

RESOLUTION NO. 706

A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF BIRCH BAY WATER AND SEWER DISTRICT, WHATCOM COUNTY, WASHINGTON,
REPEALING RESOLUTION NOS. 398, 592, AND 600 AND ESTABLISHING PROCEDURES
FOR USE OF SMALL WORKS ROSTER AND ALTERNATIVE LIMITED SMALL
WORKS ROSTER PROCESS IN LIEU OF FORMAL SEALED BIDDING

WHEREAS, Washington State law authorizes water and sewer districts to establish small works rosters to award contracts in lieu of the requirements for formal sealed bidding; and

WHEREAS, Resolution No. 398 adopted by the Birch Bay Water & Sewer District ("District") on December 15, 1983 and codified at Chapter 2.20 of the District code, established procedures for use of a small works roster pursuant to state law; and

WHEREAS, Resolution No. 592 adopted by the District on March 25, 1999, effectively amended Resolution No. 398 and updated said small works roster procedures and also established vendor list procedures pursuant to state law; and

WHEREAS, Resolution No. 600 adopted by the District on August 23, 2000, effectively amended Resolution Nos. 398 and 592 by updating said small works roster and vendor list procedures pursuant to state law; and

WHEREAS, the District code was not updated to reflect the effective amendment of Resolution No. 398 by Resolution No. 592, or the effective amendment of Resolution No. 592 by Resolution No. 600; and

WHEREAS, now both Chapter 2.20 of the District Code and Resolution No. 600 require updating to correspond to current small works roster and alternative limited small works roster processes established through RCW 39.04; and

WHEREAS, it is the intent of the District in adopting this resolution to repeal Resolution Nos. 398, 592 and 600 in their entirety, and to replace all such provisions and Chapter 2.20 of the District Code with the provisions set forth herein;

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Birch Bay Water & Sewer District, Whatcom County, Washington as follows:

Section 1: District Code Chapter 2.20 and Resolution Nos. 398, 592, and 600 are repealed and replaced as follows:

Chapter 2.20 - Small Works Roster. All contracts for public work which are not exempt from public bidding under RCW 57.08.050, as hereafter amended, the estimated cost for which is three hundred thousand dollars (\$300,000.00) or less pursuant to RCW 39.04.155, or in such different estimated cost threshold as provided in future

amendment thereof, may be awarded as provided herein. The small works roster shall be utilized by the District in accordance with this chapter.

2.20.010 Cost. The District need not comply with formal sealed bidding procedures and may award public works contracts in conformance herewith for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property where the estimated cost of such work is three hundred thousand dollars (\$300,000.00) or less, pursuant to RCW 39.04.155, or in such different estimated cost amount as provided in future amendment thereof. Said estimated costs shall include the costs of labor, material, equipment and sales and/or use taxes as applicable.

2.20.020 Number of Rosters. The District 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.

2.20.030 Contractors on Small Works Roster(s). At least once a year the General Manager shall cause to be published in a newspaper of general circulation within the District a notice of the existence of the small work roster(s) and shall solicit the names of contractors for such 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 must keep current records of any applicable licenses, certifications, registrations, bonding, insurance or other appropriate matters on file with the District, as a condition of being placed on the roster(s). Responsible contractors shall be added to an appropriate roster or rosters at any time they submit a written request and necessary records.

2.20.040 Written or Electronic Quotation Process for Small Works Roster. The District shall obtain written or electronic quotations for public works projects 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. 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. 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 (5) contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted; provided that, if the estimated cost of work is from one hundred fifty thousand dollars (\$150,000.00) to three hundred thousand dollars (\$300,000.00) or within such other amounts as are provided by future amendment to state statute (RCW 39.04.155), the District shall notify the remaining contractors on the small works roster that quotations on the work are being sought. Said notice may be provided by any means authorized by state statute (RCW 39.04.155), or as said statute is later amended. The District will attempt to equitably distribute the opportunity among the contractors on the appropriate roster

by not favoring certain contractors over other contractors who perform similar services. Immediately after an award is made, the bid quotations obtained shall be noted in writing, open to public inspection, and available by telephone inquiry.

2.20.050 Determining Lowest Responsible Bidder. The District shall award the contract for the public works project to the lowest responsible bidder, however, the District reserves the right to reject all proposals and re-solicit the call for proposals, to waive informalities or irregularities in a proposal or in the proposal process, or to accept the proposal that is in the best interest of the District. This section shall also apply to use of the limited public works roster under section 2.20.070.

2.20.060 Award and Compliance. All bids and quotations shall be collected and presented at the same time to the District for consideration and determination of the lowest responsible bidder and award of the job. In general, all contractors must comply with the following:

- A. Prevailing wages must be paid and documented in compliance with RCW 39.12.
- B. A Performance Bond shall be executed in compliance with RCW 39.08 prior to beginning work.
- C. The contractor must hold a current Washington State Contractor's License.
- D. The contractor must provide a certificate of insurance naming the District as additional insured.
 - a. General Liability \$1,000,000 per occurrence/\$2,000,000 aggregate, Automobile Liability.
 - b. \$1,000,000 Worker's Compensation and Employer's Liability insurance in the amount required by law and paid to date.
- E. Contractor must have a satisfactory record of performance.

2.20.070 Alternative Limited Small Works Roster Process for Small Public Works Projects

- A. In lieu of awarding contracts under sections 2.20.010-2.20.060, the District may award a contract for public work estimated to cost less than thirty-five thousand dollars (\$35,000.00), or such other amount as is authorized by future amendment of state statute (RCW 39.04.155), using the limited public works process provided under this section. Public works projects awarded under this section are exempt from the requirements of the small works roster process provided under section 2.20.040 herein, and are further exempt from the requirement that contracts be awarded after advertisement as provided under RCW 39.04.010.
- B. For limited public works projects, the District shall 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. After an award is made, the quotations shall be open to public inspection and available by telephonic or electronic request. The District shall attempt to distribute opportunities for limited public works projects equitably among contractors willing to perform in the geographic area of work. The District shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four

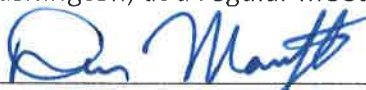
(24) months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded. For limited public works projects, the District may in its discretion 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, materialpersons, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project, however the District shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

Section 2. BE IT FURTHER RESOLVED that any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this resolution.

Section 3: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Board hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this Resolution should be declared invalid, or unconstitutional, then the original Resolution shall be in full force and effect.

Section 4: This Resolution shall be effective immediately.

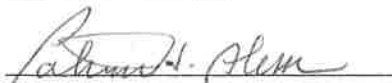
PASSED by the Board of Commissioners of Birch Bay Water & Sewer District, Whatcom County, Washington, at a regular meeting held the 9th day of June, 2011.


COMMISSIONER


COMMISSIONER


COMMISSIONER

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 706 of Birch Bay Water & Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on June 9, 2011.


SECRETARY