

## RESOLUTION NO. 1066

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, AMENDING THE CITY'S PURCHASING AND CONTRACT PROCUREMENT PROCEDURES AND REPEALING RESOLUTIONS 593 AND 884.

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WHEREAS, state law authorizes each public agency the authority to establish certain purchasing and contracting procedures by way of resolution; and

WHEREAS, on July 22, 2002, the City passed Resolution No. 593, which establishes a process consistent with Washington law for the City Council to consider all purchases of materials, supplies, and equipment; and

WHEREAS, on November 28, 2011, the City passed Resolution No. 884, which establishes the City Council's procurement and purchasing procedures consistent with Washington law for consultant selection, the small works roster, the limited public works process, and cooperative purchasing agencies; and

WHEREAS, consolidation of the current separate resolutions will clarify the purchasing and contracting procedures and thus provide more effective procedures; and

WHEREAS, staff recommends recognition of an existing vendor list available through the Municipal Research Services Center as a formal method of purchasing; and

WHEREAS, the process to approve all purchases and procurement of contracts typically includes review and recommendation by staff, drafting a council bill by staff, and review of the council bill by the department director, City Attorney, Finance Director, City Administrator, and Mayor, after which point the item is placed on the City Council's agenda for an upcoming council meeting; and

WHEREAS, this process to approve all purchases and procurement of contracts can require an additional three weeks to six weeks from the time of recommendation by staff; and

WHEREAS, department directors and City Administration are recommending new purchasing and procurement procedures to allow department directors, the City Administrator, or the Mayor to approve certain purchases and contracts that are limited to certain dollar thresholds where the purchases and contracts are identified in the current budget and do not exceed the amount identified in the current budget; and

WHEREAS, this resolution will provide the City with efficiencies while remaining in compliance with state law and within the limits of the City's adopted budget; and

WHEREAS, these procedures are not intended to address contracting procedures related to Public Works contracts greater than \$300,000;

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

**Section 1. Scope.** All employees must follow these procedures for purchasing materials, supplies, and equipment and contract procurement. Adherence to these procedures will ensure that public purchases and contracts are open, fair, and at the best value to the public. These procedures are divided into three major areas:

- 1.1 Purchasing materials, supplies, or equipment.
- 1.2 Contract procurement for small public works contracts, and limited public works contracts. Public works contracting beyond these shall follow the procedures set forth in Title 39 RCW.
- 1.3 Contract procurement for professional services.

**Section 2. Definitions.** For the purpose of these procedures and the interpretation and enforcement thereof, the following words and phrases shall be defined in state and federal law. The definitions outlined below are for reference purposes only.

- 2.1 Public Work: All work, construction, alteration, repair or improvement that is executed at the cost of the state or any public agency. This includes, but is not limited to, demolition, remodeling, renovation, road construction, building construction, ferry construction, and utilities construction. This also includes maintenance when performed by contract. See also RCW 39.04.010.
- 2.2 Prevailing Wage: The rate of hourly wage, usual benefits, and overtime, paid in the largest city in the county where the physical work is being performed to the majority of workers, laborers, and mechanics in the same trade or occupation. Prevailing wages are established, by the Department of Labor and Industries. See also RCW 39.12.010.
- 2.3 Emergency: Any unforeseen circumstance 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.
- 2.4 MRSC: The Municipal Research and Services Center (MRSC) is a nonprofit organization that helps local governments across Washington State better serve their citizens by providing legal and policy guidance on any topic. MRSC can be accessed by phone (800-933-6772), mail (2601 4<sup>th</sup> Avenue, Suite 800, Seattle WA 98121), or internet ([www.mrsc.org](http://www.mrsc.org)).

### **Section 3. Purchasing Procedures.**

3.1 Cost Thresholds and Purchasing Authority. The City Council hereby adopts the purchase thresholds, purchasing process alternatives and purchasing authorizations set forth in Table 1, attached hereto and incorporated herein PROVIDED the purchase is identified in the current City budget AND the purchase does not exceed the amount identified in the current City budget. All other purchases must be presented to the City Council for award and authorization.

3.2 MRSC Vendor Roster. As provided by Washington law and a contract between the City and Municipal Research and Services Center (“MRSC”), the City may use the MRSC vendor roster for the purchase of materials, supplies or equipment within the estimated purchase amount set forth in Table 1. In addition, paper and/or electronic rosters may be kept on file by appropriate City departments. Nothing in these procedures prevents the City from advertising for any vendors without use of the MRSC roster. At least once a year, on behalf of the City, MRSC will publish in a newspaper of general circulation within the general jurisdiction a notice of the existence of a vendor roster. Responsible businesses will be added to appropriate MRSC Roster(s) any time they submit a written request and necessary records.

3.3 Written quotes. This process consists of the City observing the following process to obtain telephone or written quotes from vendors for the purchase of materials, supplies or equipment within the estimated purchase amount set forth in Table 1.

- (1) A written description will be drafted of the specific materials, supplies, and equipment to be purchased, including the number, quality, quantity and type desired, the proposed delivery date, and any other significant terms of purchase;
- (2) A City representative will make a good faith effort to contact at least three of the vendors on the roster established above, provide the written description, and obtain quotes from the vendors on the required materials, equipment or supplies;
- (3) At the time such quotes are solicited, the City representative will not inform a vendor of any other vendor’s quote on the materials, supplies or equipment;
- (4) A written record will be made by the City representative of each vendor’s quote on the materials, supplies, and equipment purchased, and of any conditions imposed on the each vendor; and
- (5) All of the quotes will be collected and presented for consideration and determination of the lowest responsible bidder and award of the purchase.

3.4 Determining lowest responsible bidder. The City shall purchase the materials, supplies or equipment from 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 may call for new bids or enter into direct negotiations to achieve the best possible price. The following factors, in addition to price, may be taken into account by the City in determining the lowest responsible bidder:

- (1) Any preferences provided by law to Washington products and vendors.
- (2) The quality of the materials, supplies and equipment to be purchased.

- (3) The conformity of the materials, supplies and equipment to the City's specifications.
- (4) The purposes for which the materials, supplies and equipment are required.
- (5) The times for delivery of the materials, supplies and equipment.
- (6) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (7) Such other information as may have a bearing on the decision to purchase the materials, supplies or equipment.

3.5 Life cycling costing. In considering bids for purchase, whenever there is reason to believe that applying the "life cycle costing" method to bid evaluation would result in the lowest total costs to the City, first consideration will be given to the bid with the lowest life cycle cost which complies with the specifications. "Life cycle cost" means the total cost of an item to the City over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of the acquisition to the date of replacement or disposal, determined in any reasonable manner.

3.6 Interlocal Cooperative Purchasing Agreements. Pursuant to chapter 39.34 RCW, bidding is not required when purchases of materials, supplies, or equipment are made under State standard contracts or similar contracts executed by and through other local governments which have complied with state bidding requirements. This includes units of local government outside Washington State. The other government's bid process must have been conducted within the previous 24-month period to be valid for use by the City of Gig Harbor. In addition, the City must conduct a screening process whereby it can justify the purchase through an Interlocal Agreement. The screening process and results must be clearly documented in writing.

3.7 Written record of purchase. Immediately after a purchase is authorized, the written record of each bid or quote must be open to public inspection and available to the public by telephone or other inquiry.

3.8 Posting. A list of all purchases valued at more than \$7,500 but less than \$15,000 must be posted on the City's website, at least once every two months. The list must contain the name of the vendor awarded the purchase, the amount of the purchase, a brief description of the item(s) purchased, and the date the purchase was awarded. The list must also state the location where the bid quotations are available for public inspection.

### 3.9 Exemptions.

3.9.1 As provided in RCW 39.04.280, competitive bidding requirements may be waived by the City Council for the following:

- (1) Purchases that are clearly and legitimately limited to a sole source of supply.
- (2) Purchases in the event of an emergency.

- (3) Purchases of insurance or bonds.
- (4) Purchases that involve special facilities or market conditions.

3.9.2 **Sole Source.** Purchases deemed to be “sole source” are characterized as meeting one or more of the following standards: (a) the City department has conducted a screening process whereby it can justify purchase of a specific product; (b) the City requires legitimate specifications to which only one vendor can successfully respond; or (c) the product is available only through one manufacturer (or distributor) and the manufacturer so certifies. In any such case where the purchase exceeds \$5,000, the vendor shall certify that the City is getting the lowest price it offers anyone. Purchases in excess of \$5,000 from a sole source vendor require a statement attesting to the legitimacy of sole source and signed by the requesting Department Director with prior approval of the City Administrator.

3.9.3 **Emergency.** In the event of an emergency, the City Council designates the City Administrator to act with regard to the subject matter of these procedures, and he or she may declare an emergency situation exists, waive competitive bidding requirements and award all necessary purchases on behalf of the City to address the emergency situation. If an agreement is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency must be made by the City Council in a resolution no later than three weeks following the award of the agreement.

## **Section 4. Public Works Contracting Procedures**

4.1 **Cost Thresholds and Contract Authority.** The City Council hereby adopts the project thresholds, contract process alternatives and contract authorizations set forth in Table 2, PROVIDED the project is identified in the current city budget and the contract procurement does not exceed the amount identified in the current city budget. All other contract procurements must be presented to the city council for award and authorization.

4.2 **MRSC Small Works Rosters; Publication.** As provided by Washington Law and a contract between the City and MRSC, the City may use the MRSC rosters according to these procedures. At least once a year, on behalf of the City, MRSC will publish in a newspaper of general circulation within the general jurisdiction a notice of the existence of the roster or rosters. Responsible contractors will be added to appropriate MRSC Roster(s) at any time that they submit a written request and necessary records. Nothing prevents the City from advertising for any small works roster project or consultant through this procedure without use of the MRSC procedure.

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

4.3.1 **Small Works Cost Thresholds.** The City 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), 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.

#### 4.3.2 Telephone or Written Quotations.

- (1) The City must 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 must award the contract to the lowest responsibility bidder as defined in section 4.5.
- (2) A contract awarded from a small works roster need not be advertised. Invitations for quotations must 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.
- (3) Quotations may be invited from all 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.
- (4) 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:
  - a. Publishing notice in a legal newspaper in general circulation in the area where the work is to be done; or
  - b. Mailing a notice to these contractors; or
  - c. Sending a notice to these contractors by facsimile or email.
- (5) At the time the bids are solicited, the City representative must not inform a contractor of the terms or amount of any other contractor's bid for the same project.
- (6) A written record must 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 must be recorded, open to public inspection, and available by telephone inquiry.

#### 4.3.3 Small Works Roster Reporting. The City must maintain a list of all contracts

awarded using the Small Works Roster. This list will be updated at least once every year and be posted on the City's website. This list will contain the following information:

- (1) Name of successful contractor;
- (2) Contract amount;
- (3) Brief description of the type of work performed;
- (4) Award date; and
- (5) Location where bid quotations for contracts are available for public inspection.

#### 4.4 Limited Public Works Process.

4.4.1 Limited Public Works Cost Thresholds. 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.

4.4.2 Solicitation. 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 must award the contract to the lowest responsible bidder as defined in section 4.5. In making awards under this subsection, the City must attempt to equitably distribute the opportunities for limited public works contracts among contractors willing to perform the work within the geographic area.

4.4.3 The City may use the limited public works process of this subsection 4.4 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.

4.4.4 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 will have the right of recovery against the contractor for any payments made on the contractor's behalf.

4.4.5 After an award is made, the quotations must be open to public inspection and available by electronic request.

4.4.6 Limited Public Works Reporting. The City must maintain a list of all contracts awarded using the Limited Public Works process. This list will be maintained for contracts {AXS1528084.DOC;1/00008.900000/}

awarded using this process during the previous 24 months and be posted to the City's website. This list will contain the following information:

- (1) Name of successful contractor;
- (2) Name of all contractors contacted;
- (3) Contract amount;
- (4) Brief description of the type of work;
- (5) Award date; and
- (6) Contractor's registration number.

4.5 Determining Lowest Responsible Bidder; Rejection of Bids. The City must 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. In addition, the City must ensure that contracts are awarded to a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1) and supplementary criteria 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).
- (5) Any other supplementary bidder criteria under RCW 39.04.350(2) established by the City.

4.6 Emergency. In the event of an emergency, the City Council designates the City Administrator to act with regard to the subject matter of these procedures, 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 an emergency must be made by the City Council in a resolution no later than three weeks following the award of the contract.

## **Section 5. Professional Services Contracting Procedures.**

5.1 Consultants Roster for Professional Services. Professional services, also known as consulting services, are those services involving specialized skill, education, and special knowledge. These services include, but are not limited to, architectural, engineering, design services, accounting, art, bond brokerage, insurance brokerage, legal, real estate appraisal, relocation assistance, title abstracts, surveying, soils analysis, and core testing.

Procurement of professional and personal services will be in accordance with chapter 39.80 RCW and chapter 39.29 RCW. The City will use MRSC Rosters to establish a consulting services roster.

**5.2 Cost Thresholds and Signature Authority.** The City Council hereby adopts the cost thresholds and contracting authorizations set forth in Table 3, attached hereto and incorporated herein PROVIDED the contract for services is identified in the current city budget and the contract does not exceed the amount identified in the current city budget. All other contracts for professional services must be presented to the city council for award and authorization. The Mayor, City Administrator and department directors are authorized to extend the duration of professional service contracts where no additional expenditure is required for contract completion.

**5.3 Publication.** At least once a year, on behalf of the City, MRSC will 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 will 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.

**5.4 Architectural, Engineering, and Design 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 are required and to use paper and/or other electronic rosters that may be kept on file by appropriate City departments.

**5.5 All Other Professional Services.** A competitive process is not required for professional or personal services, other than architectural, engineering, and design services as noted in subsection 5.4. Purchase of professional services requires completion of a City professional services contract that describes services to be performed and negotiated price. Prior experience with the City, time-frame for completing projects, and the value of a negotiated agreement will be considered when consideration and awarding a consultant/firm to perform professional services, as defined in this section. Professional and technical services include disciplines such as attorneys, computer programmers, financial analysts, bond counsels, artists, planners, and real estate appraisers.

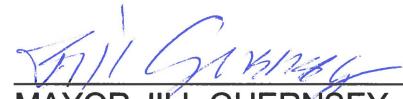
**5.6 Emergency.** In the event of an emergency, the City Council designates the City Administrator to act with regard to the subject matter of these procedures, and he or she may declare an emergency situation exists and award all necessary contracts on behalf of the City to address the emergency situation. If a contract is awarded due to an emergency,

a written finding of the existence of an emergency must be made by the City Council in a resolution no later than three weeks following the award of the contract.

**Section 6. Repealer.** Resolution No. 593 and Resolution No. 884 are hereby repealed.

PASSED by the City Council this 23<sup>rd</sup> day of January, 2017.

APPROVED:



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MAYOR JILL GUERNSEY

ATTEST/AUTHENTICATED:



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CITY CLERK, MOLLY M. TOWSLEE

FILED WITH THE CITY CLERK: 01/17/17  
PASSED BY THE CITY COUNCIL: 01/23/16  
RESOLUTION NO. 1066

**Table 1. Purchasing: Cost Thresholds, Consideration, and Award**

<b>Purchase Threshold</b>	<b>Purchasing Process Alternatives</b>	<b>Authorization</b>
\$1,000 or less	No formal process required	Department Director or Designee
More than \$1,000 to \$7,500	Interlocal cooperative purchase agreements, vendor roster, or formal competitive bidding process	Department Director
More than \$7,500 and less than \$15,000	Written quotes using the vendor roster, interlocal cooperative purchasing agreements, or formal competitive bidding process	City Administrator or Mayor
From \$15,000 and less than \$50,000	Interlocal cooperative purchasing agreements	City Administrator or Mayor
\$15,000 or more	Interlocal cooperative purchasing agreements or formal competitive bidding process	City Council

**Table 2. Public Works Contracting: Cost Thresholds, Consideration, and Award**

<b>Project Threshold</b>	<b>Contracting Process Alternatives</b>	<b>Authorization</b>
\$2,500 or less	Meet the requirements of Section 4 except no contract required	Department Director or Designee
More than \$2,500 to \$15,000	Limited Public Works or Small Public Works	Department Director
More than \$15,000 and less than \$35,000	Limited Public Works or Small Public Works	City Administrator or Mayor
From \$35,000 and not exceeding \$300,000	Small Public Works	City Council

**Table 3. Professional Services Contracting: Cost Threshold, Consideration and Award**

<b>Contract Threshold</b>	<b>Contracting Process Alternatives</b>	<b>Authorization</b>
\$15,000 or less	See section 5	Department Director
More than \$15,000 and less than \$35,000	See section 5	City Administrator or Mayor
\$35,000 or more	See section 5	City Council