

Resolution to Authorize the Repair and Replacement of a Community Road

Whereas, the Association is currently facing an **unforeseen** and **urgent** repair and replacement of the bulkhead/seawall protecting and supporting the foot of the Community road, Whidbey Island Drive, at its connection with Conwell Park and Division H;

Whereas, prior attempts to “rebuild” the seawall have been temporary at best and have largely failed;

Whereas, the Association has procured bid proposals for repair and replacement of the Community road, including necessary permits and engineering, for a cost not to exceed \$ 110,000.00;

Whereas, the HICA CC&Rs in paragraph 21 provide that there shall be easements for roads and utilities “as shown on the plat” and that the “club” (HICA’s predecessor) shall maintain “said facilities”;

Whereas, HICA’s By-Laws, Article VI “Power and Duties of Trustees” provides in Section 1 as follows: “it is hereby expressly declared that the trustees powers shall include but not be limited to providing and maintaining roads”;

Whereas, the aforesaid Community road, Whidbey Island Drive, is a platted road, part of the Association’s facilities, and a Capital asset of the Association;

Whereas, the HICA Capital Reserve Account has sufficient funds to pay the cost of repair and replacement of the Community road, **without** a Special Assessment;

Whereas, the By-Laws, Article VI, Section 4’s restriction on the Board’s approval of amendments to the budget “not to exceed \$10,000 by item” is **not** applicable because the Board is not amending the budget and not using budgeted funds;

Whereas, HICA’s By-Laws, Article I, Section 4 provides that where the By-Laws conflict with the Revised Code of Washington, the revised code prevails; and

Whereas, Washington law governing HICA provides in RCW 64.38.075 as follows: “Reserve Account - Withdrawals - An association may withdraw funds from it reserve account to pay for **unforeseen or unbudgeted costs** that are unrelated to maintenance, repair or replacement of the reserve components. ... Payment for major maintenance, repair, or replacement of the reserve components out of cycle with the reserve study projections or not included the reserve study **may be made from the reserve account without meeting the notification or repayment requirements under this section.**”;

Now, Therefore, the Board of Trustees of HICA hereby adopts a Resolution authorizing the Island Manager to execute contracts in the Association’s name to repair and replace the foot of the Community road, Whidbey Island Drive at its connection with Conwell Park and Division H, including necessary permits and engineering, for a cost not to exceed \$110,000.00, with payment of said costs to be made out of the Capital Reserve Account and **no Special Assessment**.

Dated this 1st day of February, 2020.

HICA Board of Trustees