

RESOLUTION NO. 797

A RESOLUTION OF THE CITY OF GIG HARBOR, WASHINGTON, UPDATING THE SMALL PUBLIC WORKS ROSTER PROCESS; AMENDING THE BID LIMITS TO BE CONSISTENT WITH RECENT CHANGES TO STATE LAW; REPEALING RESOLUTION NO. 750; AND ESTABLISHING AN EFFECTIVE DATE OF JULY 26, 2009.

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, the City adopted its small works roster process under Resolution No. 592 on July 22, 2002, as amended by Resolution No. 750 to add the MRSC roster process on April 28, 2008; and

WHEREAS, Chapter 74, Laws of 2009, effective July 26, 2009, amends RCW 39.04.155 to increase the upper limit for use of the small works roster process from \$200,000 to \$300,000, and correspondingly increased the dollar threshold for requiring the City to notify all contractors on the roster when it solicits bids from fewer than all contractors on the roster; and

WHEREAS, the City desires to amend its small works process to be consistent with the authority provided under state law, effective July 26, 2009;

NOW, THEREFORE, THE CITY OF GIG HARBOR, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Resolution No. 750 is hereby repealed.

Section 2. Municipal Research and Services Center (MRSC) Rosters. As provided by contract between the City and MRSC, the City may use the MRSC rosters according to this Resolution. In addition, paper and/or electronic rosters may be kept on file by appropriate City departments. Nothing prevents the City from advertising for any small works roster project or consultant through this procedure without use of the MRSC procedure.

Section 3. Small Public Works Roster. The following small works roster procedures are established for use by the City pursuant to RCW 39.04.155:

1. **Cost.** The City need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alternation, 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 City may use the Small Public Works Roster procedures for public works projects as set forth herein.

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 City, MRSC shall publish in a newspaper of general circulation within the general jurisdiction a notice of the existence of the 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 City 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.**

A. The City 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. In addition, the City shall ensure that contracts are awarded to a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1) as follows:

(1) The bidder must, at the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW; and

(2) The bidder must have a current state unified business identifier number; and

(3) If applicable, the bidder must have industrial insurance coverage for the bidder's employees working in Washington as required by Title 51 RCW, an employment security department number as required in Title 50 RCW and a state excise tax registration number as required in Title 82 RCW; and

(4) The bidder must not be disqualified from bidding on any public works contract under RCW 39.06.010 or RCW 39.12.065(3).

The City may establish supplementary bidder criteria under RCW 39.04.350(2).

B. 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. However, detailed plans and specifications need not to be included in the invitation. This subsection does not

eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes.

C. 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 equally distribute the opportunity among the contractors on the appropriate roster. "Equitably distribute" means that the City may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

If the estimated cost of the work is from One Hundred Fifty Thousand Dollars (\$150,000) to Three Hundred Thousand Dollars (\$300,000), the City 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 City has the sole option of determining whether this notice to the remaining contractors is made by:

- (1) publishing notice in a legal newspaper in general circulation in the area where the work is to be done;
- (2) mailing a notice to these contractors; or
- (3) sending a notice to these contractors by facsimile or email.

D. At the time the bids are solicited, the City 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 made by the City representative of each contractor's bid on the project and of 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.

A. If a work, construction, alteration, or improvement project is estimated to cost less than Thirty-five Thousand Dollars (\$35,000), the City may award such a contract using the limited public works process provided under RCW 39.04.155(3). Public works projects awarded under this subsection are exempt from the other requirements of the small works roster process described above and in RCW 39.04.155(2) and are exempt from the requirement that contracts be awarded after advertisement as required by RCW 39.04.010.

B. For a limited public works project, the City 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 39.04.350 and subsection 3(A) above. In making awards under this subsection 4, the City shall attempt to equitably distribute the opportunities for limited public works contracts among contractors willing to perform the work within the geographic area.

C. The City may use the limited public works process of this subsection 4 to solicit and award small works roster contracts to small businesses that are registered contractors. The City may adopt additional procedures to encourage small businesses that are registered contractors with gross revenues under two hundred fifty thousand dollars annually as reported on their federal tax return to submit bids or quotations on small works roster contracts.

D. For limited public works projects, the City 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 City shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

E. After an award is made, the quotations shall be open to public inspection and available by electronic request. The City 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 City 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 governing body 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 Section 3(A) of this Resolution, and who meets any supplementary bidder responsibility criteria established by the City.

Section 4. Consulting Services Roster.

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, on behalf of the City, MRSC shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the consulting services roster or rosters and solicit statements of qualifications from firms providing consulting services. Such advertisements will include information on how to find the address and telephone number of a representative of the City who can provide further details as to the City's projected needs for consulting services. Firms or persons providing consulting services shall be added to appropriate MRSC roster or rosters at any time that they submit a written request and necessary records. The City may require master contracts to be signed that become effective when a specific award is made using a consulting services roster.

3. **Professional Architectural and Engineering Services** The MRSC Rosters will distinguish between professional architectural and engineering services as defined in RCW 39.80.020 and other consulting services and will announce generally to the public the City's projected requirements for any category or type of professional or other consulting services. The City reserves the right to publish an announcement on each occasion when professional services or other consulting services are required by the agency and to use paper and/or other electronic rosters that may be kept on file by appropriate City departments.

Section 5. Effective Date. This Resolution shall take effect July 26, 2009.

PASSED by the City Council this 13th day of July, 2009.

APPROVED:



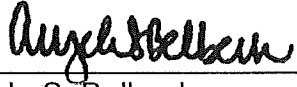
Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:



City Clerk, Molly M. Towslee

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

A handwritten signature in black ink, appearing to read "Angela S. Belbeck", written over a horizontal line.

Angela S. Belbeck

FILED WITH THE CITY CLERK: 07/08/09
PASSED BY THE CITY COUNCIL: 07/13/09
RESOLUTION NO. 797