

Subtitle I Public Improvements

Chapter 20.04

PUBLIC IMPROVEMENT DISTRICTS

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20.04.010 Method of procedure.

Whenever the City Council shall provide for local improvements, this chapter and ordinances amendatory thereof shall apply. (Ord. 109729 § 1, 1981.)

20.04.020 Council vote required.

No ordinance relating to local improvements shall be considered passed unless it shall have received the affirmative vote of at least a majority of the members of the City Council; provided, that unless a petition for any improvement is presented, the improvement shall not be ordered except by ordinance passed by the affirmative vote of two-thirds ($\frac{2}{3}$) of all members of the City Council at a regular meeting, or at a meeting which is an adjournment of a regular meeting; provided, that no streets shall be ordered graded without petition, except by a unanimous vote of all members present. (Ord. 109729 § 2, 1981.)

20.04.030 Notice of hearings—Mailing.

The Director of Transportation shall mail all notices of hearings on proposed improvements and assessment rolls required by law to be mailed, and shall make all certificates of mailing required by law in such connection, and file the same with the City Clerk. (Ord. 118409 § 136, 1996; Ord. 109729 § 3, 1981.)

20.04.040 Plans, contract and management of work.

After the legislative authority has provided by ordinance for the making of any local improvement, plans therefor shall be approved, the contract let and the work supervised and accepted or rejected, all in accordance with the provisions of Article VII of the City Charter¹ (Board of Public Works) and ordinances implementing said provisions. (Ord. 109729 § 4, 1981.)

1. Editor's Note: The Charter is set out at the front of this Code.

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20.04.050 Modes of payment.

There shall be two (2) modes of payment for the portion of the cost and expense of any local improvement contemplated by this chapter, and payable by special assessment, to wit: "immediate payment" and "payment by bonds." The mode adopted shall be the mode petitioned for in case the improvement shall be made upon petition. Otherwise the mode shall be the one designated in the ordinance ordering such improvement. (Ord. 109729 § 5, 1981.)

20.04.060 Preliminary assessment roll.

A. After the City has ordered a local improvement and created a local improvement district by ordinance, the Director of Transportation shall prepare, and within fifteen (15) days after the improvement of work has been ordered and a local improvement district created, file with the City Finance Director the following:

1. The title of the improvement;
2. The district number;
3. Copy of a diagram or print showing the boundaries of the district;
4. Preliminary assessment roll or abstract thereof showing the lots, tracts and parcels of land that will be especially benefited;
5. The estimated cost and expense of such improvement to be borne by each such lot, tract or parcel; and
6. The name of the owner thereof, if known, but in no case shall a mistake in the name of the owner affect the validity of any assessment when the description of the property is correct.

B. The City Finance Director shall immediately post the proposed assessment roll upon his or her index of local improvement district assessments against the properties affected. (Ord. 118409 § 137, 1996; Ord. 116368 § 225, 1992; Ord. 109729 § 6, 1981.)

20.04.070 Final assessment roll—Hearing—Date, notice and general procedure.

Within ninety (90) days following the completion and acceptance of the improvement, the Director of Transportation shall prepare and file with the City Clerk the proposed final assessment roll, unless the time for filing such roll shall be extended by the City Council by resolution, or the ordinance ordering the improvement provides otherwise. Upon receipt of such roll, the City

Council shall by resolution fix a date for a hearing on the roll before the City Council, a committee thereof, the City Hearing Examiner, or an officer, as designated in the resolution, and direct the City Clerk to give notice of the time, place and purpose of the hearing by publication at least five (5) times in the official daily newspaper or at least two (2) times in a weekly newspaper of general circulation in the community where the improvement is constructed; provided, that at least fifteen (15) days must elapse between the date of the last publication thereof and the date fixed for the hearing. Notice of the hearing shall be mailed by the City Clerk or a person designated by the City Clerk to do so under his/her supervision to the owner or reputed owner of each property described on the assessment roll, at the address shown on the tax rolls of the County Comptroller at least fifteen (15) days before the date fixed for such hearing. At the time fixed for the hearing, the City Council, a committee thereof, the Hearing Examiner, or designated officer shall sit as a Board of Equalization for the purpose of considering the assessment roll; provided, that if the ordinance authorizing the improvement so states, award of the improvement contract or commencement of work by the City shall be deferred until confirmation and filing of the assessment roll, and until funds for the improvements are assured in the judgment of the City Council expressed by resolution.

(Ord. 118409 § 138, 1996; Ord. 109729 § 6A, 1981.)

20.04.080 Final assessment roll—Departmental representatives at hearing.

One or more representatives of the Director of Transportation and any affected department of the City may be designated by the department head to assist in the presentation of pertinent materials at the hearing.

(Ord. 118409 § 139, 1996; Ord. 109729 § 6B, 1981.)

20.04.090 Final assessment roll—Hearing—Conduct.

In a hearing before the City Council, a committee thereof, the Hearing Examiner or designated officer, the City Attorney shall be the legal representative of the local improvement district.

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A. 1. The City Council, the committee thereof, the Hearing Examiner or officer designated by the City Council shall commence the hearing on the date and at the time and place fixed by the resolution of the City Council, but may in the exercise of discretion recess the hearing to times certain in order to allow the parties to obtain essential additional information, provided, however, that an effort shall be made at all times to avoid delays which unnecessarily allow interest to accumulate upon obligations for which the local improvement district is responsible.

2. The Hearing Examiner or officer shall reduce his/her findings, recommendations and decisions to writing and shall file them with the City Clerk within twenty (20) days following the conclusion of the hearing. Notice of the filing, together with copies of the findings, recommendations and decisions shall be mailed by the City Clerk or any person designated by the City Clerk to do so under his/her supervision within three (3) business days of the filing to all persons who filed timely written objections to confirmation of the assessment roll as prepared. Instructions as to the filing of any appeal to the City Council shall be included in the mailing.

B. Upon receipt of the report, findings, recommendations and decisions of the Hearing Examiner or officer the City Council or a committee thereof shall review the same. As soon as all timely appeals from the findings, recommendations and decisions of Hearing Examiner or officer have been decided or the time allowed for filing appeals has expired with no appeals having been filed the City Council may accept the assessment roll as prepared, or may correct, revise, raise, lower, change or modify the roll or any part thereof, or may set aside the roll and order the assessment to be made de novo, and at the conclusion thereof, and after the Director of Transportation has made the appropriate changes on the assessment roll at the City Council's direction, confirm the roll by ordinance. If an appeal has been filed from the findings, recommendations and decisions of the Hearing Examiner or officer it shall be heard and determined and the results thereof incorporated into the assessment roll before it is confirmed.

C. Any finding, recommendation or decision of the Hearing Examiner, or officer designated by the City Council to conduct a hearing pursuant to RCW 35.44.070 and RCW 35.44.080, shall be

subject to appeal to the City Council, which may direct that the appeal shall be heard by a committee thereof.

D. 1. An appeal pursuant to subsection C of this section may be filed only by a party who timely perfected a protest at the initial hearing. The notice of appeal shall, in addition to requirements as to content specified elsewhere in this chapter, state clearly on the cover or cover page the number of the local improvement district and the appellant's name and shall be filed with the City Clerk no later than the fifteenth day after the day upon which the report and recommendation of the Hearing Examiner or other officer is filed with the City Clerk.

2. Upon the filing of a notice of appeal the City Clerk shall immediately notify the City Attorney and furnish a copy of the notice to the City Council and the City Departments immediately concerned. Within fifteen (15) days following the filing of a notice of appeal the City Council shall set a time and place for a hearing on the appeal before the City Council or a committee thereof and shall immediately mail or cause to be mailed notice of the time and place to the appellant, provided the time shall be as soon as practicable in order to avoid accumulation of additional interest on the obligations of the local improvement district.

E. Review by the City Council or Council Committee on appeal shall be limited to and shall be based solely upon the record from the hearing below, provided, however, that the City Council or the appropriate City Council committee may permit oral or written arguments or comments when confined to the content of the record of the hearing below. Written arguments shall not be considered unless filed with the City Council or Council Committee prior to the conclusion of the hearing on appeal, and the City Council or committee thereof may determine the appeal on the record, with or without written argument.

F. The recommendation appealed from shall be accorded substantial weight and the burden of establishing the contrary shall be upon the appealing party. In respect to the matter appealed the City Council may adopt or reject, in whole or in part, the findings, recommendations and decisions of the Hearing Examiner or officer or make such other disposition of the matter as is authorized by RCW 35.44.100 and subsection B of this section above. The City Council shall reduce its determi-

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nation to writing, file the original in the record of the local improvement district, and transmit a copy of the same to the appellant. No ordinance confirming an assessment roll shall be enacted by the legislative authority until all appeals to the City Council or a committee thereof are decided. (Ord. 118409 § 140, 1996; Ord. 109729 § 6C, 1981.)

20.04.100Hearing records—Requirements.

A. All papers, exhibits, protests, documents, verbatim records of proceedings, transcripts and findings, recommendations and decisions of any kind which are filed in connection with a hearing on an assessment roll, preliminary or final, shall be placed in a file created by the City Clerk to receive all materials related to the assessment rolls of such local improvement district. The City Clerk shall cause the contents of the file to be assigned subnumbers, item by item, in the order of filing. Items filed at hearings shall be assigned the next consecutive subnumber according to the order of filing. All hearings shall be electronically recorded and a memorandum identifying and locating the tapes shall become a part of the file aforementioned.

B. The City Council, the Committee thereof, the Hearing Examiner or the officer conducting a hearing on a final assessment roll shall designate a person acceptable to the City Clerk to act as clerk for the hearing. Such person shall be responsible to the City Clerk for all City files required to be at the hearing and for transmitting to the City Clerk, at the conclusion of the hearing, all files obtained from the City Clerk for use during the hearing together with all additional documents, papers or exhibits of any kind which have become additions to any file during the hearing.

C. Separate files, in such numbers as may be convenient, may be created and maintained for the estimate/contract/construction phase of any local improvement district project, in the City Clerk's discretion. All such files shall be cross-referenced to the pertinent local improvement district number and the ordinance creating said district.

(Ord. 116368 § 226, 1992; Ord. 109729 § 6D, 1981.)

20.04.110Appeal to City Council.

In the event of an appeal to the City Council or a committee thereof the notice of appeal shall cite by page and line and quote verbatim that portion

or portions of the findings, recommendations and decisions of the Hearing Examiner or officer from which the appeal is taken. The notice of appeal shall also include a concise statement of the basis therefor and in the event that appellant deems the references on the findings, recommendations and decisions inadequate, a reference by metered index numbers to the places in the electronically prepared record of the hearing where the pertinent material may be found. The notice of appeal shall also designate by name or title and by subnumber the items or exhibits in the record to which reference will be made in argument or comment before the City Council or committee. Preparation of a written verbatim transcript of all or any designated part of the hearing shall be at the appellant's initiative and expense, but shall not be required unless within five (5) working days after the filing of a notice of appeal the City Council or designated committee thereof so notifies the appellant, who in no event shall be required to pay the cost of any portion of a verbatim transcript not pertinent to appellant's own appeal.

(Ord. 109729 § 6E, 1981.)

20.04.120Confirmation by ordinance—Procedure.

The ordinance confirming any assessment roll shall levy and assess against each lot, tract, or parcel of land, or other property appearing upon such roll, the amount charged against the same. Upon the enactment of the ordinance, the roll shall be delivered to the City Clerk, together with a list containing the lots and the names of the owners thereof upon which the collection of local improvement district assessments will be deferred pursuant to RCW 35.43.250. The City Clerk shall forthwith transmit the same to the City Finance Director, with his or her certificate that the same has been duly approved by ordinance, and annually thereafter, in the case of assessments payable by the mode of "payment of bonds," the City Finance Director shall extend the installments of principal and interest upon any unpaid balance as shown upon said approved roll. Interest shall be at the rate fixed by the ordinance confirming the assessment roll.

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(Ord. 116368 § 227, 1992; Ord. 109729 § 6F, 1981.)

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20.04.130 Mode of “immediate payment.”

A. Whenever the cost and expense of any improvement shall be payable by the mode of “immediate payment,” the City Finance Director, upon receipt of the assessment roll as confirmed by ordinance, shall publish a notice in the official newspaper of the City once a week for two (2) consecutive weeks that the roll is in his or her hands for collection, and that all or any portion of the assessment may be paid within thirty (30) days from the date of the first publication of the notice without penalty, interest or cost, and that unless payment be made within such time, the assessment or unpaid portion thereof will become delinquent. Within fifteen (15) days of the first newspaper publication, the City Finance Director shall notify each owner or reputed owner whose name appears on the assessment roll, at the address shown on the tax rolls of the County Comptroller for each item of property described on the assessment roll, of the nature of the assessment, of the amount of his or her property subject to such assessment, of the total amount of the assessment due, and of the time during which such assessment may be paid without penalty, interest or costs. In the case of assessments the collection of which has been deferred pursuant to RCW 35.43.250 and RCW 35.54.100, as now existing or hereafter amended, the notice shall also state that the assessment shall be paid within the period of deferral and that unless the assessment the collection of which has been deferred is paid within such period of deferral, the assessment or any unpaid portion thereof will become delinquent. Reference to deferred collection assessments may be omitted from the notice when there is no provision for deferred collection in the ordinance creating the district.

B. Upon delinquency a penalty of twenty percent (20%) of the assessment shall attach to, and become part of all assessments. Delinquent assessments shall bear interest until paid at a percentage rate to be fixed by the ordinance confirming the assessment roll. Delinquent assessments, penalties and interest shall forthwith be collected and the lien thereof enforced in the manner provided by statute, the City Charter¹ and ordinances of the City.

(Ord. 116368 § 228, 1992; Ord. 111640 § 1, 1984; Ord. 109729 § 7, 1981.)

¹.Editor's Note: The Charter is set out at the front of this Code.

20.04.140 Mode of “payment by bonds.”

A. Whenever the cost and expense of any improvement shall be payable by the mode of “payment by bonds,” the City Finance Director,

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upon receipt of the assessment roll as confirmed by ordinance, shall publish a notice in the official newspaper of the City once a week for two (2) consecutive weeks that the roll is in his or her hands for collection and that all or any portion of the assessment may be paid within thirty (30) days from the date of the first publication of the notice without penalty, interest or cost. Within fifteen (15) days of the first newspaper publication, the City Finance Director shall notify each owner or reputed owner whose name appears on the assessment roll, at the address shown on the tax rolls of the County Comptroller for each item of property described on the assessment roll, of the nature of the assessment, of the amount of his or her property subject to such assessment, of the total amount of the assessment due, and of the time during which such assessment may be paid without penalty, interest or costs. In the case of assessments or of any installment thereof the collection of which has been deferred pursuant to RCW 35.43.250 and RCW 35.54.100, as existing or hereafter amended, the notice shall also state that the assessment or any installment shall be paid within such period of deferral and that unless the assessments or installments, the collection of which have been deferred are paid within such period of deferral, such assessment or unpaid portion or installment thereof will become delinquent.

B. Unless collection of an assessment has been deferred pursuant to RCW 35.43.250 and RCW 35.54.100 as now existing or hereafter amended, the first installment of principal and interest of any assessment payable under the mode of "payment by bonds" shall become due and payable during the thirty (30) day period succeeding a date one (1) year after the date of first publication of the notice by the City Finance Director that the assessment roll is in his or her hands for collection, and annually thereafter each succeeding installment of principal or interest shall become due and payable in like manner. All installments must be paid in sequential order. Whenever an installment shall become due and payable, the City Finance Director shall mail a

notice thereof to the owner of the property assessed, when the post office address of such owner is known, but failure to mail the same shall not affect the validity of the assessment lien. Any such installment not paid prior to the expiration of the thirty (30) day period during which such installment is due and payable shall thereupon become delinquent.

C. Whenever the collection of an installment of an assessment has been deferred pursuant to RCW 35.43.250 and RCW 35.54.100 as existing or hereafter amended, the installment of principal or interest shall become due and payable upon expiration of the period of such deferral and each succeeding installment of principal or interest shall become due and payable in like manner. Any such installment not paid within thirty (30) days after expiration of the period of such deferral shall thereupon become delinquent.

D. All delinquent installments shall, until paid, be subject to an additional charge of twenty percent (20%) levied upon the principal and interest due on such installment or installments.

(Ord. 116368 § 229, 1992; Ord. 111895 § 1, 1984; Ord. 111577 § 1, 1984; Ord. 111003 § 1, 1983; Ord. 110710 § 1, 1982; Ord. 109729 § 8, 1981.)

20.04.145 Installment notes.

In addition to the issuance of bonds and warrants in payment of the cost of any local improvement, the City Council may, in the ordinance ordering any such improvement and adopting the mode of payment, direct the issuance of local improvement installment notes and certificates payable out of the local improvement district fund, and to the extent provided by law from the Local Improvement Guaranty Fund, when such notes are to be held exclusively by one (1) or more other City funds as authorized by RCW 35.45.150. Loans evidenced by such notes shall comply with RCW 35.45.150. The total sum of all outstanding principal on such installment notes shall not at any time exceed One Million dollars (\$1,000,000.00).

The Finance Director may refund such installment notes by the issuance of local improvement district bonds or consolidated local improvement district bonds in accordance with RCW Chapter 35.45, and may transfer any such notes, at par plus accrued interest among funds of the City.

(Ord. 118138 § 1, 1996.)

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20.04.150 Special fund for each district.

The ordinance creating any local improvement district shall also create a special fund to be called "Local Improvement Fund, District No. _," into which shall be placed all sums from any source intended for use in the prosecution of the work contemplated by such ordinance and, when the assessment roll has been confirmed, all sums paid on account of such assessment, including all interest and penalty thereon, and in the event of sale of bonds by the City, all proceeds of sale and all premiums and accrued interest on bonds issued for such improvement. The moneys in such local improvement district fund derived from assessments shall be used for no other purpose than the redemption of warrants drawn upon and bonds issued against the fund to provide payment for the cost and expense of the improvement. (Ord. 109729 § 9, 1981.)

20.04.160 Bonds—Issuance.

Local improvement bonds shall be issued and sold in such denominations, in such form, and with such terms and conditions as shall be authorized by ordinance and as contemplated by state law, presently codified as RCW Chapter 35.45. (Ord. 109729 § 10, 1981.)

20.04.170 Bonds—Register required.

The City Finance Director shall keep in his or her office a register of all such bonds issued. He or she shall enter therein the local improvement fund district number, for which the same are issued, and the date, amount and number of each bond and term of payment. (Ord. 116368 § 230, 1992: Ord. 109729 § 11, 1981.)

20.04.180 Consolidated districts authorized when.

The City may, from time to time, authorize the establishment of consolidated local improvement districts for the purpose of issuing bonds to fund or refund outstanding local improvement district obligations in the manner contemplated by state law, presently codified as RCW 35.45.155 and RCW 35.45.160. (Ord. 109729 § 12, 1981.)

20.04.190 Delinquent assessments—Foreclosure procedures.

The City Attorney may institute foreclosure proceedings in accordance with RCW Chapter 35.50. (Ord. 111003 § 2, 1983: Ord. 110710 § 2, 1982: Ord. 109729 § 13, 1981.)

20.04.200 Warrants—Call and payment.

A. It shall be the duty of the City Finance Director to call and pay in numerical order such outstanding warrants against any particular improvement fund as he or she may be able to pay with the money on hand credited to such fund, and whenever he or she shall have money on hand to the credit of such fund, but not sufficient to pay the whole of the next succeeding outstanding warrant, he or she may call in and pay such portion thereof as shall exhaust the amount of such fund; provided, however, that the City Finance Director may call the warrants issued to the contractor on estimates of the department head supervising the construction in any local improvement district as soon as the City Council has, by resolution or ordinance, fixed a date for

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the issuance of bonds or installment notes in respect to such local improvement district.

B. Whenever the City Finance Director shall pay a portion of any warrant as above provided, he or she shall endorse upon such warrant the date and amount of such payment and take a receipt from the holder thereof, showing the number and description of such warrant and the date and amount so paid, which receipt the said Director shall record as a voucher for the money so paid. (Ord. 116368 § 231, 1992; Ord. 111640 § 2, 1984; Ord. 109729 § 14, 1981.)

20.04.210 Contracts—Requirements generally.

A. Contracts for local improvements shall provide for a retainage from the moneys earned by the contractor on estimates during the progress of the improvement or work of a sum to be used as a trust fund for the protection and payment of any person or persons, mechanics, subcontractors or material men who shall perform any labor upon such contract or the doing of said work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and the state with respect to taxes imposed pursuant to RCW Title 82 which may be due from subcontractor. Said fund shall be computed and administered pursuant to Chapter 205, 1st Ex. Sess., Laws of 1977, presently codified as RCW 60.28.010. No improvement shall be deemed completed until the department head supervising the project shall have filed with the City Clerk a statement in duplicate declaring the same to have been completed.

B. During the time allowed for the completion of the contract the department head supervising the project shall each month issue an estimate of the amount of work completed by the contractor during the preceding month; provided, that after the expiration of the time allowed for such completion no estimate other than the final estimate shall be issued. The final estimate shall include a statement of the amount of money due the contractor, a statement of the amount of money expended for abstracts, advertising, accounting and collection, and engineering expense incurred prior to the expiration of the time allowed for the completion of the contract. The City's engineering expenses incurred after the time allowed for the completion of the contract, shall be borne by the contractor as the minimum penalty for failure to complete the work within the specified time.

C. After the issuance of the estimate by the department head supervising the project, the City Finance Director shall, on or about the twenty-fifth day of the month, deliver to the contractor money or warrants in an amount equal

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to such estimate less the percentage to be retained therefrom as herein provided. After the expiration of thirty (30) days following the final acceptance of said improvement or work and the expiration of the time for the filing of lien claims as provided by law, said reserve, or all amounts thereof in excess of a sufficient sum to meet and discharge the claims of material men and laborers who have filed their claim as provided by law, together with a sum sufficient to defray the cost of such action, and to pay attorney's fees, shall be paid to said contractor.

D. Such warrants shall be drawn against the local improvement district fund and shall bear interest at the rate prevailing in the market from the date of issuance until redeemed; provided, that warrants shall not bear interest after two hundred forty (240) days from the time fixed in the proposal and contract for the completion of the contract.

E. If the work is completed within the time fixed by the contract, or any extension thereof, and there is no money available for payment of contractors' warrants at the expiration of the two-hundred-forty (240) day period above mentioned, the contractor may be paid by separate non-interest-bearing warrants a sum equivalent to interest at the rate prevailing in the market on outstanding warrants from the date when interest on such warrants ceased to the date when funds are available for the redemption thereof.

F. If an extension of time is granted for the completion of the contract and the work is not completed when the extension period has expired, the contractor may be paid by separate non-interest-bearing warrants a sum equivalent to interest at the rate prevailing in the market on outstanding warrants from the day when interest ceased, as above mentioned, to a date two hundred forty (240) days from the date on which the extension period expires.

G. The City Finance Director shall immediately upon receipt of the final estimate for a local improvement, file in the office of the City Clerk a certificate setting forth the total amount of said final estimate, together with accrued interest on warrants issued or to be issued.

H. All warrants issued shall be redeemed in cash, in order of issuance within two hundred forty (240) days after the completion and acceptance of the contract, so far as payment into the local improvement district fund shall permit.

Warrants not so redeemed in cash shall, except as otherwise provided in this chapter, be redeemed in order of their issuance in local improvement district bonds, the lowest numbered warrants being redeemed with the lowest numbered bonds, if the mode of payment is "payment by bonds"; or, if the mode of payment be "immediate payment," by the issuance of local improvement district fund warrants with interest at the rate prevailing in the market from the date of issuance until redeemed, such redemption to be made in the same manner as that followed under the mode of payment "payment by bonds."

I. If the mode of payment is "payment by bonds" and the bonds are sold as provided in this chapter, all such warrants not so redeemed in cash as above provided, shall be redeemed in order of issuance in cash out of the proceeds of the sale of such bonds.

(Ord. 116368 § 232, 1992; Ord. 109729 § 15, 1981.)

20.04.220 Contracts—To lowest bidders—Notice—Check with bid.

All the work to be done in any local improvement district shall be let in one (1) contract or, at the option of the head of the department supervising the project, the work may be subdivided and separate contracts be let for each subdivision thereof. All local improvements to be made by contract shall be let to the lowest and best bidder therefor. Before the award of any such contract, there shall be published for at least two (2) days in the official newspaper of the City a notice, the last publication being at least ten (10) days before the letting of such contract, inviting sealed proposals for such work, and the plans and specifications whereof must, at the time of publication of such notice, be on file in the office of the department head supervising the project, subject to public inspection. Such notice shall state generally the work to be done and shall call for proposals for doing the same, sealed and filed with the City as specified in the notice, on or before the day and hour named therein. All bids shall be accompanied by a certified check, payable to the order of the City Finance Director, or a surety bond for a sum not less than five percent (5%) of the amount of the bid, and no bid shall be considered unless accompanied by such check or bond. If, in the discretion of the head of the

department supervising the project, the work should be done by the City by day labor, and under the management of the department, it is hereby empowered to proceed with the work irrespective of all such bids, and, in such case, all bids shall be rejected; provided, however, the work shall not be done by the City if the determination so to do is in conflict with the provisions of RCW 35.22.620. (Ord. 116368 § 234, 1992; Ord. 109729 § 16, 1981.)

20.04.230 Contracts—Opening bids—Acceptance, rejection and forfeiture conditions.

At the time and place named, such bids shall be publicly opened and read; no bid shall be rejected for informality but shall be received if it can be understood what is meant thereby. The department head supervising the project shall proceed to determine the lowest and best bidder, and may let such contract to such bidder, or if all bids received exceed by ten percent (10%) preliminary cost estimates prepared by an independent consulting engineer or registered professional engineer retained for that purpose by the City, he or she may reject all of them and re-advertise, or may proceed to do the work under the direction of the department head supervising the project by “day labor,” and, in case of rejection of all bids all checks shall be returned to the bidders; but if the contract be let, then, and in such case, all checks shall be returned to the bidders, except that of the successful bidder, which shall be retained until the contract be entered into for making such improvement between the bidder and the City, in accordance with such bid, and the duly approved and accepted bond therefor be filed in the office of the City Clerk. If the successful bidder fails to enter into the contract in accordance with his bid within ten (10) days from the date at which he is notified that he is the successful bidder, the said check and the amount thereof shall be forfeited to the City, and the same shall be delivered to the City Finance Director, who pay the same into the City Treasury to the credit of the appropriate Local Improvement District Fund. Neither the department head nor the City Council shall have the power to remit such forfeiture.

(Ord. 116368 § 234, 1992; Ord. 109729 § 17, 1981.)

20.04.240 Subdistricts authorized—Conditions.

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Whenever the legislative authority shall provide for the construction of any trunk sewer or trunk water main, it may divide the territory to be served thereby into subdistricts, and the construction of the improvement may be made under separate contracts for such subdistricts thereof. The legislative authority may levy assessments in each subdistrict and issue bonds to be paid by the collection of assessments against property in each subdistrict independent of any other subdistrict; provided, however, that the subdistricts shall be set forth in the ordinance providing for the improvement, and when it is proposed to pay any portion of the cost of the improvement from City funds, the ordinance shall specify approximately the amount to be apportioned to each subdistrict. (Ord. 109729 § 18, 1981.)

20.04.250 Unit water main assessments.

The cost of a unit water main is the reasonable cost of a local water main and its appurtenances suited to the requirements of the territory served. Such cost may be assessed against the property specially benefited thereby. The remaining portion of the cost and expense of any water main, except where the legislative authority shall provide for the creation of a trunk water main district, shall be paid from such fund as the legislative authority shall by ordinance direct. (Ord. 109729 § 19, 1981.)

20.04.260 Costs—City's contribution to be specified in ordinance.

Every ordinance ordering any local improvement shall declare what, if any, portion or proportionate amount of the cost and expense thereof shall be borne by the City out of its general fund, or other fund, and shall direct that the remainder of the cost and expense be assessed against the property within the district created therefor in the manner provided by law. (Ord. 109729 § 20, 1981.)

20.04.270 Items of cost and expense for estimates.

All estimates of the cost and expense of local improvements shall include the following:

A. The cost of all of the construction or improvement authorized for the district including, but not limited to, that portion of the improvement within street intersections;

B. The estimated cost and expense of all engineering and surveying necessary for the improvement done under the supervision of the City;

C. The estimated cost and expense of ascertaining the ownership of the lots or parcels of land included in the assessment district;

D. The estimated cost and expense of advertising, mailing and publishing all necessary notices;

E. The estimated cost and expense of accounting, clerical labor, and of books and blanks extended or used on the part of the City in connection with the improvement;

F. The cost of acquisition of rights-of-way, property, easements or other facilities or rights, whether acquired by eminent domain, purchase, gift, or in any other manner; provided, that any of the costs enumerated in this subsection may be excluded from the cost and expense to be assessed against the property in the local improvement district if the legislative authority so designates by ordinance at any time and may be paid from any other moneys available therefor;

G. The cost of legal, financial, and appraisal services and any other expense incurred by the City for the district or in the formation thereof, or by the City in connection with the construction or improvement and in the financing thereof, including the issuance of any bonds;

H. A charge against each description of property in the following amounts, to wit: in case of "immediate payment," Six Dollars (\$6.00) per description; in case of assessment payable in three (3) annual installments, Eighteen Dollars (\$18.00) per description; in case of assessment payable in five (5) annual installments, Twenty-six Dollars (\$26.00) per description; in case of assessment payable in ten (10) annual installments, Forty-six Dollars (\$46.00) per description; in case of assessment payable in fifteen (15) annual installments, Sixty-six Dollars (\$66.00) per description; in case of assessment payable in twenty (20) annual installments or more of either principal or interest, Eighty-six Dollars (\$86.00) per description; which is the charge of accounting, clerical labor, books and blanks used by the City; provided, however, that when any assessment payable in installments is paid in full within the thirty (30) day period fixed by law for the payment of assessments without interest, the City Finance Director shall allow a rebate of the charge

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in this subsection in excess of the sum of Six Dollars (\$6.00) per description. In all instances wherein the contractor doing the work in any local improvement district deposits cash with the City Finance Director under the terms of his or her contract to cover items of cost shown by the department head supervising the contract in his or her final estimate and specified in this section, the City Finance Director shall transfer the amount of such rebate from the fund in which it has been deposited to the appropriate local improvement fund.

(Ord. 116368 § 235, 1992; Ord. 109729 § 21, 1981.)

20.04.280 Segregation of assessments.

A. The City Finance Director is authorized to collect and receive from any owner or owners of any subdivision or subdivisions of any lot, tract or parcel of land, upon which a local improvement assessment has been, or may hereafter be, made, such portion of the assessment or assessments levied or to be levied against such lot, tract or parcel of land in the payment of said local improvement as the Director of Transportation shall certify to be chargeable to such subdivision or subdivisions in accordance with state law.

B. Whenever, on account of the filing of a plat or replat on account of a sale or contract to sell or other proper evidence of the change of ownership of a divided portion of any lot, tract or parcel of land assessed for local improvements, it shall appear to be to the best interest of the City to segregate a local improvement district assessment thereupon, the Director of Transportation is authorized to make the proper certification as provided in this chapter, upon the written application of the owner, approved by the City Finance Director, and confirmed by the City Council by resolution, and upon payment of the fee hereinafter provided. In all instances it shall be the duty of the Director of Transportation to submit the necessary Resolution for Segregation for City Council approval. A fee of Sixty Dollars (\$60.00) shall be charged for each tract of land for which a segregation is to be made together with a fee of Ten Dollars (\$10.00) per description for each description added to the assessment roll, to defray the cost of the engineering and clerical work involved. Such fees shall be paid to the City Finance Director and shall be deposited in the General Fund.

C. Upon receipt of a certified copy of a resolution of the City Council authorizing segregation, the City Finance Director shall enter the segregation, together with the amount of the bonded interest with respect thereto, upon the assessment records and, upon payment thereof, together with any penalties accruing according to law and any additional interest due with respect to the segregated portion, give a proper receipt; provided, that this chapter shall not authorize the segregation of any assessment which has been delinquent for a period of two (2) years or more, or in any case where it appears that the property, when or as already divided according to the requested segregation, is not or would not be of sufficient value, or is not or would not be in such condition or title, as to provide adequate security for the payment of the total amount of the unpaid assessment, penalties, interest and costs charged or chargeable against the undivided whole. In such instance, upon a recommendation by the City Finance Director, the City Council shall determine such question of fact. No segregation of any assessment on unplatted lands or large platted tracts shall be made until a plat thereof has been furnished to the Director of Transportation by the applicant, showing that the proposed segregation of property will conform to the system of streets as platted in adjacent territory. In all such instances, upon a recommendation by the Director of Transportation, the City Council shall determine such question of fact.

(Ord. 118409 § 141, 1996; Ord. 116368 § 236, 1992; Ord. 109729 § 22, 1981.)

**20.04.290 Cancellation of assessment—
Release of assessment lien.**

The City Finance Director is authorized to

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cancel on the books and records of a local improvement district the assessment or an installment of an assessment, interest and penalties imposed by or for the district when:

A. The amount due shown on the district's books and records has been found to be void by a final judgment of a court with jurisdiction over the local improvement district;

B. RCW 35.50.050, which limits the time for commencing foreclosure proceedings, bars a foreclosure action to enforce the payment;

C. King County has resold the property to pay property taxes, the resale is free and clear of the assessment lien, and pursuant to RCW 35.49.160, the City has received or will receive from the proceeds of the county sale such funds as are due to the district; or

D. The City Attorney by written opinion advises the City Finance Director that the assessment, interest or penalty to be cancelled is void or that the law otherwise prevents its collection.

Upon cancellation of an assessment, interest or penalty, the City Finance Director may release the assessment lien upon the property to secure the payment which was cancelled. A release affects only the payment(s) or liens named in the release document and does not release other payments or other liens upon the same property of other local improvement districts respectively.

(Ord. 116368 § 237, 1992: Ord. 113320 § 1, 1987.)

**Chapter 20.08
LOCAL IMPROVEMENT GUARANTY
FUND**

Sections:

20.08.010Fund established.

20.08.020Annual tax levy.

20.08.030Issuance and payment of warrants.

20.08.040Defaulted interest coupons, bonds or warrants.

20.08.010Fund established.

There is created in the City Treasury the special fund established by Chapter 209, Laws of Washington, 1927, RCW Chapter 35.54, and designated "Local Improvement Guaranty Fund," for the purpose of guaranteeing, to the extent thereof and in the manner therein contemplated,

the payment of local improvement bonds and warrants and for paying the amounts of assessments, the collection of which has been deferred pursuant to RCW 35.43.250, 35.50.050, and 35.54.100, as now existing or hereafter amended. (Ord. 116368 § 238, 1992: Ord. 102560 § 12, 1973: Ord. 62364 § 1, 1932.)

20.08.020Annual tax levy.

In order to maintain the fund and to effectuate the purposes of this chapter, there shall be levied each year by the City Council in its annual tax levy, a tax upon all of the property in the City subject to taxation sufficient to meet the financial requirements thereof; provided that the sums so levied in any year shall not be more than sufficient to pay the outstanding warrants on the fund and to establish therein a balance which combined levy in any one (1) year shall not exceed five percent (5%) of the outstanding obligations thereby guaranteed. The tax levies authorized and directed shall be additional to, and, if need be, in excess of, any and all statutory and Charter limitations applicable to the tax levies of the City. There shall be paid into the fund the interest received from bank deposits of the fund, as well as any surplus remaining in any local improvement fund guaranteed under this chapter, lawfully applicable thereto, and payments of principal and interest applicable for assessments, or installments thereof, the collection of which has been deferred pursuant to Chapter 137, Laws of 1972, First Extraordinary Session as now existing or hereafter amended.

(Ord. 102560 § 13, 1973: Ord. 62364 § 2, 1932.)

20.08.030Issuance and payment of warrants.

In order to effectuate the purposes of this chapter, the City Finance Director is authorized to from time to time draw and pay warrants drawing interest at a rate not to exceed six percent (6%) on the Local Improvement Guaranty Fund for the purposes contemplated in Section 20.08.010; provided, that such warrants shall at no time exceed five percent (5%) of the outstanding bond obligations guaranteed by the fund. Warrants on the Local Improvement Guaranty Fund shall be numbered serially in the order of their issuance.

(Ord. 116368 § 239, 1992: Ord. 70894 § 1, 1941: Ord. 62364 § 3, 1932.)

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20.08.040 Defaulted interest coupons, bonds or warrants.

A. As among the several issues of bonds or warrants guaranteed by the fund, no preference shall exist, but defaulted interest coupons, bonds and warrants shall be purchased out of the fund in the order of their presentation. Whenever any defaulted interest coupons, bonds or warrants shall be presented to the City Finance Director for purchase, if the outstanding warrants against the Local Improvement Guaranty Fund (including the amount of the coupons, bonds or warrants so presented) do not then exceed five percent (5%) of the outstanding bond obligations guaranteed by the fund, the City Finance Director shall examine such coupons, bonds or warrants and if satisfied that the same are guaranteed by such fund he shall receive and keep such coupons, bonds or warrants, issuing his or her receipt therefor to the holder of the same, together with a warrant upon the Local Improvement Guaranty Fund in the amount thereof. Warrants so issued shall be paid from the Local Improvement Guaranty Fund in the order of their serial numbers.

B. If at the time any defaulted interest coupons, bonds or warrants are presented for purchase the warrants upon the Local Improvement Guaranty Fund then outstanding (including the amount of the coupons, bonds or warrants so presented) shall exceed five percent (5%) of the outstanding bond obligations guaranteed by the fund, the City Finance Director shall examine such coupons, bonds or warrants and if satisfied that the same are guaranteed by such fund he or she shall issue to the holder a presentation certificate describing such coupons, bonds or warrants and showing the date and time of the day when the same were so presented for purchase, and the name and address of the holder thereof. Such presentation certificate shall be issued and numbered serially in the order of the presentation for purchase of defaulted interest coupons, bonds or warrants by the respective holders thereof. Whenever the amount of outstanding warrants against the Local Improvement Guaranty Fund shall be retired in an amount sufficient to authorize the issuance of a warrant upon the fund for the purchase of the coupons, bonds or warrants described in any presentation certificate it shall be the duty of the City Finance Director to notify the holder of such presentation certificate by mail at the address

stated in the presentation certificate; and upon presentation to him of the presentation certificate, together with the coupons, bonds or warrants described therein, the City Finance Director shall receive and keep such coupons, bonds or warrants, issuing his receipt therefor together with his or her warrant upon the Local Improvement Guaranty Fund covering the same. Such warrants shall be issued in the order of the serial numbers of the presentation certificates.

(Ord. 116368 § 240, 1992: Ord. 70894 § 2, 1941: Ord. 62364 § 4, 1941.)

**Chapter 20.12
DEFERRAL OF ASSESSMENT
COLLECTION**

Sections:

- 20.12.010 Authorization.**
- 20.12.020 Eligibility criteria.**
- 20.12.030 Assessment—Deferral of collection—Time limitations.**
- 20.12.040 Applications for deferral—Death of spouse—Disabling injury.**
- 20.12.050 Deferred assessment interest rate.**
- 20.12.060 Termination of deferred assessment.**
- 20.12.070 Application of payments.**
- 20.12.080 Administration by City officials.**

Statutory Reference: For statutory provisions on the deferral of collection of assessments for economically disadvantaged persons, see RCW 35.43.250.

20.12.010 Authorization.

The collection of an assessment upon property assessed by a local improvement district, or any installment thereof, may be deferred as provided in RCW 35.43.250 and 35.54.100, as now existing or hereafter amended, upon the application of a person responsible for the payment of an assessment, who is economically disadvantaged, whenever authorized in the ordinance creating the district. Unless otherwise provided in such ordinance, or in the ordinance confirming an assessment roll for such district, the terms and conditions of this chapter shall establish the terms and

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conditions for the deferral of collection of such assessments, the persons eligible therefor, the rate of interest, the duties of the respective City officials and the obligations of the Local Improvement Guaranty Fund with respect thereto. (Ord. 102560 § 1, 1973.)

20.12.020 Eligibility criteria.

A. The term “person responsible for payment of an assessment” means the owner of the property to be assessed (including life tenants) and other persons, who under the terms of a recorded contract of purchase, recorded mortgage, recorded deed of trust transaction or recorded lease is responsible under penalty of forfeiture, foreclosure, or default as between vendor/vendee, mortgagor/mortgagee, grantor and trustor/trustee and grantee, and beneficiary and lender, or lessor and lessee for the payment of the local improvement district assessment.

B. A person responsible for payment of an assessment may qualify as “economically disadvantaged” when:

1. His or her current income does not exceed the income eligibility criteria scaled by family size prepared annually by the Budget Director from data supplied by the United States of America, Department of Labor to indicate an income necessary for such a person (and family) to live frugally, but adequately within the City; provided that such computations do not include (a) educational loans and grants which preclude their use for current living costs, (b) child support or alimony, (c) earnings of minors under eighteen (18) and earnings of full-time students;

2. His or her net personal assets (exclusive of the home, reasonable furniture, fixtures, and appliances and equipment necessary for maintaining life, health, or movement of infirm or handicapped persons, cash surrender value of all insurance policies and annuity programs up to Ten Thousand Dollars (\$10,000.00) in total, and cash and marketable securities of Five Thousand Dollars (\$5,000.00) in value) does not exceed Ten Thousand Dollars (\$10,000.00).

Joint or community owners may qualify when their aggregate income does not exceed the income eligibility criteria for a family with the same number of persons and the net personal assets of each owner individually, as defined in subsection B2, do not exceed Ten Thousand Dollars (\$10,000.00).

(Ord. 104953 § 1, 1975; Ord. 102560 § 2, 1973.)

20.12.030 Assessment—Deferral of collection—Time limitations.

Whenever an ordinance creating a local improvement district shall hereafter authorize deferral of collection of local improvement assessment upon properties benefited thereby pursuant to RCW 35.43.250 and 35.54.100, the following terms and conditions contained in the statute shall apply:

A. The amount of the assessment or an installment thereof, the collection of which has been deferred, shall be paid out of the Local Improvement Guaranty Fund.

B. The Local Improvement Guaranty Fund shall have a lien on the benefited property in an amount equal to the amounts paid by such fund, together with interest as provided by the ordinance creating the district.

C. The collection of any particular installment shall not be deferred longer than two (2) installment periods, provided, the foregoing shall not preclude the deferral of collection of other installments of such assessment.

D. Local improvement assessment obligations, the payment of which has been deferred, shall become due and payable upon the earliest of the following dates:

1. Upon the date and pursuant to the conditions established by the agreement for deferral of collection;

2. Upon the sale of property which has a deferred assessment lien upon it, from the purchase price; or

3. Upon the death of the person to whom the deferral was granted from the value of his estate; except, a surviving spouse shall be allowed to continue the deferral of collection, which shall be payable by the spouse as provided by the terms and conditions of the deferral in accordance with this chapter.

E. The time during which collection is deferred shall not be a part of the time limited for commencement of an action to collect the amount deferred or to enforce the local improvement assessment lien.

F. The collection of an assessment shall in no event be deferred beyond the time of the dissolution of the local improvement district.

G. The party granted the deferment of collection of an assessment, or installment thereof, shall

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provide assurance of property security acceptable in form and substance to the City Engineer for the payment of such assessment, or installment thereof.

(Ord. 102560 § 3, 1973.)

20.12.040 Applications for deferral—Death of spouse—Disabling injury.

Applications for deferral of collection of an assessment that involve any of the following must be made in writing at or before the hearing of the legislative authority for confirmation of the assessment roll:

A. Deferral of collection or an installment payment plan for payment of an assessment levied for total immediate payment;

B. Deferral of collection of the first installment of an assessment payable over multiple installments; and

C. Deferral of collection of assessments by a plan providing phased payments during the duration of the district, with a series of multiple deferrals of successive installments.

An application for deferral of collection of one or more particular installments subsequent to confirmation of the assessment roll may be made on or before such installment becomes delinquent, should death of a spouse or head of household, disabling injury, or other serious adversity render a person responsible for payment of an assessment economically disadvantaged.

If the application is approved, the applicant must return a properly signed, notarized agreement with the City no later than thirty (30) days after the date the installment becomes delinquent. (Ord. 111640 § 3, 1984; Ord. 102560 § 4, 1973.)

20.12.050 Deferred assessment interest rate.

The assessment, or the installment thereof, upon which collection has been deferred, shall bear interest during the period of deferral at the same rate as borne by the note, warrant, or bonds issued by the City to pay the cost and expense of the improvement.

(Ord. 102560 § 5, 1973.)

20.12.060 Termination of deferred assessment.

The period of deferral of collection of an assessment or an installment thereof shall not extend beyond a fixed date of termination of occupancy of the person responsible for payment of an assessment under a leasehold or fee of

definite duration, unless the owner of the reversion or remainder assents to such deferral.

(Ord. 102560 § 6, 1973.)

20.12.070 Application of payments.

Moneys received for payment of assessment installments shall be applied toward the earliest unpaid installment unless the party making the payment shall direct otherwise.

(Ord. 102560 § 7, 1973.)

20.12.080 Administration by City officials.

A. The City Director of Transportation shall administer the deferral of collection of assessments, except such duties as are assigned by this chapter or by law to other City officials. The City Director of Transportation shall have the power and authority to:

1. Give notice to property owners of the availability of ordinance procedures for deferral of collection of assessments;

2. Accept and process applications for deferral of collection of assessments, and amendments thereof as appropriate;

3. Conclude with the persons responsible for payment of an assessment an agreement setting the terms and conditions consistent with this chapter and state law, including, on request and at his or her discretion, without extra charge, provision for billing and payment of installment on a monthly or quarterly basis;

4. Secure execution and filing of any necessary instruments, and, upon notice from the City Finance Director, note satisfaction thereof;

5. Terminate the deferral of collection of assessments upon occurrence of conditions that render the assessment or installments thereof due and payable;

6. Recommend to the City Finance Director the amounts to be paid from the Local Improvement Guaranty Fund to the fund of such local improvement district upon the making of such deferral;

7. Take such other actions as necessary and appropriate to administer this chapter in accordance with RCW 35.43.250, 35.49.010, 35.50.050, and 35.54.100. The agreement with the person responsible for an assessment setting forth the terms and conditions of deferral of collection of the assessment shall be recorded with the King County Office of Records and Elections and transmitted to the City Clerk, and a copy thereof

to the City Finance Director. All records retained by the Director of Transportation containing the application and information received in processing an application shall be kept confidential.

B. The Budget Director shall annually determine the income eligibility criteria, report his or her determination to the City Council, and file a copy thereof with both the City Clerk and the City Director of Transportation.

C. The City Finance Director shall draw such warrants upon the Local Improvement Guaranty Fund as necessary and appropriate to make payments to the local improvement district fund for assessments, the collection of which has been deferred, and shall report annually to the City Council and the Budget Director about the amount of payments made from the Local Improvement Guaranty Fund for assessments or installments deferred pursuant to this chapter and RCW 35.43.250, 35.50.050, and 35.50.100, as now existing or hereafter amended; the current balance in such fund and outstanding obligations guaranteed by such fund.

(Ord. 118409 § 142, 1996; Ord. 116368 § 241, 1992; Ord. 111640 § 4, 1984; Ord. 102560 § 8, 1973.)

**Chapter 20.16
RECONSTRUCTION OF WATER MAINS**

Sections:

20.16.010 Ungraded streets—Assessment of abutting property.

20.16.020 Ungraded streets—Payments from Water Fund.

20.16.030 Regrading—Payment when no benefit to abutting property.

20.16.040 Regrading—When desired by property owners.

20.16.050 Regrading—Assessment of costs.

20.16.060 Assessment of costs for water and fire protection during reconstruction.

20.16.070 Substitution or enlarging of mains—Costs.

20.16.010 Ungraded streets—Assessment of abutting property.

Whenever it becomes necessary to lay water mains in ungraded streets to supply water to residents of the district abutting on the streets, and

the abutting property is assessed for the laying of the mains, such property shall be again assessed for the re-laying or reconstruction thereof when the streets are graded to permanent grade; provided that if, at the time of the laying of the mains originally, a permanent grade on the streets is established, the City Council may order the mains laid to permanent grade, as near as may be, and assess the entire cost thereof to the improvement district.

(Ord. 27209 § 1, 1911.)

20.16.020 Ungraded streets—Payments from Water Fund.

Whenever it becomes necessary to lay water mains in ungraded streets that do not serve that particular district, or specially benefit it, no charge or assessment for re-laying or reconstructing the mains shall be made against the district abutting on the streets when the same are graded, but such cost shall be paid from the Water Fund of the City.

(Ord. 27209 § 2, 1911.)

20.16.030 Regrading—Payment when no benefit to abutting property.

Whenever general public necessity demands the regrade of any street already improved and with established grades, and such regrade is made, and it becomes necessary to adjust, relay or reconstruct water mains by reason thereof which do not serve, or specially benefit the district abutting on such streets, no charge for such reconstruction or adjustment shall be made against the abutting property of such streets or against the district assessed for the regrade, but the cost thereof shall be paid from the General Fund of the City.

(Ord. 27209 § 3, 1911.)

20.16.040 Regrading—When desired by property owners.

Whenever it is desired by owners of property abutting on any street or streets that such street or streets be regraded, and such regrade is made, and by reason thereof it becomes necessary to adjust, re-lay or reconstruct any water mains in the street or streets not used for the purpose of serving the

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property abutting thereon, the entire cost of such adjustment or reconstruction may be assessed against the General Fund; provided, if such regrade is instituted by petition and the petitioners agree to bear any portion of the cost of adjustment, re-laying or reconstruction, or if the improvement is instituted by resolution of the City Council and the resolution declares the purpose of the Council to assess any portion of the cost to the property abutting on the streets to be regraded, in such event the portion of the cost as provided by either the petition or the resolution shall be assessed against the property in the district, and the balance thereof against the General Fund. (Ord. 27209 § 4, 1911.)

20.16.050Regrading—Assessment of costs.

Whenever, whether for the benefit of the public at large or for the enhancement of the value and improvement of property adjacent or tributary to any district, the regrade of the district is desired, and by reason thereof it becomes necessary to adjust or reconstruct water mains in the district which specially benefit and furnish water to the property abutting or adjacent to the streets to be regraded, the entire cost of such adjustment or reconstruction, up to and including twelve-inch (12") mains, shall be assessed against the property lying within the bounds of such district, and the cost of adjusting mains in excess of twelve inches (12"), and up to twenty-four inches (24") in size, shall be as follows: a sum equal to the cost of adjusting, re-laying or reconstructing twelve-inch (12") mains, together with fifty percent (50%) of the excess cost by reason of the increased size of the main shall be assessed to the abutting property; provided, that the resolution and ordinance ordering the work and creating the district shall specify the cost as provided in this section, but no charge or assessment shall be made upon property lying within the district for the adjusting, re-laying or reconstruction of mains where they exceed twenty-four inches (24") in size for that proportion of the cost caused by the excess of twenty-four inches (24"). (Ord. 27209 § 5, 1911.)

20.16.060Assessment of costs for water and fire protection during reconstruction.

Whenever any regrade is made, the entire cost of reconstruction of existing connections to water

mains, hydrants, etc., which must be maintained to provide water and fire protection to the district during the progress of the regrade work, shall be assessed to the regrade district. (Ord. 27209 § 6, 1911.)

20.16.070Substitution or enlarging of mains—Costs.

Whenever, in the prosecution of any of the improvements contemplated in this chapter, it is determined by the Seattle Public Utilities to substitute or enlarge the mains passing through the district, the entire cost of such substitution or enlarging, in excess of the reconstruction of existing mains, shall be borne by the Water Fund. (Ord. 118396 § 15, 1996: Ord. 27209 § 7, 1911.)

**Chapter 20.20
FILLING OF PRIVATE PROPERTY**

Sections:

20.20.010 Proceedings for making improvements and levying assessments.

20.20.020Establishment of new grade—Survey by Board of Public Works.

20.20.030Resolution of intent.

20.20.040Establishment of local improvement district.

20.20.050Modes of payment.

20.20.060Applicability of Ord. 53493.

Statutory reference: For statutory provisions on filling and draining lowlands, see RCW Ch. 35.56.

20.20.010Proceedings for making improvements and levying assessments.

Whenever the City Council shall order any improvement to be made or work to be done, by filling private property where necessary, as a sanitary measure which shall confer special benefits upon any property in the City, and it is desired to pay the whole or any part of the cost and expense of the same by and from special assessments levied upon the property specially benefited thereby, the proceedings for making such improvements and levying and collecting special assessments for the purpose of paying the whole or any part of the cost and expense thereof and for

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paying such cost and expense may be had and conducted as provided in this chapter.
(Ord. 35083 § 1, 1915.)

20.20.020 Establishment of new grade—Survey by Board of Public Works.

Whenever the City shall establish or shall have established the grade of any street or streets, alley or alleys, at a higher elevation than any private property abutting thereon, thereby rendering the drainage of such private property or any part thereof impracticable without the raising of the surface of such private property, or whenever the surface of any private property in the City shall be so low as to make sanitary drainage thereof impracticable, the City Council may determine by resolution that a fill of such private property is necessary as a sanitary measure. The Council shall in such resolution direct the Board of Public Works to make the necessary surveys of the district proposed to be improved and the necessary plans and specifications for such improvement, and to submit, within twenty (20) days after the first publication of such resolution, a report to the City Council to be filed with the City Clerk giving a description of the property proposed to be improved by such fill, the grade to which it is necessary to fill the same and the estimated cost thereof.

(Ord. 35083 § 2, 1915.)

20.20.030 Resolution of intent.

The City Council shall before establishing the new grade of such property or providing for such fill, first pass a resolution declaring its intention to make such improvement and giving in such

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**Seattle Municipal Code
June, 1998 code update file
Text provided for historic reference only.**

**See ordinances creating and amending
sections for complete text, graphics,
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resolution a description of the property proposed to be improved by such fill, the estimate of the cost of the same, and stating that such cost is to be assessed against the property benefited thereby, and shall fix a time not less than thirty (30) days after the first publication of the resolution as specified in this section within which protests against such proposed improvement may be filed in the office of the City Clerk. The Council shall in such resolution, or in the ordinance providing for such improvement, declare the mode of making payment for such portion of the cost and expense of such improvement as shall be chargeable against such private property. At the time named in such resolution, the Council shall proceed to consider such resolution and report of the Board of Public Works on the matters referred to it in such resolution, together with all protests filed against the improvement, if any such protests be filed, and if the Council shall notwithstanding such protests and after full hearing thereof, if any protestant shall ask for such hearing, determine that it is necessary to fill such private property, or any portion or portions thereof, as a sanitary measure, the Council shall then or at a subsequent time proceed to enact an ordinance providing for such improvement.
(Ord. 35083 § 3, 1915.)

20.20.040 Establishment of local improvement district.

Whenever the Council shall order any such improvement to be made, it shall in the ordinance ordering the same establish a local improvement district to be called "Local Improvement District No.," which shall include all the property found by the Council as aforesaid to require such fill as a sanitary measure.
(Ord. 35083 § 4, 1915.)

20.20.050 Modes of payment.

A. There shall be two (2) modes of making payment for such portion of the cost and expense of the improvements provided for in this chapter, as shall be chargeable against the local improvement district created as provided in this chapter: "immediate payment" and "payment by bonds." The mode adopted shall be the mode set forth in the resolution declaring the intention of the Council to make the improvement, if such resolution specifies the mode; if such resolution fails to specify the mode, then it shall be the mode specified in the ordinance ordering the improvement.

B. In all cases where the mode of "payment by bonds" is directed, the assessments shall be payable in equal annual installments the number

of which shall be less by two (2) than the number of years the bonds or warrants may run.

C. Such bonds by their terms shall be made payable on or before a date not to exceed twelve (12) years from and after the date of the issue of such bonds, which latter date may be fixed by resolution or ordinance by the City Council provided that whenever the improvement shall lie wholly or partly within the boundaries of any commercial waterway district, organized and existing under the provisions of Chapter 243 of the Laws of 1907, of the State of Washington, and the acts amendatory thereof, such bonds may be made payable on or before a date not to exceed twenty-two (22) years from and after the date of the issue of such bonds. Such bonds shall bear interest at the rate provided by the ordinance ordering the improvement, but not exceeding eight (8) percent per year, such interest to be payable annually. Each bond shall have attached thereto interest coupons for each interest payment.
(Ord. 35083 § 5, 1915.)

20.20.060 Applicability of Ord. 53493.

Ordinance 53493,¹ approved August 5, 1927, shall apply to all improvements made under the provisions of this chapter and to all proceedings relating to such improvements and to the making, collection and enforcement of special assessments therefor, and to the mode of paying for the same, except insofar as the same shall be in conflict with this chapter.
(Ord. 66638 § 1, 1936: Ord. 35083 § 6, 1915.)

1. Editor's Note: Ord. 53493 is not included in this codification as it is presently undergoing comprehensive revision.

Subtitle II Public Works

**Chapter 20.32
ART IN PUBLIC WORKS
CONSTRUCTION**

Sections:

- 20.32.010 Purpose.**
- 20.32.020 Definitions.**
- 20.32.030 Funds for works of art.**
- 20.32.040 Commission authority.**
- 20.32.050 Municipal Arts Fund.**

20.32.010 Purpose.

The City accepts a responsibility for expanding public experience with visual art. Such art has enabled people in all societies better to understand their communities and individual lives. Artists capable of creating art for public places must be

20.32.010 PUBLIC WORKS, IMPROVEMENTS AND PURCHASING

encouraged and Seattle's standing as a regional leader in public art enhanced. A policy is therefore established to direct the inclusion of works of art in public works of the City. (Ord. 102210 § 1, 1973.)

20.32.020 Definitions.

A. "Commission" means the Seattle Arts Commission.

B. "Construction project" means any capital project paid for wholly or in part by the City to construct or remodel any building, structure, park, utility, street, sidewalk, or parking facility, or any portion thereof, within the limits of The City of Seattle.

C. "Eligible fund" means a source fund for construction projects from which art is not precluded as an object of expenditure.

D. "Municipal arts plan" means the plan required by Section 20.32.040 A.

E. "Administrative costs" means all costs incurred in connection with the selection, acquisition, installation and exhibition of, and publicity about, City-owned works of art.

(Ord. 117403 § 1, 1994: Ord. 105389 § 1, 1976: Ord. 102210 § 2, 1973.)

20.32.030 Funds for works of art.

All requests for appropriations for construction projects from eligible funds shall include an amount equal to one (1) percent of the estimated cost of such project for works of art and shall be accompanied by a request from the Arts Commission for authorization to expend such funds after the same have been deposited in the Municipal Arts Fund. When the City Council approves any such request, including the one (1) percent for works of art, the appropriation for such construction project shall be made and the same shall include an appropriation of funds for works of art, at the rate of one (1) percent of project cost to be deposited into the appropriate account of the Municipal Arts Fund. Money collected in the Municipal Arts Fund shall be expended by the Arts Commission for projects as prescribed by the municipal arts plan, and any unexpended funds shall be carried over automatically for a period of three (3) years, and upon request of the Arts Commission, carried over for an additional two (2) years. Any funds carried over for three (3) years, or upon special request for five (5) years, and still unexpended at the expiration of such

period shall be transferred to the General Fund for general art purposes only; provided, that funds derived from revenue or general obligation bond issues or from utility revenues or other special purpose or dedicated funds shall revert to the funds from which appropriated at the expiration of said three (3) or five (5) year period.

(Ord. 105389 § 2, 1976: Ord. 102210 § 3, 1973.)

20.32.040 Commission authority.

To carry out its responsibilities under this chapter, the Commission shall:

A. Prepare, adopt and amend with the Mayor's approval a plan and guidelines to carry out the City's art program, which shall include, but not be limited to a method or methods for the selection of artists or works of art and for placement of works of art;

B. Authorize purchase of works of art or commission the design, execution and/or placement of works of art and provide payment therefor from the Municipal Arts Fund. The Commission shall advise the department responsible for a particular construction project of the Commission's decision regarding the design, execution and/or placement of a work of art, funds for which were provided by the appropriation for such construction project;

C. Require that any proposed work of art requiring extraordinary operation or maintenance expenses shall receive prior approval of the department head responsible for such operation or maintenance;

D. Promulgate rules and regulations consistent with this chapter to facilitate the implementation of its responsibilities under this chapter.

(Ord. 105389 § 3, 1976: Ord. 102210 § 4, 1973.)

20.32.050 Municipal Arts Fund.

There is established in the City Treasury a special fund designated "Municipal Arts Fund"

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FILLING OF PRIVATE PROPERTY 20.20.060

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into which shall be deposited funds appropriated as contemplated by Section 20.32.030, together with such other funds as the City Council shall appropriate for works of art, and from which expenditures may be made for the acquisition and exhibition of works of art consistent with the plan specified in Section 20.32.040 A, and for Seattle Arts Commission staff costs and administrative costs (as defined in SMC Section 20.32.020 E) that are associated with developing and implementing the Municipal Arts Plan, but not the cost of maintaining City-owned art work, which maintenance cost may be paid from the Cumulative Reserve Fund or such other source(s) as may be specified by ordinance. Separate accounts shall be established within the Municipal Arts Fund to segregate receipts by source or, when so directed by the City Council, for specific works of art. Disbursements from such fund shall be made in connection with projects approved by the Commission on vouchers approved by the Executive Director of the Arts Commission. (Ord. 117403 § 2, 1994; Ord. 116368 § 242, 1992; Ord. 105389 § 4, 1976; Ord. 102210 § 5, 1973.)

**Chapter 20.36
GIFTS OF ART—ACCEPTANCE
BY MAYOR**

Sections:

20.36.010 Acceptance by Mayor.

20.36.010 Acceptance by Mayor.

In accordance with the following procedures, the Mayor is authorized for and on behalf of the City to accept gifts of works of art for display in or on property owned or occupied by the City:

A. Before accepting a gift of work of art pursuant to the authority of this chapter, the Mayor shall consult with the head of the City department or departments responsible for the premises where such work of art will be displayed and shall also obtain from the Seattle Arts Commission, or a duly designated committee thereof, its recommendation as to whether such gift of work of art should be accepted.

B. No gift shall be accepted pursuant to the authority of this chapter which will require substantial expenditures for protection from theft or damage, maintenance or operation.

C. Any gift accepted pursuant to the provisions of this chapter must be offered to the City unconditionally, except that the donor may impose any or all of the following conditions:

1. Specify the location where the work of art shall be displayed and/or specify reasonable conditions for the display of such work of art;

2. Specify reasonable conditions as to the care and protection of the work of art, provided such conditions do not require the expenditure of substantial funds in order to comply therewith; and

3. Specify that a sign or placard be placed near the work of art identifying the donor and/or the person or persons or event which such work of art commemorates or in whose memory or memories such work was donated.

D. The Mayor shall manifest his acceptance of any such gift of work of art on behalf of the City by issuing a certificate of acceptance to the donor and by filing a copy of such certificate with the City Clerk. The provisions of this chapter shall not apply to the acceptance of gifts of works of art which are made to the Seattle Public Library and which are accepted by the Board of Library Trustees pursuant to RCW 27.12.210.

(Ord. 116368 § 243, 1992; Ord. 107578 § 1, 1978.)

Chapter 20.38 APPRENTICESHIP PROGRAM

Sections:

20.38.005Apprentice utilization.

20.38.010Definitions.

20.38.020Powers.

20.38.030Waivers or reductions of goals.

20.38.005Apprentice utilization.

On public works contracts with an estimated cost of One Million Dollars (\$1,000,000) or more, the Director of the Executive Services Department is authorized to require that up to fifteen (15) percent of the contract labor hours be performed by apprentices enrolled in training programs approved or recognized by the Washington State Apprenticeship and Training Council (SAC). Furthermore, it is the City's intent that, on public works projects with an apprentice utilization requirement, there shall be a goal that twenty-one (21) percent of the apprentice labor hours be

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performed by minorities and twenty (20) percent of the apprentice labor hours be performed by women.

(Ord. 118834 § 1(part), 1997.)

20.38.010Definitions.

When used in this chapter:

A. "Apprentice labor hours" means the total hours required to be worked by apprentices on the public works project.

B. "Director" means the Director of the Executive Services Department or his or her designee.

C. "Labor hours" means the total hours of workers receiving an hourly wage who are directly employed on the site of the public works project. "Labor hours" shall include hours performed by workers employed by the contractor and all subcontractors working on the project. "Labor hours" shall exclude hours worked by foremen, superintendents, owners and workers who are not subject to prevailing wage requirements.

(Ord. 118834 § 1(part), 1997.)

20.38.020Powers.

The Executive Services Department shall be responsible for the implementation and administration of this chapter and is authorized to develop and adopt rules consistent with the requirements of this chapter. The Executive Services Department shall establish contract specification language to implement the apprenticeship requirement, which may change from time to time. The Executive Services Department shall develop and implement a system for monitoring the actual use of apprentices on public works projects. The Executive Services Department shall hire one (1) additional FTE (Civil Rights Analyst) for the purpose of performing monitoring and enforcing the apprentice utilization requirements on public works projects.

(Ord. 118834 § 1(part), 1997.)

20.38.030Waivers or reductions of goals.

The Executive Services Department Director is authorized to waive or reduce the apprenticeship participation goals on contracts.

(Ord. 118834 § 1(part), 1997.)

Chapter 20.40¹ SMALL PUBLIC WORKS

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20.38.005 PUBLIC WORKS, IMPROVEMENTS AND PURCHASING

Sections:

**20.40.010 Small public works—
Department authority to execute contracts.**

1. Editor's Note: Ordinance 118833 § 1, which created Section 20.40.010 suggested numbering this section as Section 20.38.010. Chapter 20.38, however, was already in use, so this section was renumbered as Chapter 20.40, Section 20.40.010.

**20.40.010 Small public works— Department
authority to execute contracts.**

Notwithstanding the provisions of Chapter 3.24, the Executive Services Director may authorize other departments to administer and execute public works contracts that are less than or equal to Five Thousand Dollars (\$5,000). Such departments shall comply with all state laws and City ordinances governing public works contracts. (Ord. 118833 § 1, 1997.)

Subtitle III Contracting

**Chapter 20.44
CITY CONTRACTS—PREVENTION
OF DISCRIMINATION¹**

Sections:

Subchapter I Regulations

- 20.44.010 Definitions.**
- 20.44.020 Powers and duties of the Director.**
- 20.44.030 Franchises, consultant, public improvement and services contracts.**
- 20.44.040 Lease and concession contracts.**
- 20.44.050 Supplies, materials and equipment contracts.**
- 20.44.060 Substitute provisions.**
- 20.44.070 Sworn statement.**
- 20.44.080 Notice of contracts awarded.**
- 20.44.090 Assistance to contractors.**
- 20.44.100 Employment goals, ranges, or ratios.**
- 20.44.110 Procedures when compliance with special goals is unsatisfactory.**
- 20.44.120 Transition period for prequalification.**

Subchapter I Regulations

20.44.010 Definitions.

As used in this subchapter:

A. "Bona fide occupational qualification" means a job qualification which is essential to the

Statutory Reference: For state law against discrimination, see RCW Ch. 49.60.

1. Editor's Note: For further provisions regarding prevention of discrimination, see Title 14 of this Code.

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20.44.010 PUBLIC WORKS, IMPROVEMENTS AND PURCHASING

accomplishment of the purposes for which the person is hired.

B. "Commission" means the Human Rights Commission of the City.

C. "Consultant contracts" means contracts for expert and temporary personal services, but does not include contracts for services in connection with anticipated or pending litigation in which the City is involved.

D. "Contract" shall have its ordinary and usual meaning, but shall not include agreements made with other governmental agencies, associations of governmental agencies or officials, or with particular officers or employees of such agencies for services related to their official position or employment.

E. "Contracting authority" means the City officer or board authorized to enter into contracts on behalf of the City.

F. "Director" means the Executive Services Director (ESD) or his/her designee.

G. "Protected classes" means persons or groups of persons who may be discriminated against because of race, color, sex or the presence of any sensory, mental or physical handicap, and includes but is not limited to women, Blacks, Asians (Japanese, Chinese, Filipino, Korean, Samoan), Native Americans, Aleuts, and Hispanics (Spanish Americans, Mexican Americans, Chicanos, Puerto Ricans) and other ethnic minority persons.

H. "Services" shall have its ordinary and usual meaning, but shall not include subscription services or services related to anticipated or pending litigation in which the City is involved.

I. "Vendor" means a contractor who has a contract with the City for supplies, materials or equipment.

(Ord. 118397 § 105, 1996; Ord. 117407 § 8, 1994; Ord. 109808 § 1, 1981; Ord. 101432 § 1, 1972.)

20.44.020 Powers and duties of the Director.

The Director shall have the power and duty to:

A. Assist all City contracting authorities in preparing equal opportunity and antidiscrimination provisions for contract specifications, advise as to the compliance records of prospective contractors, and report findings as to discriminatory practices and employment guidelines recommended by the Human Rights Commission and established by pertinent ordinances, state or fed-

eral laws or regulations pertaining to equal opportunity affecting prospective contracts;

B. Recommend to City contracting authorities the content of contract specifications requiring affirmative action to assure equality of employment opportunity, including but not limited to minimum employment goals and ranges of ratios for members of a protected class;

C. Perform the duties prescribed in this subchapter, including adopting, rescinding, and amending suitable rules and regulations to implement this subchapter, reviewing sworn statements and proposed affirmative action programs, making investigations, assisting contractors, and evaluating contractor compliance and assisting contracting authorities to meet the requirements of this subchapter;

D. Perform such other duties as may be required by ordinance or which are necessary to implement the purposes of this subchapter. (Ord. 109808 § 2, 1981; Ord. 101432 § 2, 1972.)

20.44.030 Franchises, consultant, public improvement and services contracts.

All consultant contracts, franchises, and contracts for public improvements, or services, the

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CITY CONTRACTS—PREVENTION OF DISCRIMINATION 20.44.030

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estimated cost of which exceeds One Thousand Dollars (\$1,000.00), shall contain the following provisions:

“During the performance of this contract, the contractor agrees as follows:

“The contractor will not discriminate against any employee or applicant for employment because of race, religion, creed, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising, layoff or termination rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

“The contractor will, prior to commencement and during the term of this contract, furnish to the Executive Services Director (as used herein Director means the Executive Services Director or his/her designee) upon his/her request and on such form as may be provided by the Director therefor, a report of the affirmative action taken by the contractor in implementing the terms of these provisions, and will permit access to his/her records of employment, employment advertisements, application forms, other pertinent data and records requested by the Director for the purposes of investigation to determine compliance with this provision.

“If upon investigation the Director finds probable cause to believe that the contractor has failed to comply with any of the terms of these provisions, the contractor and the contracting authority shall be so notified in writing. The contracting authority shall give the contractor an opportunity to be heard, after ten (10) days' notice. If the contracting authority concurs in the findings of the Director, it may suspend the contract and/or withhold any funds due or to become due to the contractor, pending compliance by the contractor with the terms of these provisions.

“Failure to comply with any of the terms of these provisions shall be a material breach of this contract.

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“The foregoing provisions will be inserted in all subcontracts for work covered by this contract.” (Ord. 118397 § 106, 1996; Ord. 117407 § 9, 1994; Ord. 109808 § 3, 1981; Ord. 101432 § 3.1, 1972.)

20.44.040 Lease and concession contracts.

A. All contracts of the City for leases and concessions shall contain the following provisions:

“The lessee (contractor) agrees to comply with all state and local laws prohibiting discrimination with regard to creed, religion, race, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap.”

B. All contracts of the City for leases and concessions of seven (7) consecutive days' duration or longer and involving employers with three (3) or more employees shall contain the following provisions:

“During the performance of this contract, the lessee (contractor) agrees as follows:

“The lessee (contractor) will not discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The lessee (contractor) will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The lessee (contractor) agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. The lessee (contractor) will take affirmative action to ensure that all of its employees, agents and subcontractors adhere to these provisions; provided, nothing herein shall prevent an employer from giving preference in employment to members of his/her immediate family.

“Lessee (contractor) will, upon the request of the Director (as used herein Director means the Executive Services Director, or his/her designee) furnish to the Director on such form as may be provided therefor, a report of the affirmative action taken by the lessee (contractor) in implementing the terms of this provision, and will permit access to his records of employment, employment advertisements, application forms, other pertinent data and records requested by the Director for the purpose of investigation to determine compliance with these provisions.

“If, upon investigation, the Director determines that there is probable cause to believe that the lessee (contractor) has failed to comply with any of the terms of these provisions, the lessee (contractor) shall be so notified in writing. The contracting authority shall give the lessee (contractor) an opportunity to be heard, after ten (10) days' notice. If the contracting authority concurs in the findings of the Director, it may suspend or terminate this lease (contract) and evict lessee (terminate the contract) in accordance with law.

“Failure to comply with any of the terms of these provisions shall be material breach of this lease (contract).

“The foregoing provisions will be inserted in all subleases (subcontracts) entered into under this lease (contract).”

(Ord. 118397 § 107, 1996; Ord. 117407 § 10, 1994; Ord. 109808 § 4, 1981; Ord. 101432 § 3.2, 1972.)

20.44.050 Supplies, materials and equipment contracts.

A. All contracts of the City for the purchase of supplies, materials, or equipment shall contain the following provisions:

“During the performance of this contract, the vendor agrees as follows:

“The vendor will not discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or

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physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.”

B. Before any City contracting authority accepts any bid or enters into any contract for the purchase of supplies, materials, or equipment the vendor shall be prequalified to do business with the City as provided for in this section, provided that the contracting authority may waive the requirement of prequalification whenever it finds and certifies after investigation that:

1. Needed supplies, materials or equipment are available only from a single source and that the vendor has failed to comply with the requirements for prequalification; or

2. An emergency exists which requires the immediate purchase of supplies, materials, or equipment and for which the contracting authority is authorized to secure the supplies, materials, or equipment in the open market, without advertisement, at the lowest obtainable price, and that the vendor of the supplies, materials, or equipment is not currently disqualified from doing business with the City by reason of its removal from prequalified status or its failure to satisfy the prequalification requirements pursuant to its application for prequalification.

C. City contracting authorities purchasing supplies, materials, or equipment shall cause notice of this prequalifying requirement to be included in all invitations to bid and to be conspicuously displayed in all offices purchasing supplies, materials, or equipment for the City.

D. A vendor shall be deemed to be prequalified when the contracting authority, with the advice and recommendations of the Director, finds that:

1. The vendor is complying with federal, state, and local laws regarding discrimination;

2. The vendor has satisfactorily completed and filed with the Director on such form as the Director provides therefor, the following information:

a. An employment profile which may include the number of employees, their protected class status, and the type of work each performs by general categories, and such other information as requested by the Director, and

b. A sworn statement as set out in Section 20.44.070 which shall become terms and

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conditions of any and all contracts of the vendor with the City for the purchase of supplies, materials, or equipment.

E. A contracting authority may assume that a vendor has satisfied the requirements for prequalifying if the Director does not notify the contracting authority to the contrary within three (3) working days of the submission to the Director by the vendor of all information and sworn statements required to prequalify.

F. Whenever the contracting authority, with the advice of the Director, finds that a contractor's sworn statement is in need of review or updating, he/she shall so notify the vendor who shall take steps as necessary to review or update his/her sworn statement to meet the contracting authority's requirements, provided that if changes in the sworn statement would have a substantial financial impact on the contractor with regard to contracts already entered into the changes shall not apply to such contracts.

G. If upon investigation the Director determines that there is probable cause to believe that the vendor has failed to comply with any of the terms of this section or with the obligations of the sworn statement, written findings as to each such probable breach shall be given by the Director to the vendor and the contracting authority. The contracting authority shall give the vendor an opportunity to be heard, after ten (10) days' notice. If the contracting authority concurs in the findings of the Director, it may cancel or suspend the vendor's prequalification.

(Ord. 109808 § 5, 1981; Ord. 101432 § 3.3, 1972.)

20.44.060 Substitute provisions.

A City contracting authority may substitute in lieu of the contract provisions set forth in Sections 20.44.030, 20.44.040, and 20.44.050 such antidiscrimination or equal opportunity provisions required or requested by the Executive Services Department, the United States of America or The State of Washington.

(Ord. 118397 § 108, 1996; Ord. 117407 § 11, 1994; Ord. 101432 § 3.4, 1972.)

20.44.070 Sworn statement.

All City contracts covered by this subchapter except those for the purchase of supplies, materials, or equipment, shall include a sworn statement specifically setting forth what affirmative action the contractor will take to insure equality of

opportunity in employment during the term of the contract.

(Ord. 101432 § 4, 1972.)

20.44.080 Notice of contracts awarded.

As to each City contract of One Thousand Dollars (\$1,000.00) or more, the contracting authority shall furnish to the Director the name of the contractor to whom such contract has been awarded and the dollar amount for which it was awarded. City contracts of less than One Thousand Dollars (\$1,000.00) shall be made available upon request of the Director.

(Ord. 101432 § 5, 1972.)

20.44.090 Assistance to contractors.

The Director may offer the services and facilities of the Executive Services Department to assist contractors desiring to bid on, or having been awarded a City contract, to comply with the equal opportunity provisions for such contract, and may offer information as to organizations and agencies available to assist such contractor in recruiting, tutoring, training, and/or otherwise preparing potential employees.

(Ord. 118397 § 109, 1996; Ord. 117407 § 12, 1994; Ord. 101432 § 6, 1972.)

20.44.100 Employment goals, ranges, or ratios.

A. Whenever the Director has certified to any City contracting authority that:

1. Members of protected classes are being denied equal employment opportunity within the City in certain occupations, trades, professions or supervisory types of work included in City contracts due to existing discrimination or the effects of prior discrimination; and

2. Persons who are members of such protected classes are ready, willing and capable of accepting such employment or performing such tasks if the opportunity be available; and

3. Employment goals, ranges, or ratios for employment of such persons who are members of protected classes in such occupations, trades, professions or supervisory types of work or tasks are necessary to assure such persons equality of employment opportunity and to overcome discrimination or the effects of past discrimination and social or institutional inertia; and

4. The goals, ranges or ratios certified reasonably reflect the employment goals, ranges or ratios that would exist under conditions of

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equal employment opportunity and assure fair, equal and nondiscriminatory treatment of all persons without respect to creed, race, color, sex, or national origin; then specifications for contracts let by any contracting authority and involving the line of work or tasks so certified shall include a provision establishing employment goals, ranges or ratios for persons of such protected classes as certified by the Director and adjusted by the contracting authority, if necessary, to reflect a standard of performance that can be carried out by a contractor proceeding in good faith and making every reasonable effort to comply in all phases of employment, including solicitation, training and apprenticeship, promotion, and treatment of employees. Such provisions shall include provisions relating to enforcement and sanctions for non-compliance.

B. Employment goals may be implemented by or stated as a minimum number, ratio, range or a particular assignment, and may include participation in multi-employer programs for training and/or employment or coordination with state and federal equal opportunity training programs, and shall be designed and used to assure that applicants for employment and employees receive equal employment opportunities and fair, equal and nondiscriminatory treatment.

C. On projects or activities financed with assistance from the United States or The State of Washington, the contracting authority may substitute for such provisions such antidiscrimination or equal employment opportunity provision required or requested by the Executive Services Department, the United States, or the state.

D. City contracting authorities shall, upon making adjustments or when requested by the Director, submit copies of the contracts covered by this section to the Director for recommendations and further suggestions with regard to employment goals for protected classes which should be part of the specifications. Contracts so submitted to the Director may be assumed adequate if not returned within five (5) days with recommendations for improvement. Contracting authorities shall, as to any contract submitted to the Director under this section, notify the Director for the final form of such contract before the date of its award.

E. Certifications by the Director under this section shall be in effect until revoked or revised

by the Director and the contracting authority is notified of such revocation or revision.

F. Employment goals established by this section are not intended and shall not be taken to diminish the contractor's responsibility and obligation under other sections of this subchapter. A contractor whom the Executive Services Director has certified to be acting in good faith and making every reasonable effort to comply with the employment goals established shall be deemed in compliance, even though the employment goals are not met.

(Ord. 118397 § 110, 1996; Ord. 117407 § 13, 1994; Ord. 109808 § 6, 1981; Ord. 101432 § 7, 1972.)

20.44.110 Procedures when compliance with special goals is unsatisfactory.

A. Prior to the completion of any contract which contains provisions establishing employment goals, ranges or ratios, the Director may report to the contracting authority regarding the performance by such contractor. If the Director fails to submit such report, the City contracting authority may assume adequate compliance.

B. Coincident with or before a report from the Director asserting unsatisfactory contractor performance is sent to a contracting authority, the Director shall notify the contractor of such report in writing and of the contractor's right to be heard as set forth in this subchapter.

C. The contracting authority shall give the contractor an opportunity to be heard, after ten (10) days' notice. If the contracting authority concurs with the report of the Director and is satisfied from the evidence that the contractor has failed to comply with the provisions of this subchapter or the promises and/or representations made in a sworn statement pursuant to Section 20.44.070, or with the employment goals established in the contract in accordance with Section 20.44.100, the contracting authority shall so find, and shall not enter into any other contract with such contractor until it is reasonably assured of future satisfactory compliance.

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D. Action under this section shall be in addition to other remedies that may be available to the City under the contract.
(Ord. 101432 § 8, 1972.)

20.44.120 Transition period for prequalification.

For a period of three (3) months following the effective date of the ordinance codified in this subchapter,¹ a contracting authority purchasing supplies, materials, or equipment may find a contractor to be prequalified for purposes of Section 20.44.050 when the contractor has filed the required information and sworn statement with the Director and such contractor shall continue to be prequalified unless the contracting authority, with the advice and recommendations of the Director, finds the contractor not qualified.
(Ord. 101432 § 9, 1972.)

1. Editor's Note: Ord. 101432 became effective on November 9, 1972.

**Chapter 20.46
WOMEN'S AND MINORITY BUSINESS
UTILIZATION**

Sections:

- 20.46.001 Application of chapter.**
- 20.46.010 Short title.**
- 20.46.020 Findings.**
- 20.46.030 Declaration of policy.**
- 20.46.040 Scope.**
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- 20.46.130 Monitoring, reporting and compliance.**

20.46.140 Review of program.

Severability: The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.
(Ord. 109113 § 15, 1980.)

20.46.001 Application of chapter.

The provisions of this chapter shall apply to all contracts for which bids or proposals are due prior to May 1, 1994.
(Ord. 117080 § 1, 1994.)

20.46.010 Short title.

This chapter shall be entitled the "Women's and Minority Business Utilization Ordinance" and may be cited as "the WMBE Ordinance."
(Ord. 109113 § 1, 1980.)

20.46.020 Findings.

Upon full consideration of all relevant facts, the City Council finds that:

A. Past societal discrimination, the City's overall contracting process, difficulties in the financing and bonding market, and problems obtaining credit and insurance, have had the effect of underutilization of women's business enterprises and minority business enterprises in contracts awarded by the City, and have contributed to the underdevelopment of such businesses;

B. As a result of this past discrimination against women's business enterprises and minority business enterprises, women and minorities have been deprived of numerous employment opportunities;

C. It is in the best interests of the City to promote the equitable utilization of women's business enterprises and minority business enterprises in City contracting;

D. The requirements of this chapter are necessary to overcome the present effects of discrimination, and are designed to achieve the goal of equitable utilization of women's business enterprises and minority business enterprises, while at the same time maintaining a high quality of goods and services provided to the City through competitive bidding as required by state law and the City Charter;¹

E. As described in the materials contained in Comptroller File 296945 and as described in the

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January, 1990 report prepared by the Perkins Coie consultant team, nonminority developers, contractors and consultants have systematically excluded minority business enterprises and women's business enterprises from contracting and subcontracting opportunities in the private sector in Seattle and in the surrounding cities and communities;

F. Race-neutral and sex-neutral measures employed by the City in the past did not prevent the City from being a passive participant in the systematic discrimination against minority business enterprises and against women's business enterprises;

G. Unless the City takes affirmative steps to prevent the pervasive discrimination against minority business enterprises and against women's business enterprises in the private sector from affecting its contracting processes, the City will become a passive participant in the system of racial and sex-based exclusion practiced in the private sector; and

H. The City's women's and minority business enterprise program must be continued to prevent the City from once again becoming a passive participant in the systematic exclusion of women's and minority business enterprises from contracting and subcontracting opportunities.

(Ord. 115239 § 1, 1990; Ord. 114339 § 1, 1989; Ord. 109113 § 2, 1980.)

1. Editor's Note: The Charter is included at the beginning of this Code.

20.46.030 Declaration of policy.

It is the policy of the City to ensure the full and equitable participation by women's business enterprises in the provision of goods and services to the City on a contractual basis. The ultimate goal of this chapter is to increase the use of women's business enterprises above the present low level to a level more comparable to the representation of women in the population and to increase the use of minority business enterprises to a level comparable to the availability of minority business enterprises which are capable of providing goods and services to the City.

(Ord. 114339 § 2, 1989; Ord. 109113 § 3, 1980.)

20.46.040 Scope.

The provisions of this chapter shall apply to all contracts awarded by the City and services utilized by the City except as may be specifically

exempted in this chapter, and shall be liberally construed for accomplishment of its policies and purposes.

(Ord. 109113 § 4, 1980.)

20.46.050 Definitions.

A. "Bidder" means any business which submits a bid or proposal to provide goods or services to the City.

B. "Combination women's and minority business enterprise" means a business which has been certified by the Washington State Office of Minority and Women's Business Enterprises as a bona fide combination women's and minority business enterprise.

C. "Contract awarding authority" means the City officer, department, commission, employee, or board authorized to enter into or to administer contracts on behalf of the City.

D. "Director" means the Executive Services Director (ESD).

E. "Minority business enterprise" means a business which has been certified by the Washington State Office of Minority and Women's Business Enterprises as a bona fide minority business enterprise.

F. "Office" means the Washington State Office of Minority and Women's Business Enterprises.

G. "Person" includes one (1) or more individuals, partnerships, associations, organizations, trade or professional associations, corporations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, or any group of persons, including any official, agent or employee of the City.

H. "Public agency" means any agency, political subdivision, or unit of local government of this state, including, but not limited to, special purpose and local service districts, any agency of the state government and any agency of the United States.

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I. "Subcontractor" means any business providing goods or services to a contractor for profit, if such goods or services are procured or used in fulfillment of the contractor's obligations arising from a contract with the City, but shall not include businesses providing goods to a contractor whose contract with the city is for the provision of materials, equipment or supplies.

J. "Women's business enterprise" means a business which has been certified by the Washington State Office of Minority and Women's Business Enterprises as a bona fide women's business enterprise.

(Ord. 118397 § 111, 1996; Ord. 117407 § 14, 1994; Ord. 114082 § 1, 1988; Ord. 112370 § 1, 1985; Ord. 109869 § 1, 1981; Ord. 109113 § 5, 1980.)

20.46.060 Powers and duties of Director.

A. In addition to duties and powers given to the Director elsewhere, the Director shall:

1. Provide information and other assistance to women's business enterprises and minority business enterprises to increase their ability to effectively compete for the award of City contracts;

2. Assist City and community agencies to increase women's business enterprise and minority business enterprise participation on City contracts;

3. Adopt rules and regulations, consistent with Chapter 328, Washington Laws of 1987, this chapter and the Administrative Code of The City of Seattle (Ordinance 102228, as amended),¹ establishing standards and procedures for effectively carrying out this chapter;

4. Accept certifications as bona fide women's, minority, combination women's and minority or disadvantaged business enterprises made by the Washington State Office of Minority and Women's Business Enterprises and those deemed certified by that Office pursuant to Washington Laws of 1987, Chapter 328; and provide access to a listing of such bona fide businesses for use by contract awarding authorities and contractors;

5. Recommend to the Mayor appropriate goals for minority and women's business enterprise utilization;

6. Recommend to the Mayor appropriate goals for "disadvantaged businesses" utilization in federally funded, City-administered projects

where utilization of such businesses is required by state or federal law;

7. Adopt rules and regulations consistent with the Administrative Code of The City of Seattle (SMC Chapter 3.02, Ordinance 102228, as amended)¹ establishing practices and procedures for effectively implementing 49 CFR Part 23, subpart D;

8. Recommend to contract awarding authorities such sanctions as may be appropriate pursuant to SMC Section 20.46.080 A4; and

9. Determine the level of utilization of minority business enterprises to be required on City contracts as described in SMC Section 20.46.090 B1.

B. The requirements of this chapter are in addition to those imposed by the United States or the state as a condition of financial assistance or otherwise; therefore, the Director may authorize the substitution of such state or federal women's business enterprise and minority business enterprise requirements for the requirements of this chapter whenever such state or federal requirements are substantially the same as those of this chapter.

C. The Director may enter into cooperative agreements with other public agencies concerned with increasing the utilization of women's or minority business enterprise in government contracting, subject to the approval of the legislative authority of the City.

(Ord. 118392 § 42(part), 1996; Ord. 117407 § 15, 1994; Ord. 114339 § 3, 1989; Ord. 114082 § 2, 1988; Ord. 112370 §§ 2, 3, 1985; Ord. 111537 § 1, 1984; Ord. 109113 § 6, 1980.)

¹Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

20.46.070 Utilization goals.

A. The Mayor, with the advice of the Director, the Director of the Office for Civil Rights, and contract awarding authorities, shall establish separate City-wide annual goals for the utilization of women's business enterprises and for the utilization of minority business enterprises. These goals shall be expressed in terms of a percentage of the total dollar value of all contracts to be awarded by the City, and may be established separately for categories of contracting such as public works, consultant, concession and purchasing contracts.

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B. The City-wide annual goal for the utilization of women's business enterprises shall be reasonably achievable and shall be based upon factors such as:

1. The level of participation of women's business enterprises on past contracts awarded by the City which have contained women's business enterprise requirements;

2. The level of participation of women's business enterprises on contracts awarded by other governmental agencies in the Seattle area which have utilized women's business enterprise requirements;

3. The availability of women's business enterprises which are capable of providing goods and services to the City; and

4. The degree to which such annual goals will contribute to the achievement of the ultimate goal as set forth in Section 20.46.030. The City-wide annual goal shall be not less than three percent (3%) for women's business enterprises.

C. The City-wide annual goal for the utilization of minority business enterprises shall be reasonably achievable and shall be based on the availability of minority business enterprises which are capable of providing goods and services to the City.

D. The Mayor, with the advice of the Director, the Director of the Office for Civil Rights, and each contract awarding authority, shall establish separate annual goals for utilization of women's business enterprises and minority business enterprises by that awarding authority; these goals shall be expressed as a percentage of the total dollar value of all contracts to be awarded by the contract awarding authority, and may be established separately by contract category; they shall equal or exceed the City-wide annual goals. (Ord. 118392 § 40, 1996; Ord. 114339 § 4, 1989; Ord. 114082 § 3, 1988; Ord. 109113 § 7, 1980.)

20.46.080 Utilization

requirements—Generally.

A. Contract awarding authorities shall:

1. Make every effort to solicit bids and proposals from women's business enterprises and minority business enterprises;

2. To the maximum extent feasible and consistent with state law, arrange contracting by size and type of work to be performed to most effectively enhance the opportunity for participa-

tion by women's business enterprises and minority business enterprises;

3. When advisable, waive bid bonding requirements for and/or make advance payments to women's business enterprises and minority business enterprises whenever such waivers or advances are permitted by the Constitution and the laws of the state and are appropriate and necessary to achieve the declared policy of this chapter; and

4. Impose such sanctions or take such other actions as are designed to ensure compliance with the provisions of this chapter, which shall include, but are not limited to:

a. Refusal to award a contract,

b. Suspension of a contract,

c. Withholding of funds,

d. Rescission of a contract based upon a material breach of contract provisions pertaining to women's business enterprise and minority business enterprise utilization,

e. Disqualification of a bidder, contractor, subcontractor, or other business from eligibility for providing goods or services to the City for a period not to exceed two (2) years; no contract shall be awarded to any person or business which is disqualified from doing business with the City under the provisions of this chapter or Ordinance 101432,¹ nor shall any contract be awarded to any person or business which is disqualified from doing business with any governmental agency based on failure to comply with women's or minority business or contract compliance requirements which are substantially the same as those of this chapter or Ordinance 101432.¹

B. In addition to such other requirements as may be set forth elsewhere, the following shall apply to all contracts awarded by the City:

1. Bid conditions, requests for proposals and all other specifications for contracts awarded by the City shall require that where subcontracting is utilized in performing the contract, the bidder or proposer, prior to the submission of bids or proposals, must make every effort to subcontract to or purchase from women's business enterprises and minority business enterprises. Such specifications shall require the bidder to keep records of such efforts adequate to permit a determination of compliance with the specifications;

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2. Contracts shall incorporate by reference this chapter and shall provide that the failure of any bidder, contractor or subcontractor to comply with any of its requirements shall be a material breach of contract;

3. Work subcontracted by a women's business enterprise, minority business enterprise or combination women's and minority business enterprise to a business not certified as a women's business enterprise, minority business enterprise or combination women's and minority business enterprise shall not be counted towards women's business enterprise or minority business enterprise utilization requirements;

4. Contracts shall require that during the term of the contract, the contractor shall:

a. Fulfill the women's business enterprise and minority business enterprise participation commitments submitted with their bid or proposal;

b. Continue to make every effort to utilize women's business enterprises and minority business enterprises;

c. Require that their subcontractors make every effort to utilize women's business enterprises and minority business enterprises; and

d. Maintain records reasonably necessary for monitoring their compliance with the provisions of this chapter.

5. As required by RCW 35.22.650, and in addition to the requirements of this chapter, the following clause shall be contained in all public works contracts exceeding the sum of Ten Thousand Dollars (\$10,000.00), or Fifteen Thousand Dollars (\$15,000.00) for construction of water mains:

Contractor agrees that he shall actively solicit the employment of minority group members. Contractor further agrees that he shall actively solicit bids for the subcontracting of goods or services from qualified minority businesses. Contractor shall furnish evidence of his compliance with these requirements of minority employment and solicitation. Contractor further agrees to consider the grant of subcontracts to said minority bidders on the basis of substantially equal proposals in the light most favorable to said minority businesses. The contractor shall be required to submit evidence of compliance with this section as part of the bid. As used in this clause, the term "minority

business" means a business at least fifty-one percent (51%) of which is owned by minority group members. Minority group members include, but are not limited to, Blacks, women, Native Americans, Asians, Eskimos, Aleuts, and Hispanics.

6. Whenever contract supplements, amendments or change orders are made which increase the total dollar value of the contract by ten percent (10%) or more of the dollar value of the original contract, the contractor shall comply with those provisions of this chapter which applied to the original contract with respect to the supplement, amendment or change order; provided that the subcontracting requirements of Section 20.46.090 may be waived by the Director for a supplement, amendment or change order pursuant to Section 20.46.090 B2.

7. All contracts or other agreements between the City and other governmental or quasi-governmental agencies, or public corporations, whereby such agencies receive money from or through the City for the purpose of contracting with businesses to perform public improvements shall require such agencies to comply with the provisions of this chapter in awarding and administering such contracts.

C. For the purpose of determining women's and minority business enterprise participation:

1. Contracts or subcontracts awarded to joint ventures in which one (1) or more women's business enterprises or minority business enterprises are combined with one (1) or more businesses which are not women's or minority business enterprises shall be deemed to be awarded to women's or minority business enterprises only to the extent of the women's or minority business' participation in the joint venture;

2. Contracts or subcontracts awarded to combination women's and minority business enterprises shall be deemed to be awarded fifty percent (50%) to a women's business enterprise and fifty percent (50%) to a minority business enterprise; provided that for those combination businesses that are other than a 50-50 percentage, the contract shall be deemed to be awarded to the women's business enterprise and the minority business enterprise based upon the extent of women's ownership and the extent of minority ownership.

D. To the extent permissible under applicable law, and where a contract awarding authority does

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not appear able to achieve its utilization goals by another available alternative, then a contract awarding authority may limit competition for certain negotiated contracts to women's business enterprises or minority business enterprises, or both.

(Ord. 114082 § 4, 1988; Ord. 109113 § 8, 1980.)

Cases: Administrative procedures and the imposition of sanctions were upheld in *Gary Merlino Construction Co. v. Seattle*, 108 Wn.2d 597, 741 P.2d 34 (1987).

1. Editor's Note: Ord. 101432 is codified in Chapter 20.44 of this Code.

20.46.090 Utilization requirements—Public works, consultant and other service contracts.

A. For all contracts for public works and contracts for consultant or other services, the estimated cost of which equals or exceeds Five Thousand Dollars (\$5,000.00), the contract awarding authority shall furnish the Director with an informational copy of all bid conditions and requests for proposals, if any, along with a statement identifying all funds provided by any other governmental agency which will be used in payment of the contract, prior to solicitation of bids or proposals, and the Director may make recommendations to the contract awarding authority with respect to provisions pertaining to women's business enterprise and minority business enterprise utilization.

B. Contracts for public works, the estimated cost of which equals or exceeds Ten Thousand Dollars (\$10,000.00), and contracts for consultant or other services, the estimated cost of which equals or exceeds Fifteen Thousand Dollars (\$15,000.00), shall be awarded and administered in accordance with the following standards and procedures:

1. In addition to the requirements set forth in subsection B of Section 20.46.080 and elsewhere, bid conditions and requests for proposals shall require bidders and proposers to include in their bid or proposal women's business enterprise participation and minority business enterprise participation in the contract in a percentage to be determined by the Director for the contract. The Director shall determine the women's business enterprise and minority business enterprise percentage for each contract based on the extent of subcontracting opportunities presented by the contract and the availability of

women's and minority business enterprises to perform such subcontracting work. Except as provided in subsection B2 of this section, bids or proposals not including both minority business enterprise and women's business enterprise participation in an amount which equals or exceeds that required by the bid conditions or request for proposals shall be declared nonresponsive.

a. Bids and proposals shall identify the particular minority business enterprises and women's business enterprises to be utilized in performing the contract, specifying for each the dollar value of the participation, the type of work to be performed and such information as may reasonably be required to determine the responsiveness of the bid or proposal.

b. During the term of the contract any failure to comply with the levels of minority business enterprise or women's business enterprise participation identified in the bid or proposal shall be considered a material breach of contract.

2. A contract awarding authority or a department may request the Director to waive the set aside requirements of this subsection, or to reduce the amount of the set aside, for either or both minority business enterprises or women's business enterprises, by submitting the reasons therefor in writing to the Director prior to solicitation of bids or proposals or prior to the award of a contract supplement or amendment, or the issuance of a change order.

a. The Director may grant such a waiver or reduction upon determination that:

i. The reasonable and necessary requirements of the contract, contract supplement, amendment or change order render subcontracting or other participation of businesses other than the bidder, proposer or contractor infeasible; or

ii. Sufficient qualified minority and women's business enterprises capable of providing the goods or services required by the contract, are unavailable in the market area of the project, despite every feasible attempt to locate appropriate minority and women's business enterprises; or

iii. The contract, contract supplement, amendment or change order for which a waiver or reduction is sought is part of a planned series of related contracts, contract supplements, amendments or change orders which, when considered together, shall include women's and

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minority business utilization sufficient to meet the applicable utilization goals;

iv. The subcontractors or subconsultants likely to submit sub-bids or subproposals to the prime contractor or prime consultant are primarily located in other than the King County-Pierce County, Washington area.

b. Only the requirements of subsection B1 of this section are waived by a waiver under this paragraph.

c. Any reductions in set aside amount granted by the Director shall specify the amount to which the set aside has been reduced.

d. Whenever the Director denies a request to waive or reduce a set aside, the contract awarding authority may appeal that denial to the Mayor, whose decision on the request shall be final.

C. All bid conditions and requests for proposals for consultant and other service contracts the value of which does not exceed Fifteen Thousand Dollars (\$15,000.00), shall require bidders and proposers to make every effort to utilize women's business enterprises and minority business enterprises as subcontractors and suppliers. All bids and proposals shall identify projected women's business enterprise and minority business enterprise participation, and the efforts made to utilize women's business enterprises and minority business enterprises.

D. For all consultant and other service contracts the value of which equals or exceeds One Thousand Dollars, (\$1,000.00), the contract awarding authority shall solicit proposals from qualified minority and women's business enterprises. The contract awarding authority shall notify the Director prior to solicitation of bids or proposals whenever such qualified businesses cannot be identified, unless the Director has waived such notification requirement based on the known unavailability of such businesses. The Director shall attempt to identify such businesses, and if successful, shall notify the awarding authority, who shall provide such women's business enterprise or minority business enterprise every practical opportunity to submit bids or proposals.

E. All consultant selection panels and the Seattle Design Commission shall give appropriate consideration to the utilization goals of the contract awarding authority in evaluating, recommending and selecting contractors. The Director may assist such panels and the Design Commis-

sion in evaluating the impact of their recommendation or selection on achievement of the contract awarding authority's utilization goals.

(Ord. 115239 § 2, 1990; Ord. 114339 § 5, 1989; Ord. 114082 § 5, 1988; Ord. 109113 § 9, 1980.)

20.46.095 Utilization requirements—Certified rosters.

A. ESD Review. A department's solicitation and selection process for establishing a certified roster of consultants pursuant to SMC Sections 3.114.150 and 3.114.160 and a standard form of contract authorized by SMC Section 3.114.160 C shall be subject to review of the Director for compliance with this chapter. Departments using such rosters shall make quarterly reports to the Director on the use of women's and minority business enterprises.

B. Requirements. When a department establishes a certified roster under SMC Sections 3.114.150 and 3.114.160, compliance with the departmental goals for women's and minority business enterprises shall be determined by the gross value of all contracts and subcontracts awarded to such enterprises through all its rosters. The mandatory subcontracting requirements contemplated by Section 20.46.090 B1 for women's business enterprises and minority business enterprises shall not apply to contracts awarded through such rosters. However, should subcontracting become necessary, the consultant shall make every effort to subcontract to women's business enterprises and minority business enterprises in accordance with the Rules of the Executive Services Department.

C. Makeup of Roster. Each roster shall include a minimum of one (1) women's business enterprise and one (1) minority business enterprise, should qualified women's and/or minority business enterprises be available.

D. Distribution of Contracts. Contracts for projects shall be awarded among the consultants on the roster in accordance with their ability to complete assigned projects in a timely manner and in a manner that distributes contracts among the consultants on the roster. A department may select a women's or minority business enterprise for a particular assignment or project in order to increase the participation of such enterprises on departmental contracting.

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E. Director's Authority. If the Director determines that a department using certified rosters is not making satisfactory progress in meeting its goals for women's and/or minority business enterprises under the roster system, the Director may require the department to deviate from its selection system within a roster in order to increase the utilization of women's and/or minority business enterprises on the rosters for particular assignments or projects.

F. Form of Contracts. Subject to the approval by the Director, a standard form of contract and contracts for particular assignments or projects used in implementing a certified roster may set out the performance required by a consultant to comply with this chapter rather than incorporate this chapter in its entirety as contemplated by Section 20.46.080 B2.

G. Relation to Chapter. This section supersedes Section 20.46.080 B and Section 20.46.090 to the extent inconsistent with respect to establishment of certified consultant rosters and awarding contracts through them; when consistent with this section, Section 20.46.080 B and Section 20.46.090 apply to such rosters and contracts. (Ord. 118397 § 113, 1996; Ord. 117407 § 16, 1994; Ord. 112334 § 2, 1985.)

20.46.100 Utilization requirements—Purchasing contracts.

All contracts awarded by the Executive Services Department for the purchase of materials, equipment, supplies or services, the estimated cost of which equals or exceeds One Thousand Dollars (\$1,000.00), shall be awarded and administered in accordance with the following standards and procedures:

The Director shall solicit bids from women's business enterprises and minority business enterprises qualified to supply the required materials, equipment, supplies or services. The Director shall provide such women's business enterprises and minority business enterprises every practical opportunity to submit bids. (Ord. 118397 § 114, 1996; Ord. 117407 § 17, 1994; Ord. 109113 § 10, 1980.)

20.46.110 Utilization requirements—Lease, concession and other contracts.

All leases in which the City is the lessee and all contracts for concessions shall be awarded and

administered in accordance with the following standards and procedures:

A. City departments shall solicit proposals from women's business enterprises and minority business enterprises qualified to enter into leases or concession contracts. Whenever a department, after investigation, determines that no such qualified enterprises are available, the Director shall be so notified prior to signing of the lease or award of the concession contract, unless the Director waives such notification based on the known unavailability of such qualified businesses to perform a particular contract. The Director may attempt to identify such qualified businesses, and if successful, shall notify the contract awarding authority of their availability. The contract awarding authority shall provide such women's business enterprises and minority business enterprises every practical opportunity to submit bids or proposals.

B. All requests for concession proposals shall require concessionaires to make every good faith effort to utilize women's business enterprises and minority business enterprises as subcontractors if subcontractors are used. Concession proposers shall be required to submit their projected utilization of women's business enterprises and minority business enterprises along with a description of the efforts made to utilize such businesses.

C. All City departments, commissions, boards, officers and employees, in the deposit of City funds and performance of their other official duties, shall make every good-faith effort to equitably utilize the services of women's business enterprises and minority business enterprises. Such services shall include, but are not limited to, the financial services of banks, savings and loan companies and other commercial financial institutions, arrangement of travel and accommodations when traveling on official City business, and legal services, City departments, commissions and boards shall submit to the Director on an annual basis a written report on the efforts made pursuant to this subsection. The City Finance Director and Retirement Board shall report annually to the Mayor on their utilization of financial institutions which are women's business enterprises and minority business enterprises.

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(Ord. 116368 § 247, 1992; Ord. 114082 § 6, 1988; Ord. 109113 § 11, 1980.)

1. Editor's Note: Ord. 101432 is codified in Chapter 20.44 of this Code.

20.46.120 Exceptions and waivers.

A. A contract awarding authority may waive the utilization requirements of this chapter for a specific contract under the following circumstances:

1. Whenever the contract awarding authority finds with the advice of the Director that needed goods or services are available only from a sole source, and the prospective contractor is not currently disqualified from doing business with the City under the provisions of subsection B5 of Section 20.46.080, Ordinance 101432,¹ or from doing business with any governmental agency based on a failure to comply with women's or minority business enterprise or contract compliance requirements; or

2. If the contract awarding authority certifies in writing to the Director prior to contract award:

a. That an emergency exists which requires goods or services to be provided with such immediacy that they are unable to comply with the requirements of this chapter, and

b. That the prospective contractor is a women's business enterprise or minority business enterprise, or if not, that the prospective contractor will make every good-faith effort to subcontract to women's business enterprises and/or minority business enterprises should subcontracting be utilized; or

3. If the contract awarding authority certifies in writing to the Director that the contract is necessary to respond to an emergency which endangers the public health or safety; provided, that such certification shall be made within seven (7) days after the contract award.

B. The Mayor may waive the utilization requirements of this chapter whenever he or she finds that compliance with the requirements of this chapter would impose an unwarranted economic burden or risk on the City when compared to the degree to which the purpose and policy of this chapter would be furthered by requiring compliance.

C. The requirements of this chapter shall not apply to contracts with private, nonprofit organizations for the delivery of social services.

(Ord. 114082 § 7, 1988; Ord. 109113 § 12, 1980.)

20.46.130 Monitoring, reporting and compliance.

A. The Director shall monitor compliance with these requirements during the term of the contract. If the Director determines that there is cause to believe that a contractor or subcontractor has failed to comply with any of the requirements of this chapter, rules and regulations adopted pursuant to this chapter, or contract provisions pertaining to women's business enterprise or minority business enterprise utilization, the Director shall so notify the contract awarding authority and the contractor. The Director shall attempt to resolve the noncompliance through conciliation. If the noncompliance cannot be resolved, the Director shall submit to the contract awarding authority and the contractor a written finding of noncompliance. The contracting authority shall give the contractor an opportunity to be heard, and if the contract awarding authority concurs with the finding of the Director, it shall impose such sanctions or take such other action as will effectuate the purposes of this chapter.

B. 1. Whenever the Director finds after investigation that a contract awarding authority has failed to comply with the provisions of this chapter, a written finding specifying the nature of the noncompliance shall be transmitted to the contract awarding authority; and

2. The Director shall attempt to resolve any noncompliance through conference and conciliation. Should such attempt fail to resolve the noncompliance, the Director shall transmit a copy of the finding of noncompliance along with a finding that conciliation was attempted and failed to the Mayor who shall take appropriate action to secure compliance.

C. The Director may require such reports, information, and documentation from contractors, bidders, contract awarding authorities, and the head of any department, division, or office of the City as are reasonably necessary to determine compliance with the requirements.

D. In addition to the requirements set forth in subsection C of this section, awarding authorities shall maintain accurate records for each contract awarded, its dollar value, the nature of the goods or services to be provided, the name of the contractor awarded the contract, the efforts it employed to solicit bids from and award the contract

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to women's business enterprises and minority business enterprises, and all subcontracts awarded by the contractor, identifying for each its dollar value, the nature of the goods or services provided, and the name of the subcontractor.

E. The Director shall submit an annual report to the Mayor and the City Council on the progress of the City toward the utilization goals established by Section 20.46.070, together with an identification of problems and specific recommendations for improving the City's performance.

F. If the Director has reason to believe that any person has knowingly made, filed or caused to be filed with the City any materially false or misleading statement or report made in connection with this chapter, the Director shall report that information to the City Attorney for appropriate action under the Seattle Criminal Code (Ordinance 102843 as amended; Seattle Code Title 12A).
(Ord. 109869 § 2, 1981; Ord. 109113 § 13, 1980.)

20.46.140 Review of program.

The Legislative Authority of the City shall review the implementation of this chapter and whether pervasive discrimination against WBEs and MBEs continues in the relevant private-sector markets every five (5) years to determine whether the requirements of this chapter shall remain in effect. The first such review shall occur during 1995. If the Legislative Authority determines that the requirements of this chapter are no longer necessary to prevent pervasive discrimination against WBEs and MBEs in the private sector from affecting the City's contracting processes, this chapter shall be repealed.
(Ord. 115239 § 3, 1990.)

Editor's Note: The provisions of SMC Chapter 20.46A shall not be construed to impair any proceeding or remedies for violations of or non-compliance with SMC Chapter 20.46 occurring prior to the effective date of Ordinance 117080. To the extent that any provision of SMC Chapter 20.46A is substantially the same as a provision of SMC Chapter 20.46 existing at the time of enactment of Ordinance 117080, such a provision shall be construed as a continuation of the previously existing provision.

**Chapter 20.46A
WOMEN'S AND MINORITY BUSINESS
ENTERPRISE UTILIZATION**

Sections:

20.46A.001 Application of chapter.

- 20.46A.010 Short title.**
- 20.46A.020 Findings.**
- 20.46A.030 Declaration of policy.**
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- 20.46A.100 Eligibility for participation.**
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- 20.46A.220 Review of program.**
- 20.46A.300 Participation—Purchasing con-
tracts.**

Severability: If any clause, sentence, paragraph, or part of this chapter, or the application thereof to any person or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter, or its application to other parties or circumstances.
(Ord. 117080 § 3, 1994.)

20.46A.001 Application of chapter.

The provisions of this chapter shall apply to all contracts for which bids or proposals are due on or after May 1, 1994.
(Ord. 117080 § 2(part), 1994.)

20.46A.010 Short title.

This chapter shall be entitled the "Women's and Minority Business Enterprise Utilization Ordinance" and may be cited as "the WMBE Ordinance."

For current SMC, contact
the Office of the City Clerk

20.46A.040 PUBLIC WORKS, IMPROVEMENTS AND PURCHASING

(Ord. 117080 § 2(part), 1994.)

20.46A.020 Findings.

Upon full consideration of all relevant facts, the City Council finds that:

A. In hiring and dealing with contractors and subcontractors of all types, public and private owners, developers, contractors, financial institutions and sureties have discriminated and do discriminate against women-owned business enterprises and minority-owned business enterprises doing business or seeking to do business with The City of Seattle based upon the race and sex of the owners of these businesses. This discrimination has been established by public hearings conducted by the City Council and other local jurisdictions, and by studies performed for The City of Seattle by consultants. The factual findings of these studies, "Utilization of Minority and Women's Business in the Construction and Consulting fields in King and Pierce Counties" dated January 1990, and "Procurement of Supplies, Materials, Equipment and Nonprofessional Services from Minority and Woman-Owned Business Enterprises by the City of Seattle" dated February 1994, are contained in Comptroller File 296945 and 300127, respectively, and are incorporated herein by this reference.

B. But for the provisions of its past and present minority and women's business enterprise ordinances, the City would have been, and would continue to be, a passive participant in the discrimination against these businesses.

C. The provisions of this chapter are necessary to remedy the discrimination against women-owned business enterprises and minority-owned business enterprises and to prevent the City from financing and participating in this discrimination with its contracting dollars.

D. The market from which the City draws contractors is primarily King County; regardless of its location, however, any women-owned or minority-owned business enterprise that has sought to do business within The City of Seattle is presumed to have been affected by the discrimination that exists within the City.

E. The City is prohibited by state law from helping women-owned business enterprises and minority-owned business enterprises overcome the effects of discrimination through financial assistance or reduction of bonding requirements. While the existence of such alterative remedies

must continue to be explored, no other effective race-neutral alternatives presently appear to be available.

F. The January 1990 consultant study has produced statistical data and recommendations for refinements to the City's women's business enterprise and minority business enterprise program which are reflected in this chapter. The February 1994 consultant study produced statistical and anecdotal evidence supporting a women's business enterprise and minority business enterprise preference program for contracts for supplies, materials, equipment, and nonprofessional services as set forth in Seattle Municipal Code 3.18.800 et seq.

(Ord. 117159 §§ 2, 3, 1994; Ord. 117080 § 2(part), 1994.)

20.46A.030 Declaration of policy.

The purpose of this chapter is to remedy the effects of discrimination against women-owned and minority-owned business enterprises by increasing the opportunity for such businesses to enter into contracts with the City, and to participate in projects administered or funded by the City. The utilization targets and set-asides established under this chapter shall be reasonably achievable.

(Ord. 117080 § 2(part), 1994.)

20.46A.040 Scope.

The provisions of this chapter shall apply to all contracts entered into or awarded by the City, except as may be specifically exempted by this chapter or by rule. A grantee, borrower, or other recipient of funds administered or provided by the City for the purpose of contracting for construction, consulting, procurement, or other services shall comply, as a contract awarding authority, with the provisions of this chapter. Such compliance shall be a condition of eligibility for and receipt of such funds. The provisions of this chapter shall be liberally construed in order to accomplish the policies and purposes set forth herein.

In applying the provisions of this chapter to contracts funded in whole or in part with federal funds and subject to 49 CFR Part 23, Subpart D, references to women-owned business enterprises and minority-owned business enterprises shall also include disadvantaged business enterprises. In the event of a conflict between the provisions

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of this chapter, or the rules implementing this chapter, and the requirements of 49 CFR Part 23, Subpart D, or any other applicable federal statute or regulation, the provisions of the federal statute or regulation shall control.
(Ord. 117080 § 2(part), 1994.)

20.46A.050 Definitions.

A. "Affirmative efforts" means documented reasonable attempts in good faith to contact and contract with women-owned and minority-owned businesses.

B. "Availability" or "available" as used in this chapter refers to a WMBE who is: eligible to participate in the program; capable of performing the item of work in question; and able to perform the work within the time frame required by the bid specifications or request for proposals or qualifications.

C. "Bidder" means any person who submits a bid to provide goods or services to the City, or who participates in a similar manner in any project for which funding is provided or administered by the City.

D. "Capability" or "capable" as used in this chapter means that a WMBE appears able to perform a commercially useful function on the item of work in question.

E. "Combination business enterprise" ("CBE") as used in this chapter means a business that has been certified by OMWBE as a combination business enterprise and is eligible to participate in The City of Seattle WMBE program as set forth in SMC Section 20.46A.100. As used in this chapter references to WMBEs, WBEs and/or MBEs shall refer also to a CBE unless the context of the sentence indicates otherwise.

F. "Commercially useful function" means the performance of real and actual services in the discharge of any contractual endeavor.

G. "Contract administering authority" means the City officer, department, commission, employee, or board that is responsible for management of a project. In the case of a project financed by a grant or loan of City funds, "contract administering authority" shall also mean the borrower or grantee of such funds, and may include other governmental or quasi-governmental agencies, nonprofit corporations, or private enterprises.

H. "Contract awarding authority" means the City officer, department, commission, employee,

or board authorized to enter into or to administer contracts on behalf of the City. In the case of a project financed by a grant or loan of City funds, "contract awarding authority" shall also mean the borrower or grantee of such funds, and may include other governmental or quasi-governmental agencies, nonprofit corporations, or private enterprises.

I. "Contractor" means a person that has contracted with a contract awarding authority to provide goods or services to the City or to participate in a project for which funding is provided or administered by the City. As used in this chapter, "contractor" includes consultants.

J. "Director" means the Director of the Department of Administrative Services (DAS) or his or her designee.

K. "Disadvantaged business enterprise" ("DBE") as used in this chapter means a small business which has been certified by OMWBE as a disadvantaged business enterprise. References to WMBEs, WBEs and/or MBEs shall refer also to a disadvantaged business enterprise unless the context of the sentence indicates otherwise.

L. "Minority business enterprise" ("MBE") as used in this chapter means a business which has been certified by OMWBE as a minority business enterprise and is eligible to participate in The City of Seattle WMBE program as set forth in SMC Section 20.46A.100.

M. "Minority women's business enterprise" ("MWBE") as used in this chapter means a business which has been certified by OMWBE, as a minority women's business enterprise and is eligible to participate in The City of Seattle WMBE program as set forth in SMC Section 20.46A.100.

N. "OMWBE" means the Washington State Office of Minority and Women's Business Enterprises.

O. "Person" includes one (1) or more individuals, partnerships, associations, organizations, trade or professional associations, corporations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, or any group of persons, including any official, agent or employee of the City.

**Seattle Municipal Code
June, 1998 code update file
Text provided for historic reference only.**

**See ordinances creating and amending
sections for complete text, graphics,
and tables and to confirm accuracy of
this source file.**

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the Office of the City Clerk**

P. "Public agency" means any agency, political subdivision, or unit of local government of this state, including, but not limited to, special purpose and local service districts, any agency of the state government, and any agency of the United States.

Q. "Program" means The City of Seattle's Women's and Minority Business Enterprise Program.

R. "Proposer" means a person who submits a proposal to provide goods or services to the City, or participates in a similar manner in any project for which funding is provided or administered by the City.

S. "Set-aside" means that percentage of a City contract which is designated for participation of WMBEs, as established by the Director.

T. "Subcontractor" means any person providing goods or services to a contractor, if such goods or services are procured or used in fulfillment of the contractor's obligations arising from a contract with the City or a contract for which funds are provided or administered by the City.

U. "Target" means the level of overall participation by WMBEs on City contracts which the City seeks to achieve in a given year.

V. "WMBE" as used in this chapter shall refer generically to any business certified by OMWBE, whether as a CBE, MBE, MWBE, or WBE, and eligible to participate in The City of Seattle WMBE program, as set forth in SMC Section 20.46A.100.

W. "Women's business enterprise" ("WBE") as used in this chapter means a business which has been certified by OMWBE as a women's business enterprise and is eligible to participate in The City of Seattle WMBE program, as set forth in SMC Section 20.46A.100. (Ord. 117407 § 18, 1994; Ord. 117080 § 2(part), 1994.)

20.46A.060 Powers and duties of Director.

A. In addition to duties and powers given to the Director elsewhere, the Director shall:

1. Adopt rules and regulations, in accordance with this chapter and the Administrative Code of The City of Seattle (SMC Chapter 3.02), establishing standards and procedures for effectively carrying out this chapter;

2. Adopt rules and regulations in accordance with the Administrative Code of The City of Seattle (SMC Chapter 3.02) establishing prac-

tices and procedures for effectively implementing 49 CFR Part 23, Subpart D2;

3. Provide information and technical assistance to WMBEs to increase their capacity to effectively compete for the award of City contracts;

4. Assist City and community agencies to increase WMBE participation on City contracts;

5. Develop educational programs and otherwise assist WMBEs to compete effectively for City contracts;

6. With the advice of the Director of the Office for Civil Rights and of the directors of other City departments, annually recommend to the Mayor appropriate targets for WBE and MBE utilization;

7. With the advice of the directors of appropriate contract awarding authorities, annually recommend to the Mayor appropriate goals for DBE utilization in federally funded, City-administered projects where utilization of such businesses is required by state or federal law;

8. Request and review relevant records, information, and documents maintained by contract awarding authorities, contract administering authorities, contractors and subcontractors for the purpose of determining compliance with the requirements of this chapter;

9. Review and report to the Mayor and to the City Council on the progress of contract awarding authorities and contract administering authorities toward achievement of the annual target for utilization of WMBEs;

10. Accept certifications by OMWBE of businesses as CBEs, DBEs, MBEs, MWBEs, or WBEs; and provide access to a listing of such businesses for use by contract awarding authorities and contractors;

11. Prior to solicitation of bids or proposals for any City project involving construction or consulting above the threshold amount set forth in SMC Section 20.46A.110, determine the appropriate set-asides for WBEs and MBEs;

12. Prior to award of a contract on which set-asides have been established, evaluate and determine bidder or proposer responsibility with regard to the requirements of this chapter; and

13. Determine and impose appropriate sanctions and/or liquidated damages for violation of this chapter by contractors and subcontractors.

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B. The requirements of this chapter are in addition to those imposed by the United States or the State of Washington as a condition of financial assistance or otherwise; therefore, the Director may authorize the substitution of such state or federal women's business enterprise and minority business enterprise requirements for the requirements of this chapter whenever such state or federal requirements are substantially the same as those of this chapter.

C. The Director may enter into cooperative agreements with other public agencies concerned with increasing the utilization of women-owned or minority-owned business enterprises in government contracting, subject to the approval of the legislative authority of the City.

D. The Director may exempt contracts or programs from any or all of the requirements of the ordinance codified in this chapter, or rules and regulations adopted in accordance with this chapter, if it would not impair the purposes of the WMBE program, in acknowledgment of the variability of business agreements entered into by the City, such that the City can be responsible and reasonable in its application of this program. The Director may establish different procedures for different kinds of agreements that are appropriate and fitting with the course of that business activity.

(Ord. 118392 § 41, 1996; Ord. 118338 § 8, 1996; Ord. 117407 § 19, 1994; Ord. 117080 § 2(part), 1994.)

20.46A.080 Annual utilization targets.

A. The Mayor shall establish annual targets for City-wide utilization of WMBEs. With the advice of the Director, an annual target may be divided between MBE and WBE utilization, and separate targets may be established for contract categories such as construction, consultant, and such other categories as may be deemed appropriate. Separate targets may also be established for projects for which funds are provided or administered by the City.

B. Annual targets shall be expressed in terms of a percentage of the total dollar value of all contracts in a contract category awarded during the year.

C. Annual targets shall be reasonably achievable, shall be designed to further the policies expressed in this chapter, and shall be based upon factors including but not limited to:

1. Anticipated levels of contracting activity in each contract category;

2. The number of businesses eligible to participate in the Program, either as prime or as subcontractors, in each contract category;

3. The total number of businesses doing business with the City, either as prime or as subcontractors, in each contract category;

4. The percentage of minorities and women in the relevant workforce with skills related to each contract category;

5. The rates of new entry by minorities and women into training, education, and occupational opportunities related to each contract category; and

6. The expected percentage, absent discrimination, of minority-owned and women-owned businesses seeking to do business with the City.

D. Each contract awarding authority and each contract administering authority shall endeavor to meet the City-wide annual targets for WMBE utilization. If a contract awarding authority or contract administering authority does not appear able to achieve its utilization targets by any other available alternative, it may, to the extent permitted by law, negotiate exclusively with WMBEs for contracts on which competitive bidding is not required. A contract awarding authority or contract administering authority that has met the annual target shall continue to make affirmative efforts to contract with WMBEs.

(Ord. 117080 § 2(part), 1994.)

**20.46A.090 Utilization of WMBEs—
Generally.**

A. Contract awarding authorities shall:

1. Submit informational copies of all contracts to the Director, except as specifically excluded by the Director by rule;

2. Make affirmative efforts to solicit bids and proposals from WMBEs to act as prime contractors, especially for projects below the threshold values set forth in SMC Section 20.46A.110; and

3. Examine each project for ways to maximize utilization of WMBES, whether as prime contractors or as subcontractors, to the extent feasible and consistent with state law.

B. In addition to such other requirements as may be set forth elsewhere, the following shall apply to all contracts entered into by the City and

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to all contracts where funds are administered or provided by the City through grants, loans, or other forms of financing:

1. Bid conditions, requests for proposals, and all other specifications shall require the bidder or proposer to make affirmative efforts to subcontract to or to purchase from WMBEs, and to commit to meeting the WBE and MBE set-asides, if any, established for the project. Requests for proposals for projects on which WMBE set-asides have been waived under SMC Section 20.46A.150 shall require proposers to document the efforts made to contact WMBEs in developing the proposal.

2. When set-asides greater than zero are established for a contract, the contracts shall include the following provision:

This contract hereby incorporates by reference Seattle Municipal Code (SMC) Ch. 20.46A. The failure of the contractor or any subcontractor to comply with any of the requirements of SMC Ch. 20.46A shall be a material breach of contract. The purpose of Seattle's WMBE Program is to provide a prompt remedy for the effects of past discrimination. The City in general, and this Program in particular, are damaged when a contract, or portion of a contract, to be performed by a WBE or MBE is not actually performed by a WBE or MBE in compliance with SMC Ch. 20.46A. Because the actual amount of such damage is not reasonably calculable, the parties agree and stipulate that liquidated damages equal to the unmet dollar amount of any WBE or MBE set-aside will fairly compensate the City for resulting delays in carrying out the purpose of the program, the costs of meeting utilization targets through additional contracts, the administrative costs of investigation and enforcement, and other damages and costs caused by the violation.

3. Contracts, other than leases, shall require that during the term of the contract, the contractor shall:

a. Meet the WBE and MBE set-asides established for the contract, if any;

b. Make affirmative efforts to utilize WMBEs in performing the contract, whether as subcontractors, suppliers, or in any other capacity;

c. Require that all subcontractors make affirmative efforts to utilize WMBEs in performance of the contract;

d. Maintain records reasonably necessary for monitoring compliance with the provisions of this chapter, and submit such information as may be requested by the Director in order to monitor and enforce compliance; and

e. Require that subcontractors maintain records reasonably necessary for monitoring the subcontractors' compliance with the provisions of this chapter, and that the subcontractors submit such information as may be requested by the Director in order to monitor and enforce compliance.

4. No contract shall be awarded to any person or business that is disqualified from doing business with the City under the provisions of this chapter or of SMC Chapter 20.44 or 20.46, as now or hereafter amended. No contractor shall subcontract to, or purchase supplies, materials, or services from, any person or business which is disqualified from doing business with the City under the provisions of this chapter or of SMC Chapter 20.44 or 20.46, as now or hereafter amended.

5. The Director may exempt contracts, including leases of City-owned facilities, from any or all of the requirements of this subsection B if it would not impair the purposes of the WMBE program.

C. As required by RCW 35.22.650, and in addition to the requirements of this chapter, the following clause shall be contained in all public works contracts exceeding the sum of Ten Thousand Dollars (\$10,000.00) or Fifteen Thousand Dollars (\$15,000.00) for construction of water mains:

Contractor agrees to actively solicit the employment of minority group members. Contractor further agrees to actively solicit bids for the subcontracting of goods or services from qualified minority businesses. Contractor shall furnish evidence of compliance with these requirements of minority employment and solicitation. Contractor further agrees to consider the grant of subcontracts to said minority bidders on the basis of substantially equal proposals in the light most favorable to said minority

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businesses. The Contractor shall be required to submit evidence of compliance with this section as part of the bid. As used in this contract, the term "minority business" means a business that is eligible to participate in the City of Seattle's WMBE program as set forth in SMC Section 20.46A.100 as now or hereafter amended.

(Ord. 118120 § 1, 1996; Ord. 117080 § 2(part), 1994.)

20.46A.100 Eligibility for participation.

Participation in the Program shall be limited to those businesses that:

A. Are certified by OMWBE as a CBE, MBE, MWBE, or WBE, at the time of submission of the bid or proposal or at such other time as designated by the Director by rule; and

B. Have done business or have sought to do business within The City of Seattle.

(Ord. 117080 § 2(part), 1994.)

20.46A.110 Set-asides—Type of project; Threshold value of project.

A. Projects involving construction or consultant services, the value of which equals or exceeds the threshold values set forth in this section, shall be submitted to the Director to be analyzed for establishment of set-asides. Projects not involving construction or consultant services shall not be reviewed for the establishment of set-asides. In determining whether a project equals or exceeds the threshold, the total expected finished value of all phases of the project shall be considered.

B. The threshold values for projects involving the following categories of work shall be as follows:

1. For projects involving construction Fifteen Thousand Dollars (\$15,000.00);

2. For projects involving consultant services, Fifteen Thousand Dollars (\$15,000.00).

(Ord. 117080 § 2(part), 1994.)

20.46A.120 Set-asides—Establishment.

A. The Director will analyze all projects above the threshold dollar amounts set forth in SMC Section 20.46A.110 and will separately determine set-asides for WBE utilization and MBE utilization based on the following factors:

1. The amount of subcontractable work identified by the contract awarding authority;

2. The availability of WMBEs capable of performing each subcontractable item of work; and

3. The level of City-provided or City-controlled funding for the project.

The WBE set-aside shall be established at zero (0) if there are no capable WMBEs available to perform any of the subcontractable items of work. The MBE set-aside shall be established at zero (0) if there are no capable MBEs available to perform any of the subcontractable items of work.

B. If the Director finds that:

1. There are no subcontractable opportunities; or

2. There is no City-provided or City-controlled funding for the project; or

3. There are not at least two WMBEs available to perform on the project as a whole, then both the WBE and MBE set-asides shall be established at zero (0).

(Ord. 117080 § 2(part), 1994.)

20.46A.130 Evaluation of bids and proposals.

A. All bidders and proposers shall be required, as part of their submission of bids or proposals, to commit to meeting the WMBE set-aside percentages established by the Director for the project in question. At the time of submission of the bid or proposal, the bidder or proposer shall submit, along with the bid, a list, in a form prescribed by the Director, identifying the WMBEs that the bidder or proposer intends to use to meet the established set-asides. The list shall specify the item of work each WMBE will perform, and the dollar amounts to be paid to each WMBE. On projects that are unusually complex, upon request of the contract awarding authority, the Director may authorize the contract awarding authority to accept the list of WMBE information up to one (1) hour later than bid submission, but in any event prior to bid opening.

B. Prior to contract award, contract awarding authorities shall deliver to the Director the list of WMBEs submitted by the apparent low bidder or best proposer. The Director will review the list of WMBEs to evaluate the bidder's or proposer's responsibility with regard to the WMBE requirements of the project. A bidder or proposer who has not been disqualified from doing business with any public agency based on a failure to comply with women and minority business enterprise or equal employment opportunity re-

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quirements, and whose bid or proposal meets the following criteria will be considered responsible for WMBE purposes:

1. The WMBE information form has been substantially completed;
2. All WMBEs listed on the form are eligible to participate in the program;
3. Each WMBE listed on the form is capable of performing a commercially useful function in the work it has been identified to perform;
4. The total dollar amounts committed to be performed by WMBEs is sufficient to meet the applicable set-asides established by the Director; and
5. Such other factors as the Director shall determine by rule.

C. In the event that any of the criteria in items 1 through 5 of the previous subsection are not met, the Director may allow the bidder or proposer to supplement the list of WMBEs to show sufficient WMBE participation to meet the set-asides established for the project. In no event will a bidder or proposer be allowed to remove WMBEs from the list without the approval of the Director.

D. Upon completion of the review, the Director shall issue a finding stating whether or not the bidder or proposer is responsible with respect to the WMBE requirements for the project. If the Director determines that the bidder or proposer is responsible, the Director shall forward to the contract awarding authority a list of the WMBE subcontractors that will be made a condition of award of the contract. If the Director determines that the bidder or proposer is not responsible, the contract awarding authority may award the contract to the next lowest responsive and responsible bidder or proposer, or may reject all bids or proposals.

E. For Public Works contracts executed pursuant to Chapter 39.10 RCW, the Director is authorized to modify the submission and responsibility analysis deadlines of this subsection. (Ord. 118338 § 6, 1996; Ord. 118088 § 1, 1996; Ord. 117080 § 2(part), 1994.)

20.46A.140Set-asides—Contract amendments, supplements, or change orders.

A. If a contract is initially awarded for less than the applicable threshold amount set forth in SMC Section 20.46A.110, and is subsequently amended, supplemented, or changed to exceed the

threshold value, the project shall be submitted to the Director to be analyzed for establishment of set-asides. Submission to the Director shall occur prior to the execution of any contract amendment, supplement, or change order, or prior to the performance by the contractor of any work not called for in the original contract, whichever occurs first.

B. Prior to any contract amendment, supplement or other change involving a contract for consultant services which affects the total dollar value of the project by at least the threshold value set forth in SMC Section 20.46A.110, the Director shall review such change in accordance with the applicable rules and this chapter to determine the impact of such change on the WMBE requirements of the contract. The Director shall determine whether the levels of WMBE participation initially established for the contract will be maintained, increased, or reduced. A contractor is required to make affirmative efforts to utilize WMBEs in performing work on any contract amendment or supplement for which no set-asides are established.

C. For contracts involving construction, the WMBE set-aside percentages initially established for the contract will apply to the aggregate final dollar value of the contract including all change orders, subject to the exceptions included in this subsection. A contract awarding authority may request that the dollar amount of a change order be exempted from the aggregate final dollar value of the contract, or that a different set-aside percentage be applied to the change order.

D. Contract awarding authorities shall promptly notify the Director of all contract amendments, supplements, or change orders affecting the dollar value of construction or consultant service contracts, regardless of whether any action by the Director is required. (Ord. 117080 § 2(part), 1994.)

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20.46A.150 Waivers and reduction of set-asides.

A. The analysis of a project for establishment of set-asides and the evaluation of bids and proposals is waived:

1. If the award of contract is necessary to respond to an emergency which endangers the public health, property or safety; or

2. For other good cause shown to the Director in writing, prior to solicitation of bids.

B. Waiver of initial analysis and establishment of set-asides does not waive any other provision of this chapter, including the obligation to make affirmative efforts to utilize WMBEs in the performance of the contract. This waiver shall apply only to the initial establishment of set-asides and shall not waive subsequent review by the Director of contract amendments, change orders, or supplements.

C. The evaluation of contract amendments, change orders, or supplements for establishment of set-asides shall be separately waived if the amendment, change order, or supplement is necessary to respond to an emergency which endangers the public health or safety.

D. The Mayor may waive the set-aside requirements of this chapter whenever he or she finds that compliance with the set-aside requirements would impose an unwarranted economic burden or risk on the City when compared to the degree to which the purposes and policies of this chapter would be furthered by requiring compliance.

E. If, after bids or proposals are received, the contract awarding authority can demonstrate to the Director that the available WBEs or MBEs have given price quotes that are unreasonably high in that they exceed competitive bid levels beyond amounts that can be attributed to cover costs inflated by the present effects of discrimination, the contract awarding authority or contract administering authority may request a reduction in either the WBE or MBE set-aside, or both.

(Ord. 117080 § 2(part), 1994.)

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20.46A.160 Substitution of WMBEs.

A. Removal or substitution of any WMBE named as a condition of award, or addition of WMBEs after approval which are necessary to meet the established set-asides, shall be made only for good cause and with the concurrence of the Director and the approval of the contract administering authority.

B. In reviewing a request for substitution of a WMBE, the Director shall consider the following criteria:

1. Whether the WMBE to be added is eligible to participate in the program;
2. Whether the WMBE to be added is capable of performing the work it has been identified to perform;
3. Whether removal or substitution of a WMBE will reduce the projected WBE or MBE participation below the established set-aside; and
4. Such other criteria as the Director shall establish by rule to prevent substitution of WMBEs for reasons contrary to the intent of this chapter.

(Ord. 117080 § 2(part), 1994.)

20.46A.170 Certified consultant rosters.

A. A department's solicitation and selection process for establishing a certified roster of consultants pursuant to SMC Sections 3.114.150 and 3.114.160, and a standard form of contract authorized by SMC Section 3.114.160 C shall be reviewed by the Director for compliance with this chapter.

B. Departments using such rosters shall make quarterly reports to the Director on the use of WMBEs from such rosters. A department's utilization of WMBEs from certified rosters shall be included in reviewing the department's compliance with annual utilization targets.

C. Contracts awarded to consultants selected from the roster shall require the consultant to make affirmative efforts to subcontract to WMBEs should subcontracting become necessary.

D. Each roster shall include a minimum of one (1) WBE, and one (1) MBE, if qualified WBEs and MBEs, respectively, are available.

E. Contracts shall be awarded to consultants on the roster in accordance with their ability to complete assigned projects in a timely manner and in a manner that distributes contracts among the consultants on the roster. A department may select

a WMBE for a particular assignment or project in order to increase the participation of such enterprises in departmental contracting.

F. If the Director determines that a department using certified rosters is not making satisfactory progress in meeting its targets for WMBEs under the roster system, the Director may require the department to deviate from its selection system within a roster in order to increase the utilization of WMBEs on the rosters for particular assignments or projects.

(Ord. 117080 § 2(part), 1994.)

20.46A.180 Monitoring and enforcement.

A. It is a violation of this chapter for a contractor or subcontractor to fail to comply with any of the provisions of this chapter or to engage in conduct which results in a failure to meet the subcontracting requirements established for the contract on which the contractor or subcontractor is performing. It is a violation of this chapter for a contractor or subcontractor to engage in conduct which results in a WMBE subcontractor's failure to perform a commercially useful function, regardless of whether the subcontracting requirements established for the contract are met.

B. The Director shall conduct investigations to monitor compliance with the requirements of this chapter and shall enforce compliance through the assessment of liquidated damages and the imposition of sanctions commensurate with the seriousness of the violation. Prior to the imposition of sanctions, the Director may attempt to resolve any violation through conciliation.

C. Prior to contract close-out by the contract awarding authority or contract administering authority, the Director shall evaluate all contracts for compliance with the requirements of this chapter. The Director shall inform the contract awarding authority or contract administering authority of the contractor's compliance status.

D. In the event of a failure by a contractor to meet either the WBE set-aside or the MBE set-aside, or both, the Director shall determine and assess the appropriate amount of liquidated damages.

E. In consultation with the contract awarding authority or contract administering authority, the Director shall determine and impose appropriate sanctions for noncompliance, including but not limited to:

1. Withholding of funds;

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2. Imposition of a civil fine or penalty;
3. Disqualification of a bidder, proposer, contractor, subcontractor, or other business from eligibility for bidding on or entering into or participating, as a subcontractor or in any other manner, in a contract with the City for a period not to exceed five (5) years.

F. The Director shall set forth the sanctions and/or liquidated damages to be imposed and the reasons therefor in a written order. The Director shall promptly furnish a copy of the order to the contract awarding authority or contract administering authority, and shall mail a copy by certified mail, return receipt requested, to the person being sanctioned.

(Ord. 117159 § 4, 1994; Ord. 117080 § 2(part), 1994.)

20.46A.190 Appeal of sanctions.

A. Any person against whom sanctions have been imposed by the Director may appeal within fifteen (15) days from the date the Director's decision was mailed to the person being sanctioned, by filing a Notice of Appeal with the Office of the Hearing Examiner.

B. Within forty-five (45) days after receiving the Notice of Appeal, the Hearing Examiner shall convene the appeal hearing. Written notice of the hearing date shall be given to the appellant and to the Department at least thirty (30) days prior to the hearing.

C. Within thirty (30) days after conclusion of the appeal hearing, the Hearing Examiner presiding at the hearing shall prepare a written decision and order. The final decision shall be filed as a public record with the City Clerk, and copies thereof mailed to each party of record and to the Director.

(Ord. 117080 § 2(part), 1994.)

20.46A.200 Complaints.

A. Any person who has reason to believe that a violation of this chapter is occurring or has occurred may file a complaint in writing, signed and dated, with the Director. The complaint shall be filed no later than one hundred eighty (180) days after the date of an alleged violation or the date on which a continuing course of conduct in violation of this chapter was discovered.

B. The Director shall cause a prompt investigation of the complaint to be conducted in accordance with rules promulgated under this section.

The Director shall have the authority to sign and issue subpoenas requiring the attendance of witnesses, the production of evidence including but not limited to books, records, correspondence or documents in the possession or under the control of the person subpoenaed, or access to evidence for the purpose of examination and copying. The Director shall also have the authority to conduct discovery procedures, including but not limited to the issuance of interrogatories and taking of depositions.

C. Failure or refusal by any person to cooperate with the investigation of a complaint shall constitute a separate violation of this chapter.

D. The results of the investigation shall be reduced to written findings of fact and a determination by the Director whether or not a violation of this chapter has occurred. If the Director determines that a City department has committed a violation of this chapter, the finding and determination shall be forwarded to the Mayor. If the Director determines that a contractor or subcontractor has committed the violation, the Director shall attempt to conciliate the matter or shall determine appropriate sanctions, as set forth in SMC Section 20.46A.180.

E. No City department, contractor, or other person shall intimidate, threaten, coerce, discriminate, or otherwise retaliate against any individual because that individual has filed a complaint or cooperated with the investigation of a complaint under this section, or for the purpose of interfering with any of the requirements of this chapter. Such retaliation shall constitute a separate violation of this chapter.

(Ord. 117080 § 2(part), 1994.)

20.46A.210 Reporting.

A. Contract awarding authorities and contract administering authorities shall keep complete and detailed records regarding compliance with this chapter and shall submit them to the Director upon request. The Director shall be responsible for gathering all information concerning compliance with this chapter and shall have access to all relevant City records.

B. Each department shall submit to the Director quarterly and annual reports on its performance in meeting the annual targets established under this chapter.

C. If the Director finds that a contract awarding authority or contract administering au-

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thority has not complied with the policies and purposes of this chapter, the finding shall be forwarded to the Mayor and to the contract awarding authority or contract administering authority.

D. The Director shall report annually to the Mayor and the City Council on utilization of WMBEs during the preceding calendar year. (Ord. 117080 § 2(part), 1994.)

20.46A.220 Review of program.

The City Council shall review the implementation of this chapter and whether pervasive discrimination against WMBEs continues in the relevant private-sector markets every five (5) years to determine whether the requirements of this chapter shall remain in effect. The first such review of the requirements for construction and consultant contracts shall occur during 1995. The first such review for purchasing contracts shall occur in 1999. If the City Council determines that the requirements of any part of this chapter are no longer necessary to prevent pervasive discrimination against WMBEs in the private sector from affecting the City's contracting processes, the relevant parts of this chapter shall be repealed.

(Ord. 117159 § 5, 1994; Ord. 117080 § 2(part), 1994.)

20.46A.300 Participation—Purchasing contracts.

All contracts awarded by the Executive Services Director for the purchase of supplies, materials, equipment and services, the estimated cost of which equals or exceeds One Thousand Dollars (\$1,000), shall be awarded and administered in accordance with the following standards and procedures and in accordance with rules adopted by the Executive Services Director to carry out the provisions of this section. The Executive Services Director shall:

A. Make affirmative efforts to solicit bids from WMBEs qualified to supply supplies, materials, equipment, or services. Such efforts may include, but not be limited to, arranging contracts by size and type of supply, material, equipment, or service to enhance the possibility of participation by WMBEs, and providing information and technical assistance to WMBEs to promote their ability to compete effectively for city contracts;

B. Provide WMBEs every practical opportunity to submit bids. To encourage submission of

bids by WMBEs, the Executive Services Director shall:

1. Rank bidders whose bids are within five (5) percent, or a lower percent as determined by the Executive Services Director, of the bid made by the lowest and best bidder as follows: first, WMBEs; second, non-women's business enterprises and non-minority business enterprises, or,

2. Encourage subcontracting of WMBEs in contracts to be awarded through the request for proposal process. Such encouragement may include awarding bonus evaluation points on the financial element of proposals to proposers who have included women business enterprise and/or minority business enterprise subcontracting participation in their proposals; provided, participation shall become a requirement of the contract awarded to a proposer who has included participation in its proposal and such participation shall be monitored and enforced by the Executive Services Director per SMC Section 20.46A.180; and

C. Assist City agencies in their utilization of WMBEs in the purchase of supplies, materials, equipment, and services by:

1. Providing information to City agencies about WMBEs qualified to supply supplies, materials, equipment or services,

2. Recommending to the Mayor annual targets for WMBEs by City agencies; and

3. Reporting to City agencies at least annually their utilization of WMBEs.

(Ord. 118397 § 115, 1996; Ord. 117159 § 6, 1994.)

**Chapter 20.48
PUBLIC WORKS
CONTRACTS—FINANCIAL
REQUIREMENTS**

Sections:

20.48.010 Contractor's bond required.

20.48.030 Funds to be available before entering into contract.

20.48.040 Filing of statement of contract amount.

20.48.050 Not applicable to certain local improvements.

20.48.010 PUBLIC WORKS, IMPROVEMENTS AND PURCHASING

20.48.060 Contracts in violation—Voidable.
20.48.080 Auditing authority.

Statutory Reference: For statutory provisions on contractor's bonds, see RCW Ch. 39.08; for provisions concerning prevailing wages on public works, see RCW Ch. 39.12.

20.48.010 Contractor's bond required.

Before any contract for a public work or improvement shall be valid or binding against the City, the contractor shall make, execute and deliver to the City a bond(s) that meets the requirements of RCW Ch. 39.08 as now or hereafter amended. Such bond shall be in an amount equal to not less than twenty-five (25) percent, nor more than one hundred (100) percent of the full contract price agreed to be paid for such public work or improvement, shall name the City as obligee, and shall be filed with the City Clerk. The amount of the bond to be required of any contractor shall be (1) stated in the call for bids for the doing of the public work or improvement; or (2) if there is no call for bids, as required by the department awarding the contract. (Ord. 118833 § 5, 1997; Ord. 116368 § 248, 1992; Ord. 35902 § 1, 1916.)

20.48.030 Funds to be available before entering into contract.

Before the construction of any public work or improvement, or any part thereof, either by contract or by day labor, is authorized or begun under the direction and general supervision of the Executive Services Director, said Director shall obtain from the head of the City department for which such work is to be undertaken, such department head's certification that sufficient funds have been appropriated to cover the full cost and expense of completing the desired public work or improvement (which appropriations shall be identified, by ordinance number and, where appropriate, by Capital Improvement Project number, in such certification). No contract shall be entered into, nor shall the construction of such work or improvement, or any part thereof, be undertaken by said Director, unless there is a balance in the appropriation sufficient to cover such cost and expense. For contracts executed pursuant to Chapter 39.10 RCW, the Director or department head is authorized to enter into contracts without such certification, provided that no phase of any public work may be started unless

sufficient funds have been appropriated to cover the full cost and expense of completing that phase. (Ord. 118397 § 117, 1996; Ord. 118087 § 1, 1996; Ord. 116007 § 6, 1991; Ord. 46545 § 1, 1924.)

20.48.040 Filing of statement of contract amount.

Whenever the Executive Services Director shall award any contract for any public work or improvement, or any part thereof, or shall have determined to make such public work or improvement, or any part thereof, by day labor under such official's management, the Director shall forthwith file with the City Finance Director a statement of the amount of such contract or the estimated cost of such work, and upon receipt of such statement the City Finance Director shall enter such amount upon the books in his or her office as a preliminary charge against the appropriation made to cover the cost and expense of such work or improvement. (Ord. 118397 § 118, 1996; Ord. 116368 § 249, 1992; Ord. 116007 § 7, 1991; Ord. 46545 § 2, 1924.)

20.48.050 Not applicable to certain local improvements.

The provisions of Sections 20.48.030 through 20.48.060 shall not apply to local improvements, the funds for the making of which are directly or indirectly to be derived in whole or in part from assessments upon the property benefited thereby. (Ord. 46545 § 3, 1924.)

20.48.060 Contracts in violation—Voidable.

Any contract entered into, or any obligation against the City incurred by the Executive Services Director in violation of the provisions of Sections 20.48.030, 20.48.040 or 20.48.050 shall be voidable at the option of the City. (Ord. 118397 § 119, 1996; Ord. 116007 § 8, 1991; Ord. 46545 § 4, 1924.)

20.48.080 Auditing authority.

The City Auditor is authorized to audit public works contracts to determine whether required procedures were followed; the compensation or other consideration was properly paid; and the improvement or services, which were contracted for, were received in a timely manner.

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(Ord. 116368 § 250, 1992; Ord. 115601 § 2, 1991.)

Subtitle IV Concessions¹
(Reserved)

1. Cross-reference: For provisions regarding contracts for leases and concessions, see Section 20.44.040 of this Code.

Subtitle V Miscellaneous Provisions

Chapter 20.76
CONDEMNATION PROCEEDINGS

Sections:

**Subchapter I Special Assessments for
Condemnation of Land**

- 20.76.010** Method of procedure.
- 20.76.020** Acceptance of awards.
- 20.76.030** Modes of payment.
- 20.76.040** Mode of “payment by bonds.”
- 20.76.050** Sale of bonds.
- 20.76.060** Payment in installments.
- 20.76.070** Certificates of purchase.
- 20.76.080** Special fund.
- 20.76.090** Issuance of bonds.
- 20.76.098** Forms of bonds.

**For current SMC, contact
the Office of the City Clerk**

**Seattle Municipal Code
June, 1998 code update file
Text provided for historic reference only.**

**See ordinances creating and amending
sections for complete text, graphics,
and tables and to confirm accuracy of
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20.48.080 PUBLIC WORKS, IMPROVEMENTS AND PURCHASING

- 20.76.110**Bond registry.
- 20.76.120**Warrants—When issued.
- 20.76.130**Payment of awards, interest and costs.
- 20.76.140**Items of cost.

Subchapter II Miscellaneous Provisions

- 20.76.200**Payment of local improvement assessments against condemned property.
- 20.76.210**Appropriation for payment of local improvement assessments against condemned property.
- 20.76.220**Offsetting compensation against damages—Permitted.
- 20.76.230**Offsetting compensation against damages—Court certificate.
- 20.76.240**Offsetting compensation against damages—Cancellation of assessment roll.
- 20.76.250**Offsetting compensation against damages—Same proceeding.
- 20.76.260**Acceptance of condemnation fund warrants in payment of assessments.
- 20.76.270**Acceptance of certificates of purchase for delinquent condemnation award assessments.
- 20.76.280**Segregation of condemnation assessments.

Statutory Reference: For statutory provisions on eminent domain by cities, see RCW Ch. 8.12.

Subchapter I Special Assessments for Condemnation of Land

20.76.010Method of procedure.

Whenever the City Council shall provide for the payment of the whole or any portion of the cost and expense of the condemnation of land by the levy and collection of special assessments on property specially benefited, the proceedings therefor shall be in accordance with the laws of the state of Washington and the provisions of this subchapter.

(Ord. 75167 § 1, 1946: Ord. 54547 § 1, 1928.)

20.76.020Acceptance of awards.

If the City Council shall accept the awards for any improvement, or if the time allowed by law

for rejecting the same shall have expired, the City Finance Director shall notify the Clerk of the Superior Court, the County Assessor and the City Attorney of such acceptance or such expiration of time for rejection.

(Ord. 116368 § 253, 1992: Ord. 54547 § 2, 1928.)

20.76.030Modes of payment.

There shall be two (2) modes of payment for such portion of the cost and expense of any improvement payable by special assessment: "immediate payment" and "payment by bonds." The mode adopted shall be "immediate payment," except in cases where the City Council shall designate the mode of "payment by bonds." (Ord. 54547 § 3, 1928.)

20.76.040Mode of "payment by bonds."

In case the City Council shall provide for the payment of special assessments in any such proceeding by the mode of "payment by bonds," it shall specify the term of such bonds, the maximum rate of interest thereon, and shall provide that bonds of such improvement district shall be issued in an amount equal to the sum of the assessments levied for such local improvement, less the amount of such assessments paid in cash into the special fund created for such local improvement during the thirty (30) day period following the date of the first publication of the notice of collection of the Finance Director, and the bonds may be sold and delivered, in such manner as the City Council may by ordinance or resolution direct.

(Ord. 116368 § 254, 1992: Ord. 54547 § 4, 1928.)

20.76.050Sale of bonds.

A. When the mode of "payment by bonds" is adopted for any such improvement, such bonds may be sold and delivered either upon bids or at private sale, as provided in this section. When the sale of such bonds upon bids shall be authorized, the Finance Director shall advertise the same for sale in at least one (1) issue of the official newspaper of the City not less than ten

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(10) days prior to the date of sale. The advertisement shall state the approximate amount and date of the bonds, the number of years in which they shall mature and that bids shall be for bonds bearing no greater than eight percent (8%) interest on bonds issued to mature in twelve (12) years or less and bearing no greater than six percent (6%) interest on bonds issued to mature in twenty-two (22) years, and that no bid for less than par and accrued interest will be considered. The time and place when and where bids will be received shall also be stated in the advertisement. The Finance Director shall report all such bids to the City Council, who shall promptly act upon the same. The action of the City Council in accepting any such bids shall be by resolution. Bidders shall bid for such bonds upon forms prepared by the City with the approval of the City Attorney.

B. When the sale of such bonds at private sale shall be authorized, the City Council shall, in the ordinance or resolution authorizing such sale, specify the rate of interest which such bonds shall bear.
(Ord. 116368 § 255, 1992; Ord. 54547 § 5, 1928.)

20.76.060 Payment in installments.

Whenever the City shall have sold bonds of any such local improvement district, either upon bids or at private sale, as in this subchapter, the assessments for such improvement shall be payable in installments, and notice thereof shall be given, and the collection and enforcement thereof had as provided by law and this subchapter. In the case of sale upon bids, the City Clerk shall transmit to the City Finance Director a certified copy of the resolution accepting any such bid, and in the case of sale at private sale the City Finance Director shall certify that such bonds have been sold, pursuant to the resolution of the City Council directing such sale, and in either case the City Finance Director thereupon shall proceed with the collection and enforcement of such assessments under the mode of “payment by bonds.” As to assessments payable in ten (10) or less annual installments, the City Finance Director shall annually extend the installments of principal and interest upon the unpaid balance as shown upon such roll, and as to assessments payable in twenty (20) annual installments, the City Finance Director shall for the first ten (10) years annually extend the installments of interest upon such roll, and for the last ten (10) years the City Finance

Director shall annually extend the installments of principal and interest upon the unpaid balance as shown upon such roll.
(Ord. 117242 § 21, 1994; Ord. 54547 § 6, 1928.)

20.76.070 Certificates of purchase.

A. Two (2) years after the date of delinquency of an assessment payable by the mode of “immediate payment,” or of an installment of an assessment payable by the mode of “payment by bonds,” it shall be the duty of the City Finance Director to proceed to sell the property described in any such local assessment roll for the amount of such delinquent assessment, or installment, together with the penalty and interest accruing to date of sale, and for the costs of the sale; provided, it shall be the duty of the City Finance Director in the case of the last installment of an assessment payable by the mode of “payment by bonds” to proceed with the sale provided for in this section at the expiration of twenty-one (21) months from the date of the delinquency of the last installment.

B. Certificates of purchase shall be executed and delivered by the Finance Director to the purchasers at such sale, and assessment deeds shall be executed and delivered by him to the persons thereunto entitled. All steps and proceedings required to be done in connection with such sale, certificates of purchase and assessment deeds shall be had and conducted according to law and this subchapter.

C. When assessments, or installments of assessments, have been delinquent the full period provided by law and ordinances of the City, before which such assessments or installments of assessments are subject to sale, the City Finance Director shall certify that there are delinquent and unpaid assessments or installments thereof, giving the district number and installment thereof, if it be an installment roll, ordinance number under which it was created, street name, nature of the improvement and the date of delinquency.

D. The City Finance Director shall sell all the property described upon the roll upon which assessments are levied to satisfy all such delinquent and unpaid assessments or installments thereof, together with interest, penalties and costs as provided by law.

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E. Such warrant, issued for the purpose of making sale of the delinquent property, shall be deemed and taken as an execution against the property for the amount of the assessments or installments thereof, with interest, penalties and costs.
(Ord. 116368 § 256, 1992: Ord. 54547 § 7, 1928.)

20.76.080 Special fund.

The City Council shall, by ordinance, create a special fund for each such improvement district to be called "Local Improvement Fund, Condemnation Award, District No.," into which shall be placed the proceeds of the sale of bonds for such improvement, all sums paid on account of assessments levied for such improvement including all interest and penalty thereon, and all sums received from rents, profits and income from the property condemned by such proceeding, and from which shall be paid all warrants issued upon transcripts of judgments on awards and all bonds issued for such improvement.
(Ord. 54547 § 8, 1928.)

20.76.090 Issuance of bonds.

At the expiration of thirty (30) days after the date of first publication of the Finance Director's notice of any such assessments payable in installments, the Finance Director shall record the total amount of the assessment, the total amount paid to him or her to redeem any lots, tracts, or parcels of land, or other property, from the assessment levied thereon, and the total amount unpaid on such assessment; whereupon the Mayor and City Finance Director shall issue the bonds of such local improvement condemnation award district, in an amount equal to the amount remaining unpaid on the assessment roll as shown by such report. The bonds provided for in this section shall not be issued prior to twenty (20) days after the expiration of the thirty (30) days abovementioned.
(Ord. 116368 § 257, 1992: Ord. 54547 § 9, 1928.)

20.76.098 Forms of bonds.

All bonds issued pursuant to this subchapter shall be on a form approved by the City Attorney. The bond prospectus shall state that the purchaser shall look only to the funds of the Condemnation Award District and the assessments levied thereby for payment of the principal of or interest on the bonds; and that the bonds are not a general obligation of The City of Seattle.

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(Ord. 116368 § 258, 1992.)

20.76.110 Bond registry.

The City Finance Director shall keep in his or her office a register of all such bonds issued. He or she shall enter therein the Local Improvement Fund District number for which the same are issued, and the date, amount and number of each bond and the term of payment.
(Ord. 116368 § 259, 1992: Ord. 54547 § 11, 1928.)

20.76.120 Warrants—When issued.

The City Finance Director shall issue no warrants for any condemnation awards, interest or costs prior to the acceptance of such awards by the City Council as provided for in Section 20.76.020, but such warrants may be issued at any time thereafter.
(Ord. 116368 § 260, 1992: Ord. 54547 § 12, 1928.)

20.76.130 Payment of awards, interest and costs.

The proceeds of the sale of bonds issued therefor, together with the proceeds of the collection of special assessments therefor, made during the thirty (30) day period following the date of the first publication of the Finance Director's notice of collection, shall be applied by the City Finance Director in payment of awards, interest and costs of any judgment in any eminent domain proceedings, and the redemption of any warrants issued in payment of any portion of such judgment. No priority of payment shall exist as between any such warrants and any portion of such judgment, but warrants shall be paid in the order of their issuance; provided, that warrants payable to the General Fund may be held until warrants issued for the payment of awards have been paid.
(Ord. 116368 § 261, 1992: Ord. 54547 § 13, 1928.)

20.76.140 Items of cost.

In preparing the assessment roll to pay the cost

and expense of any such condemnation improvement as provided in this subchapter, the Board of Eminent Domain Commissioners shall include the costs and expenses of the proceedings up to the time of the filing of the assessment roll, together with the probable further costs and expenses of the proceedings, including therein a charge against each description of property appearing upon any assessment roll in the following sum: In case of "immediate payment" of assessment, One Dollar (\$1.00) per description; in case of assessment payable in five (5) annual installments, the sum of Two Dollars (\$2.00) per description; in case of assessment payable in ten (10) annual installments, the sum of Three Dollars and Fifty Cents (\$3.50) per description; in case of assessment payable in fifteen (15) annual installments, Four Dollars and Thirty Cents (\$4.30) per description; in case of assessment payable in twenty (20) annual installments of either principal or interest, Five Dollars (\$5.00) per description, which is the charge for accounting, clerical labor, books and blanks used by the City Finance Director; provided, however, that when any assessment payable in installments is paid in full within the thirty (30) day period fixed by law for the payment of assessments without interest, the City Finance Director shall allow a rebate of the Finance Director's charge in this section provided in excess of One Dollar (\$1.00) per description.

(Ord. 116368 § 262, 1992; Ord. 82591 § 1, 1953; Ord. 54547 § 14, 1928.)

Subchapter II Miscellaneous Provisions

20.76.200 Payment of local improvement assessments against condemned property.

For the purpose of making payment of all local improvement assessments that may exist against any lot, tract or parcel of land which has been condemned for street or other purposes, the City Finance Director, previous to the issuance of any warrant in payment for property condemned in any condemnation proceeding, shall determine the amount of all unpaid local improvement assessments that may exist against the property, and thereupon two (2) warrants in favor of the respondents shall be issued on the condemnation fund, one (1) warrant in the amount of the unpaid as-

sessments which shall be endorsed to the General Fund by the respondent, and one (1) warrant for the amount of the award less the unpaid assessments. The City Finance Director shall draw a warrant on the General Fund in favor of the local improvement district or districts entitled thereto for the amount of the unpaid assessments, the General Fund to be reimbursed for the amounts so paid out when sufficient moneys have been paid into the Condemnation Fund to meet the warrant thereon drawn in favor of the General Fund in payment of the assessments as set forth in this section.

(Ord. 116368 § 263, 1992; Ord. 32967 § 1, 1914.)

20.76.210 Appropriation for payment of local improvement assessments against condemned property.

The sum of Ten Thousand Dollars (\$10,000.00) is appropriated from the General Fund and set aside for the payment of local improvement assessments against property taken or damaged in condemnation proceedings as provided by Section 20.76.200.

(Ord. 32967 § 2, 1914.)

20.76.220 Offsetting compensation against damages—Permitted.

Whenever, in condemnation proceedings prosecuted by the City, compensation or damages, or both, are awarded to the owners of, and other parties interested in, any real property taken or damaged, and an assessment upon property benefited is made to pay the whole or any part of the compensation or damages, or both, awarded in such proceeding, and any person or persons to whom any such award of compensation or damages or both is made, also owns real property which is assessed in the same proceeding to pay the compensation and damages awarded in the proceeding, such person or persons may offset, pro tanto, the amount of the compensation or damages, or both, awarded to such person or persons, against the assessment levied upon real property owned by such person or persons, in the manner provided in Sections 20.76.230, 20.76.240 and 20.76.250.

(Ord. 10725 § 1, 1904.)

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20.76.230 Offsetting compensation against damages—Court certificate.

Any person or persons wishing to offset an award of compensation or damages, or both, against any assessment, as provided in Section 20.76.220, shall receipt upon the execution docket of the court in which such award is made, and make satisfaction, on the execution docket, of the amount so sought to be made an offset; and shall procure from the Clerk of the court and present to the City Finance Director a certificate under the seal of the court specifying the amount of which satisfaction has been made on the execution docket, the date of such satisfaction, the number and a brief title of the proceeding, including the number of the ordinance under which the proceeding was prosecuted.

(Ord. 116368 § 264, 1992: Ord. 10725 § 2, 1904.)

Cases: The right of a property owner to offset compensation for lands taken in condemnation proceedings against an assessment for benefits to his other lands not taken is not waived by taking warrants for such assessments, even though such is not the procedure set out in Ordinance 10725, where no injury or expense results from taking out the warrants. *State ex rel. Guye v. Seattle*, 49 Wn. 41, 94 P. 656 (1908).

20.76.240 Offsetting compensation against damages—Cancellation of assessment roll.

The City Finance Director, upon receipt of the certificate provided for in Section 20.76.230 is authorized and directed to cancel such assessment upon the assessment roll, to the amount specified in the certificate, making suitable notation thereof upon the assessment roll.

(Ord. 116368 § 265, 1992: Ord. 10725 § 3, 1904.)

20.76.250 Offsetting compensation against damages—Same proceeding.

Sections 20.76.220 through 20.76.240 shall not be construed as authorizing or permitting the offsetting of compensation or damages awarded in one condemnation proceeding against an assessment made or levied in another or different condemnation proceeding.

(Ord. 10725 § 4, 1904.)

20.76.260 Acceptance of condemnation fund warrants in payment of assessments.

Whenever an owner of property, assessed in a condemnation proceeding of the City, shall desire to make full payment of such assessment prior to

date of sale of his or her property for the assessment, the City Finance Director is authorized and directed to accept condemnation fund warrants, or parts thereof, in payment of such assessments levied to raise money for the benefit of the particular condemnation fund against or upon which said warrants were issued, and he or she shall treat all of such transactions as cash transactions making proper entry thereof upon City records.

(Ord. 116368 § 266, 1992: Ord. 23191 § 1, 1910.)

20.76.270 Acceptance of certificates of purchase for delinquent condemnation award assessments.

The City Finance Director is authorized and directed to accept the redemption of certificates of purchase issued for delinquent condemnation award assessments and installments thereof, and held in trust by the City for the condemnation award districts, where the last installment of the assessment is two (2) or more years delinquent, upon the payment of the principal of the certificates of purchase and interest thereon at the rate of eight percent (8%) per year from date of issuance to date of redemption.

(Ord. 116368 § 267, 1992: Ord. 63654 § 1, 1933.)

20.76.280 Segregation of condemnation assessments.

A. The City Finance Director is authorized to collect and receive from any owner or owners of any subdivision or subdivisions of any lot, tract or parcel of land upon which a condemnation assessment has been, or may hereafter, be made, such portion of the assessment or assessments levied or to be levied against such lot, tract or parcel of land in the payment of the condemnation improvement as the City Director of Transportation shall certify to be chargeable to such subdivision or subdivisions in accordance with state law. Upon receipt of a certified copy of a resolution of the legislative authority authorizing such segregation the City Finance Director shall enter such segregation, together with the amount of the bonded interest with respect thereto, upon the assessment records, and upon payment thereof, together with any penalties accruing according to law and any additional interest due with respect to such segregated portion, give a proper receipt; provided that this section shall not authorize the segregation of any assessment which has been delinquent for a

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**Chapter 20.80
DISPOSITION OF FORECLOSED
PROPERTY**

Sections:

- 20.80.010** Contract for sale of foreclosed property.
- 20.80.020** Deposit on purchase of foreclosed property.
- 20.80.030** Authority to contract with professional realtors.
- 20.80.040** Payment for services of local real estate broker.
- 20.80.050** Sale of foreclosed property—Purchase by City.
- 20.80.060** Sale of foreclosed property—Authority of Corporation Counsel.

Statutory Reference: For statutory provisions on foreclosure of assessments and the disposition of property acquired, see RCW Chs. 35.50 and 35.53.

20.80.010 Contract for sale of foreclosed property.

The City Finance Director is authorized to enter into contracts from time to time for and on behalf of the City for the sale, at not less than the appraised value thereof, determined as provided in Section 20.80.030, or at a price not less than enough to pay all taxes and assessments in full of any real property acquired by the City upon foreclosure of local improvement assessments and of any real property which the City may acquire from King County to protect the lien of any such assessments outstanding against such property, or any part thereof. Any such property shall be sold for cash, or on terms providing for the payment of one-fifth ($1/5$) of the purchase price in cash at the time of execution by the purchaser of the contract of sale and the remainder of such price to be paid in installments over a period not exceeding five (5) years, with inter-

period of two (2) years or more, or in any case where it appears that such property, when or as already divided according to the requested segregation, is not or would not be of sufficient value, or is not or would not be in such condition or title, as to provide adequate security for the payment of the total amount of the unpaid assessment, penalties, interest and costs charged or chargeable against the undivided whole. In such instances, upon a recommendation by the City Finance Director, the City Council shall determine such question of fact. No segregation of any assessment on unplatted lands or large platted tracts shall be made until a plat thereof has been furnished the City Director of Transportation by the applicant, showing that the proposed segregation of property will conform to the system of streets as platted in adjacent territory. In all such instances, upon a recommendation by the City Director of Transportation, the City Council shall determine such question of fact.

B. Whenever, on account of the filing of a plat or replat or on account of a sale or contract to sell or other proper evidence of the change of ownership of a divided portion of any lot, tract or parcel of land assessed in such improvement district, it shall appear to be to the best interest of the City to segregate such assessments, the City Director of Transportation is authorized to make the proper certification as provided in this section, upon the written application of the owner, approved by the City Finance Director, and confirmed by City Council resolution, and upon payment of the fee hereinafter provided. In all instances it shall be the duty of the City Director of Transportation to submit the necessary resolution for segregation for City Council approval.

C. A fee of Ten Dollars (\$10.00) shall be charged for each tract of land for which a segregation is to be made together with a fee of Five Dollars (\$5.00) per description for each description added to the assessment roll, to defray the reasonable costs of the reasonable engineering and clerical work involved, by such certificate of the City Director of Transportation, as approved by City Council resolution. Such fees shall be paid to the City Finance Director and shall be deposited in the General Fund.

(Ord. 118409 § 143, 1996: Ord. 116368 § 268, 1992: Ord. 99040 § 1, 1970: Ord. 82590 § 1, 1953: Ord. 63678 § 1, 1933.)

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est on deferred payments at the rate of not less than five percent (5%) per year, or on such terms as may be approved by the City Council. No contract for the sale of any such property shall be valid or binding upon the City unless the same has first been authorized by the City Council by ordinance.
(Ord. 116368 § 269, 1992; Ord. 72834 § 1, 1943.)

20.80.020 Deposit on purchase of foreclosed property.

The City Finance Director is authorized for and on behalf of the City to accept deposits of money amounting to not less than five percent (5%) of the purchase price of any property proposed to be sold as earnest money and to issue his or her receipt therefor. Any such deposit shall be placed in the Guaranty Deposit Fund, and if the depositor fails, through no fault of the City, to enter into a contract for the purchase of the property involved within ten (10) days after the Finance Director notifies him or her that a duly authorized or approved contract, executed on behalf of the City, is ready for execution on his or her part, such deposit shall be deemed forfeited and become the property of the City, and the amount thereof shall be transferred to the Local Improvement Guaranty Fund. If the depositor enters into such contract within the time mentioned in this section, the amount of the deposit shall be credited upon the purchase price agreed to be paid and shall be transferred to the Fund of the Local Improvement District levying the assessments, and if the district has been closed to the Local Improvement Guaranty Fund. If the City fails, by reason of any fault on its part, to make available for execution by the depositor such contract of sale within sixty (60) days after the receipt of the deposit, the depositor may, at his option, demand the return of his deposit.
(Ord. 116368 § 270, 1992; Ord. 72834 § 2, 1943.)

20.80.030 Authority to contract with professional realtors.

The City Finance Director is authorized on behalf of the City to contract from time to time with professional realtors or real estate appraisers to ascertain for purposes of sale the value of City property acquired in the enforcement and for the protection of local improvement assessment liens, and in such connection the City Finance Director is authorized to negotiate the terms of such employment, including the fees therefor, payment of

which fees shall be charged to the appropriate item in the annual City budget.
(Ord. 116368 § 271, 1992; Ord. 94302 § 1, 1965; Ord. 72834 § 3, 1943.)

20.80.040 Payment for services of local real estate broker.

Whenever the City Council shall, by resolution, find that any real estate broker, duly licensed as required by the laws of the state, and whose principal place of business is located in Seattle, shall have negotiated the sale of any such property, such real estate broker shall be paid for such services a commission equal to five percent (5%) of the sale price of the property sold; but no payment shall be made on account of any such sale until at least one-fifth (1/5) of the total purchase price of the property shall have been paid to the City.
(Ord. 72834 § 4, 1943.)

20.80.050 Sale of foreclosed property—Purchase by City.

Whenever real property shall be offered for sale to satisfy an execution, judgment or decree of foreclosure in any action wherein the City is a party, in the absence of bidders or purchasers, or if the highest bid made by any person for such property be less than the amount of the judgment and costs recovered by the City in such action, then the properly authorized officer of the City may bid in and purchase such real property in the name of the City, for the use and benefit of the City, for a sum of money not to exceed the amount required to satisfy such execution, judgment or decree and the costs therein; and the amount so bid shall be applied to the satisfaction of the judgment in such action.
(Ord. 16300 § 1, 1907.)

20.80.060 Sale of foreclosed property—Authority of Corporation Counsel.

The City Attorney is authorized to bid in and to purchase in the name of the City, and for its use and benefit, all such real property as may be sold, as provided in Section 20.80.050, and to enter satisfaction of such judgments.

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(Ord. 116368 § 272, 1992; Ord. 16300 § 2, 1907.)

Chapter 20.84
RELOCATION ASSISTANCE

Sections:

- 20.84.010**Implementation of relocation assistance laws.
- 20.84.020**Applicability.
- 20.84.030**Definitions.
- 20.84.040**City Department Head—Authority.
- 20.84.050**Written notice of initiation of negotiations.
- 20.84.060**Written notice to vacate.
- 20.84.070**Retention of proof of delivery of notices.
- 20.84.080**Payment of benefits upon proper application.
- 20.84.090**Authorization of payments by City Department Head.
- 20.84.100**Time limits for applications for relocation benefits.
- 20.84.110**Administrative review.
- 20.84.120**Right of review.
- 20.84.130**Initiation of appeal—Notice and statement.
- 20.84.140**Form of statement.
- 20.84.150**Applicability of State Administrative Procedure Act.
- 20.84.160**Appeal referred to Hearing Examiner and hearings.
- 20.84.170**Correction or amendment of notice of appeal.
- 20.84.180**Submission of proposed decision and orders.
- 20.84.190**Exceptions—Time for filing.
- 20.84.200**Reply to exceptions.
- 20.84.210**Submission of record and issuance of final decision.
- 20.84.220**Judicial review.

**For current SMC, contact
the Office of the City Clerk**

20.80.060 PUBLIC WORKS, IMPROVEMENTS AND PURCHASING

20.84.230 Official custodian of regulations.

Statutory Reference: For statutory provisions on relocation assistance, see RCW Ch. 8.26.

(Ord. 118409 § 144, 1996; Ord. 118397 § 120, 1996; Ord. 115958 § 19, 1991; Ord. 109157 § 1, 1980; Ord. 104542 § 3, 1975.)

20.84.010 Implementation of relocation assistance laws.

The purpose of this chapter is to implement the provisions of RCW Chapter 8.26, state regulations implementing said chapter including WAC Chapter 365-24 and any federal law, rules, regulations or orders pertaining to relocation assistance which may be applicable to any program or project for the acquisition of real property, or any interest therein, which may create a “displaced person” as that term is defined by federal or state law, rules, regulations or orders applicable to such program or project.

(Ord. 104542 § 1, 1975.)

20.84.020 Applicability.

Whenever the City or any department thereof undertakes the acquisition of real property in connection with a program or project that may create a “displaced person” as that term is defined by federal or state law, rules, regulations or orders applicable to such program or project after the effective date of the ordinance codified in this chapter,¹ the provisions of this chapter shall apply. (Ord. 104542 § 2, 1975.)

1. Editor's Note: Ord. 104542 became effective June 25, 1975.

20.84.030 Definitions.

For the purpose of this chapter and for the purpose of administering and implementing any federal, state or local relocation assistance statute, law, ordinance, rule, regulation, order or program, applicable to any acquisition of real property or any interest therein by the City or to any program or project involving the City or any of its departments:

A. “City Department Head” means the head of the City department (such as the Director of Transportation, Superintendent of Parks and Recreation, Executive Services Director, among others) having authority over and responsibility for the applicable program or project and its costs.

B. The City Department Head, as defined in subsection A, is declared to be “the executive head of the displacing entity” as those or similar terms may be used in state or federal statutes, rules, regulations or orders.

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20.84.040 City Department Head—Authority.

The City Department Head having authority over and responsibility for a program or project of real property acquisition or for a program or project which may create a “displaced person” as that term may now or hereafter be defined by any applicable federal, state or City statute, law, ordinance, rule, regulation or order, shall with respect to such program or project have authority and responsibility for:

A. Implementing this chapter and any federal, state, or local relocation assistance statute, law, ordinance, rule, regulation, or order applicable to each such program or project which is subject to his authority;

B. Ascertaining the eligibility for and amount of benefits to be paid each applicant;

C. Giving notices of initiation of negotiations, notices and authorizations to vacate, and maintaining records (including records of delivery and service of such notices) of the activities by or for his department pertaining to acquisition, relocation assistance and claims for each program or project under his authority. Such authority and responsibility (except issuance of a final decision pursuant to Section 20.84.210) may be delegated to such persons as each City Department Head may authorize.

(Ord. 104542 § 4, 1975.)

20.84.050 Written notice of initiation of negotiations.

Whenever the City or any department thereof undertakes acquisition of real property for a program or project that may create a “displaced person” as that term is defined by federal or state law, rules, regulations or orders applicable to such program or project, the City Department Head with authority over and responsibility for such program or project shall upon initiation of negotiations with the owner of the property to be acquired give written notice thereof to such owner and to tenants and other persons occupying such property, which notice shall set forth the following:

A. “Eligibility for relocation assistance and benefits which could become available after acquisition of the property by the City can be lost

if the owner or any tenant or occupant moves or makes any financial commitments for replacement housing or facilities prior to receiving a written notice to vacate signed by (...Title of Appropriate City Department Head...) or his duly authorized agent for the (...Name of Program or Project...), or if the owner or any tenant or occupant otherwise fails to meet the legal requirements for such assistance or benefits”;

B. “The City's land purchase intentions and plans are subject to change and even cancellation until the acquisition is closed”;

C. “Neither the owner nor any tenant or occupant should move or make any financial commitment for replacement housing or facilities until he has received in writing:

(i) a final determination of his eligibility, or ineligibility as the case may be, for relocation payments;

(ii) a statement of the requirements which must be satisfied before such payments or benefits, if any, can be provided by the City if it purchases the property; and

(iii) a notice or authorization to vacate for the program or project; signed by (...Title of appropriate City Department Head...) or his duly authorized agent”;

D. Where, and from whom he can obtain full information concerning relocation assistance, eligibility for relocation payments and the requirements which must be satisfied before such payment can be made;

E. The applicable time limits for filing a claim for relocation payments; and

F. The procedure specified in Sections 20.84.110 through 20.84.210 for obtaining review of any determination concerning his eligibility for, the method of determination or amount of relocation payments.

(Ord. 104542 § 5, 1975.)

20.84.060 Written notice to vacate.

A written notice to vacate for the program or project must be given to each individual, family, business, or farm operation to be displaced; and all such notices shall be served personally or delivered by certified or registered first-class mail. (Ord. 104542 § 6, 1975.)

20.84.070 Retention of proof of delivery of notices.

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Written proof of personal service or delivery by certified or registered first-class mail, of all notices of initiation of negotiations and all notices to vacate shall be retained by the responsible City Department Head authorizing or giving such notice for not less than seven (7) years after: (A) negotiations for acquisition are terminated, (B) the property is acquired, or (C) the time limit for applications for relocation benefits has expired, whichever is later.

(Ord. 104542 § 7, 1975.)

20.84.080 Payment of benefits upon proper application.

A displaced person who makes proper application for a payment authorized for such person by RCW Chapter 8.26, state relocation regulations or other applicable law, rules, regulations or orders shall be paid promptly after a move, or, in hardship cases, be paid in advance.

(Ord. 104542 § 8, 1975.)

20.84.090 Authorization of payments by City Department Head.

No payment shall be made and no claimant or applicant shall be informed that any claim or payment is or will be approved, authorized or paid prior to specific written authorization from the City Department Head having authority over and responsibility for the program or project which creates the claim or application.

(Ord. 104542 § 9, 1975.)

20.84.100 Time limits for applications for relocation benefits.

A. If City Acquires Real Property. Applications for benefits under RCW Chapter 8.26 and state relocation regulations are to be made within eighteen (18) months of the date on which the displaced person moves from the real property acquired or to be acquired, or the date on which the City makes final payment of all costs of that real property, whichever is the later date.

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B. If City does not Acquire Real Property. Applications for benefits under RCW Chapter 8.26 and state relocation regulations, or any other applicable federal, state or local relocation assistance statute, law, ordinance, rule, regulation, order or program, are to be made:

1. Within twenty-four (24) months of the date of receipt of a notice of initiation of negotiations with the owner; or

2. Within eighteen (18) months of the date specified for vacating the property in a notice to vacate, or an authorization to vacate, issued by the City Department Head, whichever is earlier.

C. The City Department Head having authority over and administering the program or project which creates the claim may extend the time limit period upon a proper showing of good cause. (Ord. 104542 § 10, 1975.)

20.84.110 Administrative review.

For the purposes of this chapter and any state or federal relocation assistance statute, rule, regulation or order, including RCW 8.26.030(1), RCW 8.26.130 and WAC 365-24-030(1)(a)(v), review by the City Department Head having authority over the applicable program or project, shall be in accordance with Section 20.84.110 through Section 20.84.200. (Ord. 104542 § 11, 1975.)

20.84.120 Right of review.

Any person aggrieved by a determination as to eligibility for, method of determination, or the amount of, a payment authorized by RCW Chapter 8.26, state relocation regulations (WAC Chapter 365-24), or applicable law, rules, regulations or orders may have such determination reviewed and reconsidered by the City Department Head having authority over the applicable program or project. (Ord. 104542 § 12, 1975.)

20.84.130 Initiation of appeal—Notice and statement.

Any person aggrieved by determination as to his eligibility for, method of determination, or the amount of, a payment authorized by RCW 8.26, state regulations (WAC Chapter 365-24) or other applicable law, rules, regulations or orders, and desiring to invoke the appeal procedures, within thirty (30) days following receipt of notification of the determination of such claim by the City

Department Head, shall submit to such City Department Head, a notice of appeal which shall include a written statement of the facts pertinent to the case.

(Ord. 104542 § 13, 1975.)

20.84.140 Form of statement.

No specified form or format is prescribed, but the statement or letter should state all of the facts and the reasons why the aggrieved person believes the claim should be paid or why he believes he is otherwise aggrieved. For identification, the letter or statement should show the project name and parcel number of the real property involved, and should bear the signature and address of the aggrieved person or his attorney.

(Ord. 104542 § 14, 1975.)

20.84.150 Applicability of State Administrative Procedure Act.

A. In accordance with RCW 8.26.030(1), the provisions of the State Administrative Procedure Act (RCW 34.04) regarding the resolution of contested cases shall be utilized by the City Department Head in resolving any appeal filed pursuant to Section 20.84.130.

B. References to “agency” in the State Administrative Procedure Act shall be understood to mean City Department Head for the purposes of this chapter.

(Ord. 104542 § 15, 1975.)

20.84.160 Appeal referred to Hearing Examiner and hearings.

Upon receipt of a notice of appeal, the City Department Head shall refer the matter to the Hearing Examiner. The Hearing Examiner or any Deputy Hearing Examiner or Hearing Examiner pro tempore shall hold hearings in accordance with the procedures established for hearing contested cases by the State Administration Procedure Act (RCW 34.04) and provisions of this chapter not in conflict therewith, within forty-five (45) days following receipt by the City Department Head of the notice of appeal, and upon not less than twenty (20) days' notice to the aggrieved person. Failure to hold such hearing within the time specified in this section, however, shall not affect the authority of the Hearing Examiner, the necessity of the hearing or the

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rights of the parties involved.
(Ord. 104542 § 16, 1975.)

20.84.170 Correction or amendment of notice of appeal.

If any notice of appeal is found by the City Department Head to be defective or insufficient, such City Department Head may so advise the Hearing Examiner and the aggrieved person or his attorney in writing. Upon receipt of such notice, the Hearing Examiner may issue an order requiring the persons filing the notice of appeal to correct, clarify or amend the same to conform with the requirements of RCW 8.26, state regulations (WAC Chapter 365-24) or other applicable law, rules, regulations or orders and may refuse to schedule any hearing thereon until such requirements have been complied with, or may issue an order providing for dismissal of such appeal upon failure to comply within a specified reasonable time.
(Ord. 104542 § 17, 1975.)

20.84.180 Submission of proposed decision and orders.

The Hearing Examiner shall within thirty (30) days after completion of the hearing and record prepare in writing a proposed decision and order containing findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The Hearing Examiner shall file the original, signed by him, with the City Department Head and mail by certified or registered first-class mail a copy to each aggrieved person who is a party to the appeal and to his attorney or representative of record.
(Ord. 104542 § 18, 1975.)

20.84.190 Exceptions—Time for filing.

Within twenty (20) days, or such further period as the Hearing Examiner may allow, any party to the appeal may file with the Hearing Examiner a written statement of exceptions.
(Ord. 104542 § 19, 1975.)

20.84.200 Reply to exceptions.

Any party may, within fifteen (15) days after the filing of an exception by an adverse party, submit a reply to exceptions, a written brief, or a statement of position regarding the matters on which exceptions were taken.
(Ord. 104542 § 20, 1975.)

20.84.210 Submission or record and issuance of final decision.

The entire record, including all exhibits, and proposed findings of fact and conclusions of law, together with all exceptions and replies to exceptions, shall be submitted to the City Department Head having authority over the applicable program or project. Upon receipt of the entire record, the City Department Head, in a manner consistent with RCW 34.04.110, shall consider the same and may either adopt, modify, or reject the proposed findings of fact and conclusions of law and proposed order, and shall issue the final decision of the City Department Head. Such decision shall be made within a reasonable time after receipt of the entire record. The original of such decision shall be signed by the City Department Head and filed with the Hearing Examiner. Copies shall be sent to each aggrieved person who is a party to the appeal and to his attorney or representative of record, by personal service or certified or regular first-class mail.
(Ord. 104542 § 21, 1975.)

20.84.220 Judicial review.

A. Pursuant to RCW 8.26.030(1), any determination by any City Department Head administering a program or project as to payments under RCW 8.26 shall be subject to judicial review as provided in RCW 34.04 and not otherwise.

B. Whenever any person aggrieved by a final order or decision in a contested case seeks judicial review of such final order or decision, the City Department Head involved shall at the request of any party and upon payment of the reasonable costs thereof, prepare and transmit to the reviewing court a certified copy of the entire record of the proceedings or such shortened record as may be agreed to by the parties or ordered by the court. At the request or direction of the court, the City Department Head and the Hearing Examiner may take additional evidence and modify their findings or order or decision in accordance therewith. Such additional evidence and any modification shall become a part of the record and where appropriate shall be prepared and transmitted to the reviewing court as provided in this section.
(Ord. 104542 § 22, 1975.)

20.84.160 PUBLIC WORKS, IMPROVEMENTS AND PURCHASING

20.84.230 Official custodian of regulations.

The City Clerk is designated as the official custodian of all rules, regulations, and orders adopted or used (including such federal and state rules, regulations, guidelines, orders, policies and procedures as may apply) by the City or any City Department Head pertaining to relocation assistance; and any City Department Head having authority over and responsibility for any program or project of real property acquisition which may create a displaced person shall cause true copies of all such rules, regulations and orders to be filed with the City Clerk, which shall be made available for inspection and copying by the public upon the same terms and conditions as other official records of the City in the custody of the Clerk.

(Ord. 104542 § 23, 1975.)

For current SMC, contact
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Seattle Municipal Code
June, 1998 code update file
Text provided for historic reference only.

RELOCATION ASSISTANCE 20.84.230

**See ordinances creating and amending
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