

AM NO. 10-236

MEMO TO: City Council

FROM: John Marchione, Mayor

DATE: November 16, 2010

SUBJECT: **ORDINANCE, RESOLUTION AND INTERLOCAL AGREEMENT:
APPROVE REVISIONS TO CITY OF REDMOND'S CONTRACTING
PRACTICES**

I. RECOMMENDED ACTION:

Approve the attached companion Resolution, Ordinance, and Contract Amendment which:

- Allows use of a roster process to solicit bids for small works construction contracts
- Defines the limits of the Mayor's authority to award and accept roster projects
- Allows the Mayor to waive competitive bidding requirements and award public works construction contracts in event of an emergency
- Allows the use of shared electronic rosters for procuring Architectural, Engineering, and Surveying services

II. DEPARTMENT CONTACT PERSONS:

Bill Campbell, Director of Public Works	425-556-2733
Ron Grant, Assistant Public Works Director/City Engineer	425-556-2742
Mike Paul, Construction Division Manager	425-556-2721

III. DESCRIPTION:

The recommended actions above implement changes to Redmond's contracting practices to improve project delivery, improve customer service, and reduce costs. These recommendations were discussed with the City Council at the July 15, 2010, Public Administration and Finance Committee meeting, the September 7, 2010, Council Study Session, and October 7, 2010, Planning and Public Works Committee meeting.

Previous discussions with the City Council included recommendations to modify the Mayor's approval authority for Professional Services agreements from \$25,000 to \$65,000. This recommendation will be brought to the City Council for consideration as a

separate action. The recommended actions in this memo do not change the current limits. Proposed changes are described below:

1. Approve the use of a Small Works Roster process, as provided for in RCW 39.04.155, for bidding small public works construction contracts under the statutory limits. (*Resolution*)

Redmond historically has not used a roster process for small public works construction projects because of the additional cost and staff time that would be needed to create, maintain, and administer the roster. Recent changes in the RCW's and improvements in technology have led to the development of electronic "shared" rosters that are available to public agencies by subscription. Staff recommends subscribing to the eCityGov roster at a cost of approximately \$3,000 per year.

2. Delegate authority to award and accept small public works construction contracts using the roster process to the Mayor for contracts less than an amount to be determined by Council. RCW 39.04.155 currently allows this authority to be delegated for contracts under \$300,000. (*Resolution*)

The Mayor is currently authorized to award and accept public works construction contracts not exceeding \$65,000 under Resolution No. 1155. The proposed change would increase this authorization to (\$100,000, \$200,000, or \$300,000) as determined by Council. This change will reduce the number of projects that go through the agenda process, thereby shortening project schedules by four to six weeks and improving staff efficiency. The Council's Quarterly Contract Report would be modified to include small works construction contracts under the designated threshold that are approved or awarded administratively.

3. Delegate authority to the Mayor to declare that an emergency situation exists, to exempt it from competitive bidding requirements, and to award all necessary emergency work, as defined and provided for in RCW 39.04.280. (*Resolution*)

The proposed change improves Redmond's ability to quickly and nimbly respond to an emergency by streamlining the process for bidding and awarding emergency public works construction contracts. State law allows the City Council to delegate this authority and only requires a written finding that an emergency exists be entered into the official record no later than two weeks following the award of the contract. Staff would meet this requirement by reporting at the next available council meeting.

4. Modify Chapter 2.86 of the Redmond Municipal Code to allow the use of a shared electronic roster process for soliciting Architectural, Engineering, and Survey Services (as defined in RCW 39.80.010). The shared roster would replace the need for the City of Redmond to continue to administer and maintain a separate roster for these services. (*Ordinance*)

CITY OF REDMOND
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, ADOPTING A SMALL WORKS ROSTER PROCESS FOR PUBLIC WORKS PROJECTS, PROVIDING FOR THE AWARD OF PERSONAL SERVICES CONTRACTS FOR SERVICES OTHER THAN ARCHITECTURAL, ENGINEERING, OR SURVEYING SERVICES, ESTABLISHING PROCEDURES FOR THE AWARD OF PUBLIC WORKS CONTRACTS IN THE EVENT OF AN EMERGENCY, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE

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 of RCW 39.04.155, the City is required by law to adopt a resolution establishing specific procedures; and

WHEREAS, the City desires to clearly establish procedures for the award of professional services contracts for services other than architectural, engineering, or surveying services, and to provide for the award of public works contracts in the event of any emergency.

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

Section 1. The Mayor is authorized to contract with eCityGov, or another similar entity, to adopt for city use a shared electronic database that maintains a small public works roster in accordance with the requirements of RCW 39.04.155.

Section 2. 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), or the then current statutory bid limit in RCW 39.04.155, which includes the cost 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. **Number of Rosters.** The City may create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work. The City may also use other electronic rosters through interlocal agreement with eCityGov, or another similar entity. The 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 comply with all roster requirements and maintain current records of any applicable licenses, certifications, registrations, bonding, insurance, and other information on file with the roster.

4. **Publication.** At least once a year, on behalf of the City, eCityGov, or any other similar entity with whom the City may contract, 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 City may require master contracts to be signed that become effective when a specific award is made using a small works roster.

5. **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 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.

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 (5) 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 (\$150,000.00) to three hundred thousand dollars (\$300,000.00), the City 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 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 other electronic means.

c. For purposes of this resolution, "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. 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.

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 City may award such a contract using the limited public works process provided under RCW 39.04.155(3). For limited public works projects, 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 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 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 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.** A responsible bidder will be a contractor who meets the mandatory requirements of RCW 39.04.350(1) and any supplemental bidder responsibility criteria established for the project under RCW 39.04.350(2).

8. **Award.** The City shall award all contracts to the lowest responsible bidder. For public works projects under _____ Dollars (\$_____) the Mayor or his designee shall have the authority to award and accept public works contracts without the City Council's approval. The City reserves the right to reject any and all bids.

Section 3. The following procedures are established for use by the City when executing a contract for personal services not subject to Chapter 39.80 RCW:

The City may use the rosters maintained by eCityGov's Shared Procurement Portal, or an electronic roster maintained by another entity with whom the City contracts, to award contracts for personal services, which are not professional architectural, engineering, or surveying services as defined in RCW 39.80.020. The City, or its designee, will announce generally to the public the City's projected requirements for any category or type of personal services. The City reserves the right to publish an announcement on each occasion when personal 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. For personal services contracts not subject to Chapter 39.80 RCW or Chapter 2.86 RMC, the Mayor shall have the authority to award and accept contracts not exceeding a total of \$25,000 in any calendar year without the City Council's approval.

Section 4. In the event of an emergency as defined in RCW 39.04.280, the Mayor may declare an emergency situation exists, waive competitive bidding requirements, and award all necessary contracts on behalf of the municipality 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 or the Mayor and duly entered of record no later than two weeks following the award of the contract.

Section 5. City of Redmond Resolution No. 869 (1991) is hereby repealed.

Section 6. This resolution shall become effective upon adoption.

ADOPTED by the Redmond City Council this _____ day of _____, 2010.

CITY OF REDMOND

JOHN MARCHIONE, MAYOR

ATTEST:

MICHELLE M. MCGEHEE, CMC, CITY CLERK

(SEAL)

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
RESOLUTION NO.

CITY OF REDMOND
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, AMENDING CHAPTER 2.86 OF THE REDMOND MUNICIPAL CODE (RMC) TO AUTHORIZE THE USE OF ELECTRONIC ROSTERS FOR ARCHITECTURAL, ENGINEERING, AND SURVEYING CONTRACTS, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council desires to authorize the Mayor to contract with eCityGov, or any other similar entity, to participate in its electronic roster program, which manages a roster of architectural, engineering, and surveying firms; and

WHEREAS, the contract with eCityGov, or a similar entity, will require the entity to comply with the annual advertising requirements of Chapter 39.80 RCW.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Classification. Section 2 of this ordinance is of a general and permanent nature, and shall become a part of the City Code. Sections 1, 3, and 4 are non-code.

Section 2. Amendment of Chapter. Chapter 2.86 RMC, Selection of Architectural and Engineering Consultants, is hereby amended to read as follows:

2.86.010 Notice of city's requirements for professional services.

~~[(A) PERIODICALLY, BUT NOT LESS OFTEN THAN ONCE EVERY TWO YEARS, THE DIRECTOR OF PUBLIC WORKS SHALL GIVE NOTICE OF THE CITY'S PROJECTED REQUIREMENTS FOR ARCHITECTURAL, ENGINEERING AND SURVEYING SERVICES IN A MANNER WHICH WILL EFFECTIVELY CONVEY THE NOTICE TO THE PUBLIC AND ARCHITECTURAL AND ENGINEERING AND SURVEYING PROFESSIONAL COMMUNITIES THROUGHOUT THE PUGET SOUND AREA. SUCH NOTICE SHALL ENCOURAGE FIRMS ENGAGED IN THE PRACTICE OF ENGINEERING, SURVEYING OR ARCHITECTURE TO SUBMIT ANNUALLY A STATEMENT OF QUALIFICATIONS AND PERFORMANCE DATA FOR CONSIDERATION IN SELECTION OF CONSULTANTS TO PROVIDE SERVICES TO THE CITY.]~~

(B) The Mayor is authorized to contract with eCityGov, or another similar entity, to adopt for city use a shared electronic database that maintains a roster for architectural, engineering, or surveying professional services in accordance with the requirements of Chapter 39.80 RCW. At least once a year, on behalf of the city, eCityGov, or a similar entity with whom the City contracts, shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the professional services roster or rosters and solicit statements of qualifications from firms providing

consulting services. Firms or persons providing professional services shall be added to appropriate rosters at any time that they submit a written request and necessary records.

2.86.020 Projects over twenty-five thousand dollars - Solicitation of written proposals.

In the case of each project to be undertaken by the city which will require architectural, engineering, or surveying services which are likely to cost in excess of twenty-five thousand dollars (\$25,000), the [D]director of [PUBLIC WORKS] the applicable city department shall invite written proposals from two or more firms, which, based upon the statements and qualifications on file and other available information, appear to be the most qualified firms to provide the particular services required. The written proposals shall include the following:

(A) Evidence of the firm's current ability to provide the required services;

(B) A proposed scope of work to be provided;

(C) The estimated number of man-hours necessary to complete the proposed scope;

(D) A current statement of references and any other information which will be helpful in evaluating the applicants' qualifications for the proposed project.

2.86.030 Director's recommendations.

(A) For architectural, engineering, or surveying contracts which are expected to exceed twenty-five thousand dollars (\$25,000) during any calendar year, the ~~[D]~~director of ~~[PUBLIC WORKS]~~ the applicable city department or his designee, after receiving and reviewing the written proposals, shall select the most qualified provider of the required services. For architectural, engineering, or surveying services which are not expected to exceed twenty-five thousand dollars (\$25,000) during any calendar year, the director of the applicable department or his designee may select the most qualified provider of the required services based on the statements of qualifications on file with the roster, without the requirement to solicit written proposals. The ~~[D]~~director of ~~[PUBLIC WORKS]~~ the applicable city department or his designee shall attempt to negotiate with the selected provider of services for a price based on the final agreed

scope of work not exceeding the price determined to be fair and reasonable. If such an offer cannot be secured, the ~~[D]~~director of ~~[PUBLIC WORKS]~~ the applicable city department or his designee may enter into negotiations with the next most qualified provider of services and shall continue in this manner until an acceptable price has been secured. ~~[ONCE AN ACCEPTABLE PRICE HAS BEEN OBTAINED, THE DIRECTOR OF PUBLIC WORKS SHALL FORWARD HIS OR HER RECOMMENDATIONS REGARDING THE SELECTION AND AGREED PRICE TO THE CITY COUNCIL WHO MAY AUTHORIZE FINAL AWARD OF THE CONTRACT.]~~

(B). ~~FOR CONTRACTS WHICH ARE NOT EXPECTED TO EXCEED TWENTY FIVE THOUSAND DOLLARS (\$25,000) DURING ANY CALENDAR YEAR, THE DIRECTOR OF PUBLIC WORKS, AFTER RECEIVING AND REVIEWING THE WRITTEN PROPOSALS, OR REVIEWING THE STATEMENTS OF QUALIFICATIONS THAT ARE ON FILE, SHALL SELECT THE MOST QUALIFIED PROVIDER OF THE REQUIRED SERVICES. THE DIRECTOR OF PUBLIC WORKS SHALL ATTEMPT TO NEGOTIATE WITH THE SELECTED PROVIDER OF SERVICES FOR A PRICE BASED ON THE FINAL AGREED SCOPE OF WORK NOT EXCEEDING THE PRICE DETERMINED TO BE FAIR AND REASONABLE. IF SUCH AN OFFER CANNOT BE SECURED, THE DIRECTOR OF PUBLIC WORKS MAY ENTER INTO NEGOTIATIONS WITH THE NEXT MOST QUALIFIED PROVIDER OF~~

~~SERVICES AND SHALL CONTINUE IN THIS MANNER UNTIL AN ACCEPTABLE PRICE HAS BEEN SECURED.]~~ Once an acceptable price has been obtained, the [~~]~~director of [~~PUBLIC WORKS]~~ the applicable city department shall forward his or her recommendations regarding the selection and agreed price to either the Mayor or the City Council [~~WHO MAY AUTHORIZE FINAL AWARD OF THE CONTRACT~~]. The Mayor is authorized to approve all contracts for architectural, engineering, or surveying professional services that do [~~CONTRACTS~~] not exceed[ing] a total of twenty-five thousand dollars (\$25,000) during any calendar year [~~MAY BE APPROVED BY THE MAYOR WITHOUT FIRST HAVING RECEIVED THE PRIOR APPROVAL OF THE CITY COUNCIL.~~] All contracts for architectural, engineering, or surveying professional services that will exceed twenty-five thousand dollars (\$25,000) during any calendar year shall require approval of the City Council.

2.86.040 Scope of negotiations – Exemption for funding source requirements.

The regulations set forth in this chapter shall govern selection of architectural, engineering, and surveying consultants for all city projects, provided

that when these regulations are in conflict with requirements applicable to the use of federal funds or funds supplied by the state, the requirements of this chapter shall be deemed to be modified to the extent necessary to avoid such conflict.

2.86.050 Exemption for emergency work.

The selection procedures set forth in this chapter need not be complied with when the Mayor [~~CONTRACTING AUTHORITY MAKES A FINDING IN ACCORDANCE WITH APPLICABLE LAW~~] declares that an emergency

situation exists that requires the immediate execution of the work involved. [~~AS USED IN THIS SECTION "CONTRACTING AUTHORITY" MEANS THE MAYOR, IN THE CASE OF CONTRACTS NOT EXCEEDING TWENTY FIVE THOUSAND DOLLARS (\$25,000) DURING ANY CALENDAR YEAR AND MEANS THE CITY COUNCIL FOR CONTRACTS WHICH DO EXCEED TWENTY FIVE THOUSAND DOLLARS (\$25,000) IN ANY CALENDAR YEAR.~~]

Upon declaration of such an emergency, the Mayor may award all necessary contracts on behalf of the City.

A written finding of the emergency shall be entered of record by the Mayor or the City Council not later than two weeks following award of the contract.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or

unconstitutional by a court of competent jurisdiction, such
invalidity or unconstitutionality shall not affect the validity
or constitutionality of any other section, sentence, clause or
phrase of this ordinance.

Section 4. Effective Date. This ordinance shall take
effect and be in full force five days after its passage and
publication of a summary as provided by law.

ADOPTED by the Redmond City Council this ____ day of
_____, 2010.

CITY OF REDMOND

MAYOR JOHN MARCHIONE

ATTEST/AUTHENTICATED

(SEAL)

MICHELLE M. MCGEHEE, CMC, CITY CLERK

APPROVED AS TO FORM
OFFICE OF THE CITY ATTORNEY

JAMES E. HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.

AMENDMENT #6

SharedProcurementPortal.com

November 16, 2010

The eCityGov Alliance and the City of Redmond, having entered an Agreement for NWProperty.net service dated June 21, 2004, now, in consideration of the mutual promises herein stated, the parties request amendment of the Agreement to include the SharedProcurementPortal.com:

- 1. *SharedProcurementPortal.com* Appendix I shall be added to this Agreement.

All other terms and conditions shall remain the same.

In witness whereof, the Parties have executed this Amendment as of the Effective Date.

eCityGov Alliance

City of Redmond

Accepted By (Signature)

Accepted By (Signature)

John Backman
Executive Director

John Marchione
Mayor

Date:

Date:

Approved as to Form (Signature):

Attorney

Date:

APPENDIX I
Description of Application Service(s)
City of Redmond

VII PRODUCT SUBSCRIPTION(S):

1. Shared Procurement Portal

VIII ANNUAL FEE(S)

1. Shared Procurement Portal Annual Fee – There shall be no subscription fee for the balance of 2010. Thereafter the annual subscription fee is \$3,000, unless modified as provided in Section XI, Fees and Payment Terms, paragraph 6, Establishment of Fees.

IX DESCRIPTION OF PRODUCT SERVICE: SHARED PROCURMENT PORTAL

1. The Shared Procurement Portal application functionality includes, but is not limited to:
 - (a) Vendor Registration
 - (b) Self-managed user accounts
 - (c) Back office support and contractor licensing updates provided by the eCityGov Alliance
 - (d) Upload capability for contractor/vendor/consultant qualifications statement(s)
 - (e) Ability to specify region(s) of work by county
 - (f) Fulfill RCW requirements for vendor registration and Small public work
 - (g) Email proposals & RFQ's
 - (h) Manage selection process
2. Purchasing Rosters
 - (a) Small Public Work
 - (b) Architectural & Engineering
 - (c) General Services
 - (d) Information Technology
 - (e) Vendor
 - (f) Legal

3. Private purchasing manager's communications portal
 - (a) Project team documents and communications
 - (b) Secure document library
 - (c) Interlocal agreements, RFP's etc.
4. Interlocal Purchasing Agreement
 - (a) Subscriber agencies may also participate in a formal Interlocal Purchasing Agreement

X TECHNICAL DATA SPECIFICATIONS

5. Data supplied by the Subscriber
None
6. Data interfaced from the Alliance Application to the Subscribers back-end system
Not applicable

XI SPECIAL REQUIREMENTS AND CONDITIONS

7. Subscriber agencies are responsible for the maintenance of:
 - (a) The content of relating to city/agency specific information such as contacts, address, phone numbers, email addresses and/or linked content.
 - (b) Actively participate in the application business team meetings.
8. Subscriber agency staff that desire user account(s), must;
 - (a) Be authorized by their agency
 - (b) Agree to the most current version of the Alliance Technology Resource Usage Policy