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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4040

AN ORDINANCE regarding purchasing; and amending  
Bellevue City Code, Chapter 4.28.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS  
FOLLOWS:

Section 1. A new Section 4.28.015 is added to Chapter 4.28 of the  
Bellevue City Code, to read as follows, and existing Bellevue City Code  
4.28.015 is renumbered as Bellevue City Code 4.28.012:

4.28.015 Real Estate. This chapter does not apply to the  
purchase of real estate.

Section 2. Section 5 of Ordinance No. 3593 and Bellevue City Code  
Section 4.28.018 are amended to read as follows:

4.28.018 Professional service contracts.

Contracts for professional services, including contracts for  
architectural, engineering, legal and consulting services, are not  
subject to the requirements of this chapter. The city manager  
shall promulgate procedures and standards by administrative order  
for the approval of such contracts. Contracts for architectural  
and engineering services shall be awarded in accordance with RCW  
Chapter 39.80. For purposes of this section, "professional  
services" are those services involving skill, education and special  
knowledge and where the work is predominately mental and  
intellectual, rather than physical and mechanical.

Section 3. Section 6 of Ordinance No. 3593 and Bellevue City Code  
Section 4.28.019 are amended to read as follows:

4.28.019 Lease agreements.

Lease agreements for materials, supplies and equipment are  
not subject to the requirements of this chapter, but shall be  
subject to such procedures as are established by administrative  
order of the city manager. All such agreements in excess of  
thirty-five thousand dollars must, however, be approved by the city  
council. Lease agreements shall comply with any applicable state  
law regarding debt capacity.

Section 4. Section 7 of Ordinance No. 3593 and Bellevue City Code  
Section 4.28.020 are amended to read as follows:

4.28.020 Responsibility for purchasing.

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- A. General. The director of finance shall be responsible for all city purchasing under this chapter except where otherwise provided. The director shall appoint a purchasing manager who shall be head of the purchasing division of the finance department and who shall, subject to the direction and control of the director, administer this chapter.
- B. Duties. In accordance with this chapter, the purchasing manager shall:
1. Purchase or supervise the purchase of all materials, supplies, equipment, and non-professional services, and supervise the award of all public works and improvement contracts by the city;
  2. Sell, trade, or otherwise dispose of surplus personal property belonging to the city; provided the city property manager shall be responsible for the disposal of real property; and
  3. Establish and maintain programs for specifications development, contract administration and inspection and acceptance, in cooperation with the city departments using the items purchased.
- C. Operational Procedures. Consistent with this chapter, and with the approval of the finance director, the purchasing manager may propose operational procedures relating to the execution of his/her duties. Such procedures shall be followed by all city departments. These will be set forth in a municipal procurement handbook, which shall be adopted, and may be amended, by administrative order of the city manager.
- D. Insurance Requirements. Liability and property damage insurance requirements for any contract entered into by the city under this chapter shall be determined by the city risk manager. The risk manager shall determine coverage requirements, limits of liability, necessary endorsements, and other matters relating to insurance. Insurance requirements shall not be the responsibility of the director of finance.

Section 5. Section 1 of Ordinance No. 3847, Section 9 of Ordinance No. 3593 and Bellevue City Code Section 4.28.040 are amended to read as follows:

4.28.040 Competitive bidding -- Materials, supplies and equipment.

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- A. General. Any purchase of material, supplies, and equipment, where the cost thereof exceeds thirty-five thousand dollars shall be by competitive bidding, except for purchases made pursuant to Section 4.28.030, 4.28.085 and 4.28.090 of this chapter.
- B. Invitation for Bids. An invitation for bids shall be issued which shall include the specifications and the contractual terms and conditions applicable to the procurement.
- C. Public Notice. Public notice of the invitation for bids shall be given not less than fourteen calendar days prior to the date set forth therein for the opening of bids. Such notice shall be published at least once in a newspaper of general circulation. The public notice shall state the date and time of bid opening. Bids not received by the date and time stated for bid opening will not be accepted or considered.
- D. Bid Opening. Bids shall be opened publicly by the purchasing manager or his/her designee at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the purchasing manager deems appropriate, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.
- E. Bid Evaluation. Bids shall be evaluated based on the specifications and other relevant evaluation criteria set forth in the bid specifications. The evaluation criteria shall be objectively measurable whenever possible, and may include such factors as discounts, transportation costs, and total or life cycle costs, inspection or testing which has been done of the product bid, quality, workmanship, delivery time, and suitability for a particular purpose.
- E. Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted by the city. Mistakes discovered before bid opening may be modified or the bid may be withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for opening. After bid opening, corrections in or withdrawal of bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake was made, the nature of the mistake, and the bid price actually intended. However,

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downward correction of a bid, which would displace the apparent low bidder, shall only be permitted if the error made and the intended bid price can be determined solely from the bid documents. All decisions to permit the correction or withdrawal of bids after bid opening, or to cancel awards or contracts based on bid mistakes, shall be made by the city council.

- G. Award. The bids shall be submitted to the city council by the city manager, along with the recommendation of the appropriate department. The city council may award the bid to the lowest responsible bidder as determined under the standards set forth in Section 4.28.190 hereof, or may reject all bids in its discretion. The contract shall be awarded to the lowest responsible bidder whose bid meets the specifications and evaluation criteria set forth in the invitation for bids.

Section 6. Section 10 of Ordinance No. 3593 and Bellevue City Code Section 4.28.050 are amended to read as follows:

4.28.050 Small purchases of materials, supplies and equipment.

Any purchase not exceeding the amount specified in Section 4.28.040A shall be considered a "small purchase" and may be made in accordance with small purchase procedures to be adopted by the purchasing manager. The requirements of Section 4.28.040 shall not apply to such purchases. Insofar as it is practical, three businesses shall be solicited to submit quotations. The purchasing manager shall keep a record of all small purchases and quotations submitted in competition thereon and such records shall be open for public inspection during regular office hours. The purchasing manager shall award the purchase order on small purchases to such vendor as the purchasing manager determines to have submitted the lowest responsible quotation, in accordance with the provisions of this chapter.

Section 7. Section 17 of Ordinance No. 3593 and Bellevue City Code Section 4.28.099 are amended to read as follows:

4.28.099 City procurement records.

- A. Contract File. All determinations and other written records pertaining to the invitation to bid, award, or performance of a contract shall be maintained for the city in a contract file by the purchasing manager or city clerk.

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- B. Retention of Procurement Records. All procurement records shall be retained and disposed of by the city in accordance with state law and city ordinances, regulations and guidelines. If a contract is being funded in whole or in part by assistance from a federal agency, then all procurement records pertaining to that contract shall be maintained in accordance with any applicable requirements of federal law.

Section 8. Section 2 of Ordinance No. 3328 and Bellevue City Code 4.28.143 are amended to read as follows:

4.28.143 Equal opportunity requirements for contractual service providers.

All contractors, subcontractors, consultants, vendors and suppliers who contract with the city in a total amount of thirty-five thousand dollars or more within any given year are required to take affirmative action and comply with the following requirements of this section. There shall be included in any contract between such contractual services provider and the city the following provisions:

1. Contractor shall make specific and constant recruitment efforts with minority and women's organizations, schools, and training institutions. This shall be done by notifying relevant minority and women's organizations.
2. Contractor shall seek out eligible minority and women contractors to receive subcontract awards. Appropriate minority and women contractors shall be notified in writing of any bids advertised for subcontract work.
3. Contractor shall provide a written statement to all new employees and subcontractors indicating commitment as an equal opportunity employer and the steps taken to ensure equal treatment of all persons.
4. Contractor shall actively consider for promotion and advancement available minorities and women.
5. Contractor is encouraged to make specific efforts to encourage present minority and women employees to help recruit qualified members of protected groups.
6. Contractor is encouraged to provide traditional and nontraditional employment opportunities to female and minority youth through after-school and summer employment.

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7. Contractor is encouraged to assist in developing the skills of minorities and women by providing or sponsoring training programs.

Wilful disregard of the city's nondiscrimination and affirmative action requirements shall be considered breach of contract and suspension or termination of all or part of the contract may follow.

All contractors, subcontractors, vendors, consultants or suppliers of the city required to take affirmative action must sign the affidavit of compliance and submit with the contractor agreement. All documents related to compliance steps listed above shall be presented upon the request of the purchasing manager.

Section 9. Section 27 of Ordinance No. 3593 and Bellevue City Code Section 4.28.160 are amended to read as follows:

4.28.160 Bonds and bid security -- Noncollusion affidavit --  
Insurance.

A. Bid security.

1. Requirement for Bid Security. Bid security shall be required for all competitive bidding for public work or improvement contracts. Bid security shall be of a type and in a form approved by the purchasing manager, which may include a bond provided by a surety company authorized to do business in this state, or the equivalent in cash, or certified check and shall be included in the bid package. Bid security shall be required on bids for materials, supplies and equipment only if determined necessary by the purchasing manager.
2. Amount of Bid Security. Bid security shall be in an amount equal to at least five percent of the amount of the bid.
3. Rejection of Bids for Noncompliance with Bid Security Requirements. When the invitation for bids requires submittal of bid security, noncompliance will result in rejection of the bid.
4. Withdrawal of Bids. If a bidder is permitted to withdraw its bid before award as provided in Section 4.28.040F, the bidder's bid security shall be returned.

B. Contract Performance and Payment Bonds.

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1. When required -- Amounts. When a public works or improvement contract is awarded as a result of a call for bids under BCC 4.28.140, the following bonds or security shall be delivered to the city and shall become binding on the parties upon the execution of the contract:
  - a. A performance bond satisfactory to the city, executed by a surety company authorized to do business in this state, in an amount equal to one hundred percent of the price specified in the contract; and
  - b. A payment bond satisfactory to the city, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the city for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent of the price specified in the contract.
2. Authority to Require Additional Bonds. Nothing in this section shall be construed to limit the authority of the city to require a performance bond or other security in addition to the bonds specified herein.
- C. Noncollusion Affidavit. 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 by submitting with his bid an executed and notarized noncollusion affidavit on a form approved by the city attorney.
- D. Insurance. Contracts for public works and improvements shall contain such requirements for the provision of insurance by the contractor as are determined by the city risk manager.

Section 10. Section 27 of Ordinance No. 3593 and Bellevue City Code Section 4.28.170 are amended to read as follows:

4.28.170 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

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in public by the purchasing manager at the time and place stated in the call for bids. The purchasing manager shall tabulate the bids and submit them to the department concerned which will make appropriate recommendations to the city manager.

Section 11. Section 9 of Ordinance No. 2822 and Bellevue City Code Section 4.28.180 are amended to read as follows:

4.28.180 Award or rejection of bids.

For the purchase of materials, supplies, and equipment which are required to be competitively bid under BCC 4.28.040 and for contracts for public works or improvements which are required to be competitively bid under BCC 4.28.140, 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.

Section 12. Section 29 of Ordinance No. 3593 and Bellevue City Code Section 4.28.190 are amended to read as follows:

4.28.190 General standards for determining lowest responsible bidder.

In determining lowest 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 reputation, 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 or services;
- F. The sufficiency of the financial resources and ability of the bidder to perform the contract;
- G. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

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H. The number and scope of conditions attached to the bid.

Section 13. Section 30 of Ordinance No. 3593 and Bellevue City Code Section 4.28.200 are repealed.

Section 14. Section 31 of Ordinance No. 3593 and Bellevue City Code Section 4.28.210 are amended to read as follows:

4.28.210 Rejecting bids -- Recalling for bids.

The city council may reject any or all bids and make further calls for bids in the same manner as the original call. If no responsive 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 or perform such work and improvement by day labor.

Section 15. A new Section 4.28.215 is added to Chapter 4.28 of the Bellevue City Code:

4.28.215 - Administrative Procedures - Public Works Contracts.

The City Manager may promulgate procedures by administrative order for the purposes of administering Public Works Improvement Contracts. Such procedures may define the levels of authority pertaining to review and approval of contract change orders.

Section 16. A new Section 4.28.216 is added to Chapter 4.28 of the Bellevue City Code:

4.28.216 - Administrative Guidelines, Policies and Procedures -  
Purchases for Special Events.

The City Manager may promulgate procedures by administrative order to govern the purchase of supplies, such as food, beverages, decorations and awards, for public events and employee activities, including employee of the year recognition, volunteer recognition and ceremonial openings of public facilities.

Section 17. This ordinance shall take effect and be in force thirty days after passage by the City Council.

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PASSED by the City Council this 7<sup>th</sup> day of August,  
1989, and signed in authentication of its passage this 7<sup>th</sup> day  
of August, 1989.

(SEAL)

Nan Campbell

Nan Campbell, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Richard L. Andrews

Richard L. Andrews, City Attorney

Attest:

Marie K. O'Connell

Marie K. O'Connell, City Clerk

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