

RESOLUTION NO. 2015-10

**A RESOLUTION OF THE PORT OF CHELAN COUNTY ADOPTING SMALL WORKS ROSTERS DEVELOPED AND MAINTAINED BY MUNICIPAL RESEARCH AND SERVICES CENTER ("MRSC") AND ESTABLISHING A NEW SMALL PUBLIC WORKS ROSTER PROCESS TO AWARD PUBLIC WORKS CONTRACTS; ADOPTING CONSULTING SERVICES ROSTERS MAINTAINED BY MRSC AND ESTABLISHING A NEW ROSTER PROCESS TO AWARD CONTRACTS FOR PROFESSIONAL CONSULTING SERVICES INCLUDING ARCHITECTS AND ENGINEERS; REPEALING PRIOR INCONSISTENT RESOLUTIONS; CONTAINING A SEVERABILITY PROVISION; AND, SETTING AN EFFECTIVE DATE**

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**WHEREAS**, RCW 39.04.155, and other laws regarding contracting for public works by municipalities, allow certain contracts to be awarded by a small works roster process; and

**WHEREAS**, Chapter 39.80 RCW, and other laws regarding contracting for consulting services by municipalities, allow certain contracts for professional consulting services to be awarded by a consultant roster process; and

**WHEREAS**, in order to implement small works and consulting roster processes, the Port of Chelan County ("Port") is required by law to adopt a resolution establishing specific procedures related to the same; and

**WHEREAS**, the Port now desires to adopt procedures related to small works projects as set forth in this Resolution, NOW, THEREFORE,

**THE BOARD OF COMMISSIONERS OF THE PORT OF CHELAN COUNTY HEREBY RESOLVES AS FOLLOWS:**

**Section 1. Adoption of MRSC Rosters.** The Board of Commissioners ("Board") of the Port of Chelan County ("Port") wishes to contract with the Municipal Research and Services Center of Washington ("MRSC") to adopt for Port use those state wide electronic databases for small public works roster developed and maintained by MRSC and hereby authorizes the General Manager to execute that contract and/or any other document related thereto.

**Section 2. Small Public Works Roster.** The following small works roster procedures are established for use by the Port pursuant to RCW 39.04.155:

1. **Cost.** The Port need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property where the estimated cost does not exceed Three Hundred Thousand Dollars (\$300,000.00), which includes the costs of labor, material, equipment and sales and/or use

taxes as applicable. Instead, the Port may use the Small Public Works Roster procedures for public works projects as set forth in this Resolution. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process.

2. **Publication.** At least once a year, on behalf of the Port, MRSC shall publish in a newspaper of general circulation within the Port's jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to appropriate MRSC roster(s) at any time that they submit a written request and necessary records. The Port may require master contracts to be signed that become effective when a specific award is made using a small works roster.

3. **Telephone or Written Quotations.** The Port shall obtain telephone, written or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1), as existing or hereafter amended, and may establish supplementary bidder criteria under RCW 39.04.350(2), as existing or hereafter amended.

- a. A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. Detailed plans and specifications are encouraged, but need not be included in the invitation.
- b. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. "Equitably distribute" means that the Port may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.
- c. If the estimated cost of the work is from One Hundred and Fifty Thousand Dollars (\$150,000) to Three Hundred Thousand Dollars (\$300,000), the Port may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The Port has the sole option of determining whether this notice to the remaining contractors is made by:
  - i. publishing notice in a legal newspaper in general circulation in the area where the work is to be done;

- ii. mailing a notice to these contractors; or
  - iii. sending a notice to these contractors by facsimile or email.
- d. At the time bids are solicited, the Port representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project.
- e. A written record shall be prepared by the Port representative including each contractor's bid on the project and any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

4. **Limited Public Works Process.** If a work, construction, alteration, repair, or improvement project is estimated to cost less than Thirty-Five Thousand Dollars (\$35,000), the Port may award such a contract using the limited public works process provided under RCW 39.04.155 (3), as existing or hereafter amended. For a limited public works project, the Port will solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.010, as existing or hereafter amended. After an award is made, the quotations shall be open to public inspection and available by electronic request.

For limited public works projects, the Port may waive the payment and performance bond requirements of Chapter 39.08 RCW and the retainage requirements of Chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialmen, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project. However, the Port shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

The Port shall maintain a list of the contractors contacted and the contracts awarded during the previous 24 months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded.

5. **Determining Lowest Responsible Bidder.** The Port shall award the contract for the public works project to the lowest responsible bidder provided that, whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the Port may call for new bids. A responsible bidder shall be a registered and/or licensed contractor who meets the mandatory bidder responsibility criteria established by RCW 39.04.010, as existing or hereafter amended, and who meets any supplementary bidder responsibility criteria established by the Port from time to time.

6. **Award.** The Executive Director or his/her designee shall present all telephone quotations/bids and recommendation for award of the contract to the lowest responsible bidder to the Board; provided, however, for public works projects under \$25,000, the Executive Director shall have the authority to award public works contracts without Board approval, provided that the Board shall ratify the Executive Director's approval at the next regularly scheduled or special meeting of the Board, which ratification may be made by means of the consent agenda. For public works projects over \$25,000, the Board shall award all public works contracts.

7. **Rejection.** The Port reserves the right to reject all bids and not award a contract.

**Section 3. Consulting Services Roster.** The following consulting services roster procedures are established for use by the Port pursuant to RCW 39.80.030:

1. **Consulting Services.** Consulting services are professional services that have a primarily intellectual output or product and include architectural and engineering services as defined in RCW 39.80.020.

2. **Publication.** At least once a year, MRSC shall, on behalf of the Port, publish in a newspaper of general circulation within the Port's jurisdiction a notice of the existence of the consulting services roster and solicit the names of consultants for the consulting services roster. MRSC shall add responsible consultants to the consulting services roster at any time that a consultant completes the online application provided by MRSC, upload a Statement of Qualifications, and meets minimum State requirements for roster listing.

3. **Review and Selection of the Statement of Qualifications Proposals.** The Port shall use the following process to select the most highly qualified Architectural or Engineering firm off of the Consulting Services Roster to provide the required services:

- a. The Port shall establish criteria that the Executive Director, or their designee, must consider in evaluating Architectural or Engineering firms for a given project. Such criteria shall include a plan to insure that minority and women-owned firms and veteran-owned firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for architectural or engineering services. The level of participation by minority and women-owned firms and veteran-owned firms shall be consistent with their general availability within the jurisdiction of the Port.
- b. The Executive Director, or their designee, shall evaluate the written statements of qualifications and performance data on file with the Port at the time that architectural or engineering services are required;
- c. Such evaluations shall be based on the criteria established by the Port; and

- d. The Executive Director, or their designee, shall conduct discussions with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services.
- e. The firm deemed most highly qualified by the agency to do the project will be selected.

**4. Award.**

- a. The Port considers the proposal received and awards the contract; or
- b. If the Port delegates the authority to award projects to the Executive Director of the Port for consulting services costing less than or equal to \$25,000.00, the Executive Director shall have the authority to award contracts for consulting services without the Board's approval, provided that the Board shall ratify the Executive Director's approval at the next scheduled Board meeting by means of the consent agenda. For consulting services costing more than \$25,000.00, the Port shall award all contracts for consulting services.

**5. Reservation of Rights.** Nothing in this Resolution prohibits the Port from using any alternative procedures set forth in RCW 39.80.030 to solicit and enter into contracts for consulting services.

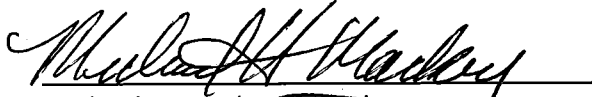
**Section 4.** Any prior policies or Resolution(s) of the Port in conflict with the policies and provisions established and set forth in this Resolution are hereby repealed.

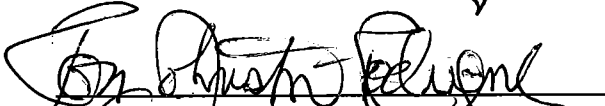
**Section 5.** If any section, sentence, clause, or phrase of this Resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Resolution.

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**Section 6.** This Resolution shall be effective upon passage by the Board.

ADOPTED BY THE BOARD OF COMMISSIONERS of the Port of Chelan County, Chelan County, Washington, on the 5<sup>th</sup> day of November, 2015, at an Open Public Meeting of the Board.

  
Michael H. Mackey, President

  
Ron Johnston-Rodriguez, Vice President

  
JC Baldwin, Secretary