

**WEST SOUND UTILITY DISTRICT
RESOLUTION NO. 352-12**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF WEST SOUND
UTILITY DISTRICT ADOPTING NEW PURCHASING POLICIES,
REPEALING RESOLUTION 104-09, AND PROVIDING FOR SEVERABILITY**

WHEREAS, the District currently utilizes a small works roster and purchasing system, pursuant to policies set forth in Resolution 104-09; and

WHEREAS, the Board of Commissioners desire to create purchasing policies that will result in more efficient purchasing practices while at the same time providing accountability for such purchases;
NOW, THEREFORE,

**THE BOARD OF COMMISSIONERS OF WEST SOUND UTILITY DISTRICT HEREBY
RESOLVES:**

Section 1. District Resolution No. 104-09 is hereby repealed in its entirety.

Section 2. **Purpose:** It is the purpose of this policy to provide guidelines for the purchase of goods and services by the District in order to maintain an accountable procurement process. It is also the purpose of this policy to allow for the flexible application of these guidelines for more efficient and cost effective purchases where their strict application would not be in the District's best interest, such as, in those instances where requests for bids or quotations would not be appropriate due to a sole source supplier or where negotiations with a particular supplier would be more appropriate due to a specialized need of the District.

Section 3: **Definitions:** For purposes of this Resolution, the following definitions apply:

1. **"Lowest Responsible Bidder"** shall mean a bid that is the best value to and in the best interests of the District when considering items such as price, available discounts, the product or service purchased, including any alterations or modifications thereto, shipping, time of delivery, warranty and other terms of purchase, and any other factors relevant to the purchase. Best bid does not necessarily mean lowest price.
2. **"Bid"** shall mean an offer or quotation to provide goods and/or services at a specified price.
3. **"Contract"** shall mean formal written contract, purchase order, verbal agreement, cash or credit purchase from a wholesaler, retailer or dealer, or other similar transaction for the purchase of goods and/or services.
4. **"Purchase of goods and services"** shall mean a contract to supply materials, supplies, equipment, the lease or rental of equipment, and/or the performance of work or labor.
5. **"Written bid"** shall mean a bid submitted to the District in written form and shall include e-mail and facsimile transmittals.

Section 4. **Purchase of materials, supplies or equipment.** In purchasing materials, supplies, and/or equipment, the District shall adhere to the bid requirements as set forth in RCW 57.08.050 and the following procedures:

- A. **Purchasing Limitations.** Purchase limitations apply to the cost of individual items or the sum of the same items purchased at the same time to fulfill a specific business need, which are not part of

a public works project as defined by RCW 39.04.010(4) and the policies established in this Resolution. Cost is inclusive of sales tax, delivery charges and any related miscellaneous charges.

1. Purchases Equal To or Less Than \$5,000. Purchases of materials, supplies, or equipment not connected to a public works project where the estimated cost is \$5,000 or less, shall not require informal or formal competitive quotes or purchase orders.
2. Purchases Greater Than \$5,000 but less than \$10,000. Purchases of materials, supplies, or equipment where the estimated cost is greater than \$5,000 but less than \$10,000, District department managers are allowed to make these purchases administratively, and in all such cases, the manager shall obtain the lowest practical price for such goods by securing using telephone quotes for a minimum of three vendors.
3. Purchases Greater Than \$10,000 but Less Than \$50,000. Purchases of materials, supplies, or equipment, where the estimated cost is greater than \$10,000 and less than \$50,000, shall be by contract and require that the District obtain a minimum of three signed written informal competitive quotes (excludes telephone quotes) in accordance with any procedures approved by the District general manager. As an alternative to these requirements, the District may let contracts with vendors designated on current state agency, county or city purchasing rosters.
4. Purchases Greater Than \$50,000. Purchases of materials, supplies, or equipment, where the cost is greater than \$50,000, shall be by contract and require that the District follow formal competitive bidding processes.

B. Exceptions to Purchasing Limitations. The general manager is authorized to allow open market purchases without obtaining the regularly required competitive quotes or bids under the following conditions:

1. Surplus or Distress Sale. When it is possible to procure obvious bargains through the procurement of surplus or distress material, supplies or equipment.
2. Auctions. RCW 39.30.045 authorizes the District to acquire supplies, materials, and equipment through an auction conducted by the United States or any agency thereof, an agency of the state of Washington, a municipality or other government agency, or any private party, without quotations or bids, if the items to be purchased can be obtained at a competitive price.
3. Items for Quick Delivery. When the obtaining of competitive bids or quotations in an emergency type situation will cause delay resulting in appreciable loss to the District. RCW 39.04.280.
4. Interlocal Joint Purchasing Agreements. Materials, equipment, supplies and services may be purchased under RCW 39.34.080 using joint purchasing agreements with a city, county, state or other public agency where bid requirements of this chapter have been followed by the cooperating agency in obtaining bids. Such joint purchasing agreements shall be approved by the District's Board of Commissioners prior to solicitation of vendors.
5. Sole Source Procurement. Pursuant to RCW 39.04.280, a contract for the purchase of materials, supplies, or equipment may be awarded without complying with the bidding requirements of this Resolution when the general manager determines in writing after conducting a good faith review of available resources, that there is only one bona fide source of the required materials, supplies or equipment. The general manager or his/her designee shall conduct negotiations, as appropriate, as to price, terms, and delivery time. A record of sole source procurement shall be maintained that lists each contractor's name, the amount and

type of each contract, and a listing of the item(s) procured under each contract. Pursuant to RCW 39.04.280, the reasons for waiving the competitive bidding process in any such instance shall be memorialized in a District resolution.

6. No Bids or Quotations Received. When no bids or quotations are received in response to an invitation to bid or request for quotations, the general manager or his/her designee is authorized to procure the required item through direct negotiations with a vendor or to rebid as the he/she or his/her designee deems appropriate.

C. Informal Competitive Quotes. In those instances where the competitive bidding process need not be followed:

1. Contact Three Vendors. The designated District representative shall make an effort to contact at least three vendors. The number of vendors contacted may be reduced if the item being sought is only reasonably available from a smaller number of vendors. When fewer than three quotes are requested or if there are fewer than three replies, an explanation shall be placed in the procurement file.
2. Lump Sum / Fixed Unit Price Solicitation. Whenever reasonably possible, quotes shall be solicited on a lump sum or fixed unit price basis.
3. Confidentiality of Quotes Received. At the time quotes are solicited, the designated District representative shall not inform a vendor of any other vendor's quote.
4. Written Record of Quotes Received. A written record shall be made by the designated District representative of each vendor's quote on the materials, supplies, or equipment, and of any conditions imposed on the quote by such vendor.
5. Presentation of Quotes. All quotes shall be collected and presented at the same time to the general manager or designee, as appropriate, for consideration, determination of the lowest responsible vendor and award of purchase.
6. Rejection of Quotes. Whenever there is a reason to believe that the lowest acceptable quote is not the best price obtainable, all quotes may be rejected and the District may obtain new quotes or enter into direct negotiations to achieve the best possible price. In such cases, the purchasing agent for the District shall document, in writing, the basis upon which all such determinations under this sub-section were made.

D. Formal Competitive Bid Process. The following procedures shall apply in those instances where the District must utilize the formal competitive bidding process:

1. General. Unless otherwise specifically approved by the District's Board of Commissioners as allowed by law, all contracts relating to the purchase of materials, equipment, or supplies where the cost is in excess of \$50,000, shall be by sealed bid. RCW 57.08.050(3).
2. Invitation for Bids. An invitation for bids shall be issued which shall include the specifications, contractual terms, and other pertinent conditions applicable to the procurement.
3. Public Notice. Pursuant to RCW 57.08.050(1), public notice of the invitation for bids shall be published at least once in a newspaper of general circulation within the District, not less than 13 calendar days prior to the date set forth therein for the opening of bids, unless for good cause shown, the District's Board of Commissioners authorizes a different period of

time. The public notice shall state the date and time of bid opening. Bids not received by the date and time stated for bid opening will not be accepted or considered.

4. Bid Opening. Bids shall be opened publicly and recorded at the date, time and place designated in the invitation for bids.
 5. Withdrawal of Bids/ Cancellation of Bid Award. A bid may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, withdrawal of bids shall be permitted only to the extent the bidder can show by clear and convincing evidence presented in a sworn affidavit or declaration submitted no later than 4:00 p.m. on the first business day after bid opening, that a clerical mistake was made, and not a mistake in judgment; such showing shall also set forth the bid price actually intended. The decision to permit the withdrawal of a bid after bid opening, or to cancel an award or contract based on a bid mistake, shall be made by the general manager.
 6. Award. All bids shall be submitted to the District's Board of Commissioners along with the general manager's recommendation on selection of the lowest responsible vendor. The bid award shall be made to the lowest responsible bidder whose bid meets the specifications and evaluation criteria set forth in the invitation for bids. The District may reject all bids at its discretion.
- E. Lowest Responsible Vendor. Pursuant to RCW 43.19.1911(9), the following factors, in addition to price, may be taken into account by the District in determining the lowest responsible vendor:
1. Any preferences provided by law to local products and vendors;
 2. The ability, capacity, and skill of the vendor to perform the contract;
 3. The character, integrity, reputation, judgment, experience, and efficiency of the vendor;
 4. Whether the vendor can perform the contract within the time specified;
 5. The quality of performance of previous contracts or services;
 6. The previous and existing compliance by the vendor with laws relating to the contract;
 7. Such other information as may be secured having a bearing on the decision to award the contract.
- F. Life Cycle Costing. In considering the purchase of materials, equipment, and/or supplies, whenever there is reason to believe that applying the "life cycle costing" method of quote evaluation would result in the lowest total cost to the District, first consideration shall be given to purchases with the lowest life cycle cost which complies with the specifications.
- G. Professional And Consultant Contracts. This section shall apply to professional and/or technical service consultant contracts in which the District enters into an agreement to purchase consultant services from a corporation, firm, agency, individual, or group of individuals based on its/their recognized experience and knowledge within a specialized area of expertise. Contracts for professional and consultant services are not required to follow the procurement requirements set forth in sub-sections C and D of this section 3, but may be entered into through direct negotiations.

H. Electronic Data Processing and Telecommunications Systems. Pursuant to RCW 39.04.270, electronic data processing or telecommunications equipment, software, or services may be acquired through competitive negotiations rather than competitive bidding. If reasonably practical, a request for such proposals shall be submitted to at least three qualified sources. The award to the bidder whose proposal is the most advantageous to the District shall be based on a technical evaluation of proposals received.

I. Supply Contracts. In lieu of requesting bids or quotations for each procurement or maintaining bid lists, the District may solicit bids or proposals for a contract for a specific term to supply goods, materials, supplies, equipment or services on an as needed basis in those instances where the specific service or product in a product line or volume of units is undetermined such as the District's needs and use of office supplies.

J. Determining Cost Of Contract. To determine the cost of a contract for the purpose of establishing the appropriate procurement procedures under this Resolution, when the contract has no definite term or unit amount, the amount of the estimated annual cost shall be deemed the contract cost. Contracts may not be split to avoid the bidding and authorization requirements set forth in this Resolution.

K. Sole Source Purchases. Pursuant to RCW 39.04.280, the requirements set forth in sub-sections C and D of this Section 3 regarding requests for bids or quotations may be waived by resolution by the District's Board of Commissioners finding that either the materials, supplies, equipment or services are clearly and legitimately limited to a single source of supply, or that the materials, supplies, equipment or services are subject to special market conditions, in which instances the purchase price may be best established by direct negotiation. The written determination shall also recite why this situation exists and be memorialized in a District resolution.

L. Emergencies. Pursuant to RCW 39.04.280, when an emergency requires the immediate execution of any contract to purchase, lease or rent as described in this statute, upon the finding of the existence of such an emergency, the general manager shall have the power to make and enter into such contract without strict compliance with the procurement requirements set forth in this Resolution. The general manager or his/her designee shall issue a written basis for the emergency determination accompanied by a description and/or specification and cost estimate of the contract at the time of or as soon as practicable after the commencement of the purchase. The reasons for the emergency purchase in compliance with RCW 39.04.280 shall be memorialized in a District resolution.

Section 6. Public works projects.

A. Purchasing Procedures. Entry into public works contracts shall follow the bid requirements applicable to water and sewer utility districts, as set forth in RCW 57.08.050. The total cost of a public works project shall include all amounts paid for materials, supplies, equipment, and labor on the construction of such project which shall be inclusive of sales tax, unless exempted by law.

B. Purchasing Limitations. The general manager may authorize the purchase and execution of public works projects equal to or less than the dollar threshold for small works projects as provided under Washington's Inter-local Agreement Act, RCW 39.04.155 as amended.

C. Competitive Bids. "Craft" or "trade" means a recognized construction trade or occupation for which minimum wage categories are established by the Department of Labor and Industries of the state of Washington in the locality of the District's projects or purchase.

1. Instances Where Competitive Quotes Not Required. Projects with a reasonably anticipated price equal to or less than the dollar thresholds as provided under RCW 57.08.050, as amended, do not require the use of competitive quotes or bids. District department managers are allowed to make these purchases administratively in accordance with procedures adopted

by the general manager. All public works purchases shall require a purchase order and executed contract.

2. Use of Small Works Roster or Competitive Bidding. Projects with a reasonably anticipated price higher than the dollar thresholds provided under RCW 57.08.050, as amended, up to the maximum dollar threshold provided in RCW 39.04.155, as amended, shall either be procured by use of the small works roster procedure or formal competitive bid procurement process. All public works purchases shall require a purchase order and executed contract.
3. Use of Competitive Bid Process. Projects with a cost in excess of the maximum dollar threshold provided in RCW 39.04.155, as amended, shall require use of a formal competitive bid process. The District's Board of Commissioners shall authorize these purchases and provide authority for the general manager to execute the related contract. All such purchases shall require a purchase order and executed contract.

D. Small Works Roster. There is established for the District a small works roster contract award process for accomplishment of public works projects with an estimated value threshold as provided under RCW 39.04.155, as amended. The District has contracted with the Municipal Research and Services Center of Washington (MRSC) to adopt for District use those state wide electronic databases for small public works roster and consulting services developed and maintained by MRSC. District staffs, as authorized by the general manager, are authorized to sign contracts obtained in compliance with this sub-section.

Section 7. Services.

- A. Contract Required. The purchase of services requires the District enter into a contract for such services, with the exception of temporary employment agency services, and standard services with a total cost of \$3,000 or less in a calendar year, such as auto repair, title reports, printing and messenger/process service. District department managers are allowed to make these purchases administratively in accordance with procedures established in writing by the general manager.
- B. On-Call Service Contracts. On-call service contracts shall be procured pursuant to the process identified in subsection D of this section. Individual task orders of on-call service contracts shall not exceed \$50,000.
- C. Process.
 1. Architectural, Landscape Architectural, and Engineering Services Contracts. Procedures set forth in Chapter 39.80 RCW shall be followed regarding entry into contracts for architectural and engineering services, as defined in RCW 39.80.020.
 - a. Roster. Annually, at the outset of the twelve month period for which the services will be sought, the District will publish its anticipated requirements for architectural, landscape architectural, and engineering services and its acceptance of statements of qualifications for contractors interested in providing these services.
 - b. Contracts Less Than \$50,000. Contracts that have an estimated cost of less than \$50,000 may be procured using an informal request for qualifications process. This process requires that the District representative authorized by the general manager to make the purchase, develop a written scope of the project and any necessary criteria used to select the service provider and then select a qualified contractor from the District's architectural, landscape architectural, and engineering service roster. If the District

representative does not choose to use the appropriate roster, then a formal request for qualifications process must be followed.

- c. Contracts Greater Than \$50,000. Prior to the District entering into Contracts having an estimated cost in excess of \$50,000, a formal request for qualifications (RFQ) process must first be utilized. The development of an RFQ along with the proper public notification shall be made in accordance with procedures adopted by the finance department in the best interest of the District; provided, however, the general manager may in the following circumstances waive the RFQ process for contracts greater than \$50,000, and allow the acquisition of services from the District's architectural, landscape architectural and engineering services roster:
 - i. If it is deemed in the best interest of the District to expedite the acquisition of services; or
 - ii. If it can be demonstrated there are sufficient consultants on the roster that possess the required qualifications to perform the scope of work; or
 - iii. If a consultant on the District's roster has previously provided satisfactory service to the District, has previously provided services related to the specific project, and has the qualifications to perform the scope of work.
2. Professional and Nonprofessional Services (Excluding Architectural, Landscape Architectural, and Engineering Services).
- a. Contracts Less Than \$50,000. Contracts having an estimated cost of less than \$50,000 may be procured using an informal request for proposal process. This process requires the authorized District representative to develop a written scope of the project and any criteria used to select the service provider. The District representative shall use this information when selecting the contractor to provide the services. Multiple proposals are optional and at the discretion of the District representative. If multiple proposals are used to make a selection, a standard process must be used for obtaining all proposals.
 - b. Contracts in Excess of \$50,000. District services that have an estimated cost in excess of \$50,000 shall be procured by contract utilizing a formal request for proposal (RFP) process. The development of an RFP along with the proper public notification shall be made in accordance with procedures adopted by the finance department in the best interest of the District; provided, however, the general manager may in the following circumstances waive the RFP process for contracts greater than \$50,000:
 - i. If it is deemed in the best interest of the District to expedite the acquisition of services; or
 - ii. If it can be demonstrated that specialized expertise, experience or skill is needed for a successful outcome and outweighs potentially lower price proposals; or
 - iii. If a consultant previously provided satisfactory service to the District related to the specific project, and has the qualifications to perform the scope of work.

This process shall be used before any contract which is renewed or extended for an aggregate amount in excess of \$50,000 from the commencement of the contract, whether or not options for additional terms were included in the original contract.

Section 8. Interlocal joint purchasing agreements.

The District may enter into interlocal governmental cooperative purchasing arrangements with other public agencies pursuant to RCW 39.34.030 when the best interests of the District will be served thereby. Any cooperative purchasing agreement shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties and shall be governed by the requirements of state law in regard to competitive bidding, when applicable.


Section 9. Formal Bidding. The District shall use formal competitive bidding in preference to the small works roster in instances where it determines this method to be in the best interest of the District in obtaining the best goods/services at the best price.

Section 10. Authority No commitment of funds for purchases authorized in this Resolution will be allowed without there first being in place budget authority or specific District Board of Commissioner approval.

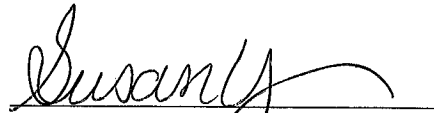
Section 11. Severability. If any one or more sections, subsections, or sentences of this Resolution are held to be legally invalid, such decision shall not affect the validity of the remaining portion of this Resolution and the same shall remain in full force and effect.

APPROVED and ADOPTED by the Board of Commissioners of West Sound Utility District at its regularly scheduled meeting on March 5, 2012.

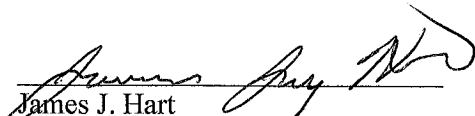
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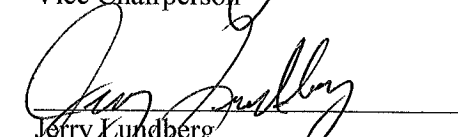
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