

ORDINANCE O-3289

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PURCHASING OF SUPPLIES, MATERIALS AND EQUIPMENT CONTRACTING FOR CONSTRUCTION OF PUBLIC WORKS PROJECTS OR IMPROVEMENTS AND AMENDING CHAPTER 3.85 OF THE KIRKLAND MUNICIPAL CODE.

Be it ordained by the City Council of the City of Kirkland as follows:

Section 1: The following sections of Chapter 3.85 of the Kirkland Municipal Code are hereby amended to read:

**I. GENERAL POLICY**

**3.85.010 Purpose.**

It is the purpose of this chapter to prescribe and establish comprehensive procedures for all public works, capital improvements, and purchases of all materials, equipment, supplies and contractual services; provided that contractual services subject to the provisions of this chapter, shall not include professional services, banking services, [~~garbage collection~~], solid waste collection and recycling services, nor contracts for personal services. Contracts for consultant or professional services required to be performed by licensed architects, engineers or landscape architects shall follow the procedural requirements of RCW Chapter 39.80.

**3.85.020 Responsibility for purchasing.**

The director of administration and finance shall be responsible for all city government purchasing and public works construction contract procurement and shall appoint a purchasing manager who shall, subject to the exceptions stated in this chapter, make all purchases of materials, supplies, equipment, including lease of equipment, and contractual services for all departments, offices, boards and other agencies of the city government. The director of administration and finance may delegate to the department director placing the purchase order authority to make direct, non-reoccurring purchases of up to one thousand

dollars for materials, supplies or equipment . The duties and responsibilities designated in this chapter to be performed by the director of administration and finance and by the purchasing manager shall be performed under the direction and control of the city manager.

## II. PURCHASING

### 3.85.030 Cooperative purchasing.

The purchasing manager is authorized to ~~join~~ enter into interlocal governmental cooperative purchasing arrangements with other public agencies similarly authorized when the best interests of the city of Kirkland would be served thereby. Any cooperative 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, including lease of equipment, or services, except for public works or improvements, including the printing of supplies, where the cost thereof exceeds ~~fifteen~~ twenty thousand dollars, 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. Notwithstanding the foregoing, when such a purchase is clearly and legitimately limited to a single source or supply, within the Seattle Metropolitan Area, or the materials supplies, equipment or services are subject to special market conditions, then such purchase may be made without competitive, sealed bid and by negotiation, provided that prior to the making of such purchase, the purchasing manager obtains the approval of the city council, which approval shall be expressed by resolution setting forth why the requirements of this sentence are met.

### 3.85.041 Request for proposal procedure.

Notwithstanding the provisions of Section 3.85.040 and 3.85.042, the purchasing manager, with the written concurrence of the city manager, may enter into contracts for lease of equipment or purchase of supplies, materials,

equipment, or services (except for those included in a public work or improvement), using a request for proposal procedure similar to the procedure outlined in RCW Chapter 39.80; except that specifications for price quotations may be included in the request for proposal. This section shall not apply to contracts for professional services covered by Sections 3.16.040 and 3.16.050, nor architectural and engineering services as defined in RCW Chapter 39.80.

### **3.85.042 Lease of equipment.**

The lease of equipment shall for the purposes of this Chapter, be deemed to be the lease or rental of equipment whether or not an option to purchase is included. No equipment shall be leased without prior approval of the Director of Administration and Finance. [~~a purchase of equipment requiring competitive sealed bidding only if (1) the lease is for a period in excess of twelve (12) months and (2) the annualized rental is in excess of \$15,000.00. --- Section 3.85.040 shall apply in all other cases where equipment is to be leased.~~]

### **3.85.045 Cancellation of invitation to bid.**

An invitation for bids may be cancelled at the discretion of the purchasing manager. The reasons therefor shall be made a part of purchase contract file. Each invitation for bids issued by the city shall state that the invitation may be cancelled. Notice of cancellation shall be sent to all parties who have been provided with a copy of the invitation. The notice shall identify the invitation for bid and state briefly the reasons for its cancellation.

### **3.85.050 Open market purchase of items costing less than [~~fifteen~~] twenty thousand dollars.**

All purchases of materials, supplies, equipment and contractual services costing less than [~~fifteen~~] twenty thousand dollars may be made on the open market. All open market purchases shall, when in excess of seven thousand five hundred dollars, 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, including telephone inquiry, 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 chapter.

**3.85.060 Filing of statements on awards to other than low bidder for item costing less than fifteen twenty thousand dollars.**

When the award for purchase of an item costing less than [~~fifteen~~] twenty thousand dollars 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 fifteen twenty thousand dollars.**

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 [~~fifteen~~] twenty thousand dollars 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.

**3.85.100 Unauthorized purchases.**

Except as [~~herein~~] provided in this chapter, no city employee shall purchase or contract for any supplies, material, equipment or contractual service or make any contract within the purview of this chapter 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.

**3.85.101 Personal responsibility for unauthorized purchases.**

City employees other than those designated in this chapter are not authorized to make purchase agreements binding the city and obligating the city to a financial commitment. Should a city employee violate this trust and the city experiences a financial loss, then the city shall be entitled to recover the full amount of such loss from the employee. [Any-city-employee making-a-purchase-or-contract-contrary-to-the provisions-of-this-chapter,-or-accepting-for delivery-to-the-city-any-items-purchased contrary-to-the-provisions-of-this-chapter, shall-be-personally-responsible-for-payment-of same---To-the-extent-that-the-city-may-be required-to-pay-for-same-the-city-shall-be entitled-to-recover-the-full-amount-of-such payment-from-such-employee.]

**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.

(1) Inspection by Using Department. The purchasing manager may [~~authorize a using department having the staff and facilities for adequate inspection~~] delegate the responsibility to inspect all deliveries made to such using departments, under procedures he shall prescribe.

(2) 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-excess-of-the-amount of-fifteen-thousand-dollars-shall-be-evidenced by-written-proposal-submitted-to-and-approved-by the-city-council.]~~

(1) Approval of Legal form of Contracts. All contracts for the purchase of supplies, services, materials and equipment required by

this chapter shall be approved as to legal form by the city attorney.

(2) 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 moneys 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.

(3) Authority to Sign Contracts. All contracts for purchase of supplies, materials, equipment or services required by this chapter shall be executed on behalf of the city by the city manager or the director of administration and finance where the contract is for twenty thousand dollars or more, and by the purchasing manager or the director of the using department if the contract is less than twenty thousand dollars.

### III. PUBLIC WORKS AND IMPROVEMENTS

**3.85.130 Public work or improvement--  
Estimated cost in excess of five  
thousand dollars but less than  
twenty thousand dollars.**

(a) When it is determined that a public work or improvement [of] with an estimated cost of less than twenty thousand dollars shall be executed by means or method other than by [~~contract~~] notice and public call for competitive bid, and it appears that the estimated probable cost of executing the work will exceed five thousand dollars, 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.

(b) In addition, the city shall use the form required by Section 4, Chapter 120, Laws of 1987 to account and record the cost of public works in excess of five thousand dollars and not let by contract.

**3.85.140 When bids required for public works and improvements.**

(a) Except when otherwise authorized by Section 3.85.205 KMC, 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 labor, materials, supplies [and] equipment and applicable Washington State and local sales tax will exceed the sum of thirty thousand dollars if more than one craft or trade is involved with the public works, or twenty thousand dollars if a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A "public works project" means a complete project as defined in Section 3.85.141.

(b) 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.

(c) 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 and applicable Washington State and local sales tax 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 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 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.

**3.85.145 Cancellation of invitation to bid.**

An invitation for bids on a public works project or improvement may be cancelled at the discretion of the purchasing manager. The reasons therefor shall be made part of the contract file. Each invitation for bids issued by the city shall state that the invitation may be cancelled. Notice of cancellation shall be sent to all parties that have been provided with a copy of the invitation. The notice shall identify the invitation for bids and state briefly the reasons for cancellation.

**3.85.155 Bidder (contractor) qualification.**

Each public works bidder bidding on contracts in excess of one hundred thousand dollars may be required to submit to the director of public works or other appropriate departmental director, upon demand and prior to the award of contract, satisfactory evidence that the bidder has sufficient means, plans, equipment and experience to enable the bidder to undertake and successfully complete the work to be performed under the contract and contract specifications. The director of public works or other appropriate department director may accept as satisfactory evidence and contractor's certification that the bidder/contractor is prequalified for similar work by the Washington State Department of Transportation.



**3.85.160 Bid deposits, performance bond and noncollusion affidavit for public works improvement projects costing [ten] twenty thousand dollars 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 five percent 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 noncollusion 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 director of administration and finance and the purchasing manager, or their designees, 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 four thousand dollars and]~~ For contracts for public works or improvements in excess of ~~[fifteen]~~ twenty thousand dollars, 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.

**3.85.200 For contracts awarded by the city council [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.

**3.85.220 Competitive bidding--When required by federal or state regulations.**

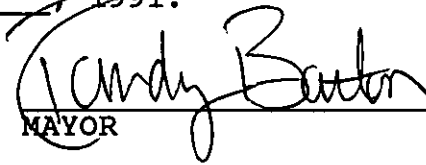
~~All-public-works-projects-and-all-purchases-of materials,-supplies-or-services-other-than professional-services-the-cost-of-which-will-be paid-for-n-whole-or-in-part-from-moneys-received from-the-Community-Development-Act-of-1974-fund allocations,-shall-be-subject-to-the-competitive bidding-requirements-applicable-to-such-project or-purchase-as-set-forth-in-the-contract-between the-city-and-King-County,-notwithstanding-the fact-that-competitive-bidding-procedures-would not-be-required-by-this-chapter.~~

Whenever the conditions of [a] an intergovernmental agency, county, state or federal grant received by the city establish competitive bidding procedures and requirements inconsistent with the procedures and requirements of this chapter, the conditions of such grant shall apply to all public works projects and purchases to be paid for in full or in part by moneys received from such grant. To insure compliance with this requirement the director of the department having responsibility for the public improvement shall advise the purchasing manager as to the source of funding for each public works or improvement project together with any specific procurement, requirements or conditions of the funding or grant contract.

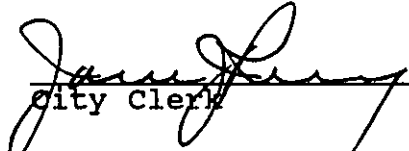
Section 2: This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, pursuant to Section 1.08.017 Kirkland Municipal Code in summary form attached to the original of this Ordinance and by this reference approved by the City Council, as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 5th day of November, 1991.

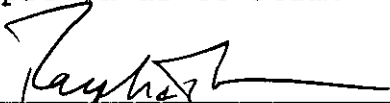
Signed in authentication thereof this 5th  
day of November, 1991.

  
MAYOR

Attest:

  
city clerk

Approved as to Form:

  
City Attorney  
o-r\purcsupp/rit:ksk

SUMMARY OF ORDINANCE O-3289

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING PURCHASING OF SUPPLIES, MATERIALS AND EQUIPMENT CONTRACTING FOR CONSTRUCTION OF PUBLIC WORKS PROJECTS OR IMPROVEMENTS AND AMENDING CHAPTER 3.85 OF THE KIRKLAND MUNICIPAL CODE.

Section 1. Amends and modifies the following Sections of Chapter 3.85. Kirkland Municipal Code relating to procurement of materials, supplies, equipment, construction of Public Works projects:

## I. GENERAL POLICY

- 3.85.010 Purpose
- 3.85.020 Responsibility for purchasing

## II. PURCHASING

- 3.85.030 Cooperative purchasing
- 3.85.040 Competitive bidding--When required
- 3.85.041 Request for proposal procedure
- 3.85.042 Lease of equipment
- 3.85.045 Cancellation of invitation to bid
- 3.85.050 Open market purchase of items costing less than twenty thousand dollars
- 3.85.060 Filing of statements on awards to other than low bidder for item costing less than twenty thousand dollars
- 3.85.070 Rejection of bids for open market purchases costing less than twenty thousand dollars
- 3.85.100 Unauthorized purchases
- 3.85.101 Personal responsibility for unauthorized purchases
- 3.85.110 Inspection and testing
- 3.85.120 Formal contract requirements

## III. PUBLIC WORKS AND IMPROVEMENTS

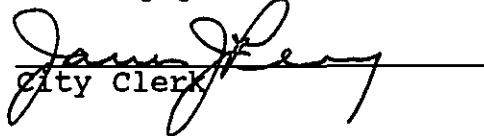
- 3.85.130 Public work or improvement-- Estimated cost in excess of five thousand dollars but less than twenty thousand dollars
- 3.85.140 When bids required for public works and improvements

- 3.85.141 Cost of public work or improvement defined
- 3.85.145 Cancellation of invitation to bid
- 3.85.155 Bidder qualification
- 3.85.160 Bid deposits, performance bond and noncollusion affidavit for public works improvement projects costing twenty thousand dollars or more
- 3.85.170 Bid opening
- 3.85.180 Award or rejection of bids
- 3.85.200 For contracts awarded by the city council to other than low bidder
- 3.85.220 Competitive bidding--When required by federal or state regulations

Section 2. Authorizes publication of the Ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the city of Kirkland. The Ordinance was passed by the Kirkland City Council at its regular meeting on the 5th day of November, 1991.

I certify that the foregoing is a summary of Ordinance O-3289 approved by the Kirkland City Council for summary publication.

  
City Clerk

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