RESOLUTION 2018-15
AN ADMINISTRATIVE RESOLUTION
PROCUREMENT POLICY
LAKE OF THE WOODS ASSOCIATION, INC.

WHEREAS, recent experience has identified the inability of LOWA to obtain the requisite number of bids for large procurements; and

WHEREAS, the Board of Directors desires to clarify the bidding solicitation requirements to ensure a flexible, efficient and timely procurement process.

RESOLVED, the Board of Directors hereby establishes the following policy governing all Lake of the Woods Association, Inc. (Association) procurements and directs the General Manager (GM) to act as the Principal Procurement Agent for the Association.

SECTION 1 - GENERAL

PURPOSE

The Procurement Policy governs decisions and activities related to all purchases of goods and services, competitive procurement, and the execution of contracts. It states the signature authority necessary to obligate the Association. It provides guidance for the procurement of capital equipment, as well as labor and materials for capital projects and major repairs. These procurement policies are essential to the Association in protecting, maintaining, and enhancing Association assets and in providing excellent customer service to the members.

BACKGROUND:

The Board recognizes that competitive procurement can be effected by a number of factors including changing economic conditions, both locally and regionally, and LOWA’s distance from many qualified vendor service locations. A stronger economy can influence a vendor’s decision to pass on bid opportunities due to existing workload or labor availability. Thus, the pool of qualified vendors for a given procurement may be smaller despite LOWA’s outreach efforts to generate competition. These, and other factors, require LOWA’s Procurement Policy to be one that can be flexible, efficient and timely to meet the needs of the Association in a changing environment.

GOVERNING DOCUMENTS

Broad procurement-related powers of the Association are established in the Articles of Incorporation Article II.9. Limits of signature authority are stipulated in the Bylaws Article XI.1 and 3.

1Virginia Nonstock Corporation Act Section 13.1-870.A
ROLES AND RESPONSIBILITIES

1. **Board of Directors** – The Board establishes and oversees the procurement system as part of its fiduciary responsibility to the Association. Individual directors discharge their duties in accordance with good faith business judgment of the best interests of the Association (the Business Judgement Rule)¹. The Board awards contracts and sets procurement standards. The Board approves budgets and authorizes expenditures from operating and reserve funds. The Board delegates certain responsibilities to the GM. Board powers and duties are contained in the Virginia Property Owners’ Association Act, the Virginia Nonstock Corporation Act, and in the LOWA Governing Documents. Specifically relevant are: the Declarations of Restrictions Section 12.D, and Bylaws Article VIII (Powers and Duties) and Article XIII (Financial and Investment Management).

2. **General Manager and Staff** – The GM is authorized as the **Principal Procurement Agent** for the Association. The GM shall use prudent, sound, and ethical business decisions to determine best value for the Association and to spend the Association funds as judiciously as possible. During any temporary absence, the GM shall appoint an Acting GM from among the Assistant General Manager, Director of Facilities or Director of Finance to assume his duties. (Bylaws Article XI, Section 1.) The GM prepares procurement policies, contracts, and purchase item recommendations for Board action based on best practices. The GM supervises the preparation of Requests for Proposals (RFPs) and Invitations for Bids (IFBs), and executes certain contracts. The AGM and Facilities Director provide daily guidance to the operation center managers on best practices.

The GM may authorize the AGM, Department Directors, and Operation Center Managers to act as purchasing agents for their departments according to established limits. The AGM, Department Directors and Operation Center Managers document purchases and track expenditure of funds on a monthly basis according to budgeted amounts. They gather procurement information from vendors, evaluate bids, and determine if vendors have adequate resources, and a satisfactory performance record to accomplish the work. They negotiate contract terms in coordination with the GM. They maintain capital project files containing project justification, cost estimates, bids and contracting information.

The GM and other LOWA employees follow standards of conduct established in the Board-approved Employee Manual.

3. **Finance Director** – The Finance Director maintains the Association’s financial records of procurements, and assists the departments with proper documentation. The Finance
Director documents procurement transactions according to generally accepted accounting principles (GAAP) for the annual independent audit.

4. **Finance Committee** – The Finance Committee advises the Board on procurement policy and procurements over $100,000. It also makes recommendations for improvements that incorporate best practices for Associations. The committee considers procurement issues and makes recommendations during the annual budget review process. For this purpose, the Finance Committee shall be supplied all relevant information regarding such policies or procurements in a timely manner.

**CONFLICT OF INTERESTS**

For the purpose of this policy, the definition of a Conflict of Interests shall be the same as stated in the Virginia Nonstock Corporation Act, as amended, including Virginia Code Section 13.1-871. In addition to directors, the definition will apply to employees, committee members and other LOWA members involved in the selection, award or administration of a contract. Section 13.1-871.A of the Act states (in part):

"A conflict of interests transaction is a transaction with the corporation in which a director of the corporation has an interest that precludes him from being a disinterested director."

Section 13.1-803. Definitions, states (in part):

""Disinterested Director" means a director who, at the time action is to be taken... does not have (i) a financial interest in a matter that is the subject of such action, or (ii) a familial, financial, professional, employment, or other relationship with a person who has a financial interest in the matter, either of which would reasonably be expected to affect adversely the objectivity of the director when participating in the action..."

Any director, employee or committee member or other LOWA members involved in the selection, award or administration of a contract shall declare any conflict of interests ahead of time before participation in the selection, award or administration of a contract.

- The Board of Directors and Committee members are bound by these Nonstock Corporation Act requirements. Any director or committee member shall notify the Board President in a timely manner of any conflict of interest that precludes him/her from involvement in being disinterested in the selection, award or administration of a contract.

- The GM and other LOWA employees, by virtue of the employer-employee relationship described in the Board-approved Employee Manual, have a duty to make decisions in the best interest of the Association. Employees shall notify the General Manager in a timely manner of any conflict of interest that precludes him/her from involvement in being disinterested in the selection, award or administration of a contract. The GM, in turn,
shall notify the President in a timely manner if his or an employee’s conflict of interest
cannot be resolved by the substitution of another employee or other such actions to
resolve the conflict of interest.

• Other LOWA members will be bound by an agreement signed before participation in
  selection, award or administration of a contract.

• In any instance of an unresolvable issue, the entire Board will make the decision whether
  or not there is a conflict of interest.

SECTION 2 - ADMINISTRATION

CONTRACTS AND CONTRACT ADMINISTRATION

All contracts and purchase orders must be made in the name of the Association.

*The Board of Directors may contract for outside services that may be deemed to be cost effective
and to be in the best interests of the Association. (LOWA Bylaws Article XI, Section 3)*

Selection of the successful bidder will be chosen from qualified bidders. It shall be the bid
evaluated to be the *best value*, a combination of price, qualifications, and relevant experience.
Price is one of the factors, but the Association is not obligated to select the lowest bidder if other
factors are more important to the decision. However, the GM (or designee) must prepare a
written justification for the awarded bidder according to the evaluation criteria.

1. All contracts signed on behalf of the Association shall first be thoroughly reviewed by the
   GM and/or the Association Attorney to assure they benefit and protect the Association
   and its members.
2. All contracts shall be approved by the Board of Directors. Approval can be Direct
   (motion of the Board) or General (approved as part of the budget).
3. Most contracts normally are limited to one year terms and contain 30-day cancellation
   clauses. Two to five year contracts are permissible in justified circumstances for
   contracts with an aggregate total of over $25,000, but require direct Board approval.

The Association has an overall system of contract administration contained in the Quality
Management System (QMS) to ensure proper oversight and management of procurement actions.

The Association is responsible for evaluating contractor performance and documenting, as
appropriate, whether contractors have met the terms and conditions and specifications of the
contract. This may include progress inspections, interim products, inspection of goods delivered,
and other such methods that provide assurance that the goods or services purchased are being
delivered within the scope of the contract. The Association’s contract administration system must ensure that:

1. The method of procurement is documented and records maintained according to records retention policy. All activities are carried out and costs are incurred in compliance with Association requirements; and
2. Before payment is made, services performed are adequate and consistent with the contract scope of services.

APPROVAL LEVELS, SIGNATURE AUTHORITY, AND BID SOLICITATION

The GM or his designees have the authority to sign contracts that are $25,000 or less in value that is a part of the current fiscal year approved budget. All purchase orders and contracts must be made in the name of the Association. All contracts greater than $25,000 must be approved by the Board and signed by the President, Vice President or Treasurer and attested to by the Secretary of the Association. (LOWA Bylaws Article XI, Section 3)

The Board authorizes all expenditures according to the current and future needs of the Association. To ensure the most effective use of the Association’s financial resources, the following authorizations and bid solicitation requirements are established. Signers must confirm that all appropriate pre-approvals have been completed before signing.

<table>
<thead>
<tr>
<th>Amount of Procurement (Budgeted)</th>
<th>Minimum Number of Bids Solicited</th>
<th>Authorizing Officials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $10,000</td>
<td>Optional as determined by the GM</td>
<td>AGM, Department Director or Operation Center Manager</td>
</tr>
<tr>
<td>Over $10,000 to $25,000</td>
<td>Three</td>
<td>GM or Management Designee or LOWA President, Vice President or Treasurer</td>
</tr>
<tr>
<td>Over $25,000</td>
<td>Three</td>
<td>Board Approval with President, Vice President or Treasurer signature</td>
</tr>
</tbody>
</table>
DOCUMENTATION AND RECORDS RETENTION

When bids or proposals are received, the AGM, Department Director or Operation Center Manager will work in close coordination with the GM to prepare a “Determination Memorandum” summarizing the budgeted amounts, cost estimation, list of solicited vendors sent RFPs, bids received, contract prices, and other pertinent information. The Determination Memorandum must be signed by the GM and kept in the project file.

The GM and the Finance Director shall ensure that adequately detailed records of purchases and projects files are maintained according to the LOWA Records Retention Policy.

ARCHITECT AND ENGINEERING SERVICES

If the cost of a construction project or repair is estimated at $100,000 or more, the Association will retain the services of an architect or engineer qualified to practice in Virginia to approve project documents and monitor the project through completion and final inspection.

CHANGE ORDERS

Once a bid has been accepted and a project started, additional expenses incurred due to unforeseen circumstances or additional work outside the original project scope that will exceed the approved project budgetary authority by 10 percent or $10,000, whichever is less, must be approved by the Board. The Project Manager will prepare a written justification for the change order.

SUBCONTRACTING

Subcontracting is not allowed without prior written approval of the Association. When subcontracting is required, the contractor must show proof of performance of the subcontractor on similar jobs. The subcontractor’s name and duties are to be specifically detailed in contract documents. Such contract documents must include the contractor’s written requirement and agreement to be responsible for and to oversee subcontractor work and protect the Association against claims and liens from the subcontractor. The GM is to inform the Board of Directors in writing when a subcontractor earning over $10,000 is employed.

INSURANCE

The GM and Finance Director shall determine vendor insurance requirements for contracts in coordination with the Association Insurance Agent and Association Attorney. The Association requires a Certificate of Insurance showing proof of general liability, automobile, and worker’s compensation insurance before performing onsite work. LOWA must be named as Additional Insured for general liability coverage.
PURCHASE ORDERS

The GM or his designees have the authority to sign purchase orders for items that are approved in the current fiscal year budget. The GM or his designees have the authority to sign contracts that are $25,000 or less in value that are a part of the current fiscal year approved budget. All purchase orders and contracts must be made in the name of the Association. (LOWA Bylaws Article XI, Section 3)

Procurements of individual items and services for $5,000 or more from vendors, except procurements accomplished by contract, shall be on the Association’s Purchase Order (PO) Form. POs shall also be used for store account purchases. POs may be used on other purchases as an aid for tracking expenditures. POs must include all necessary information to affect the purchase, including supplier name, address, and point of contact; agreed-to price and delivery dates; special terms and conditions; and the intended location and use of the purchase.

INVOICE PROCESSING

All check requests must include supporting documentation, such as a copy of the related purchase order, contract or invoice attached. All such documentation shall be signed/initialed and dated by the Department Director or Operation Center Manager to reflect procurement was received in good order, and approved for payment.

ASSOCIATION CREDIT CARDS AND STORE ACCOUNTS

Association Credit Cards. Credit cards may be used by certain employees to expedite the delivery of merchandise where time is of the essence. Because credit cards obligate the Association to pay for an item or service, they are to be used only in specific circumstances. The Association prefers to set up an account and receive an invoice for services whenever possible. Credit card use is available for:

1. Small, one-time purchases such as meals, books, supplies and parts;
2. On-line purchases where invoicing is not an option;
3. First time purchases after which an invoice will be sent by the vendor for future purchases;
4. Emergency and time sensitive purchases.

All purchases must be documented on the Credit Card Form with initialed receipts attached. All purchases must be approved by the GM. The approval of an authorized check signing officer of the Board of Directors is required on the form for purchases over $1,000 and for purchases of the GM.

The GM is authorized to carry an Association credit card. The GM, with concurrence of the Treasurer, may authorize the issuance and establish the credit limits of a limited number of cards to the AGM, Facilities Director, and other senior staff. The Finance Director reviews all
transactions and receipts on monthly statements. Documentation will be reviewed as part of the
annual audit.

Store Accounts. LOWA maintains store accounts with hardware stores, construction materials
yards, lawn and garden centers, and office supply stores. All purchasers must be preauthorized
by the Operation Center Manager and have a Purchase Order number at time of purchase. The
PO number must be written on the receipt. The purchaser must hand in the receipt to the
Operation Center purchase manager no later than the following business day.

The GM or designee shall perform price comparison reviews during the budget process and as
needed to ensure the Association is receiving the best prices for the items purchased.

SECTION 3 – COMPETITIVE PROCUREMENT

SOURCING

Competitive procurement is required in most circumstances where major purchases (more than
$25,000) are contemplated as the best way to obtain the best price and favorable terms.

Annually, as part of the budget preparation process, Department Directors and Operation Center
Managers will competitively price contracts on operating supplies and materials and general
budget items to help ensure the Association is realizing best value.

REQUESTS FOR PROPOSALS AND INVITATIONS FOR BIDS

The GM is responsible for preparing and soliciting competitive proposals through Request for
Proposals (RFPs) for professional services and through Invitation for Bids (IFBs) for major
projects (more than $25,000) or projects that are long term or complex in nature.

1. RFPs and IFBs will be announced in appropriate industry publications and direct
   solicitations with sufficient lead time to allow qualified vendors to respond, but in no
case less than 10 days. A capital project of $250,000 or more will be announced with
no less than 45 days to respond, unless the capital project is deemed an emergency
procurement by the Board.
2. The goal of each solicitation is to receive proposals/bids from at least three qualified
   vendors.
3. If less than three responses from qualified vendors are received, the GM will prepare
   a Sole/Single Source justification memorandum for file, or for Board approval
   (greater than $25,000), or reissue the RFP/IFB.
4. RFPs and IFBs will include a detailed description of the work to be done or the
   product to be purchased.
5. Selection criteria, including price, qualifications and relevant experience, along with
   their importance and relative weights will be included.
6. The Association will employ a subject matter expert to assist with the specifications of highly technical proposals.

7. The GM will approve selection criteria, outreach to vendors and schedule.

8. An on-site mandatory pre-bid meeting is required for construction projects.

9. Proof of financial stability such as a company financial statement, bank letter or financial rating must be obtained for all vendors responding to an RFP or IFB for $100,000 or greater.

10. Payment and Performance Bonds required for contracts over $200,000.

Upon completion of a major project, the project manager will conduct an after action review of the effectiveness of the RFP process to determine lessons learned for future RFPs.

EXCEPTIONS

The GM is authorized to deviate from this competitive procurement policy under certain circumstances:

1. The purchase is of a unique character where only one vendor is available.

2. The purchase is deemed an emergency or time sensitive by the GM, and the bid process would jeopardize ongoing operations.

3. The purchase is of a routine nature and is, in the opinion of the GM, priced competitively and in the best interest of the Association.

SINGLE SOURCE PROCUREMENT

Single Source procurement is a procurement in which two or more vendors can supply the commodity or supply the required services, but LOWA selects one vendor over the others. On this basis, procurements up to $25,000 may be obtained from a single source only if a written Single Source Justification Memorandum is submitted to and signed by the GM for the project file. Single Source purchases greater than $25,000 require the same memorandum and must be approved by the Board of Directors prior to contracting with the vendor.

The Justification Memorandum will include the circumstances leading to the selection of the vendor as having the best value for LOWA, including how the price was determined as fair and reasonable. Price justifications could come from a number of sources such as competitive quotes from other suppliers who do not meet specifications, comparison to product catalog, comparison to similar product/service published price lists, state or local government price lists, records of previously bid items that are similar, or proven industry standard.

SOLE SOURCE PROCUREMENT

The Board recognizes that in some circumstances it is necessary, and in the Association’s best interest, to obtain procurement without formal bids. On this basis, procurements up to $25,000 may be obtained from a sole source only if a written Sole Source Justification Memorandum is
submitted to and signed by the GM for the project file. Sole Source purchases greater than $25,000 require the same memorandum and must be approved by the Board of Directors prior to contracting with the vendor.

**EMERGENCY PROCUREMENT**

_The GM has the authority to incur obligations and accomplish repairs or replacements exceeding $5,000 per item that are determined by the GM to be an emergency. Supporting documentation shall be submitted in writing to the Board of Directors in a timely manner._

(LOWA Bylaws Article XI, Section 1)

**NON BUDGETED ITEMS**

Any non-budgeted items or expenditures that exceed $5,000 will require Board approval with prior notice to the Finance Committee. All non-budgeted items under $5,000 will require GM’s approval.

**QUALITY MANAGEMENT SYSTEM PROCEDURES**

The GM is responsible for establishing written procurement procedures to be incorporated into the Quality Management System (QMS), and Department Directors and Operation Center Managers must adhere to QMS procedures in obtaining and awarding bids of goods and services at a competitive price.

**FURTHER, RESOLVED,** Administrative Resolution 2017-22 is hereby replaced and repealed by this resolution.

**EFFECTIVE DATE:** August 15, 2018

IN WITNESS WHEREOF, I have executed this Resolution this date of ________________.

LAKE OF THE WOODS ASSOCIATION, INC.

By: [Signature]
Leighton H. Cumming, President

ATTEST:
I, as Secretary for Lake of the Woods Association, Inc., hereby attest that the foregoing Administrative Resolution No. 2018-xx was adopted by the Board of Directors at a duly-held and noticed Board of Directors meeting held on the 15th day of August, 2018.

[Signature]
Jennifer Zukowski, Secretary