

**Guidelines for Bid Solicitation, Review Process, and Expenditure Policy
(Amended and Restated, September 2021)
for**

SPRING CREEK FOREST CIVIC ASSOCIATION

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

WHEREAS, the Spring Creek Forest Civic Association (“Association”) is charged with the administering and enforcing of those certain covenants, conditions, and restrictions contained in the Association’s Bylaws, the respective Declaration of Covenants, Conditions & Restrictions encumbering all Properties governed by the Association, as well as applicable State and Federal laws; and

WHEREAS, Section 209.0052 of the Texas Property code was amended by the 87th Texas Legislature dealing with the regulation of association contracts and the bid process; and

WHEREAS, the Board of Directors of the Association (“Board”) has considered and discussed modifications to the Expenditure Policy dated October 2018 and recorded under Clerk’s File No. RT-2019-41183 in the Official Public Records of Real Property in Harris County, Texas; and

WHEREAS, the Board has determined that in connection with maintaining the residential plan, procedures, and harmony of the community, and to provide clear and definitive guidance regarding Association expenditures, contracts, and the bid process, it is appropriate for the Association to adopt guidelines regarding the expenditures and bid process within the community.

NOW, THEREFORE, the Board has duly adopted the following *Guidelines for Bid Solicitation, Review Process, and Expenditure Policy* within the community:

Emergency/Urgent Maintenance and Repair Expenditure Guidelines

- Emergency situations include immediate safety hazards, the inability to heat/cool/power the clubhouse, and other situations in which a safety or time-constraint exists where subdivision assets become vulnerable to damage or unavailable for use.
- For items with a material and labor cost less than \$1,000 – a member of the Board may manage the job on his/her own authority. The work and expenditure should be reported at the next Board meeting.
- For items with a material and labor cost more than \$1,000, but less than \$10,000, any Board member may manage the job with the approval of two additional Board Officers. The work should be reported via email as soon as reasonably possible after work completion and at the next Board meeting.
- All emergency expenditures greater than \$10,000 must have Board approval.

Guidelines for Bid Solicitation and Review Process

I. Bid Process for Service Contracts or Construction Projects over \$50,000.

- A. In accordance with Texas Property Code Section 209.0052(c), if the Association proposes to contract for services that will cost more than \$50,000, it shall solicit bids or proposals using a bid process established herein.
- B. The following bid process shall be used in such cases where the Association desires to contract for services or construction projects over \$50,000:

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1. The Association shall solicit no fewer than two bids for services, if reasonably available.
2. The Board shall evaluate such bids and make their decision based on what is in the best interest of the Association.

C. Exceptions:

1. The Board may waive the 2nd bid requirement at its discretion by a majority affirmative vote of the Board in instances where no other contractor may be found or is willing to submit a bid.
2. The Board may waive the 2nd bid requirement at its sole discretion by a majority affirmative vote of the Board in instances where specialty trades are needed for contracts in which:
 - a. the contractor would be the company maintaining the project after completion (i.e., the pool contractor that replastered the pool will be maintaining the pool chemicals or the landscape company that installed the plants will be maintaining the landscaping,), and
 - b. getting another contractor to do the work would endanger the warranty.
3. This Section I does not apply if the contract is between the Association and: 1) a Board member, 2) his relative or 3) his or his relative's company in which he or his relative has a financial interest in at least 51% of the profits. If that is the case, then the Association must get at least two other bids per Section 209.0052(b)(1) if reasonably available. (Please see Section II below.)

II. Bid Process for Contracts with a Current Association Board Member, Relative, or Related Company.

- A. In accordance with Texas Property Code Section 209.0052(b), the Association may only enter an enforceable contract with the following parties if the procedure outlined in Section II. B below is followed:
 1. a current Board member,
 2. a person related to a current Board member within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code,
 3. a company in which a current Board member has a financial interest in at least 51 percent of profits, or a company in which a person related to a current 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.
- B. The following bid process shall be used in cases where the Association desires to enter into a contract with the parties listed in Section II. A. above:
 1. the Board member, relative, or related company bids on the proposed contract;
 2. the Association receives at least two other bids from persons not associated with the Board member, relative, or related company;

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3. 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;
4. The material facts regarding the relationship or interest with respect to the proposed contract are disclosed to or known by the Board;
5. The Board, in good faith and with ordinary care, authorizes the contract by the affirmative vote of a majority of the remaining Board members who do not have an interest governed by this subsection; and
6. The Board certifies that the other requirements of this subsection have been satisfied by a resolution approved by the affirmative vote of a majority of the Board members who do not have an interest governed by this subsection.

Additional Contract Requirements

- Ongoing service contracts (i.e. contract with automatic renewal terms) shall be evaluated every three years for bidding.
- The Board should consider submitting all contracts that are more than \$50,000 for legal review.
- Contracts that utilize third-party subcontractors shall require retainage in compliance with state law and the main contract holder to provide a final lien release to the Association, prior to final payment of the contract.
- Contracts should contain clear cancellation provisions.
- All contracts and expenditures should require the vendor to provide a warranty and proof of insurance, if applicable.
- Contracts, including any Master Service Agreements, should contain indemnity provisions to protect the Association from subcontractor liens, gross negligence, breach of warranty, punitive damages, or faulty workmanship which could cause injury.

III. Applicability


- The security contract with Harris County Sheriff's Office is exempt from these requirements, but the contract shall be reviewed by the Board every year.
- Due to the transition complexities and the need for continuity, the property management company contract is exempt from competitive bidding requirement unless otherwise determined by the Board or if the costs have increased by over 3% per year.

The guidelines are effective upon recordation in the Public Records of Harris County and supersede any guidelines for bid solicitation and review or expenditure policies which may have previously been in effect. Except as affected by Section 209.0052 and/or by these guidelines, all other provisions contained in any official Spring Creek Forest Civic Association dedicatory instruments shall remain in full force and effect.

CERTIFICATION

I hereby certify that, as Secretary of the Spring Creek Forest Civic Association, this Spring Creek Forest Civic Association Expenditure Policy was approved on 16 day of November, 2021, at a meeting of the Board of Directors at which a quorum was present.

DATED, this 16 day of November, 2021.

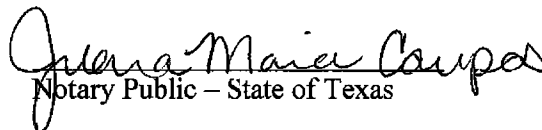

Secretary Signature

Erin S Maxwell
Printed Name

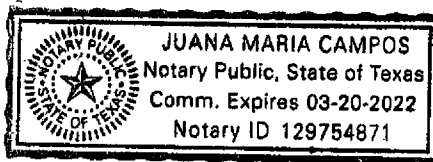
State of Texas §
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County of Harris §

BEFORE ME, on this day personally appeared ERINSMAXWELL, the Secretary of the Spring Creek Forest Civic Association known by me to be the person whose name is subscribed to this instrument, and acknowledged to me that s/he executed the same for the purposes herein expressed, in the capacity herein stated, and as the act and deed of said corporation.

Given under my hand the seal this the 18 day of November, 2021.


Notary Public – State of Texas

After Recording, Return to:
Sipra Boyd
Roberts Markel Weinberg Butler Hailey PC
2800 Post Oak Blvd., 57th Floor
Houston, TX 77056



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