

RESOLUTION NO. 87-09
AMENDING RESOLUTION 15-01

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MASON COUNTY, WASHINGTON, ON THE SUBJECT OF ESTABLISHING A SMALL WORKS ROSTER PROCESS TO AWARD PUBLIC WORKS CONTRACTS.

WHEREAS, in order to be able to implement small works roster processes of RCW 39.04.155, the County is required by law to adopt a resolution establishing specific procedures;

NOW THEREFORE, the Board of Commissioners of Mason County, Washington hereby resolves as follows:

Section 1. §3.48.050 of the Mason County Code is hereby repealed. There is hereby added to the Code of Mason County §3.48.050 which hereby reads as follows:

Section 2. The following small works roster procedures are established for use by the County pursuant to RCW 36.32.235, 36.32.250 and 36.77.075 and 39.04.155 RCW.

1. **Cost.** The County 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), or the current statutory limits in RCW 39.04.155, which includes the costs of labor, material, equipment and sales and/or use taxes as applicable. Instead, the County may use the Small 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. **Number of Rosters.** The County 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 County as a condition of being placed on a roster or rosters.
4. **Publication.** At least once a year, the County 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 County may require master contracts to be signed that become effective when a specific award is made using a small works roster. An interlocal contract or agreement between Mason County 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. **Telephone or Written Quotations.** The County 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 39.04.010 and RCW 39.04.350, as follows:

- 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.

If the estimated cost of the work is from one hundred fifty thousand dollars (\$150,000) to three hundred thousand dollars (\$300,000), the County 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 County 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 other electronic means.
- c) For purposes of this resolution, "equitably distribute" means that the County may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services. At the time bids are solicited, the County representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project;
 - d) A written record shall be made by the County 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.

6. **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 County may award such a contract using the limited public works process provided under RCW 39.04.155(3). For limited public works project, the County 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 and RCW 39.04.350. After an award is made, the quotations shall be open to public inspection and available by electronic request. For limited public works projects, the County 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 County shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

The County shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four (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.

7. **Determining Lowest Responsible Bidder.** The Board of County Commissioners 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 Board of County Commissioners may call for new bids. In addition to price, the Board of County Commissioners shall take into account the following:
- (a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
 - (b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
 - (c) Whether the bidder can perform the contract within the time specified;
 - (d) The quality of performance of previous contracts or services;
 - (e) The previous and existing compliance by the bidder with laws relating to the contract or services;
 - (f) Such other information as may be secured having a bearing on the decision to award the contract
8. **Award.** The Director of Public Works or his designee shall present all telephone quotations/bids and recommendation for award of the contract to the lowest responsible bidder to the Board of County Commissioners. However, for public works projects under \$50,000, the Director of Public Works shall have the authority to award public works contracts without Board of County Commissioners approval. The Director of Public Works shall advise the Board of County Commissioners of the award of contract at the next scheduled Board of County Commissioners meeting. For public works projects over \$50,000, the Board of County Commissioners shall award all public works contracts by resolution.

DATED this 6th day of OCTOBER, 2009.

**BOARD OF COMMISSIONERS
MASON COUNTY, WASHINGTON**



TIM SHELDON, Chair



LYNDA RING ERICKSON, Commissioner



ROSS GALLAGHER, Commissioner

ATTEST:


SHANNON GOUDY, Clerk of the Board

APPROVED AS TO FORM:


MONTY COBB
Chief Deputy Prosecuting Attorney