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## CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3593

AN ORDINANCE relating to purchasing by the City; amending Bellevue City Code 4.28.010, .020, .030, .040, .050, .060, .070, .080, .090, .100, .110, .125, .130, .140, .141, .150, .160, .185, .190, .200, .210, .220, and .230 and Sections 1 - 12, 14, 15, 17, and 18 of Ordinance No. 2284; Sections 1 - 8, 11 of Ordinance No. 2822 and Section 2 of Ordinance No. 3328; adding new sections 4.28.015, .016, .017, .018, .019, .085, .095, .099, and .155 to the Bellevue City Code; and repealing Bellevue City Code 4.28.120 and Section 6 of Ordinance No. 2822 and Section 9 of Ordinance No. 2284.

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

Section 1. Bellevue City Code 4.28.010 is amended to read as follows:

4.28.010 Purpose.

The purpose of this chapter is to protect and advance the public interest by providing for the fair and equitable treatment of all persons involved in the purchasing process, by maximizing the purchasing value of public funds and by providing safeguards for maintaining a purchasing system of quality and integrity.

Section 2. A new section 4.28.015 is added to the Bellevue City Code, to read as follows:

4.28.015 Application.

This chapter applies to the award of contracts by the City for 1) public works and improvements and 2) purchases of materials, supplies, and equipment. This chapter does not apply to the reimbursement of business expenses incurred by employees as governed by Ordinance No. 3397 as now or hereafter amended.

Section 3. A new section 4.28.016 is added to the Bellevue City Code, to read as follows:

4.28.016 Federal funds.

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When a purchase involves the expenditure of federal funds, purchasing shall be conducted in accordance with any applicable federal law or regulation.

Section 4. A new section 4.28.017 is added to the Bellevue City Code, to read as follows:

4.28.017 Grants.

Nothing in this chapter shall prevent the City from complying with the terms and conditions of any grant, gift or bequest which is otherwise consistent with law.

Section 5. A new section 4.28.018 is added to the Bellevue City Code, to read as follows:

4.28.018 Service Contracts.

Contracts for 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.

Section 6. A new section 4.28.019 is added to the Bellevue City Code, 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. All such agreements in excess of \$10,000 must, however, be approved by the City Council.

Section 7. Section 1 of Ordinance No. 2284 and Bellevue City Code 4.28.020 are amended to read as follows:

4.28.020 Responsibility for purchasing

- 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.

The duties and responsibilities designated in this chapter to be performed by the Director of Finance shall be performed under the general direction and control of the City Manager.

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- B. Duties. In accordance with this chapter, the Purchasing Manager shall:
1. purchase or supervise the purchase of all materials, supplies, equipment, 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. 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 8. Bellevue City Code 4.28.030 is amended to read as follows:

4.28.030 Cooperative purchasing.

The Purchasing Manager is authorized to join in cooperative purchasing arrangements with other public agencies similarly authorized, when the best interests of the City 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.

Section 9. Section 1 of Ordinance No. 2822, Section 2 of Ordinance No. 2284, and Bellevue City Code 4.28.040 are amended to read as follows:

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- 4.28.040 Competitive bidding - Materials, supplies and equipment.
- A. General. Any purchase of material, supplies, and equipment, where the cost thereof exceeds ten thousand dollars shall be by competitive bidding, except for purchases made pursuant to Sections 4.28.030, 4.28.085 and .090 of this chapter.
  - B. Invitation for Bids. An Invitation for Bids shall be issued which shall include the specifications, the criteria for evaluation of bids 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 14 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 evaluation criteria set forth in the Invitation for Bids. The evaluation criteria shall be objectively measurable, 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.
  - F. 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 10. Section 2 of Ordinance No. 2822, Section 3 of Ordinance No. 2284, and Bellevue City Code 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. Contract requirements shall not be artificially divided so as to create a small purchase under this section. Insofar as it is practical, no less than 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 11. Section 3 of Ordinance No. 2822, Section 4 of Ordinance No. 2284 and Bellevue City Code 4.28.060 are amended to read as follows:

4.28.060 Small purchases - Filing of statements on awards to other than vendor submitting lowest quotation.

When the award for a small purchase is not given to the vendor submitting the lowest quotation, a statement of the reasons for placing the order elsewhere shall be prepared and filed with the other papers

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relating to the transaction and shall be open to public inspection during regular office hours.

Section 12. Section 4 of Ordinance No. 2822, Section 5 of Ordinance No. 2284 and Bellevue City Code 4.28.070 are amended to read as follows:

4.28.070 Small purchases - Rejection of quotations.

The Purchasing Manager shall have the authority to reject all quotations or parts thereof, with regard to a small purchase of any materials, supplies, or equipment when he/she determines the public interest will be served thereby, and upon rejection of such quotations shall include the reason therefor in the records of the transaction, which shall be open for public inspection.

Section 13. Section 5 of Ordinance No. 2822, Section 6 of Ordinance No. 2284 and Bellevue City Code 4.28.080 are amended to read as follows:

4.28.080 Noncompetitive purchases.

A. The Purchasing Manager shall be authorized to make open market purchases without obtaining competitive bids or quotations therefor as required under Sections 4.28.040 and 4.28.050 under the following conditions:

1. 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;
2. Surplus or Distress Sales. When it is possible to procure obvious bargains in surplus or distress material, supplies or equipment;
3. Items for Quick Delivery. When the obtaining of competitive bids or quotations will cause delay resulting in an appreciable loss to the city;

B. Small Items Not Stocked, Monthly Purchase Orders.

The Purchasing Manager is authorized to establish monthly purchase orders with local vendors for periods of not more than twelve months for the purchase of items which are not stocked by the departments of the City and are available at usual market prices. Such local vendors shall be selected on the basis of best overall price policies, breadth and depth of stocks and delivery service;

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- C. Petty Cash Accounts. The Purchasing Manager is authorized to establish petty cash accounts for City departments for reimbursement of legally payable expenses incurred on behalf of the City, which shall be paid in accordance with rules and regulations established by the Finance Department.

Section 14. A new section 4.28.085 is added to the Bellevue City Code to read as follows:

4.28.085 Materials, supplies and equipment - Sole source procurement.

A contract for the purchase of materials, supplies or equipment may be awarded without complying with the bidding requirements of this chapter when the Purchasing Manager determines in writing, subject to the approval of the City Attorney, after conducting a good faith review of available sources, that there is only one source for the required materials, supplies or equipment. The Purchasing Manager shall conduct negotiations, as appropriate, as to price, terms, and delivery time. A record of sole source procurements shall be maintained that lists each contractor's name, the amount and type of each contract, and a listing of the item(s) procured under each contract.

Section 15. Section 5 of Ordinance No. 2822, Section 6 of Ordinance No. 2284 and Bellevue City Code 4.28.090 are amended to read as follows:

4.28.090 Emergency procurements.

Notwithstanding any other provisions of this Chapter, the City Manager or his/her designated agent may make or authorize others to make emergency procurements of materials, supplies, or equipment, without complying with the requirements of this Chapter when there exists a threat to public health, welfare, or safety or where the City may suffer a substantial monetary loss by reason of the time required to follow regular purchasing procedures; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, and a listing of the item(s) procured under the contract, which shall be reported to the City Council at the next subsequent meeting.

Section 16. A new section 4.28.095 is added to the Bellevue City Code, to read as follows:

4.28.095 Cancellation of invitations for bids or requests for proposals.

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An Invitation for Bids may be cancelled in 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.

Section 17. A new section 4.28.099 is added to the Bellevue City Code, 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.
- 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, than all procurement records pertaining to that contract shall be maintained in accordance with any applicable requirements of federal law.

Section 18. Section 7 of Ordinance No. 2284 and Bellevue City Code 4.28.100 are amended to read as follows:

4.28.100 Unauthorized Purchases.

Except as provided in this chapter and except as authorized by operational procedures adopted by the Purchasing Manager under BCC 4.28.020.C., no City employee shall purchase or contract for any material, supplies or equipment or make any contract within the purview of this chapter other than through the Purchasing Manager. 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.

Section 19. Section 8 of Ordinance No. 2284 and Bellevue City Code 4.28.110 are amended to read as follows:

4.28.110 Inspection and testing.

The Purchasing Manager shall inspect or supervise the inspection of all deliveries of materials, supplies, or equipment to determine their conformance with the specifications set forth in the invitation to bid.



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- 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/she 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/she shall have the authority to make use of laboratory facilities of any outside laboratory.

Section 20. Section 6 of Ordinance No. 2822, Section 9 of Ordinance No. 2284 and Bellevue City Code 4.28.120 are repealed.

Section 21. Section 7 of Ordinance No. 2822 and Bellevue City Code 4.28.125 are amended to read as follows:

4.28.125 Public work or improvement - Estimated cost ten thousand dollars or less - Authority to contract.

All public works and improvements whenever the estimated cost thereof is ten thousand dollars or less (fifteen thousand dollars for the construction of water mains) shall be awarded in the manner authorized by Sections 4.28.050, 4.28.060 and 4.28.070 for purchases of materials, supplies and equipment.

Section 22. Section 8 of Ordinance No. 2822, Section 10 of Ordinance No. 2284 and Bellevue City Code 4.28.130 are amended to read as follows:

4.28.130 Public work or improvement - Estimated cost in excess of two thousand five hundred dollars but less than ten thousand dollars - Publication of estimates.

When it is determined that a public work or improvement of an estimated cost of ten thousand dollars or less shall be executed by any means or method other than by contract, and it appears that the estimated probable cost of executing the work will exceed two thousand five hundred dollars, then, at least fifteen days before the work is begun, the Purchasing Manager 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 or improvement, upon a finding of the existence of an emergency by the authority having power to direct such public work or improvement to be done, duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work.

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Section 23. Section 11 of Ordinance No. 2284 and Bellevue City Code 4.28.140 are amended to read as follows:

4.28.140 When bids required for public works and improvements.

Except as otherwise authorized by RCW Chapters 39.04 and 39.28, or RCW 35.22.620, 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 Section 4.28.040 hereof whenever the estimated cost of such public work or improvement, including the cost of materials, supplies and equipment, will exceed the sum of ten thousand dollars;

Provided, that whenever this public work or improvement is for construction of water mains, such sum shall be fifteen thousand dollars.

Provided further, the City may use a small works roster pursuant to RCW 35.22.620.

Section 24. Section 12 of Ordinance No. 2284 and Bellevue City Code 4.28.141 are amended to read as follows:

4.28.141 Cost of public works or improvements.

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, supplies, 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 water service installation from the utility-owned main to and including the meter box assembly shall not be included as part of the aggregate cost as provided in this Chapter. The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purpose of avoiding the minimum dollar amount prescribed in this Chapter is contrary to public policy and is prohibited.

Section 25. Section 14 of Ordinance No. 2284 and Bellevue City Code 4.28.150 are amended to read as follows:

4.28.150 Bids to comply with regulations.

All bids offered by persons, associations or corporations desiring to sell or supply material, equipment, or supplies to, or to construct a public work or improvement for, the City, shall comply strictly with the terms of the notice of invitation for bids and the specifications and evaluation criteria issued or published by the City in connection therewith, together with all relevant state laws, the terms of which

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shall be deemed included in such specifications whether or not they are expressly set out therein.

Section 26. A new section 4.28.155 is added to the Bellevue City Code, as follows:

4.28.155 Specifications.

A. Maximum Practicable Competition.

All specifications shall be drafted so as to promote overall economy for the purposes intended and encourage maximum free and open competition in satisfying the City's needs. The policy enunciated in this Section applies to all specifications including but not limited to, those prepared for the City by architects, engineers, designers, and draftsmen.

B. "Brand Name or Equal" Specification.

Brand name or equal specifications may be used when the Purchasing Manager determines that use of a brand name or equal specification is in the City's best interest.

C. Brand Name Specification.

Because use of a brand name specification is restrictive of competition, it may be used only when the Purchasing Manager makes a written determination that only the identified brand name item or items will satisfy the City's needs.

Section 27. Section 15 of Ordinance No. 2284 and Bellevue City Code 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 when the price is estimated to exceed \$10,000 (\$15,000 for the construction of water mains). 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. Nothing herein prevents the requirement of

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such bonds on public work or improvement contracts under \$10,000 when the circumstances warrant as determined by the Purchasing Manager. 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 5% 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 4.28.040(F), the bidder's bid security shall be returned.

B. Contract performance and payment bonds.

1. When required - Amounts. When a public works or improvement contract is awarded in excess of \$10,000 (\$15,000 for the construction of water mains), 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 100% 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 sub-contractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100% 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.

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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 28. Section 10 of Ordinance No. 2822 and Bellevue City Code 4.28.185 are amended to read as follows:

4.28.185 Bid irregularities.

Except where otherwise provided in this Chapter, bids containing irregularities will be accepted by the City and presented for consideration by the City Council. Any action concerning the bid(s) containing irregularities shall be at the discretion of the City Council. The call for bids for all bids shall state the reserved right of the City to reject any and all bids and to waive irregularities in any bid, provided that no bidder shall be permitted to gain unfair advantage over other bidders by action of the City Council pertaining to this section.

Section 29. Section 17 of Ordinance No. 2284 and Bellevue City Code 4.28.190 are amended to read as follows:

4.28.190 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 reputation, experience and efficiency of the bidder;
- D. The quality of performance of previous contracts by the bidder;

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

Section 30. Bellevue City Code 4.28.200 is amended to read as follows:

4.28.200 Award to other than low bidder for items costing ten thousand dollars or more.

When the award is not given to the lowest bidder in price, the reasons for placing the order elsewhere shall be stated in the City Council minutes.

Section 31. Section 18 of Ordinance No. 2284 and Bellevue City Code 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 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 32. Bellevue City Code 4.28.220 is amended to read as follows:

4.28.220 Time for calling for bids for newspaper publications.

Annually in January, the City Manager or the Purchasing Manager shall call for bids for publication in a newspaper of general circulation in the City of all notices or newspaper publications required by law.

Section 33. Section 11 of Ordinance No. 2822 and Bellevue City Code 4.28.230 are amended to read as follows:

4.28.230 Other contracts.

Every contract not otherwise covered by this chapter where the

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annual cost to the City or the annual revenue to be received by the City for such contract is:


- A. Ten thousand dollars or less, the City Manager or his/her designee is authorized to sign such contracts on behalf of the City;
- B. More than ten thousand dollars, approval of the City Council is required for such contracts.

This section shall not apply to contracts for services, which are governed by Section 4.28.018.

Section 34. This ordinance shall take effect and be in force thirty days after final passage by the City Council.

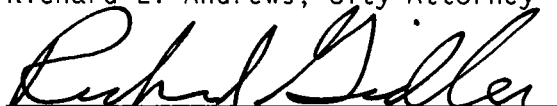
PASSED by the City Council this 3<sup>rd</sup> day of February 1986, and signed in authentication of its passage this 3<sup>rd</sup> day of February 1986.

(SEAL)

  
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 Cary E. Bozeman, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

  
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 Richard L. Andrews, City Attorney

Attest:

  
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 Marie K. O'Connell, City Clerk

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