

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6728

AN ORDINANCE to increase the threshold for administrative approval by amending Bellevue City Code Chapters 4.28 Procurement, 4.30 Real Property Acquisition and Leasing, and 4.32 Sale of City Property.

WHEREAS, the threshold for administrative approval of several types of procurement, including public works, purchase of materials, supplies and equipment, grant agreements, real property purchases and lease agreements is set at \$90,000 and has not been updated since 2014; and

WHEREAS, as the City grows and the cost of procuring goods and services increases, a greater number of bids and contracts exceeding the administrative threshold are submitted to City Council for approval; and

WHEREAS, the process for obtaining City Council approval can create project delays and utilizes staff resources while agenda materials are prepared, processed, and scheduled; and

WHEREAS, increasing the threshold for administrative approval of various agreements and real property acquisitions will save staff and City Council time spent on processing agenda memos and other associated materials necessary to support Council's review; and

WHEREAS, the increase to the administrative approval threshold will not diminish the City's commitment to competitive procurement practices or transparency; now, therefore,

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

Section 1. The title of Section 4.28.040 of the Bellevue City Code (BCC) and paragraphs (A)(1), (A)(2), (H)(2) and (I) are hereby amended to read as follows:

4.28.040 Competitive bidding and award.

A. *General.* Except as expressly authorized elsewhere in this chapter or by state law, the provisions of this section shall apply when the following thresholds have been met:

1. To any purchase of material, supplies, and equipment of \$350,000 or more; and

2. To any work defined as a “public work” in RCW 39.04.010, as now enacted or hereafter amended, where the cost is estimated to exceed the limitations set forth in RCW 35.23.352, as now enacted or hereinafter amended.

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H. *Correction or Withdrawal of Bids – Bid Irregularities – Cancellation of Awards.* Correction or withdrawal of erroneous bids or bid irregularities before or after bid opening, or cancellation of awards or contracts based on such bid mistakes or irregularities, may be permitted by the city as provided in this section.

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2. 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, downward correction of a bid, which would displace the apparent low bidder, and upward corrections of a bid submitted by the apparent low bidder, which would not displace the bid as the apparent low bid, shall only be permitted if the error made and the intended bid price can be determined solely from the bid documents in the sole discretion of the city. 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 for contracts exceeding \$350,000 and the applicable department director, or other person designated by the City, for contracts of \$350,000 or less. Notwithstanding anything in this chapter, the director of finance and asset management or his/her designee shall have the authority to waive immaterial irregularities that do not give a bidder a competitive advantage or benefit not enjoyed by other bidders.

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I. *Award.* For contracts exceeding \$350,000, a description of the bids, along with the recommendation of the appropriate department and a written statement of any mistakes, corrections, or irregularities in the bids as described above, shall be submitted to the city council. The city council may award the bid to the lowest responsive, responsible bidder as determined under the standards set forth in the code and under state law, or may reject any or all bids in its discretion and make further call for bids.

For contracts of \$350,000 or less, the applicable department director, or other person designated by the City, may award the bid to the lowest responsive, responsible bidder as determined under the standards set forth in the code and under state law, or may reject any or all bids in its discretion and make further call for bids.

If awarded, the contract shall be awarded to the lowest responsive and responsible bidder whose bid meets the specifications and evaluation criteria set forth in the invitation for bids. 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, equipment or services, or perform such work and improvement in any manner authorized by law.

Section 2. Paragraphs (A) and (B) of BCC Section 4.28.080 are hereby amended to read as follows:

4.28.080 Small public works.

A. Except as otherwise authorized by Chapters 39.04 and 39.28 RCW or RCW 35.23.352, 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 in accordance with BCC 4.28.040 or through the small works roster process as authorized in RCW 35.23.352 and 39.04.155 as now enacted or hereafter amended.

B. Whenever the estimated cost of the public work or improvement is less than the threshold amounts provided in BCC 4.28.040(l), a contract for the public work or improvement may be awarded by the applicable department director, or other person designated by the city manager, consistent with the procedures established in accordance with this chapter.

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Section 3. Section 4.28.120 BCC is hereby amended to read as follows:

4.28.120 Professional service contracts.

Contracts for professional services, including contracts for architectural, engineering, legal and consulting services, are not subject to the competitive bidding or public works requirements of this chapter. The director of finance and asset management

or designee shall promulgate procedures and standards for the approval and administration of such contracts. Contracts for architectural and engineering services shall be awarded in accordance with Chapter 39.80 RCW as now enacted or hereafter amended. 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 4. Paragraph (B) of Section 4.28.130 BCC is hereby amended to read as follows:

4.28.130 Noncompetitive purchases.

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B. *Small Items Not Stocked.* The director of finance and asset management or his/her designee is authorized to purchase items which are not stocked by the departments of the city and are available at usual market prices through purchase orders, or may enter into indefinite delivery/indefinite quantity contracts not exceeding \$350,000 in value annually. The city shall attempt to use local vendors selected on the basis of best overall price policies, breadth and depth of stock, delivery service and overall convenience to the city.

Section 5. The first paragraph of Section 4.28.140 BCC is hereby amended to read as follows:

4.28.140 Small purchases of materials, supplies and equipment.

Any purchase not exceeding the amount specified in BCC 4.28.040(A)(1) shall be considered a “small purchase” and may be made in accordance with this section and the small purchase procedures promulgated by the director of finance and asset management or his/her designee.

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Section 6. Paragraph (B) of Section 4.28.200 BCC is hereby amended to read as follows:

4.28.200 Grants.

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B. The city manager or his/her designee is authorized to apply for grants in any amount and to execute grant contracts for grants of up to \$350,000. The city manager or his/her designee shall not execute grant contracts exceeding \$350,000 without council approval. The city manager or his/her designee shall notify the city council periodically of such grant contracts.

Section 7. Section 4.28.210 BCC is hereby amended to read as follows:

4.28.210 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 the director of finance and asset management or designee. All such agreements exceeding \$350,000 in value per year must, however, be approved by the city council. Lease agreements shall comply with any applicable state law regarding debt capacity.

Section 8. Section 4.30.010 BCC is hereby amended to read as follows:

4.30.010 Real property – Manager’s acquisition authority.

A. The city manager or designee is authorized to accept by gift or acquire dedications, easements, rights-of-way, fee estates or other interests in real property for use by or on behalf of the city or any department of the city; provided, that the cost of the property is less than \$350,000 and the purchase price does not exceed the fair market value of the property as determined by the city’s appraiser or review appraiser by more than: (1) \$10,000 or (2) 10 percent of such fair market value, whichever is greater.

B. All other real property acquisitions not authorized in advance will be submitted to the council for approval.

C. The city manager or designee shall have the authority to promulgate policies, standards and operational procedures governing all city real property transactions.

Section 9. Paragraph (A) of Section 4.30.020 BCC is hereby amended to read as follows:

4.30.020 Real property – Manager’s leasing authority.

A. The city manager or designee is authorized to execute leases of real property on behalf of the city where the term of the lease does not exceed two years and the consideration does not exceed \$350,000 per year.

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Section 10. Section 4.32.060 BCC is hereby amended to read as follows:

4.32.060 Sale of city real property.

Except as provided in BCC 4.32.070 and 4.32.090, any sale of real property shall be submitted to the council for approval. A public hearing on the proposed sale is not required.

Section 11. This Ordinance shall take effect and be in force thirty (30) days after its passage and legal publication.

Passed by the City Council this _____ day of _____, 2023 and signed in authentication of its passage this _____ day of _____, 2023.

(SEAL)

Lynne Robinson, Mayor

Approved as to form:
Kathryn L. Gerla, City Attorney

Monica A. Buck, Assistant City Attorney

Attest:

Charmaine Arredondo, City Clerk

Published _____