

**STAFF REPORT**

**MRSC Small Works Roster & Consultant Services**

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**To:** Members of the City Council  
**Date:** November 17, 2011  
**From:** Larry Kwarsick  
**Meeting Date:** November 21, 2011  
**Subject:** MRSC Small Works Roster & Consultant Services

**Summary:** Municipal Research and Services Center of Washington (MRSC) has established for cities in Washington a roster of all eligible contractors and consultants. This roster is created and maintained by MRSC according to RCW 39.04.155 and 39.80. MRSC will provide the advertising in accordance with statutory requirements. MRSC will also receive and review the contractor's applications for completeness, and maintain a list of architects, engineers, and other consultants eligible for this roster. The City may use this Roster as it determines appropriate to identify and solicit eligible contractors and consultants for public works projects up to \$300,000 in value or as otherwise limited by statutes, ordinances and laws applicable to the City.

If the Council approves MRSC maintaining the roster, letters will be sent to all local contractors with forms and instructions on how to submit their name to MRSC for inclusion into the roster. MRSC shall provide the City with a user name and password for access to the MRSC's electronic Rosters.

Municipal Research and Services Center of Washington (MRSC) provides free programs and services to Washington cities and counties. MRSC provides local governments with dependable, professional advice about local government issues; quick access to legal and policy research; sample documents, such as policies, ordinances, resolutions, plans and budgets; and a well organized and easy to use website.

The companion resolution establishes procedures for procuring architectural, engineering and other professional services.

**Recommendation:** Recommend approval of the attached resolutions and MRSC contract. The documents have been reviewed by the Public Works Director and City Attorney.

**Motion for consideration:**

#1 - I move to first reading a resolution establishing a process for procuring architectural, engineering and other professional services.

#2 - I move to authorize Mayor to sign the MRSC Rosters Agency Contract and Resolution establishing a small works roster process to award Public Works contracts and a consulting services roster for architectural, engineering and other professional services.

**Fiscal Impact:** \$100.00 per year for maintenance of the Small Works Roster by MRSC.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANGLEY WASHINGTON, ON THE SUBJECTS OF ESTABLISHING A SMALL WORKS ROSTER PROCESS TO AWARD PUBLIC WORKS CONTRACTS AND A CONSULTING SERVICES ROSTER FOR ARCHITECTURAL, ENGINEERING AND OTHER PROFESSIONAL SERVICES**

**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**, in order to be able to implement small works roster processes, the City is required by law to adopt a resolution establishing specific procedures;

**WHEREAS**, RCW 39.80.030 requires that an agency publish in advance that agency's requirement for professional services and that one of the ways to accomplish that notification is to announce generally to the public its projected requirements for any category or type of professional services and request qualification statements to be kept on file with the agency,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANGLEY, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

**Section 1. MRSC Rosters.** The City wishes to contract with the Municipal Research and Services Center of Washington (MRSC) to adopt for City use those state wide electronic databases for small works roster and consulting services developed and maintained by MRSC and authorizes the Mayor to sign the MRSC Roster Contract. In addition, paper and/or electronic rosters may be kept on file by appropriate City departments.

**Section 2. Small Works Rosters**

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, alteration, 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 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 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 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 small works roster.

**3. Telephone or Written Quotations.** 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 a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1) and may establish supplementary bidder criteria under RCW 39.04.350 (2)

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.

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. "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 thousand dollars (\$100,000) 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:

(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 email.

c) 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;

d) 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.** If a work, construction, alteration, repair, 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). 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 39.04.010. After an award is made, the quotations shall be open to public inspection and available by electronic request.

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.

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 Council 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. A responsible bidder shall be a registered and/or licensed contractor who meets the mandatory bidder responsibility criteria established by Chapter 133, Laws of 2007 (SHB 2010) and who meets any supplementary bidder responsibility criteria established by the City.

**6. Award.** All of the telephone bids or quotations 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. However, for budgeted public works projects \$35,000.00 or under, the Mayor shall have the authority to award and sign the public works contract without City Council approval. For budgeted public works projects over \$35,0000, the City Council shall award all public works contracts prior to the execution of the contract by the Mayor.

### **Section 3. Consulting Services Rosters**

**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 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.

**4. Competitive Solicitation** All professional service contracts shall be entered into pursuant to competitive solicitation, except for:

- a) Contracts between a consultant and the City of less than twenty thousand dollars. However, contracts of five thousand dollars or greater but less than twenty thousand dollars shall have documented evidence of competitive solicitation. Agencies shall not structure contracts to evade these requirements
- b) Contracts by interlocal governmental agreement with the United States, a state, or another political subdivision to fulfill the aforementioned bidding requirements and any purchase or lease made pursuant to said interlocal governmental agreement shall be deemed to have complied with the purchasing procedures of this chapter without the necessity of further bidding;
- c) Contracts for legal services including those for City attorney continuing contracts of this nature shall be required to be reviewed and approved prior to renewal by the City Council at least once every three (3) years;
- d) Emergency contracts;
- e) Contracts for services exempt from competitive solicitation specifically provided for under any state statute, case law or grant agreement (where the grant recipient is the City);
- f) Sole source contracts;
- g) Any service contract waived by the City Council on a case by case basis, and
- h) Contract amendments.

**5. Award.** For services contracts \$5,000 or less and for services contracts identified in the adopted budget that are \$20,000.00 or less, the Mayor shall have the authority to

award and sign the service contract without City Council approval. For services contracts greater than \$5,000 not indentified in the adopted budget and for professional services contracts that are \$20,000.00 over \$20,000.00, the City Council shall award all service contracts prior to the execution of the contract by the Mayor.

**Section 4 Contract Review Procedures**

The Mayor shall submit proposed contracts in excess of \$5,000 to the City Council and City Attorney for general review. All City proposed contracts shall automatically come under the provisions of this Resolution unless clearly excepted herein. It is the responsibility of the Mayor to resolve any question regarding a proposed contract qualifying as an exception with the City Council prior to its award.

**Section 5. Effective Date.** The effective date of this Resolution shall be \_\_\_\_\_, 2012.

**ADOPTED BY THE CITY COUNCIL ON \_\_\_\_\_, 2011.**

\_\_\_\_\_  
Paul Samuelsson, Mayor

ATTEST:

\_\_\_\_\_  
Debbie Mahler, City Clerk

"Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This term does not include purchased services as defined under this section. This term does include client services.

"Personal service contract" means an agreement, or any amendment thereto, with a consultant for the rendering of personal services to the state which is consistent with RCW 41.06.142.

Professional services for which cities may negotiate services include:

- \_ Accountants
- \_ Artists
- \_ Attorneys
- \_ Bond Brokers
- \_ Computer Programmers/Consultants
- \_ Insurance Brokers
- \_ Economists
- \_ Financial Analysts
- \_ Planners
- \_ Real Estate Appraisers
- \_ Codification of Municipal Ordinances

"Purchased services" means services provided by a vendor to accomplish routine, continuing and necessary functions. This term includes, but is not limited to, services acquired under RCW 36 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software

"Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required.

"Competitive solicitation" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services. Notice of a request for proposal must, at a minimum, be published in the official city newspaper at least thirteen (13) days before the last date upon which proposals will be received. The request for proposal must identify significant factors, including price, and their relative importance.

"Consultant" means an independent individual or firm contracting with an agency to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment.

"Emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

- a) Present a real, immediate threat to the proper performance of essential functions;  
or
- b) May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

"Service" means anything of value that does not constitute materials, equipment or supplies.

"Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required.

"Architectural and engineering services" or "professional services" means professional services rendered by any person, other than as an employee of the agency, contracting to perform activities within the scope of the general definition of professional practice in chapters 18.08, 18.43, or 18.96 RCW.

- a) Architectural design
- b) Engineering study and design
- c) Land surveying
- d) Landscape architecture
- e) Structural design