

ORDINANCE NO. 2313

AN ORDINANCE OF THE CITY OF KIRKLAND PRESCRIBING PROCEDURES GOVERNING THE PURCHASES OF SUPPLIES, MATERIAL, EQUIPMENT AND SERVICES, PUBLIC WORKS AND CAPITAL IMPROVEMENTS BY THE CITY OF KIRKLAND; PRESCRIBING THE DUTIES OF THE PURCHASING MANAGER AND AMENDING TITLE 3 OF THE KIRKLAND MUNICIPAL CODE BY ADDING THERETO A NEW CHAPTER 3.85.

THE CITY COUNCIL OF THE CITY OF KIRKLAND DO ORDAIN as follows:

Section 1. There is hereby established in Title 3 of the Kirkland Municipal Code, a new Chapter 3.85 Purchasing, to read as follows:

3.85.010 Purpose: It is the purpose of this Ordinance to prescribe and establish comprehensive procedures for all public works, capital improvements and purchases of all materials, supplies and contractual services, except professional services (including banking services) which shall be provided for pursuant to Sections 3.16.040 and 3.16.050, Kirkland Municipal Code.

3.85.020 Responsibility for Purchasing: The Director of Administration and Finance shall be responsible for all city government purchasing and shall appoint a Purchasing Manager who shall, subject to the exceptions stated in this Ordinance, make all purchases of materials, supplies, equipment and contractual services, except professional services for all departments, offices, boards and other agencies of the city government. The duties and responsibilities designated in this Ordinance to be performed by the Director of Administration and Finance and the Purchasing Manager shall be performed under the direction and control of the City Manager.

3.85.030 Co-operative Purchasing: The Purchasing Manager is hereby authorized to join co-operative purchasing arrangements with other public agencies similarly authorized, when the best interests of the City of Kirkland would be served thereby. Any co-operative purchasing agreement shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties and shall be governed by the requirements of State law in regard to competitive bidding, when applicable.

3.85.040 Competitive Bidding - When Required: Any purchase of supplies, material equipment or services, except for public works or improvements, including the printing of supplies, where the cost thereof exceeds \$5,000.00, shall be made upon call for bids in the same method and under the same conditions as required herein on a call for bids for public work or improvement.

3.85.050 Open Market Purchase of Items Costing Less than \$5,000.00: All purchases of materials, supplies, equipment and contractual services costing less than \$5,000.00 may be made on the open market. All open market purchases shall, whenever practicable, be based on at least three competitive prices, or bids solicited by the Purchasing Manager by direct mail request to prospective vendors, by personal contact with sales representatives or by any other appropriate means. The Purchasing Manager shall keep a record of all open market orders and bids submitted in competition thereon and such records shall be open for public inspection during regular office hours. The Purchasing Manager shall award the bid on open market purchases to such bidder as he shall determine to be the lowest and best responsible bidder, in accordance with the provisions of this Ordinance.

3.85.060 Filing of Statements on Awards to other than Low Bidder for Item Costing Less than \$5,000.00. When the award for purchase of an item costing less than \$5,000.00 is not given to the lowest bidder in price, a statement of the reasons for placing the order elsewhere shall be prepared and filed with the other papers relating to the transaction and shall be open to public inspection during regular office hours.

3.85.070 Rejection of Bids for Open Market Purchases Costing Less than \$5,000.00. The Purchasing Manager shall have authority to reject all bids, or parts thereof, for any one or more supplies or contractual services of less than \$5,000.00 when the public interest will be served thereby, and upon rejection of such bid, shall include the reason therefor in the records of the transaction, which shall be open for public inspection.

3.85.080 Non-competitive and Special Purchase of Less than \$5,000.00: The Purchasing Manager shall be authorized to make open market purchases costing less than \$5,000.00 without obtaining competitive bids therefor under the following conditions:

(a) Items of special design: When an item required is of special design, shape or manufacture to match or fit in with an existing installation and competitive bidding is impracticable.

(b) Surplus or distress sales: When it is possible to procure obvious bargains in surplus or distress material, supplies or equipment.

(c) Items for quick delivery: When the obtaining of competitive bids will cause delay resulting in an appreciable loss to the City.

(d) Small items not stocked - monthly purchase orders: The Purchasing Manager shall be authorized to establish monthly purchase order with local vendors for periods of not more than ten months for the purchase of items costing less than \$50.00 or perishable items which cannot be stocked by the departments and are available at usual market prices. Such local vendors shall be selected on the basis of best over-all price policies, breadth and depth of stocks and delivery service.

3.85.090 Emergency Purchases - Authorization: The City Manager or his designated agent are hereby authorized to make emergency purchases, upon a finding, duly entered of record, of the existence of an emergency. Such emergencies may include, but are not limited to:

(a) Any breakage or loss of equipment or in other circumstances in which necessary service is interrupted or is about to be interrupted;

(b) Situations where the City may suffer a substantial loss by reason of the time required for following the regular purchasing procedures, which shall be reported to the City Council at the next subsequent meeting.

3.85.100 Unauthorized Purchases: Except as herein provided, no city employee shall purchase or contract for any supplies, material, equipment, or contractual service or make any contract within the purview of this Ordinance other than through the Division of Purchasing and its staff. Any purchase or contract made contrary to the provisions hereof shall not be approved by any city officer and the City shall not be bound thereby, except as may be required or provided by law.

3.85.110 Inspection and Testing: The Purchasing Manager shall inspect or supervise the inspection of all deliveries of supplies, materials, equipment or contractual services to determine the conformance with the specifications set forth in the order or contract.

(a) Inspection by using department: The Purchasing Manager may authorize a using department having the staff and facilities for adequate inspection to inspect all deliveries made to such using departments, under procedures he shall prescribe.

(b) Tests: The Purchasing Manager may require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, he shall have the authority to make use of laboratory facilities of any outside laboratory.

3.85.120 Formal Contract Requirements: All competitive bids in the amount of \$5,000.00 or more shall be evidenced by written proposal submitted to and approved by the City Council.

(a) Approval of legal form of contracts: All contracts for the purchase of supplies, services, materials, and equipment required by this Ordinance shall be approved as to legal form by the City Attorney.

(b) Approval by the City Manager or designated agent: The City Manager or his designated agent shall examine all contracts, purchase orders, and other documents which involve financial obligations against the City and approve the same only upon ascertaining that monies have been

appropriated and that an unexpended and unencumbered balance is available to meet the same. The Director of Administration and Finance is the disbursing officer and is designated the approving authority for the collection and fund disposition of the retainage as provided in RCW 60.28.010.

(c) Authority to sign contracts: All contracts for purchase of supplies, materials, equipment, or services required by this ordinance shall be executed on behalf of the City by the City Manager or the Purchasing Manager.

3.85.130 Public Work or Improvement - Estimated Cost in Excess of \$2,500.00 but less than \$10,000.00 - Publication of Estimates: When it is determined that a public work or improvement of an estimated cost of less than \$10,000.00 shall be executed by means or method other than by contract, and it appears that the estimated probable cost of executing the work will exceed \$2,500.00, then at least fifteen days before the work is begun, the appropriate administrative official of the City shall cause such estimate, together with a description of the work, to be published at least once in a newspaper of general circulation within the county; except that when any emergency requires the immediate execution of such public work, upon a finding of the existence of an emergency by the authority having power to direct such public work to be done, duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work.

3.85.140 When Bids Required for Public Works and Improvements: Except as otherwise authorized by RCW Chapters 39.04 and 39.28 relating to emergency public works or other applicable general State law as now enacted, or as hereafter amended, all public works and improvements shall be done by contract, pursuant to public notice and call for competitive bids whenever the estimated cost of such public work or improvement, including the cost of materials, supplies and equipment will exceed the sum of \$10,000.00:

Provided that whenever this public work or improvement is for construction of water mains, such sum shall be \$15,000.00.

When any emergency shall require the immediate execution of such public work, upon the finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work.

Notice of call for bids shall be given by posting thereof in a public place in the City and by publication in a newspaper of general circulation within the City once each week for two consecutive weeks before the date fixed for opening of bids; except that notice by publication may be given in the manner authorized by RCW 39.28.020(5) or other general State law when applicable.

3.85.141 Cost of Public Work or Improvement Defined:
The cost of any public work or improvement for the purposes of this chapter shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence: Provided that the cost of water services and metering equipment furnished in the course of a water service installation from the utility owned main to and including the meter box assembly, shall not be included as a part of the aggregate cost as provided herein. The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purposes of avoiding the minimum dollar amount prescribed in this Chapter is contrary to public policy and is prohibited.

3.85.142 Equality of Opportunity to Participate:
All contracts by and between the City and contractors for any public work or improvement exceeding the sum of \$10,000.00 or \$15,000.00 for construction of water mains, shall contain the following clause:

"Contractor agrees that he shall actively solicit the employment of minority groups. Contractor further agrees that he shall actively solicit bids for the subcontracting of goods or services from qualified minority businesses. Contractor shall furnish evidence of his compliance with these requirements of minority employment and solicitation. Contractor further agrees to consider the grant of sub-contractors to said minority bidders on the

basis of substantially equal proposals in the light most favorable to said minority businesses. The contractor shall be required to submit evidence of compliance with this Section as a part of the bid."

As used in this Section, the term "minority business" means a business of at least fifty-one percent (51%) of which is owned by minority group members. Minority group members include, but are not limited to Blacks, women, Native Americans, Orientals, Eskimos, Aleuts and Spanish Americans.

Section 3.85.150 Bids to Comply with Regulations: All bids offered by persons, associations or corporations desiring to sell or supply material, equipment or supplies to the City, shall comply strictly with the terms of the notice of invitation for bids and the specifications or general conditions issued or published by the City in connection therewith, together with all State laws relating to public works contracts, the terms of which shall be deemed included in such specifications or general conditions, whether or not they are expressly set out therein.

3.85.160 Bid Deposits, Performance Bond and Non-Collusion Affidavit for Public Works Improvement Projects Costing \$10,000.00 or more: Each bidder shall make a deposit in the form of a certified check or bid bond in an amount equal to not less than 5% of the total bid, which percentage shall be specified in the call for bids. As part of any bid submitted, the bidder shall be required to warrant that the bid is a genuine bid, and that he has not entered into collusion with any other bidder or any other person. The successful bidder shall furnish a faithful performance or surety bond in an amount equal to the total amount of the contract and an executed and notarized non-collusion affidavit on a form approved by the City Attorney.

3.85.170 Bid Opening: Bids shall be submitted sealed to the office of the Purchasing Manager at any time within regular business hours and shall be identified as bids on the envelope. Bids shall be opened in public by the Purchasing Manager at the time and place stated in the call for bids. The department concerned with the bid and the Purchasing Manager shall tabulate the bids and make appropriate recommendations to the City Manager.

3.85.180 Award or Rejection of Bids: For the purchase of supplies, equipment, and contractual services in an amount in excess of \$5,000.000 and for contracts for public works or improvements in excess of \$10,000.00 (\$15,000.00 when the contract is for construction of water mains) the City Manager shall present the bids received, together with recommendations of the department or departments concerned to the City Council at a regular meeting. The Council shall award the contract to the lowest responsible bidder or may reject any and all bids for any transaction when the public interest will be served thereby.

3.85.190 General Standards for Determining Lowest and Best Responsible Bidder: In determining lowest and best responsible bidder, in addition to price, the following may be considered:

- (a) The ability, capacity and skill of the bidder to perform the contract.
- (b) Whether the bidder can perform the contract promptly, or within the time specified, without delay or interference.
- (c) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (d) The quality of performance of previous contracts by the bidder.
- (e) The previous and existing compliance by the bidder with laws and Ordinances relating to contracts.
- (f) The sufficiency of the financial resources and ability of the bidder to perform the contract.
- (g) The quality, availability and adaptability of the materials, supplies or equipment to the particular use required.
- (h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
- (i) The number and scope of conditions attached to the bid.

3.85.200 Award to Other than Low Bidder: When the award is not given to the lowest bidder in price, the reasons for making the award otherwise shall be stated in the City Council's minutes.

3.85.210 Rejecting Bids: The City Council may reject any or all bids and make further calls for bids in the same manner as the original call; or if in the City Council's judgment the improvement or work, including the purchase of supplies, materials and equipment can be done by the City at less cost than the lowest bid submitted, it may do so without making any further call for bids or awarding any contract therefor. If no bid is received on the first call, the City may readvertise and make a second call or may enter into a contract without any further call or may purchase the supplies, materials or equipment and perform such work and improvement by day labor.

3.85.220 Competitive Bidding - When Required by Federal or State Regulations: All public works projects and all purchases of materials, supplies or services other than professional services, the cost of which exceeds \$2,500 and which will be paid for in whole or in part from monies received from the Community Development Act of 1974 fund allocations, shall be subject to the competitive bidding requirements applicable to such project or purchase as set forth in the contract between the City of Kirkland and King County, notwithstanding the fact that competitive bidding procedures would not be required by this Ordinance.

Whenever the conditions of a State or Federal grant received by the City establish competitive bidding procedures and requirements inconsistent with the procedures and requirements of this Ordinance, the conditions of such grant shall apply to all public works projects and purchases to be paid for in full or in part by monies received from such grant.

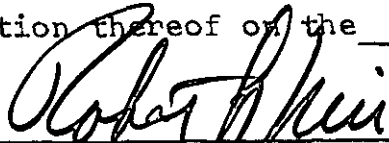
Section 2. If any provision or Section of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the provision, section or the application thereof to other persons or circumstances is not affected.

Ordinance #2313

Section 3. This Ordinance shall be in force and take effect five days from and after its passage by the Kirkland City Council and publication as required by law.


PASSED by the Kirkland City Council in regular meeting on the 5th day of April, 1976.

SIGNED in authentication thereof on the 5th day of April, 1976.



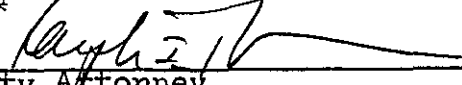
Mayor

ATTEST:



Director of Administration and Finance
(ex officio City Clerk)

Approved as to form:



City Attorney

Ordinance #2313