RESOLUTION NO. 009-15

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, REPEALING RESOLUTION NO. 005-14 REGARDING THE SMALL WORKS ROSTER PROCESS TO: (1) CLARIFY THAT THE SMALL WORKS ROSTER PROCESS DOES NOT RELIEVE THE CONTRACTOR FROM OTHER REQUIREMENTS SUCH AS PERFORMANCE BOND AND RETAINAGE REQUIREMENTS; (2) ALLOWING THE PUBLIC WORKS DIRECTOR TO CALL FOR NEW BIDS IF THE LOWEST ACCEPTABLE BID IS NOT THE BEST PRICE OBTAINABLE; (3) REQUIRE A LIST OF AWARDED CONTRACTS BE MADE AVAILABLE TO THE PUBLIC; (4) ALLOW THE CITY TO CONSIDER TAX REVENUE IT WOULD RECEIVE AND RECYCLING WHEN SELECTING LOCAL EQUIPMENT, MATERIALS AND SUPPLIES; (5) PROVIDING FOR USE OF MUNICIPAL RESEARCH AND SERVICES CENTER TO MORE EFFICIENTLY FACILITATE ADVERTISEMENT AND BID REQUIREMENTS; AND (6) UPDATING STATE LAW REFERENCES.

WHEREAS, the City Council adopted Resolution 005-14 establishing specific procedures to implement small works roster processes pursuant to RCW 39.04.155 and RCW 35.23.352(3) regarding contracting for public works by second class cities; and

WHEREAS, except for really small works roster projects, the small works roster process does not waive other public works contracting procedures such as the payment and performance bond requirements of Chapter 39.08 RCW and the retainage requirements of Chapter 60.28 RCW; and

WHEREAS, RCW 39.04.155 provides when determining the lowest responsible bidder for limited public works contracts, 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 Public Works Director may call for new bids; and

WHEREAS, RCW 39.04.200 requires a list of awarded contracts be made available to the public; and
WHEREAS, RCW 39.30.040 allows the city to take into consideration tax revenues it may receive and products made from recycled materials or products that may be recycled or reused when selecting contractors for equipment, materials, and supplies; and

WHEREAS, the City has contracted with the Municipal Research and Services Center of Washington for hosting, development and maintenance of roster lists to more efficiently facilitate advertisement and bid requirements; and

WHEREAS, other references to state law in Resolution 005-14 require correction; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON:

Section 1. Repealer. Resolution No. 005-14 is hereby repealed in its entirety.

Section 2. MRSC Rosters. The City has contracted with the Municipal Research and Services Center of Washington (MRSC) to have the City’s official rosters hosted, developed, and maintained in MRSC’s online database for City use for small public works contracts, consulting services, and vendor roster.

Section 3. Small Public Works Roster. The following small works roster procedures are established for use by the City pursuant to RCW 39.04.155 and RCW 35.23.352:

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), which includes the costs of labor, material, equipment and sales and/or use taxes as applicable. Instead, the City may use the small public works roster procedures for public works projects as set forth herein. However, other public works contracting procedures apply such as the payment and performance bond requirements of Chapter 39.08 RCW and the retainage requirements of Chapter 60.28 RCW. The breaking of any project into units or accomplishing any project 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(s) at any
time that they complete the online application and meet minimum State requirements for roster listing.

3. **Telephone, Written, or Electronic 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 will 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 maintained by the Municipal Research and Services Center (www.mrscrosters.org). As an alternative, quotations may be invited from at least five contractors on the appropriate MRSC 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 and fifty thousand dollars ($150,000) 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 maintained by the Municipal Research and Services Center (www.mrsrosters.org) 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, material men, 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 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 Public Works Director 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 RCW 39.04.350 and who meets any supplementary bidder responsibly criteria established by the City.

6. **Award.** The Public Works Director or his designee shall present all telephone quotations/bids and recommendation for award of the contract to the lowest responsible bidder to the Council. However, for public works projects costing $15,000 or less, the Public Works Director shall have the authority to award public works contracts without Council approval, provided that the Council shall ratify the Public Works Director’s approval at the next scheduled Council meeting by means of the consent agenda. For public works projects over $15,000, the Council shall award all public works contracts.

A list of contracts awarded under this process will be made available at least once every year as provided in RCW 39.04.200. The list will contain the name of the contractor awarded the contract, the amount of the contract, a brief description of
the type of work performed and the date it was awarded. The list will also state the location where the bid quotations for the contract are available for public inspection.

**Section 4. Really Small Public Works Project Exemption.**

1. If a work, construction, alteration, repair, or improvement project is estimated to cost less than $10,000, the Public Works Director may award such a contract without the procedures set forth above in Section 3. The Public Works Director, in awarding such a contract, shall contact a suitable contractor, obtain a written or documented telephone quote, and, if reasonable, shall execute the contract on behalf of the City.

2. For Really Small Public Works Contracts, the City shall 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, material men, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the really small public works project. However, the City shall have the right of recovery against the contractor for any payments made on the contractor’s behalf.

3. Any contract awarded pursuant to this Section shall require that paid invoices for supplies and materials be attached to project invoices submitted to the City.

**Section 5. Consulting Services Roster.**

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 may complete the online application at anytime and be listed if they meet the minimum State requirements.

3. **Professional Architectural and Engineering Services.** The MRSC Rosters will 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.

SECTION 6. Vendor's List for Equipment, Materials, Supplies, or Services. The following procedures apply to the acquisition of materials, supplies equipment, or services not connected to a public works project, pursuant to RCW 39.04.190 and RCW 35.23.352.

1. Where the cost of the equipment, materials, supplies or services is less than $7,500, the City is not required to use formal sealed bid procedures or the informal procedures set forth in paragraph 2 below. However, City staff shall secure sufficient price quotes to assure competitive prices. The price quotes may be taken telephonically and recorded with a memo to the file.

2. Where the cost of equipment, materials, supplies, or services is between $7,500 and $15,000, the City shall use the following vendor list procedures:

a) The City shall publish twice a year in the official newspaper notice that a vendor's list exists and shall solicit names for the list.

b) The Purchasing Roster maintained by the Municipal Research and Services Center (www.mrsrosters.org) shall be used by the City for supplies, materials and equipment.

c) A written description shall be drafted of the specific materials, supplies, equipment, or services to be purchased. If possible, at least three written quotations should be secured from vendors to ensure a competitive process. The City representative shall not share quotes from one vendor with other vendors solicited for the bid.

d) The contract shall be awarded to the lowest responsible bidder as defined in RCW 39.04.350(1). The City may take into consideration tax revenue it would receive from purchasing from a supplier located within its boundaries or preferential purchase of products made from recycled materials or products that may be recycled or reused.

e) Immediately after the award, all bid quotations that were obtained must be recorded and made open to public inspection and be available to those who inquire by telephone.
f) At least every two months, a list of contracts awarded shall be posted. The list shall contain the vendor's name, amount of contract, brief description of items purchased, and date of award. The list shall also state the location where the bid quotations for these contracts are available for public inspection.

SECTION 7. Electronic Data Processing or Telecommunications Equipment, Software, or Services.

1. Electronic data processing or telecommunications equipment, software, or services may be purchased with competitive negotiations as an alternative to the competitive bid process, if the following procedures are followed in accordance with RCW 39.04.270:

a) A request for proposals (RFP) must be published at least once in the official newspaper at least 13 days before the last date on which the proposals will be received.

b) The RFP must be submitted to an adequate number of qualified resources, as determined by the city in its discretion, to permit reasonable competition consistent with the requirements of the procurement.

c) The city may use single source procurement to maintain the integrity of an existing electrical and/or telemetry system.

d) The RFP must identify the significant evaluation factors, including pricing and their relative importance.

e) The city must provide reasonable procedures for technical evaluation of the proposals, identification of qualified sources, and the selection processing for awarding the contract. These procedures shall be in written form, but not necessarily printed in the RFP.

f) The award must be made to the qualified bidder whose proposal is "most advantageous" to the city.

g) The city may reject any or all proposals and request new proposals.

SECTION 8. Authority. The Department Heads are responsible to keep the Mayor and City Council informed of all significant purchases and commitments. No commitments of funds will be allowed without budget authority or specific Council approval.
PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 12th day of May, 2015.

Timothy C. Matthes, Mayor

ATTEST:

Brandy Rinearson, CMC, City Clerk

APPROVED AS TO FORM:

Jim Kelly, City Attorney