

ORDINANCE NO. 4888

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLensburg, WASHINGTON, RELATING TO CHAPTER 1.06 “CITY MANAGER AND ASSISTANT CITY MANAGER”, AMENDING SECTION 1.06.040 AND ADDING A NEW SECTION TO THE ELLensburg CITY CODE ENTITLED “1.06.045 AUTHORITY TO WAIVE COMPETITIVE PURCHASING REQUIREMENTS”.

WHEREAS, on June 18, 2018 the City Council adopted Ordinance No. 4804 relating to Chapter 1.06 “City Manager and Assistant City Manager” and amending Section 1.06.040 of the Ellensburg City Code; and

WHEREAS, on August 19, 2019 the City Council adopted Ordinance No. 4835 relating to Chapter 1.06 “City Manager and Assistant City Manager” and amending Section 1.06.040 of the Ellensburg City Code; and

WHEREAS, costs of routine purchases regularly exceed the existing delegated authority; and

WHEREAS, currently all exemptions to competitive bidding requirements allowed by RCW 39.04.280 require council action, adding weeks to purchase timelines, and in the case of emergencies potentially threatening proper performance of essential functions or leading to material loss or damage to property, bodily injury, or loss of life; and

WHEREAS, from time-to-time emergencies occur, as defined in RCW 39.04.280, requiring swift and efficient action from the city including awarding contracts for public works, purchases, and services; and

WHEREAS, some purchases are clearly and legitimately limited to a single source of supply, and currently require Council action before purchase can be made;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. Section 1.06.040 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4835, is hereby amended to read as follows:

1.06.040 Authority to execute agreements, contracts and leases.

A. The city manager, and, in the absence of the city manager, the assistant city manager or acting city manager, and designees of the city manager, assistant city manager or acting city manager employed in the administrative service of the city, are authorized to execute the following agreements, contracts and leases on behalf of the city of Ellensburg; provided, that sufficient funds required for any appropriations have been budgeted by the council:

1. Purchases and sales that do not exceed ~~\$40,000~~\$75,500. The city manager may delegate this authority to department directors for contracts under which the city's liability does not exceed \$25,000. Department directors may delegate this authority to other employees of their department for contracts under which the city's liability does not exceed \$10,000;

2. Agreements and contracts which have an annual value up to ~~\$40,000~~\$75,500, and amendments thereto which do not increase the annual value of such agreement or contract beyond an aggregate amount of ~~\$40,000~~\$75,500. The city manager may delegate this authority to department directors for agreements and contracts under which the city's liability does not exceed \$25,000. Department directors may delegate this authority to other employees of their department for contracts under which the city's liability does not exceed \$10,000;

3. Leases that do not exceed one year in length and do not exceed ~~\$40,000~~\$75,500 in value;

4. Agreements and contracts with the city's designated public depositaries;

5. Agreements, contracts and leases awarded by the council at any regular or special meeting of the council;

6. Any other agreements, contracts and leases authorized by the council by ordinance, resolution, or motion;

7. Amendments to agreements, contracts and leases awarded or authorized by the council; provided, that the aggregate value of all amendments to any agreement, contract or lease may not exceed ~~\$40,000~~\$75,500 or 10 percent of the original contract amount, whichever is greater, unless otherwise authorized by the council; and

8. Amendments to agreements, contracts and leases awarded or authorized by the council that do not materially alter such agreement, contract or lease, and do not increase the financial obligation of the city beyond the total amount authorized by the council in its award, ordinance, resolution or motion; and

9. Emergency purchases, contracts and leases awarded without competitive bidding due to an emergency as authorized in ECC 1.06.045(A).

B. Agreements, contracts, and leases executed on behalf of the city shall be filed with the office of the city clerk and open to public inspection in the manner provided by law subject to exceptions, prohibitions, and exemptions therein provided. The city manager shall regularly report to the council all agreements, contracts and leases he or she executes on behalf of the city.
[Ord. 4835 § 1, 2019; Ord. 4804 § 13, 2018.]

Section 2. A new section entitled “1.06.045 Authority to waive competitive purchasing requirements” is hereby added to the Ellensburg City Code to read as follows:

1.06.045 Authority to waive competitive purchasing requirements.

A. Emergency waiver of competitive bidding requirements.

1. In the event of an emergency, as defined in RCW 39.04.280, as currently enacted or hereinafter amended, the city manager, and, in the absence of the city manager, the assistant city manager or acting city manager, or their designees, may issue a declaration of emergency for the purposes of expediently addressing the emergency.
2. A declaration of emergency must recite the facts constituting the emergency. As part of the declaration, or by separate order, the city manager may issue a waiver of the public advertising and competitive procurement requirements of state law and city policy for purchases of personal property, services, and public works.
3. The declaration or separate order must be distributed to the council within twenty-four hours, and any contract awarded without competitive bidding due to an emergency must be duly entered of record with the city clerk within two weeks, and reported to council at the next city council meeting following the award of the contract.

B. Non-emergency waiver of competitive bidding requirements.

1. The city manager is authorized to waive competitive bidding requirements when awarding contracts for purchases when only one supplier is capable of delivering the required product or service, as determined through research, and purchases involving special facilities or market conditions.
2. Any contract awarded with a waiver of competitive purchasing requirements in this subsection must be reported to council at the next city council meeting following the award of the contract. Immediately after the award of the contract, the contract and the factual basis for the exception must be recorded with the city clerk and open to public inspection.

Section 3. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 4. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 5. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 16th day of May, 2022.

ATTEST:

William L. Johnson
MAYOR
Beth Leader
CITY CLERK

Approved as to form:

C
CITY ATTORNEY

Publish: 5-19-2022

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4888 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4888 was published as required by law.

Beth Leader
BETH LEADER