CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Tracey Dunlap, Director of Finance and Administration
Barry Scott, Purchasing Agent

Date: June 21, 2007

Subject: Adoption of ordinance revising KMC Chapter 3.85, the Purchasing Code

RECOMMENDATION:

City Council adopt the attached ordinance revising KMC Chapter KMC 3.85, the Purchasing Code.

BACKGROUND DISCUSSION:

At the City Council's June 19th meeting, the Council approved the proposed revisions to KMC Chapter 3.85, the Purchasing Code, as presented to them at that meeting. Council further directed that the ordinance effecting these revisions should be presented to them at the following Council meeting. The attached ordinance, if adopted, will revise KMC Chapter 3.85 as previously approved. As requested, a follow-up study by an external auditor on the City's purchasing policies and practices will be done after three years.

ORDINANCE NO. 4105

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO KIRKLAND MUNCIPAL CODE CHAPTER 3.85 ENTITLED PURCHASING.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Chapter 3.85 of the Kirkland Municipal Code is hereby repealed and reenacted to read as follows:

Chapter 3.85
PURCHASING

3.85.010 PURPOSE

It is the purpose of this chapter to provide procedures governing the purchase of all goods, services and public works by the City in compliance with all state and federal laws applicable to such purchases

3.85.020 DEFINITIONS

(a) Director means the Director of Finance and Administration or his/her designee.

(b) Emergency means unforeseen circumstances beyond the control of the city that either presents a real, immediate threat to the proper performance of essential functions or will likely result in material loss or damage to property, bodily injury or loss of life if immediate action is not taken.

(c) Electronic Data Processing Systems and Telecommunications Systems as defined in RCW 36.92.020 and RCW 19.28.400, respectively, or as otherwise defined for the purposes of RCW 39.04.270.

(d) Goods means all materials, supplies, equipment or other tangibles not purchased for use in a public works project.

(e) Lowest Responsible Bidder as defined in RCW 43.19.1911 and means, in addition to price, that the following elements shall be given consideration:

1) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
2) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
3) Whether the bidder can perform the contract within the time specified;
4) The quality of performance of previous contracts or services;

5) The previous and existing compliance by the bidder with laws relating to the contract or services;
6) Such other information as may be secured having a bearing on the decision to award the contract.

(f) Public Works as defined in RCW 39.04.010 and means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the city or which is by law a lien or charge on any property therein. All public works, including maintenance when performed by contract shall comply with the provisions of RCW 39.12.020.

3.85.030 ADMINISTRATIVE RESPONSIBILITY

(a) The Director is responsible for oversight and administration of City purchasing. The Director has the authority to appoint a Purchasing Agent to undertake administrative responsibility for the efficient and economical procurement of goods, services and public works as provided in this chapter.

(b) The Director may delegate purchasing authority to other department directors for direct, nonrecurring, non-public works purchases under $7,500, which shall be exercised as a Small Purchase.

3.85.040 PROCUREMENT STANDARDS

The following standards shall be applicable to City procurements:

(a) A review of all proposed procurements shall be done by Purchasing Staff and/or the appropriate budget authority for the purpose of, including but not limited to, avoiding the purchase of unnecessary or duplicative items and for consolidating procurements when appropriate to obtain a more economical purchase.

(b) The Purchasing Agent or designee shall be responsible for analyzing procurements to determine whether or not a lease arrangement may be more economically practical than the purchase alternative. All lease agreements must be approved by the Director.

(c) Time and material type contracts shall be used only after a determination that no other type of contract is suitable and when the contract includes a ceiling price, which the contractor shall not exceed, except at its own risk.

(d) When using a liquidated damages provision in a contract, the project manager shall document the derivation of the rate of assessment and ensure it is reasonable, proper, and not arbitrary and capricious. The rate should be enough to reasonably compensate the City for damages suffered, but not so large as to be construed as a penalty.

(e) When contracting for professional services, the contract shall limit the total of the base and option time periods to not more than five years, unless otherwise approved by the City Council. Prices for each base and option time period shall be firm and fixed wherever possible and shall be established in the initial contract negotiation and execution. If it is not possible to establish firm, fixed prices, changes in the option period prices shall be tied to a well-known, published pricing index, such as the appropriate Consumer Price Index.

(f) Advance funding payments made to a contractor prior to the incurring of costs by the contractor shall be prohibited. Progress or percentage of completion payments made to a contractor while work is being performed by the contractor may be allowed if deemed appropriate for the project.

(g) Project managers and Purchasing staff shall work together to ensure contractors perform in accordance with the terms and conditions, and specifications of their contract or purchase order.

(h) All contracts must contain a provision allowing the City to terminate the contract. Ideally, the provision will authorize such termination without cause but, in lieu of this ideal, a provision allowing termination for cause is acceptable if approved by the City Attorney's Office. A provision in a single contract authorizing termination without cause in certain circumstances and termination only for cause in others is also acceptable upon approval by the City Attorney's Office.

3.85.050 ETHICAL STANDARDS OF CONDUCT

(a) All purchasing shall be conducted in compliance with the Code of Ethics set forth in Chapter 3.82 of the Kirkland Municipal Code and other applicable law.

(b) Organizational conflicts of interest shall be avoided. An organizational conflict of interest exists when a supplier, consultant or contractor provides the specifications to be used in a planned procurement and is then allowed to compete in the procurement process.

3.85.060 PERSONAL RESPONSIBILITY FOR UNAUTHORIZED PURCHASES

City employees who exceed their designated purchasing authority and obligate the City to a financial commitment which results in a financial loss to the City may be held personally responsible. The City shall be entitled to recover the full amount of such a loss from the employee.

3.85.070 METHODS OF PROCUREMENT

Procurement shall be achieved by one of the following methods:

(a) Small purchase

(b) Invitation for Bids (IFB)

(c) Request for Proposals (RFP) and Request for Qualifications (RFQ) for competitive negotiations

(d) Small Works Roster option for public works projects less than $200,000 authorized by RCW 39.04.155, including the limited public works option for projects under $35,000

(e) Cooperative purchasing

(f) Electronic Data Processing and Telecommunications Systems as provided by RCW 39.04.270

(g) Waiver of Competitive Bidding Requirements as provided by RCW 39.04.280

(h) By the City Manager as allowed under KMC 3.16.040 and .050

(i) As otherwise allowed by law and approved by the Director.

3.85.080 SMALL PURCHASE

(a) Small purchase procedures shall be used for purchases of goods, services and multi craft or trade public works when it is expected the total price will not exceed $50,000 ($30,000 for single craft or trade public works), including sales tax and freight, except as otherwise allowed in 3.85.190 and 3.85.200. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section.

(b) For goods and services, price quotations shall be obtained and documented from at least three (3) sources, where possible, if the total price is expected to be between $7,500 and $50,000 including sales tax and freight, except as otherwise allowed in this chapter. All awards to other than the lowest responsible bidder must be documented on the quote sheet with selection rationale clearly defined. For goods and non-public work services under $7.500, formally documented price quotations shall be unnecessary but it is expected that competitive pricing shall be sought in the best interests of the City.

(c) For public works projects that are street signalization or street lighting, under $30,000 involving a single craft or trade, or under $50,000 if involving multiple crafts or trades, three written quotations must generally be obtained. The Small Works/Limited Public Works process is recommended for obtaining quotes.

1) If it is necessary or advisable that public works projects that are street signalization, street lighting, under $30,000 for a single craft or trade or under $50,000 for multiple crafts or trades, should be done without obtaining competitive quotes, the appropriate director or designee may waive in writing the requirement of obtaining quotes.

2) For any public work which is not competitively bid and where the cost is estimated to exceed $25,000, notice providing the estimated

cost and a description of the work will be published at least once in a legal newspaper of general circulation in the area where the work will be performed and at least 15 days before beginning work.

(d) The Purchasing Agent shall be responsible for determining the adequacy of quotations for small purchases. So long as the authorization exists within the budget appropriation for the small purchase, the manager or director with the appropriate budget authority shall not be required to obtain further approval by the City Council prior to the commitment and expenditure of funds.

(e) Price quotations for repetitively purchased items that are purchased within one year of the last procurement of that exact item(s) shall be unnecessary provided the prior competitively quoted purchase price has not changed.

(f) In accordance with RCW 39.04.190, the Purchasing Agent will publish a notice twice per year in the City's designated official newspaper advising potential bidders of the existence of the vendor list used by the City. The vendor list is to be used for the purpose of identifying suppliers interested in being provided the opportunity to quote on small purchases for materials, equipment, supplies and routine services.

3.85.090 INVITATION FOR BIDS/REQUESTS FOR PROPOSALS

(a) Unless another method of procurement is authorized in this Chapter or by other law, IFB/RFP/RFQ procedures shall be used for the purchase of goods and services when it is estimated the total price will exceed $50,000, including any applicable sales tax and freight charges. The IFB process shall also be used for public works projects in excess of $30,000 that involve only a single craft or trade and in excess of $50,000 for those involving multiple crafts or trades.

(b) A pre-submission conference may be held when conducting the IFB, RFP or RFQ process. The pre-submission conference is for the purpose of answering questions and clarifying the requirements and specifications relevant to the procurement. Notice for such pre-submission conference shall be advertised and stated in the public notice and the general requirements for the Invitation for Bids, Request for Proposals or Request for Qualifications.

3.85.100 INVITATION FOR BIDS

(a) An Invitation for Bids (IFB) shall be used in all cases where adequate information exists to form a complete and realistic bid specification, where the procurement lends itself to a firm, fixed-price dollar amount, and where award can be made principally on the basis of selecting the Lowest Responsible Bidder. All awards to other than the low bidder must be authorized by law,

documented on the bid sheet or where appropriate and with the selection rationale clearly set forth.

(b) The City Manager may request that the City Council authorize a call for bids for goods, services or public works estimated to have a total cost of more than $50,000, which must be executed by the City Manager or his/her designee.

(c) Bids shall be opened and read publicly at the time and place designated in the IFB notice.

(d) The name and address of each bidder, the bid price and any other relevant information as may be specified in the IFB shall be read aloud and recorded in the minutes of the bid opening.

(e) It shall also be announced that the bid review will be completed by City staff and the expected date given when the City Council shall meet to award the contract.

(f) The IFB shall specify the City's right to postpone the award of the contract or to reject any or all bids.

(g) The City Council will award all contracts for goods, routine services or public works determined to be more than $50,000.

(h) The purchase record, bid sheet, minutes of the bid opening and each bid, to the extent allowed by law, shall be open to public inspection following contract award.

3.85.110 REQUEST FOR PROPOSAL / REQUEST FOR QUALIFICATIONS

(a) A Request for Proposal (RFP) or Request for Qualifications (RFQ) shall be used when the procurement lacks definite specifications, when proposals are sought for the purpose of establishing a bid specification, when the goods or services being procured involve creative design or professional administration, and/or when subjective criteria is considered in the contract award, which is made in the best interests of the City.

(b) When proposals are sought for the purpose of establishing a bid specification, it shall so state in both the public notice and in the RFP or RFQ.

(c) The RFP or RFQ shall identify all significant evaluation factors and their relative weighted importance.

(d) Verbal interviews with any proposer who has submitted a proposal may be conducted to determine the capabilities of the proposer and their understanding of the City's needs.

(e) Contracts in excess of $50,000 resulting from the RFP or RFQ process may be awarded by and executed by the City Manager or his/her designee. The City Manager/designee may elect to recommend award of the contract by the City Council..

(f) Except where prohibited by Law, proposals shall be reviewed privately with strict confidentiality regarding all evaluative factors maintained throughout

the review process. The evaluation committee will grade all factors, with their consensus recorded on the proposal tabulation worksheet.

(g) The purchase record, proposal tabulation worksheet and each proposal, to the extent allowed by law, shall be open to public inspection following contract award.

3.85.120 PUBLIC NOTICE ADVERTISING

(a) With all procurements using the IFB/RFP/RFQ process, the Purchasing Agent shall cause a public notice inviting bids or requesting proposals or qualifications to be posted on the City's web site and published in the appropriate publication(s) at least once, and at least fourteen (14) calendar days prior to the bid/proposal opening.

(b) The notice shall state generally the item to be purchased and/or the service to be performed, the location of the plans and specifications, if any, the pre-bid conference date and location (if one is held), the bid/proposal opening date and time, and to whom the bid/proposal is to be submitted.

3.85.130 BID/PROPOSAL ACCEPTANCE AND EVALUATION

(a) Bids received by the published due date and time shall be unconditionally accepted without alteration or correction. Award shall be made to the Lowest Responsible Bidder based on the requirements set forth in the IFB.

(b) Proposals received by the published due date and time shall be unconditionally accepted without alteration or correction. Submissions shall be evaluated based on the requirements set forth in the RFP/RFQ, which may include but are not limited to criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, suitability for a particular purpose, and pre-award survey of the proposer's facilities. Those criteria that will affect the price and will be considered in evaluation for award as determined by the City shall be objectively measurable, including but not limited to discounts, sales tax, transportation costs, installation costs, and total project or life cycle costs.

(c) In addition to the foregoing, the following elements may be considered in the evaluation of proposals:

1) The ability, capacity and skill of the proposer to perform the contract or provide the service required;

2) The character, integrity, reputation, judgment, experience and efficiency of the proposer;

3) The proposer's proposed method for assuring timely and acceptable performance of the work.

4) The quality of performance by the proposer on previous contracts with the City or another public agency, including but not limited to, the relative costs, burdens, time and effort necessarily expended by the City or another public agency in securing satisfactory performance.

5) The previous and existing compliance by the proposer with laws relating to the contract or services.

6) The proposer's management system to be applied in performing the work and the reasonableness of the resources to be applied.

7) Such other information as may be secured having a bearing on the decision to award the contract.

(d) A committee may be selected to conduct the technical evaluation of the proposals received and shall make a recommendation for contract award to the City Council based upon each of the evaluation elements in accordance with the weighted importance of each element as determined by the project manager and purchasing agent prior to the solicitation. The relative positions and evaluation points are totaled for each evaluation element or category, and the proposer with the highest overall total of evaluation points shall be recommended for contract award.

(e) After the initial tabulation of evaluated proposals, the most qualified competitor may be selected subject to negotiation of fair and reasonable compensation. (When evaluating RFQ's, price shall not be considered as an evaluation factor in determining the most qualified proposer.) Price negotiation shall be conducted with only the most qualified proposer. Failing agreement on price, negotiations with the next most qualified proposer may be conducted until a contract award can be made to the most qualified proposer whose price is fair and reasonable to the City.

3.85.140 BID/PROPOSAL CORRECTION

(a) Except in the case of competitive negotiation, no changes in price or other provisions of bids or proposals shall be permitted after opening unless an error is obvious. An obvious error is one which can be clearly established from mathematical extension or tabulation shown in the bid documents submitted with the bid. An error in a mathematical extension, reported by a bidder but not shown in the bid documents, does not constitute an obvious error. Bidders are presumed to submit correct tabulations and specifications.

(b) Minor informalities and irregularities in the bid/proposal may be waived by the City.

3.85.150 BID/PROPOSAL PROTEST – PROCEDURE

(a) Types of protests include:

1) Protests based on specifications or other requirements of the bidding/proposal process that are made by any prospective bidder/proposer prior to opening the bids/proposals.

2) Protests following the bid/proposal opening that are made by any bidder or proposer who has made a submittal and has a substantial financial interest in the solicitation or award of the contract.

(b) In order to be considered, a protest shall be in writing, addressed to the Purchasing Agent, and include:

1) The name, address and phone number of the bidder or proposer protesting, or the authorized representative of the bidder or proposer;

2) The Invitation for Bid or Request for Proposals/Qualifications Number and/or Title under which the protest is submitted;

3) A detailed description of the specific grounds for protest and any supporting documentation. It is the responsibility of the protesting bidder/proposer to supplement its protest with any subsequently discovered documents prior to the Purchasing Agent's decision;

4) The specific ruling or relief requested; and

5) Evidence that all persons with a financial interest in the procurement have been given notice of the protest or if such persons are unknown, a statement to that effect.

(c) Protests based on specifications or other terms in the RFP, RFQ or IFB documents which are apparent on the face of said documents must be received by the City no later than ten calendar days prior to the date established for submittal of bids/proposals. Protests based on other circumstances must be received by the City within five calendar days after the protesting bidder/proposer knows or should have known of the facts and circumstances upon which the protest is based. In no event shall a protest be considered if all bids/proposals are rejected or after award of the contract.

(d) Upon receipt of a timely written protest, the Purchasing Agent shall investigate the protest and shall respond in writing to the protest prior to the award of contract. The decision of the Purchasing Agent shall be final.

(e) In the event the protest is from a bidder for a public works project which is the subject of competitive bids**,** the city shall not execute the contract for the project with anyone other than the protesting bidder without first providing at least two full business days' written notice of the municipality's intent to execute the contract for the project; provided that the protesting bidder submits notice in writing of its protest no later than two full business days following bid opening. Intermediate Saturdays, Sundays, and legal holidays are not counted.

(f) Failure to comply with the protest procedures set forth herein may render a protest untimely or inadequate and may result in rejection thereof by the City.

3.85.170 SMALL WORKS ROSTER PROCESS

(a) In accordance with the procedures set forth in RCW 39.04.155, contracts for public works projects with a total cost, including applicable taxes, between $7,500 and $200,000 may be awarded using the small works roster process.

(b) The limited public works process as defined in RCW 39.05.155 (3) may also be used for projects estimated to cost less than $35,000. Using this process, quotes are solicited from a minimum of three contractors found in the appropriate category of work in the Small Works Roster. The performance and payment bond requirements and retainage requirements may be waived by the City.

(c) Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. However, if only five quotations are sought and the estimated cost of the work is from $100,000 to $200,000, the city must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. Such notice must be published in a legal newspaper of general circulation, mailed to these other contractors or sent by facsimile or other electronic means.

(d) At least once a year, the city shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to an appropriate roster or rosters at any time that they submit a written request and necessary records.

(e) The City is authorized to participate with other local governments in the use of a multijurisdictional small works roster. The lead entity for the multijurisdictional small works roster must be clearly identified in the interlocal agreement as being responsible for implementing the provisions of 39.04.155(2).

(f) A formal public bid opening is not required when using the small works roster process. However, no interested party shall be unreasonably denied the opportunity to be present when bids are opened.

(g) Contracts for small works roster bids between $50,000 and $200,000 will be awarded by the City Council at the next scheduled Council meeting following staff recommendation, unless continued by the City Council.

(h) In accordance with RCW 39.04.200, the Purchasing Agent will, at least once every year, make available to the public a list of the contracts awarded using the small works roster process during the previous year. The list shall contain the name of the contractor or vendor awarded the contract, the amount of the contract, a brief description of the type of work performed or

items purchased under the contract, and the date it was awarded. The list shall also state the location where the bid quotations for these contracts are available for public inspection.

3.85.180 COOPERATIVE PURCHASING

(a) With the approval of the City Council, the Purchasing Agent may enter into interlocal cooperative purchasing agreements with other public agencies. The interlocal cooperative purchasing agreements must be in accordance with the provisions set forth in RCW Chapter 39.34 as currently written or hereafter amended.

(b) When purchasing off of a contract awarded by another public agency where an interlocal cooperative purchasing agreement is in place, any statutory obligation to provide notice for bids or proposals that applies to the city is satisfied if the public agency or group of public agencies that awarded the bid, proposal, or contract complied with its own legal requirements and either posted the bid or solicitation notice on a web site established and maintained by the public agency for purposes of posting public notice of bid or proposal solicitations or provided an access link on the state's web portal to the notice.

(c) Invitations for Bids for goods and services and Requests for Proposals issued by the City may include notice that the City participates in cooperative purchasing and that other public agencies may desire to place orders against the awarded contract. Bidders/proposers may be asked to indicate if they agree to allow orders from other public agencies that have an interlocal cooperative purchasing agreement with the City.

(d) Contracts/purchase orders in excess of $50,000 resulting from the cooperative purchasing process will be awarded by the Purchasing Agent.

3.85.190 PURCHASES FROM/THROUGH THE UNITED STATES GOVERNMENT

(a) In accordance with RCW 39.32.090, this ordinance allows for the purchase of supplies, materials and/or equipment from or through the United States government without calling for competitive bids.

(b) The Purchasing Agent is responsible for reviewing the proposed purchase to determine that the purchase is in the best interests of the City.

(c) Under this section, purchases made in excess of $50,000 must be approved by the City Manager or his/her designee.

3.85.200 ELECTRONIC DATA PROCESSING AND TELECOMMUNICATIONS SYSTEMS

(a) The city may purchase electronic data processing or telecommunication equipment, software, or services through competitive negotiation rather than through competitive bidding.

(b) Competitive negotiation, for the purposes of this section, shall include, as a minimum, the following requirements:

1) A request for proposal shall be prepared and submitted to an adequate number of qualified sources, as determined by the municipality in its discretion, to permit reasonable competition consistent with the requirements of the procurement. Notice of the request for the proposal must be published in a newspaper of general circulation in the municipality at least thirteen days before the last date upon which proposals will be received. The request for proposal shall identify significant evaluation factors, including price, and their relative importance.

2) The municipality shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for awarding the contract.

(c) The award shall be made to the qualified bidder whose proposal is most advantageous to the municipality with price and other factors considered. The municipality may reject any and all proposals for good cause and request new proposals.

3.85.210 WAIVER OF COMPETITIVE BIDDING REQUIREMENTS

(a) The Competitive Bidding Requirements set forth in this chapter may be waived by the City Manager or designee. However, if the cost exceeds $50,000, the City Manager or designee must provide the City Council with documentation of the rationale for waiving the Competitive Bidding Requirements. Competitive Bidding Requirements may be waived for:

1) Purchases that are clearly and legitimately limited to a single source of supply,

2) Purchases involving special facilities or market conditions,

3) Purchases of insurance or bonds, and

4) Purchases of goods, services or public works in the event of an emergency.

(b) Immediately after the award of any contract under this section, to the extent allowed by law, the contract and the factual basis for the exception must be recorded and open to public inspection.

(c) If an emergency exists, the City Manager or designee may declare an emergency situation exists, waive competitive bidding requirements and award all necessary contracts on behalf of the municipality to address the emergency situation. If a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency must be made by the City Manager and entered of record by reporting to the City Council no later than two weeks following the award of the contract.

(d) In accordance with RCW 39.04.020, upon the written determination by the City Manager of an emergency for the procurement of any public work

in excess of $25,000, a description and estimate of the cost of such work shall be published within seven (7) working days after commencement of the work.

3.85.220 CONTRACT AMENDMENTS/CHANGE ORDERS

(a) Amendments are changes to Professional Service Agreements, contracts for goods and contracts for routine maintenance.

1) If an amendment increases the total value of the contract, the contract amendment must be approved by the appropriate authority based on the new value of the contract. Any amendment that takes a contract value over $50,000 requires the approval of the City Manager. The City Manager may choose to seek additional Council approval.

2) Contracts awarded by the Council may also authorize negotiation of amendments without further Council approval being needed.

3) Amendments that do not change the total value of the contract (e.g. extended duration) may be approved by the department director.

(b) Change Orders are changes made to a public works contract.

1) Public Works Under $50,000

a.) Department directors or their designees are authorized to approve public works contract change orders where the total value of the contract plus the change order remains below $50,000.

2) Public Works Over $50,000

a.) Change orders, cumulatively or singly, that do not exceed the project's contingency funding may be approved by the department director or their designee.

b.) Change orders that cumulatively or singly increase the value of a contract to exceed the project's contingency funding by $25,000 or less, require the approval of the City Manager. The City Manager may choose to seek additional approval from the Council.

c.) The Council must approve change orders that increase the value of the contract to more than $25,000 beyond the project's contingency funding.

3.85.230 BONDING POLICY

(a) For all public works contracts, the following minimum bonding requirements shall be met for each procurement.

1) A bid deposit in the form of a bid bond or certified check in an amount equal to at least five percent of the total bid must be enclosed with the submitted sealed bid.

2) A performance and payment bond for 100 percent of the total contract price shall be received from the successful contractor prior to contract award for all contracts in excess of $35,000.

(b) On public works contracts of $25,000 or less, at the option of the contractor, the City may, in lieu of a performance and payment bond, retain fifty percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the Department of Revenue and settlement of any liens fixed under RCW 60.28, whichever is later.

(c) If the limited public works process allowed under KMC 3.85.170(c) is used, the city may waive the requirements for performance and payment bond and retainage.

(d) The Purchasing Agent, in consultation with the project manager, City Attorney's Office and Risk Management Coordinator as needed, shall have authority to determine amounts of protective bid guarantees for all purchases in the best interests of the City.

3.85.240 ENVIRONMENTALLY PREFERABLE PURCHASING PRACTICES

(a) When specifying products to be purchased, staff should give consideration to products that have a lesser or reduced effect on health and the environment when compared with other products that serve the same purpose.

(b) The environmental attributes of a product are to be an additional consideration in the buying decision along with such traditional factors as price, performance, quality, and service.

(c) It is the responsibility of purchasing staff to:

1) Monitor information from the State of Washington and other public agencies on environmentally preferable purchasing initiatives.

2) Attend periodic training sessions and workshops on the purchasing of environmentally preferable products to learn of new developments in this area.

3) Solicit information from vendors representing environmentally preferable products to become better aware of available products.

4) Communicate opportunities for the purchase of environmentally preferable products to City staff.

3.85.250 PURCHASE RECORD MAINTENANCE

(a) The purchasing department shall maintain or be afforded access to all records sufficient to detail the significant history of a procurement. These records will include, but are not limited to the following:

1) The rationale for the method of procurement.

2) The selection of contract type and evaluation criteria.

3) Contractor selection or rejection, and rationale.

4) The basis for the contract price.

5) The bid tabulation or proposal evaluation worksheet.

6) All documented communication with potential contractors, prior to the bid opening date.

7) Advertising affidavits of publication.

8) Bidder's lists, with names, addresses, and telephone numbers.

9) All bids or proposals received.

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 the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2007.

Signed in authentication thereof this _____ day of _____, 2007.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4105

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO KIRKLAND MUNCIPAL CODE CHAPTER 3.85 ENTITLED PURCHASING.

SECTION 1. Repeals and reenacts Chapter 3.85 of the Kirkland Municipal Code to update the Purchasing code to conform to changes in state law applicable to municipal purchasing and to clarify the procedures the City uses in making purchases.

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 meeting on the _____ day of _____, 2007.

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

_____
City Clerk