



# KING COUNTY

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

## Signature Report

May 5, 2009

### FCD Resolution

**Proposed No.** FCD2009-06.2

1 A RESOLUTION adopting policies for the construction of  
2 public works and the acquisition of materials, equipment,  
3 supplies and services.  
4

5 WHEREAS, pursuant to Chapter 86.15 RCW, the Board of Supervisors ("Board")  
6 of the King County Flood Control Zone District ("District") has broad powers to  
7 construct public works and acquire materials, equipment, supplies and services as may be  
8 necessary for the benefit and operations of the District; and

9 WHEREAS, the Board desires to establish procurement procedures that achieve  
10 savings in cost and time and that meet public needs;

11 NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF  
12 SUPERVISORS OF THE KING COUNTY FLOOD CONTROL ZONE DISTRICT:

13 SECTION 1: Purpose and Scope. The District has entered into an interlocal  
14 agreement with King County for the performance of a substantial portion of the District's  
15 services and operations. King County's construction of public works and acquisition of  
16 materials, equipment, supplies and services on behalf of the District shall be carried out  
17 in conformance with laws and regulations that are applicable to King County. The

District's construction of public works and acquisition of materials, equipment, supplies and services shall be carried out pursuant to this resolution and the District's Rules and Operating Procedures.

SECTION 2: Construction of public works. The District shall enter into a contract for execution of a public work using the laws and regulations applicable to King County, or in the alternative, using a special process for the public work that is adopted by District resolution. For purposes of this resolution, a "public work" shall be work, construction, alteration, repair or improvement other an ordinary maintenance.

SECTION 3: Acquisition of Materials, Equipment, Supplies and Non-professional Services--Competitive Proposals. Contracts for acquisition of materials, equipment, supplies and non-professional services shall be awarded under the following procedure (competitive proposals):

A. The Executive Director shall prepare a request for proposals. The request for proposals shall state generally the equipment, materials or supplies to be purchased or the non-professional services to be accomplished, contain evaluation factors and criteria, request prices and rates, and call for proposals to be submitted to the District on or before a specified day and hour. If the estimated amount of the contract is less than \$20,000, the chair of the Executive Committee shall approve the request for proposals prior to issuance. If the estimated amount of the contract is between \$20,000 and \$100,000, the Executive Committee shall approve the request for proposals prior to issuance. If the estimated amount of the contract is \$100,000 or more, the Board shall approve the request for proposals prior to issuance.

40           B. After approval, the Executive Director shall cause the request for proposals to  
41 be published on the District's website and in a newspaper of general circulation within  
42 King County at least once a week for two consecutive weeks, the first publication being  
43 not less than 10 days before the deadline for filing proposals. The notice may be  
44 published in such additional newspapers or magazines and for such additional period of  
45 time as the Executive Director shall deem to be in the best interest of the District.

46           C. After review of the proposals, the Executive Director shall submit a written  
47 recommendation to the chair of the Executive Committee, the Executive Committee or  
48 the Board, as applicable under the District Rules and Operating Procedures for approval  
49 of contracts. The chair of the Executive Committee, the Executive Committee or the  
50 Board, as applicable, may award the contract based solely on the recommendation, or  
51 alternatively or in combination may conduct interviews with selected proposers, conduct  
52 discussions with selected proposers and/or request proposers to submit best and final  
53 offers. The chair of the Executive Committee, the Executive Committee or the Board, as  
54 applicable, may request clarifications and consider minor adjustments in the proposals in  
55 order to better understand the proposals and to qualify them for further consideration;  
56 provided, that information discussed or obtained from one proposer shall not be disclosed  
57 to competing proposers during the discussions and negotiations. Except to the extent  
58 protected by applicable laws and regulations, proposals shall be considered public  
59 documents and shall be made available for review and copying by the public after the  
60 recommendation to award a contract.

61           D. The chair of the Executive Committee, the Executive Committee or the Board,  
62 as applicable, may waive the competitive proposal process of this section for:

63           1. Purchases or services that are clearly and legitimately limited to a single  
64 source of supply;

65           2. Purchases or services involving special facilities or market conditions; and

66           3. Purchases of insurance or bonds.

67           SECTION 4. Optional Competitive Bidding-- Acquisition of Materials,  
68 Equipment, Supplies and Non-professional Services of \$100,000 or More.

69           A.     At the option of the Board, as determined by motion of the Board,  
70 contracts for acquisition of materials, equipment, supplies and non-professional services,  
71 the estimated cost of which is \$100,000 or more, may be awarded pursuant to competitive  
72 bidding as provided in this section. Factors that the Board may consider in deciding  
73 whether to use competitive bidding include but are not limited to the following:

74           1. There is sufficient time to solicit and evaluate bids;

75           2. The contract may be awarded primarily on the basis of price and other price-  
76 related factors;

77           3. Discussions with the responding bidders is not necessary; and

78           4. There is reasonable expectation of receiving more than one bid.

79           B. The Executive Director shall prepare, or cause to be prepared, an invitation to  
80 bid and plans and specifications, consistent with subsection C of this Section. The Board  
81 shall approve the invitation to bid and plans and specifications prior to issuance. The  
82 Executive Director shall cause a notice inviting sealed bids to be published on the  
83 District's website and in a newspaper of general circulation within King County at least  
84 once a week for two consecutive weeks, the first publication being not less than 10 days  
85 before accepting bids. The invitation to bid and plans and specifications shall be on file

86 with the Executive Director and the Clerk of the District and open to public inspection at  
87 the time of first publication in the newspaper or publishing on the District's website,  
88 whichever occurs first. The notice shall state generally the materials, equipment, supplies  
89 or non-professional services to be purchased or carried out and shall call for bids for  
90 doing the same to be sealed and filed with the District on or before the day and hour  
91 specified. The notice may be published in such additional newspapers or magazines and  
92 for such additional period of time as the Executive Director shall deem to be in the best  
93 interest of the District.

94 C. Each bid shall be accompanied by a bid guarantee payable to the District for a  
95 sum not less than five percent of the amount of the bid in such form as may be  
96 established or approved by the Executive Director. The Executive Director may waive  
97 the bid guarantee requirement if the Executive Director deems such action necessary to  
98 promote participation in the bidding. The Executive Director may further require a  
99 performance/payment bond or bonds. The bond or bonds shall be payable to the order of  
100 the District, shall be in such form as may be established or approved by the Executive  
101 Director, and shall be in an amount not less than one hundred percent of the contract  
102 price unless a lesser amount is approved by the Executive Director.

103 D. All bids shall be considered as offers to contract with the District. At the time  
104 and place named, the bids shall be publicly opened and read. The Executive Director  
105 shall require the bids to be retained and analyzed and shall recommend the best bid to the  
106 Board. The Board may reject any or all bids or cancel or modify bid solicitations if the  
107 Board deems such actions to be in the best interest of the District. Minor irregularities in  
108 bid form may be waived.

109 E. The Board shall award a contract on the basis of the best bid. Any bid or any  
110 portion of any bid or all bids may be rejected by the Board. In determining "best bid,"  
111 the following elements shall be given consideration in addition to price:

112 1. The ability, capacity and skill of the bidder to perform the contract or provide  
113 the materials, equipment, supplies or service required;

114 2. The character, integrity, reputation, judgment and efficiency of the bidder;

115 3. The quality and timeliness of performance by the bidder on previous contracts  
116 with the District, other local governments and state and federal agencies, including but  
117 not limited to the relative costs, burdens, time and effort necessarily expended by the  
118 District or such governments and agencies in securing satisfactory performance and  
119 resolving claims;

120 4. The history of the bidder in following responsible labor practices, including,  
121 but not limited to ensuring the payment of prevailing wages to all subcontractors and  
122 suppliers;

123 5. The history of the bidder in using state-certified apprentices for the  
124 construction of these properties, across the trades, including women, at risk youth, and  
125 people of color, with a fifteen percent apprentice utilization goal.

126 6. The previous and existing compliance by the bidder with laws relating to public  
127 contracts including, but not limited to, minority and women business enterprise and equal  
128 employment opportunity requirements;

129 7. The history of the bidder in filing claims and litigation on prior projects  
130 involving the District or other governments and agencies; and

131           8. Such other information as may be secured having a bearing on whether the  
132 bidder is responsible and has submitted a responsive bid.

133           SECTION 5: Professional Services. Professional services are services wherein  
134 consultants provide highly specialized expertise to carry out the executive functions of  
135 the District, to solve a program or to render professional opinions, judgments or  
136 recommendations, including, but not limited to, financial, marketing, legal, planning,  
137 artistic, engineering and architectural services. Professional services to be performed for  
138 the District by non-employees shall be procured consistent with the following procedures.

139           A. The Executive Director shall prepare a request for proposals. The request for  
140 proposals shall describe the services required, list the types of information and data  
141 required of each proposal, request prices and rates, describe the evaluation criteria and  
142 call for proposals to be submitted to the District on or before a specified day and hour.  
143 The Executive Director shall cause a notice inviting proposals to be published on the  
144 District's website and in a newspaper of general circulation within King County at least  
145 10 days before the date for submitting such proposals.

146           B. The Executive Director shall establish a selection panel to review and evaluate  
147 the proposals. The Executive Director shall serve on the selection panel. At the option of  
148 the Executive Committee, one member of the Executive Committee may serve on the  
149 selection panel. The selection panel shall review all proposals and may interview all or  
150 some of the proposers. The selection panel shall determine and rank the most qualified  
151 proposers. In selecting and ranking proposers, the selection panel shall consider the  
152 evaluation criteria, price and ability to perform the services, and may also consider such  
153 other information as may be obtained during the evaluation process related to the

154 proposer's qualifications and experience. The selection panel shall negotiate a contract  
155 with as many of the top-ranked proposers as are determined by the selection panel.

156 Negotiations may be conducted concurrently or sequentially.

157 C. Contracts for architectural and engineering services, as defined in Chapter  
158 39.80 RCW, shall be advertised and procured in accordance with Chapter 39.80 RCW.  
159 To comply with the advance publication requirement of RCW 39.80.030, the Executive  
160 Director may determine whether to publish an announcement on each occasion when  
161 professional services provided by a consultant are required, or to announce generally to  
162 the public District projected requirements for any category or type of professional  
163 services.

164 SECTION 6: Emergency. When in the opinion of the Executive Director any  
165 emergency shall require the immediate execution of a District contract for acquisition of  
166 materials, equipment, supplies or services, the Executive Director shall prepare for the  
167 chair of the Executive Committee a finding of the existence of such emergency. Based  
168 on the finding, the chair of the Executive Committee may execute any contracts or  
169 purchases necessary to respond to the emergency; provided that the chair of the  
170 Executive Committee shall, at the first Executive Committee meeting if the contract was  
171 for less than \$100,000, or at the first Board meeting if the contract was for \$100,000 or  
172 more, request Executive Committee or Board ratification, as applicable, of the finding of  
173

**FCD Resolution**

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174 emergency and any purchases or contracts awarded and/or executed pursuant to that  
175 finding.

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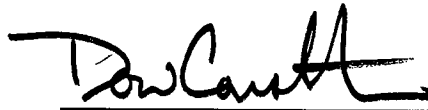
FCD Resolution was introduced on and passed as amended by the King County Flood Control District on 5/4/2009, by the following vote:

Yes: 8 - Mr. Dunn, Mr. Constantine, Mr. Ferguson, Mr. Gossett, Ms. Lambert, Mr. Phillips, Ms. Patterson and Mr. von Reichbauer

No: 0

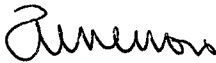
Excused: 1 - Ms. Hague

KING COUNTY FLOOD CONTROL  
KING COUNTY, WASHINGTON



Dow Constantine, Chair

ATTEST:



Anne Noris, Clerk of the District

**Attachments**      None