PORT OF CENTRALIA
Established 1986

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RESOLUTION 2024-04

A RESOLUTION OF THE COMMISSION OF THE PORT OF CENTRALIA, LEWIS COUNTY, WASHINGTON, REPEALING RESOLUTION 2004-04 AND ESTABLISHING PURCHASING POLICIES AND PROCEDURES

The Commission of the Port of Centralia (the "Commission"), in Public Session, does hereby find and declare:

WHEREAS, the Port of Centralia is a Port District established under Title 53 RCW, incorporated under the laws of the state of Washington; and

WHEREAS, the Commission previously adopted Resolution 2004-04 to establish procedures relating to public works contracting, primarily to establish a small works roster process to award public contracts and to create a purchasing policy; and

WHEREAS, in 2023, with the adoption of Second Substitute Senate Bill (SSSB) 5268, the Washington State Legislature enacted changes to increase both equity and efficiencies in public works procurement, including streamlining the delivery of small public works projects, setting forth requirements for utilization of small businesses and businesses owned by women and minorities, and allowing for direct contracting with small business; and

WHEREAS, SSSB 5268, now codified in various sections of the RCW, including RCW Chapter 39.04, at RCW 39.04.151, permits the Port to utilize a statewide small works roster developed by the Department of Commerce through the Municipal Research and Services Center or to create and maintain one or more small works rosters for different specialties, categories of anticipated work, or geographic areas, provided that the Port adopts a resolution implementing RCW 39.04.151; and

WHEREAS, SSSB 5268, now codified at RCW 39.04.152, creates uniform small works roster provisions that must be followed by the Port to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property, provided that the Port must establish procedures implementing SSSB 5268; and

WHEREAS, in 2023, with the adoption of Engrossed Substitute House Bill 1050, the Washington State Legislature modified and expanded apprenticeship utilization requirements to municipalities, including the Port, and established a decreasing contract amount over the next four (4) years that would require at least 15 percent of the labor hours be performed by apprentices from $2,000,000 in 2024 to $1,000,000 in 2028; and

WHEREAS, the Commission desires to update existing Port of Centralia purchasing policies and procedures to reflect other statutory enactments adopted by the Washington State Legislature and resolutions adopted by the Commission since Resolution 2004-04, to provide greater clarity or consistency for staff, to reflect current practices, and to adjust purchasing

thresholds to reflect inflation over the past twenty years; and

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE PORT CENTRALIA

Section 1. This resolution shall replace and supersede Resolution 2004-04.

Section 2. Contracting and administrative authority delegated by the Commission to the Executive Director is governed by Resolution 2017-09 (and as amended).

Section 3. The Purchasing Policies and Procedures for the Port of Centralia shall be as follows:

I. Definitions.

A. "Contract" for purposes of this chapter means any written agreement creating a legal relationship between the Port and another person or entity, or any amendment thereto.

B. "Consultant" means an independent individual or firm contracting with the Port 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 Port except as to the result of the work.

C. "Emergency" means unforeseen circumstances beyond the Port's control that either:

1. Present a real, immediate threat to the proper performance of essential Port functions; or

2. May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

D. "Lowest responsible bidder" means

1. a contractor meeting the following criteria, in addition to price:

   a. Whether, at the time of the submittal, the contractor has a certificate of registration in compliance with Chapter 18.27 RCW, a plumbing contractor license in compliance with Chapter 18.106 RCW, an elevator contractor license in compliance with Chapter 70.87 RCW, or an electrical contractor license in compliance with Chapter 19.28 RCW, as required under the provisions of those chapters;

   b. Whether the contractor possesses a state Unified Business

Identifier number;

c. Whether the contractor has industrial insurance coverage for the contractor's employees working in Washington as required by RCW Title 51, an employment security department number as required by RCW Title 50 and a state excise tax registration number as required by RCW Title 82, if applicable;

d. Whether the contractor has been disqualified from bidding under RCW 39.06.010 or 39.12.065(3);

e. For a public works project subject to the apprenticeship utilization requirements in Chapter RCW 39.04, whether the contractor has been found out of compliance by the Washington State Apprenticeship and Training Council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under Chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation;

f. Whether the contractor has received training on the requirements related to public works and prevailing wage under Chapter 39.04 RCW and Chapter 39.12 RCW;

g. Within the three-year period immediately preceding the date of the bid solicitation, whether the contractor has been determined by a final and binding citation and notice of assessment issued by the Washington State Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of Chapter 49.46, 49.48, or 49.52 RCW.

h. The ability, capacity, and skill of the contractor to perform the contract and perform it within the time specified;

i. The character, integrity, reputation, judgment, experience, and efficiency of the contractor;

j. The quality of performance of previous Port contracts, if any;

k. The prior and current compliance of the contractor with laws relating to the contract;

l. Such other relevant supplemental criteria as the Port may adopt to determine bidder responsibility applicable to a particular project pursuant to RCW 39.04.350(2); and

m. Any such other criteria specified in RCW 39.04.350 that bidders must meet to be considered a responsible bidder and qualified to be awarded a public works project.

E. "MSRC" means the Municipal Research and Services Center.

F. "Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement that may not reasonably be required in connection with a public work project. "Personal service" does not include purchased services or professional services.

G. "Port" shall refer to the Port of Centralia.

H. "Public work" has the same meaning as in RCW 39.04.010.

I. "Professional services" means architectural, landscape architectural, engineering and land surveying services, as defined in RCW 39.80.020, that are required to be procured using the competitive selection requirements in chapter 39.80 RCW.

J. "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. "Purchased services" include, but are not limited to, services for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

K. "Small business" shall have the same meaning as set forth in RCW 39.04.010(7).

II. **Purchase of Material, Equipment, or Supplies and Purchased Services**. The following procedures are established for use by Port employees when purchasing materials, equipment, supplies and for purchased services.

A. Dollar thresholds for bidding and quoting are as follows:

$0 to $9,999	Must obtain a purchase order and give weight to local vendors holding Port accounts
$10,000 to $24,999	Obtain three telephone quotations
$25,000 to $49,999	Three written quotes or three telephone quotations as authorized by the Executive Director
$50,000 and over	Written sealed bid

1. **$0 to $9,999:** Employees purchasing equipment, materials, or supplies or obtaining purchased services must obtain an approved purchase order from the administrative office before purchasing or ordering said

equipment, materials, or supplies. Purchase orders shall state the vendor, date of purchase, supplies to be purchased, and the quantity of those supplies. The purchase order must be signed by the Port Auditor or Executive Director before purchase. All receipts must be attached to the purchase orders and given to the Port Auditor within 24 hours. The Port gives weight to those vendors who carry Port accounts and are local.

2. **$10,000 to $24,999:** Employees purchasing equipment, materials, or supplies or obtaining purchased services in this price range are required to obtain three telephone quotations from vendors. This written record shall be given to the Port Auditor before purchasing and must be approved by the Executive Director. In some cases, the Executive Director shall request a purchase order for items needed within a 24-hour period.

3. **$25,000 to $49,999:** Employees purchasing equipment, materials, or supplies or obtaining purchased services in this price range are required to obtain three written quotations from three vendors. The Executive Director may request telephone quotations from time to time due to contractual obligations and emergency repairs. The written quotations are to be provided to the Port Auditor after purchase approval by the Executive Director and/or Port Commission.

4. **$50,000 and over:** Written bids are required whenever the cost of materials, supplies, equipment, or purchased services exceed $50,000. The request for bids must be approved by the Executive Director and/or Port Commission before being sent out.

III. Public Works Project.

A. **Competitive Bid Process, When Necessary**. A public work project having an estimated cost not to exceed the sums set forth in RCW 53.08.120(2)(c), may be contracted, awarded, and/or performed by the Port without competitive bid. Except as set forth below when using a small works roster or as otherwise authorized by statute, any other public works contract or project whose estimated cost exceeds sums set forth in RCW 53.08.120(2)(c) shall be by competitive bid process set forth in RCW 53.08.120(2)(a) and RCW 53.08.130 and awarded to the lowest responsible bidder.

B. **Small Works Roster**. As authorized by RCW 53.08.120(2)(c) and RCW 39.04.151 through RCW 39.04.152, Port employees may use a small works roster process for awarding public works contracts below an estimated cost as set forth in RCW 39.04.152. Contracts awarded off of a small works roster need not be advertised.

1. **Port Small Works Roster(s)**. Port staff may establish one or more

small works rosters for different specialties, categories of anticipated work, or geographic areas served by contractors on the roster that have registered for inclusion on that particular roster. Establishment of the Port small works rosters shall comply with the requirements set forth in RCW 39.04.151(1)(a) through (f):

a. The Port small works rosters shall consist of all responsible contractors who have requested to be on the list and, where required by law, are properly licensed or registered to perform such work in accordance with RCW 39.04.350.

b. Contractors desiring to be placed on the Port small works rosters must indicate if they meet the definition of women and minority-owned business as described in RCW 39.19.030(7)(b), veteran-owned business as defined in RCW 43.60A.010, or small business as defined in RCW 39.04.010. Contractors on the Port small works rosters must keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the appropriate agency as a condition of being placed on the roster and award of contract.

c. Responsible contractors will be added to an appropriate small works roster at any time they submit a written request and the necessary records.

d. Contractors on the Port small works rosters must agree and be able to receive notifications and other communications via email.

e. The Port may not break a project into units or construct a project by phases if done for the purposes of avoiding maximum dollar amounts set by RCW 39.04.152.

2. **Statewide Small Works Roster.** The Port may also utilize the statewide small works roster established under RCW 39.04.151(2) and administered by the MRSC.

3. **Annual notification.** At least once a year, the Port shall publish in a newspaper of general circulation within the Port district and provide to the Washington State Office of Minority and Women's Business Enterprises directory of certified firms, the notice of the existence of the Port and statewide small works rosters and solicit contractors for inclusion such roster or rosters.

4. **Process- Invitations to bid.**

a. **Invitation to bid**. To ensure that a competitive price is established

and to award a contract to the lowest responsible bidder, Port staff shall invite bids electronically from all registered contractors on the appropriate small works roster; or

b. Direct contract negotiation. To increase the utilization of small businesses, when the cost is below the threshold established in 39.04.152(4)(b), Port staff may invite direct contract negotiations from small businesses on the appropriate small works roster as follows:

i. If there are six or more appropriate contractors meeting the definition of small business on the applicable roster, the Port must direct contract with one of those small businesses. When using direct contracting methods, the Port must rotate through the appropriate contractors on the applicable small works roster and must utilize different contractors on different projects.

ii. If there are five or less appropriate contractors meeting the definition of small business on the applicable roster, the Port may direct contract with any contractors on the applicable roster.

iii. Prior to using the direct contract method, Port staff shall establish a small, minority, women, and veteran-owned business utilization plan.

iv. When using the direct contract method, Port staff must notify the small, minority, women, or veteran-owned businesses on the applicable roster that the direct contract method will be utilized for a particular scope of work.

v. The Port may not favor certain contractors on the appropriate small works roster by repeatedly awarding contracts without documented attempts to direct contract with other contractors on the appropriate small works roster.

c. Invitations for bids or direct contract negotiation shall include a general description of the scope and nature of the work to be performed, and when known, materials and equipment to be furnished.

d. After an award is made, the bids obtained shall be documented, publicly available, and available upon request.

e. At least once every year, Port staff shall post a list of the contracts awarded in the lobby of the Port's office under the small works roster process. The list shall also include the contractors contacted for direct negotiation under this process. The list shall contain, at a minimum, the information required by RCW 39.04.200.

5. **Rejection of Bids or Cancellation of Invitations**. The Port may reject all bids or cancel direct contract negotiations at the discretion of the Executive Director. The reason for rejection or cancellation must be included as part of the project file. A notice of rejection or cancellation shall be sent to all parties on the applicable roster or to the contractor invited to directly negotiate a contract and state briefly the reasons for cancellation.

C. **Apprenticeship Utilization**. Contracts meeting the threshold requirements specified in RCW 39.04.320 shall require that no less than 15 percent of the labor hours performed by workers subject to prevailing wages employed by the contractor or its subcontractors be performed by apprentices enrolled in an apprenticeship training program approved or recognized by the Washington State Apprenticeship and Training Council. Port staff shall monitor apprenticeship utilization hours and report final apprenticeship utilization by final project acceptance using the Department of Labor and Industries Prevailing Wage Intents and Affidavits System. Contract specifications shall include apprenticeship utilization goals to be met, monetary incentives for meeting the goals, monetary penalties for not meeting the goals, and an expected cost value to be included in the bid associated with meeting the goals. Port staff may adjust the requirements for apprentices in bid documents or reduce the apprenticeship hours during the contract if:

1. The apprenticeship requirement conflicts with state or federal funding conditions or the conditions of any other grant or funding program;

2. An insufficient number of apprentices are available in the geographic region to meet the contract requirements;

3. The project involves a disproportionately high ratio of material costs to labor hours;

4. The contractor has demonstrated a good faith effort to comply with the requirements; or

5. Pursuant to other criteria the Port deems appropriate.

D. **Bid Deposit and Performance Bond for Public Works Projects.**

1. Whenever competitive bids are required, a bidder shall make a deposit in

the form of a certified check, money order, or surety bid bond of the percentage specified in the call for bids; however, this amount shall not be less than five percent of the total bid. As part of any bid submitted, the bidder shall be required to warrant that the bid is a genuine bid and that they have not entered into collusion with any other bidder or any other person. Upon selection of a bidder, the bid bonds and/or security shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract is entered into for the work and a bond to perform such work in an amount to be fixed by the Commission, but not in any event less than twenty-five percent of the contract price.

2. All public works contractors shall furnish a payment and performance bond in an amount equal to the total amount of the contract on a form approved by the Port; except that, in lieu of a payment and performance bond on contracts less than the dollar threshold set forth in RCW 39.08.010, a contractor may request to have the Port accept the percentage allowed by RCW 39.08.010 of the contract retained for a period of 30 calendar days after the date of the Port's final acceptance of the project or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

E. Cancellation of Bids. If, in the opinion of the Commission, all bids in a competitive process are unsatisfactory, they may reject all of them and readvertise, and in such case, all such bid proposal deposits shall be returned to the bidders.

IV. **Exemption from Competitive Bidding Requirements**. Port employees are authorized in accordance with RCW 39.04.280 and as set forth herein, to purchase materials, equipment, or supplies or to contract for a public work project without obtaining competitive bids or quotations under the following circumstances:

A. Sole source purchase. When Port staff determines in writing, after conducting a good faith review of available resources, that there is only one source of the required materials, supplies, or equipment. Such circumstances include where the vendor is the original manufacturer, the parts and equipment are not interchangeable with similar parts from another manufacturer, and no other equipment is available that will meet the specialized need of the Port to perform the intended function. Immediately after the award of a contract, the contract and the factual basis for the exception must be recorded and open to public inspection.

B. Special facilities or market conditions. When Port staff determines in writing that special facilities or market conditions are present (e.g., when it is possible to procure obvious bargains in surplus or distress material, supplies, or equipment and such items will be sold out before the Port can complete the bidding process). Immediately after the award of a contract, the contract and the factual basis for

the exception must be recorded and open to public inspection.

C. **Purchase of insurance or bonds**. Immediately after the award of a contract, for the purchase of insurance or bonds, the contract and the factual basis for the exception must be recorded and open to public inspection.

D. **Purchases of material, equipment, supplies, purchased services, and public work contracts in the event of an Emergency**. When the Executive Director determines the existence of an Emergency, the Executive Director must duly enter of record a written finding of the existence of an emergency no later than two weeks following the award of the contract, in accordance with RCW 39.04.280, and comply with requirements set forth in Resolution 2017-09 (and as amended).

V. **Services.**

A. **Professional Services**. Architectural, landscape architectural, engineering, and land surveying services as defined in RCW 39.80.020 shall be procured in accordance with Chapter 39.80 RCW as follows:

1. The Port shall publish its need for professional services in advance concisely stating the general scope and nature of the work for which services are required. The notice should announce generally to the public the Port's projected requirements for any category or type of professional services and should request that architectural, engineering, or surveying firms submit a statement of qualifications and performance data. The notice should also provide the address of a representative of the Port who can provide additional details. The Port has two options:

   a. Option 1: For each project, the Port may publish an announcement on each occasion when professional services provided by a consultant are required; or

   b. Option 2: The Port may announce generally to the public its projected requirements for any category or type of professional services. The Port should receive qualifications from professionals at least annually to ensure that it is aware of all available professional services, in order to select the most qualified for each particular service. If the Port has joined and/or enrolled in MRSC Rosters or any other substantially similar professional services roster provider, the Port may rely on the professional services roster provider to satisfy this option.

2. Port staff shall maintain a small, minority, women, and veteran-owned business utilization plan to ensure such firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for services. The level of participation by small, minority, women, and

veteran-owned businesses shall be consistent with their general availability within the professional communities involved.

3. The Port shall evaluate the current statements of qualifications and performance data on file, together with those that may be submitted by other firms regarding the proposed work. To ensure proper evaluation of the submittals, evaluation criteria should be developed before receipt of the submittals. Following the evaluation, the Port may invite one or more firms to meet with its staff to discuss the work and the relative benefits of various methods of providing the desired services. The Port shall then select the firm most highly qualified to provide the required services from among those firms. The price or cost of the service may not be considered by the Port when determining which firm is the most highly qualified. When required by Resolution 2017-09 (and as amended), the Executive Director shall recommend the selected firm to the Port Commission for approval.

4. After the most highly qualified firm has been chosen, the Port must negotiate a contract with that firm for the services at a price that it determines is fair and reasonable, considering the estimated value of the services to be rendered, as well as the scope, complexity and professional nature of the services required. If a satisfactory contract cannot be negotiated, then the port shall formally terminate the negotiations with that firm and attempt to negotiate a contract with the next most highly qualified firm. The process shall continue until an agreement is reached or the search is terminated.

5. Port staff need not comply with this procurement procedure when the Executive Director finds that an emergency requires immediate execution of the services involved. The Executive Director must duly enter of record a written finding of the existence of an emergency and comply with requirements set forth in Resolution 2017-09 (and as amended).

B. Personal Services. Personal services as defined in RCW 53.19.010 shall be procured in accordance with Chapter 53.19 RCW as follows:

1. **Consultant contracts up to $49,999**: Port staff shall identify and document the rationale for selection of consultant.

2. **Consultant contracts between $49,999 to $199,999**: Port staff shall establish evaluation criteria for selection of such consultants, in which criteria other than price may be the primary basis for consideration. Staff shall then attempt to solicit statements of interest from multiple consultants to determine which consultant best fits the evaluation criteria. Staff shall document the evaluation criteria and rationale for the selection of the consultant, and when required by Resolution 2017-09

(and as amended), the Executive Director shall recommend such selection to the Port Commission.

3. **Consultant contracts for $200,000 or more**: The Port shall engage in a competitive solicitation process, as defined in RCW 53.19.010(2), by publishing its need for personal services concisely, stating the general scope and nature of the work for which services are required and the criteria that will be used for selection of the consultant. Criteria other than price may be the primary basis for consideration. The notice should announce generally to the public the Port's projected requirements for any the personal services and request that consultants submit a statement of qualifications and/or proposal. The notice should also provide the address of a representative of the Port who can provide additional details. The Port has two options:

   a. Option 1: For each project, the Port may publish an announcement on each occasion when personal services provided by a consultant are required; or

   b. Option 2: The Port may announce generally to the public its projected requirements for any category or type of personal services. If the Port has joined and/or enrolled in MRSC Rosters or any other substantially similar personal services roster provider, the Port may rely on the personal services roster provider to satisfy this option.

   The Port shall evaluate the statements of qualifications and/or proposals on file, together with those that may be submitted by other consultants regarding the proposed work. Following the evaluation, the Port may invite one or more consultants to meet with its staff to discuss the work and the relative benefits of various methods of providing the desired services. Port staff shall then identify the consultant that best meets the specified criteria to provide the required services, and when required by Resolution 2017-09 (and as amended), the Executive Director shall recommend such selection to the Port Commission.

4. Port staff shall maintain a small, minority, women, and veteran-owned business utilization plan to ensure such firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for services. The level of participation by small, minority, women, and veteran-owned businesses shall be consistent with their general availability within the professional communities involved.

5. Port staff need not comply with these procurement procedures, as authorized under chapter 53.19 RCW, in the following circumstances:

a. **Emergency**. When the Executive Director finds that an emergency requires immediate execution of the services involved. The Executive Director must duly enter of record a written finding of the existence of an emergency, file the contract and the justification with the Commission, make such contract available for public inspection within seven working days following the commencement of work or execution of the contract, whichever occurs first, and comply with any applicable requirements set forth in Resolution 2017-09 (and as amended).

b. **Sole Source**. When the personal services required may only be obtained from a sole source, meaning 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 must be based on the uniqueness of the service, sole availability at the location required, or warranty or defect correction service obligations of the consultant. Sole source contracts must be filed with the Commission and made available for public inspection prior to the proposed starting date of the contract. Documented justification for sole source contracts shall be provided to the commission when the contract is filed. For sole source contracts of $50,000 or more, documented justification shall include evidence that the Port attempted to identify potential consultants and the Commission shall ensure that the costs, fees, or rates negotiated in filed in such sole source contracts are reasonable.

c. **Commission Approval.** The Commission may determine that a competitive solicitation process is not appropriate or cost-effective and exempted specific contracts or classes or groups of contracts from these procedures.

d. **Contract Amendments**. Contract amendments shall not be subject to these procedures; however, amendments must be submitted to the Commission when:

    i. There is a substantial change in the scope of work specified in the contract or which are substantial additions to the scope of work specified in the formal solicitation document, in which case the Commission must determine whether the change warrants the work to be awarded as a new contract, or

    ii. If the value of the amendment or amendments, whether singly or cumulatively, exceeds fifty percent of the value of the original contract. Such amendments must be made

available for public inspection prior to the proposed starting date of services under the amendments.

The Purchasing Policies and Procedures may be amended by Resolution.

PASSED by the Port of Centralia this 21st of August 2024.

KYLE MARKSTROM, President

PETER LAHMANN, Vice-President

JULIE SHAFFLEY, Secretary

Attested to:

KYLE W. HEATON, Executive Director