

RESOLUTION NO. 592

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ON THE SUBJECT OF PUBLIC WORKS CONTRACTING; ESTABLISHING A SMALL WORKS ROSTER PROCESS TO BE USED IN LIEU OF COMPETITIVE BIDDING FOR PUBLIC WORKS UNDER \$200,000; REPEALING RESOLUTION 411.

WHEREAS, the Washington State Legislature recently amended RCW 39.04.155, which allows cities to use a small works roster process for the award of public works contracts under a certain monetary amount in lieu of competitive bidding; and

WHEREAS, RCW 39.04.155 requires the adoption of a resolution describing the small works roster process and the contract award procedure; and

WHEREAS, the City's former small works roster procedure is described in Resolution 411, which must be repealed and replaced with this Resolution; and

WHEREAS, RCW 39.04.280 allows the City to waive competitive bidding requirements for public works contracting in the event of an emergency, which requires the City to designate a person who will address the emergency situation, and establish a procedure for awarding the contract during the emergency; Now, Therefore,

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

Section 1. Resolution No. 411 is hereby repealed.

Section 2. The City Council hereby establishes the following process for the award of public works contracts under the small works roster process, and for the award of public works contracts in the event of an emergency:

SMALL WORKS ROSTER
AND EMERGENCY PUBLIC WORKS CONTRACTING

A. Exemptions from Competitive Bidding.

1. As provided in RCW 39.04.280, competitive bidding requirements may be waived by the City Council for the following:
 - a. Purchases that are clearly and legitimately limited to a single source of supply;
 - b. Purchases that involve special facilities or market conditions;
 - c. Purchases in the event of an emergency;
 - d. Purchases of insurance or bonds; and
 - e. Public works in the event of an emergency.
2. If the City Council decides to waive competitive bidding requirements under section A(1)(a) through (d) above, the Council shall adopt a resolution which describes the factual basis for the exception, immediately after the award of any contract.
3. In the event of an emergency, the City Council designates the City Community Development Director to act with regard to the subject matter of this Resolution, and he or she may declare an emergency situation exists, waive competitive bidding requirements and award all necessary contracts on behalf of the City to address the emergency situation. If a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of the emergency must be made by the City Council in a resolution no later than two weeks following the award of the contract.
4. For purposes of this Resolution, “emergency” means unforeseen circumstances beyond the control of the City that either: (a) present a real, immediate threat to the proper

performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury or loss of life if immediate action is not taken.

B. Small Works Roster Process. The City need not comply with competitive, formal, sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair or improvement of real property where the estimated cost of the work does not exceed two hundred thousand dollars (\$200,000.00). Instead, the City may use the small works roster procedures for public works projects as set forth herein.

1. Determining Cost. The estimated cost referenced above includes the costs of labor, material, equipment and sales and/or use taxes as applicable. The breaking of any project into units or accomplishing of 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 or limited public works process set forth in Section C herein.

2. Number of Rosters. The City may create a single, general small works roster, or may create a small works roster for different specialties or categories of anticipated work. Said small works rosters may make distinctions between contractors based upon different geographic areas served by the contractor.

3. Contractors on Small Works Roster(s). The small works roster(s) shall consist of all responsible contractors who have requested to be on the roster(s), and where required by law are properly licensed or registered to perform such work in this state. Contractors desiring to be placed on a roster or rosters must keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the City as a condition of being placed on a roster or rosters.

4. Publication. At least once a year, the City shall publish in a newspaper of

general circulation within the 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 an appropriate 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 small works roster. An interlocal agreement or contract between the City and other local governments establishing a small works roster or rosters to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the small works roster provisions.

5. Electronic Rosters. In addition to paper and/or electronic rosters kept on file in the appropriate department, the City may also use that state wide electronic database developed and maintained jointly by the Daily Journal of Commerce and the Municipal Research and Services Center of Washington.

6. Telephone or Written Quotations. As provided below, 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 and to award contracts to the lowest responsible bidder, as defined in RCW 43.19.1911(9). A copy of this statute is attached hereto as Exhibit A.

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. However, detailed plans and specifications need not be included in the invitation. This paragraph does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes.

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.

c. If the estimated cost of the work is from one hundred thousand dollars to two hundred thousand dollars, the City may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster, but must also 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:

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 contractor; or

iii. sending a notice to these contractors by facsimile or other electronic means.

d. At the time 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. Once a contractor has been afforded an opportunity to submit a proposal, that contractor shall not be offered another opportunity until all other appropriate contractors on the roster have been given an opportunity to submit a bid;

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. All of the telephone

bids or quotes shall be collected and presented at the same time to the City Council for consideration, determination of the lowest responsible bidder and award of the contract.

Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

C. Limited Public Works Process. If a work, construction, alteration, repair or improvement project is estimated to cost less than thirty-five thousand dollars (\$35,000.00), the City may award such a contract using the limited public works process authorized in RCW 39.04.155(3) and this section. The City shall attempt to distribute opportunities for limited public works projects equitably among contractors willing to perform in the geographic area of the work.

1. Quotations. 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 either award the contract to the lowest responsible bidder, as defined in RCW 43.19.1911(9) (a copy of which is attached hereto as Exhibit A), or the City may reject all bids. After an award is made, the quotations shall be open to public inspection and available by electronic request.

2. Bonding. 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 liability for the contractor's non-payment 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. Every contract forwarded to the City Council for award shall clearly state whether or not

the payment, performance bond and/or retainage requirements are waived, as to that individual contract.

3. **Listing of Contracts Awarded.** At least once every year, the City shall make available a list of the contracts awarded under the processes described in this Resolution. The list shall contain the name of the contractor awarded the contract, the amount of the contract, a brief description of the type of work performed or items purchased under the contract and the date it was awarded. The list shall also state the location where the bid quotations for these contracts are available for public inspection.

D. 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 City Council may call for new bids. The method for determining “lowest responsible bidder” is set forth in RCW 43.19.1911(9) (a copy of which is attached hereto as Exhibit A).

E. “Equal Distribution.” For purposes of this Resolution, “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.

RESOLVED by the City Council this 22nd day of July, 2002.

APPROVED:

MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

BY: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 7/18/02
PASSED BY THE CITY COUNCIL: 7/22/02
RESOLUTION NO. 593