FERRY COUNTY RESOLUTION NO. 2016-11
ESTABLISHING PROCESS FOR FERRY COUNTY RAIL TRAIL SURFACING PROJECT

WHEREAS, RCW 39.04.155 provides for the construction of Public Works projects using contract methods other than specified in the statute, and

WHEREAS, Ferry County Resolution No. 2015-16 established the process for completing the Phase 2 surfacing project by using donated equipment, materials and volunteer labor to maximize the cost efficiency of projects with costs over the basic Public Works bid limit and within the Small Works roster process limits without violating basic bidding requirements of Washington State, and

WHEREAS, the Washington State Recreation and Conservation Office (RCO) encourages the use of donated labor and equipment on state funded projects so as to improve cost efficiency in the use of public funds, and

WHEREAS, Stotts Construction and ACI Northwest, Inc. are members of the Washington State Municipal Research and Services Center Small Works Roster and have agreed to cooperate to complete the surfacing portion of the Ferry County Rail Trail Phase 3 project, RCO #14-1677, at a fraction of the fair market value by way of the donation of equipment use, and

WHEREAS, the Ferry County Board of Commissioners encourages the participation of other individuals and qualified local contractors who may also wish to volunteer to contribute to this project, and

WHEREAS, the donated equipment use shall be applied towards the County's matching portion of the RCO funding of this project thereby optimizing the cash and material donations made toward the project by Kinross Gold Corp. and Ferry County Rail Trail Partners, and

WHEREAS, Ferry County shall comply with all applicable state and federal laws and regulations, including Chapter 39.12 RCW, and published RCO policies which are incorporated herein by this reference as if fully set forth, and

WHEREAS, Jim Doherty, legal counsel for Washington State Municipal Research and Services Center has provided a written summary outlining this process. Please see attached letter.

NOW, THEREFORE BE IT RESOLVED that the Ferry County Board of Commissioners hereby authorize Stotts Construction, ACI Northwest Inc. and other qualified contractors and volunteers to proceed with the surfacing portion of Ferry County Rail Trail Phase 3, RCO grant #14-1677 with Keith Bell acting as Project Manager on behalf of Ferry County.

APPROVED this 25TH day of April, 2016.

BOARD OF FERRY COUNTY COMMISSIONERS
FERRY COUNTY, WASHINGTON

NATHAN DAVIS, Chairman

BRAD L. MILLER, Vice-Chair

MIKE BLANKENSHIP, Member

ATTEST:

for Amanda L. Rowton
Clerk of the Board

From: Jim Doherty [mailto:jdoherty@mrsc.org]
Sent: Thursday, March 19, 2015 3:29 PM
To: Keith Bell
Subject: RE: Ferry County Rail Trail surfacing project

Keith,

You asked that I provide a written summary of my advice on your issue (your prior e-mail, appended below, had provided some of the facts).

Your basic quandary was how to procedurally follow through on your public works project and utilize the generous contributions to the project that are coming from two contractors without violating the basic bidding requirements.

The estimated cost of the project brings it over the basic public works bid limit, but well within the small works roster process limits. There are two contractors who are willing to contribute equipment use at no cost so long as the county pays an amount sufficient to cover the prevailing wage costs of the labor and the fuel costs for the equipment. The two contractors have indicated they are willing to coordinate and work cooperatively on the project. In this situation requesting bids from other contractors via the small works roster process (RCW 39.04.155) would be a waste of time because any rational bid would be well in excess of the costs of the project by obtaining the services of the two generous contractors.

An obvious concern is whether the state auditor's office will fault the county for not strictly following the small works roster process. It appears that the county has two options: (1) follow the small works roster process, even though it would be a waste of time given the circumstances; or (2) document the facts carefully and have the board of county commissioners adopt a resolution setting forth the facts in detail, approving the proposed contractual arrangement, and acknowledging that the unusual circumstances justify deviating from the strict requirements of the statute. You will need to carefully review this issue with the county prosecutor and follow the prosecutor's advice. Legal counsel frequently provide conservative advice in order to avoid any potential allegations of improper procedures.

Jim Doherty

Legal Consultant

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