

**SOUTHWEST SUBURBAN SEWER DISTRICT
KING COUNTY, WASHINGTON**

RESOLUTION NO. 2011-09

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF
SOUTHWEST SUBURBAN SEWER DISTRICT, KING COUNTY,
WASHINGTON, DECLARING THE EXISTENCE OF AN
EMERGENCY RELATING TO THE SEAHURST BEACH LINE
SEWER REHABILITATION PROJECT AND WAIVING THE
FORMAL BIDDING REQUIREMENTS OF RCW 57.08.050.**

WHEREAS, on February 28, 2011, Southwest Suburban Sewer District (“District”) entered into a contract with a contractor for the performance of certain work generally referred to as the Seahurst Beach Line Sewer Rehabilitation Project (“Project”);

WHEREAS, the Project consisted of the following elements of work to be completed by the contractor: (1) modifications to the influent piping at existing Pump Station No. 7; (2) construction of a new submersible pump station and control building at Seahurst Park, in Burien, Washington; (3) installation of approximately 1,000 lf of new 5-inch HDPE force main (open cut); (4) installation of approximately 1,750 lf of new 5-inch HDPE (slip line through existing 8-inch gravity pipe); and (5) installation of two (2) grinder pumps;

WHEREAS, the contractor has to date not been able to perform and complete the work associated with modifications to the influent piping at Pump Station No. 7 (referred to herein as the “Influent Piping Work”) in the manner required by the contract and within the specific timeframes required by the contract and permits obtained in this matter;

WHEREAS, the District has on a number of occasions communicated with the contractor about issues relating to the contractor’s failure to perform the Influent Piping Work in the manner required by the contract;

WHEREAS, by letter dated September 12, 2011, the District’s consulting engineer notified the contractor of the District’s concerns about the Influent Piping Work, which included issues relating to potential damage to properties located adjacent to the Project site, and the District requested that the contractor provide a plan to identify voids that may have been created due to the lack of an effective dewatering system and to prepare a proposal of corrective actions to fill the voids and preserve and protect the adjacent properties by no later than September 16, 2011;

WHEREAS, certain permits issued by the Corps of Engineers in connection with the Project require that all work on the beach be completed by October 1, 2011, pursuant to the requirements of the Endangered Species Act and other applicable law;

WHEREAS, based on the District's observations and inspection of the Influent Piping Work being performed by the contractor, and based on direct communications with the contractor, the District has a good faith basis for questioning the contractor's ability to perform and complete the Influent Piping Work in the manner and within the timeframes required by the contract and applicable permits and the contractor's work to date is creating a situation which is likely to result in a material loss or damage to District facilities and/or adjacent properties if immediate action is not taken;

WHEREAS, if the contractor is unable to comply with the terms and conditions contained in the District's notice to be issued to the contractor on or around September 15, 2011, the District may be forced to consider terminating that portion of the contract relating to Influent Piping Work and hiring a new contractor to complete the work;

WHEREAS, due to the nature of the work on the beach, and given the existence of strict permit deadlines and timeframes for the performance of the required work, in the event the contractor is terminated from performing the Influent Piping Work the District will not have time to competitively bid this work; and

WHEREAS, because the current situation involves unforeseen circumstances beyond the District's control which is likely to result in a material loss or damage to property if immediate action is not taken, the District believes that there is an adequate basis to declare an emergency and to waive the formal bidding requirements pursuant to RCW 57.08.050; now therefore,

BE IT RESOLVED by the Board of Commissioners of Southwest Suburban Sewer District, as follows:

1. The recitals set forth above are incorporated herein in full by this reference.
2. Unforeseen circumstances beyond the control of the District exist which are likely to result in a material loss or damage to property if immediate action is not taken; therefore, pursuant to RCW 39.04.280(1)(e), an emergency is hereby declared for the above stated reasons to procure a contractor or contractors to complete the Influent Piping Work if the current contractor fails to comply with the terms and conditions contained in the District's notice to be issued to the contractor on or around September 15, 2011.
3. Because of the existence of an emergency, the formal competitive bid requirements set forth in Chapter 57.08 RCW are hereby waived.

4. In order to address and resolve the emergency situation, District staff is hereby authorized to obtain and award all necessary contracts on behalf of the District to provide for the completion of the Influent Piping Work in the event that portion of the work is terminated from the contract with the existing contractor.

ADOPTED by the Board of Commissioners of Southwest Suburban Sewer District, King County, Washington, at a regular meeting thereof held this 20th day of September, 2011.

SOUTHWEST SUBURBAN SEWER DISTRICT
KING COUNTY, WASHINGTON

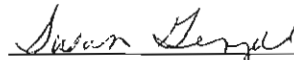
Individual Commissioners
Vote on Resolution

In Favor of:
Opposed:
Abstained:



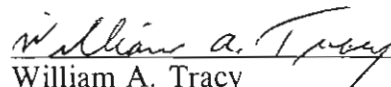
Scott Hilsen
President and Commissioner

In Favor of:
Opposed:
Abstained:



Susan Genzale
Vice President and Commissioner

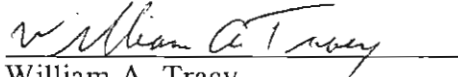
In Favor of:
Opposed:
Abstained:



William A. Tracy
Secretary and Commissioner

CERTIFICATE

I, William A. Tracy, Secretary of the Board of Commissioners of Southwest Suburban Sewer District, King County, Washington, do hereby certify that the foregoing resolution is a true and correct copy of Resolution No. 2011-09 of such Board, duly adopted at a regular meeting thereof held on the 20th day of September, 2011 signed by the members of such Board in attendance at such meeting and attested by myself in authentication of such adoption.



William A. Tracy
Secretary of the Board of Commissioners
Southwest Suburban Sewer District