

The Springs Homeowners Association
January 17, 2017

Update on the designation of Sunland Asphalt as a Preferred Supplier and awarding Sunland Asphalt an exclusive contract with The Springs HOA

I have been told that the Covenants, Conditions & Restrictions (CCR's) and Bylaws prohibit multi-year contracts so I am trying to find another solution that will encourage Sunland Asphalt to help The Springs transition street maintenance from reactive to proactive.

To accomplish this I am separating the agreement to two components; a 1 year contractual component followed by a two year memorandum of understanding (MOU). The contract portion commits Sunland to provide a list of specific repairs to be completed within one year at a quoted price based on the approval of the HOA annual budget by The Springs board. This is essentially the way Sunland and The Springs currently operate except that all projects will be approved by the approval of the annual budget rather than being approved over the course of the year.

The MOU component encourages Sunland to propose repair and maintenance projects that should be completed in subsequent years with corresponding alternatives but does not obligate Sunland to complete an assessment, provide any work included in a projection or to perform any work for Sunland's estimated cost. The MOU does not obligate the HOA to procure any repair or preventive maintenance services recommended by Sunland. The use of an MOU has not been shared with Sunland and may not be acceptable to them as it allows other asphalt companies to bid on work after Sunland performed the street assessment, identified the need and provided an estimate at no cost to the HOA.

To assure that the draft does not include any proposals conflicting with the HOA's restrictions I need to be aware of any such constraints. For example, the only statements regarding contract duration I find in the CCR's is in Article 5 Section 5.10 Management Agreement and in the Bylaws is in Article VIII Power and Duties of the Board of Directors Section 7.2.5. Both of these clauses state that "contracts shall not exceed three years and shall provide termination by either party without cause and without payment of a termination fee on 90 days or less written notice." If there are other governing documents that I need the review please let me know what they are and where I can find them.

Once a draft is ready for review it will be shared with Duane Huff of Sunland to determine if there are issues from Sunland's perspective. Another draft will be developed addressing Sunland's issues and the revised draft will be reviewed by The Springs board, etc., etc., etc. Once we have a draft revision agreeable to both Sunland and The Springs board, the draft can be reviewed by the HOA attorney if the board determines that a legal review is required.

Rick Fillion
Streets Committee

