

OMEGA BAY IMPROVEMENT COMMUNITY, INC.

LARGE CONTRACT BID SOLICITATION POLICY

STATE OF TEXAS

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COUNTY OF GALVESTON

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WHEREAS, Omega Bay Improvement Community, Inc. (the "Association"), is the governing entity for all sections of Omega Bay according to the maps or plats thereof, recorded in Map Records of Galveston County, Texas, along with any amendments and re-plats thereto, and any additional real property brought within the jurisdiction of the Association (the "Community"); and,

WHEREAS, the Board of Directors of the Association is authorized to administer the affairs of the Association and provide for the health, safety and welfare of the members and property within the Association and this Large Contract Bid Solicitation Policy is applicable to the Community 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; and,

WHEREAS, to the extent this policy conflicts with any existing governing document of the Association or Community, this policy shall be controlling inasmuch as existing governing documents are pre-empted by State law; 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 Community 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. A services contract that could possibly eventually result in the Association paying in excess of \$50,000.00 is not subject to this policy if the Association is contractually entitled to terminate the contract without cause prior to incurring in excess of \$50,000.00.

- c. 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 not fixed, but certain, shall be estimated to the best of the Association's ability.
- d. Amounts that may be incurred in the future under a services contract that would occur upon the renewal of the contract are not to be included in determining the amount the contract will cost. The renewal of an existing contract is not subject to this policy.

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. Contractors providing bids or proposals should be insured against liability, have experience providing the desired services, and licensed where required by law;
- c. 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;
- d. 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.
- e. In the case of emergencies, the Association may employ a contractor to best resolve the emergency without following the bid/proposal process.
- f. 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, President of Omega Bay Improvement Community, Inc., hereby certify that the foregoing was adopted by at least a majority of Omega Bay Improvement Community, 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: Daniel C Barnes
DANIEL C. BARNES, PRESIDENT

ACKNOWLEDGEMENT

STATE OF TEXAS

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COUNTY OF GALVESTON

THIS INSTRUMENT was acknowledged before me by the said DANIEL C. BARNES, PRESIDENT of OMEGA BAY IMPROVEMENT COMMUNITY, INC., a Texas non-profit corporation, on behalf of said corporation.

Given under my hand and seal of office this 24th day of August, 2021.

Taylor Kelley
Notary Public State of Texas

