limited to situations where solicitation for bids and proposals is impracticable. Except for emergency repairs, as provided for in Section II.B.1(b), all sole source contracts over five thousand dollars (\$5,000) must be approved by the Board of Directors prior to award of the contract.
2. Competitive contracting procedures shall be used whenever practicable, and must be used for the procurement of goods and services when the total cost is estimated to exceed five thousand dollars (\$5,000). In general, the following procedures will be used.
  - (a) The solicitation to bid will be sent to at least three (3) qualified contractors or suppliers doing business in the area. If only one bidder responds, an additional solicitation shall be made.
  - (b) The bidder with the lowest price will be selected unless that bidder was unresponsive to some material aspect of the solicitation. Documentation of the rationale for selection of the successful bidder will be maintained with the contract records.
  - (c) If there are no bidders responsive to the solicitation, the Management Agent may negotiate with a vendor for a fixed price or time and material contract (including profit).
3. All contracts executed on behalf of the Association shall contain a clause allowing the Association to:

(a) Withhold payments for failure to perform in accordance with the terms of the contract;  
and

(b) Impose penalties for failure to complete work by the date and time specified, if such failure may result in additional cost to the Association or in inordinate inconvenience to the members of the Association; and

(c) Cancel the contract by the Association, without cause, upon thirty (30) days written notice.

4. Contracts which provide for optional renewal by the Association shall be submitted to the Board of Directors for approval at least ninety (90) days prior to the renewal. The Management Agent shall present a motion at a regular meeting or special meeting called for the purpose of considering the motion. The motion may consider either renewal or termination of the contract. Information accompanying the motion should include:

(a) a statement that the Management Agent has reviewed the contract, including any changes needed; and

(b) an evaluation of the past performance of the contractor; and

(c) if for termination, the reason for termination.