



CO00044170

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

EMERGENCY ORDINANCE NO. 12-073

RELATING TO ESTIMATES FOR CONSTRUCTION OF PUBLIC WORK;  
AMENDING SCC 3.04.165

WHEREAS, SCC 3.04.165, first adopted by the County Council in 1981 and subsequently amended on three separate occasions, has consistently included the concept that contracts for the construction of public work may not be awarded on a bid exceeding the involved County department head's estimate by more than ten percent; and

WHEREAS, from 1963 to 1980, RCW 36.77.050 prohibited the award for construction or improvement of a county road on a bid proposal which exceeded the estimate of the engineer by more than ten percent; and

WHEREAS, by Chapter 93, Laws of 1980, § 2, the Washington legislature repealed RCW 36.77.050; and

WHEREAS, in circumstances of changing market conditions, including but not limited to changes in materials costs, in interest rates and in the volume of public work projects then out for bid, the estimates of engineers, architects and department heads for a particular public work can vary widely from the bids actually received for that work; and

WHEREAS, as an example, while only two out of thirty-three public work bids received by the Washington State Department of Transportation ("WSDOT") in May and June 2012 exceeded the estimate by more than ten percent, three out of ten bids received by WSDOT in the first three weeks of July 2012 exceeded the estimate by more than ten percent; and

WHEREAS, as a further example, on August 14, 2012, the County opened seven bids for a large public work project that is on a tight construction timeline, all of which bids exceeded the estimate by more than ten percent and many of which bids were relatively close to one another; and

WHEREAS, it is necessary and appropriate to address the requirements of SCC 3.04.165 before making a decision on the award for the large public work project for which the County must soon act on the bids; and

WHEREAS, the effect of SCC 3.04.165 in its current form is to require the County's rejection of all bids and the call for new bids, with attendant delays in awards

1 and in the completion of necessary County public work, when the lowest responsive bid  
2 exceeds the estimate by more than ten percent; and  
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4 WHEREAS, it is in the interests of the County and public to amend SCC 3.04.165  
5 to allow County departments more flexibility in the award of bids for public work; and  
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7 WHEREAS, in connection with the amendment to County Code made by this  
8 ordinance, the County Council intends to review promptly the requests made, with  
9 supporting justification, for approval of public work bid awards that exceed estimates by  
10 more than ten percent; and  
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12 NOW, THEREFORE, BE IT ORDAINED:  
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14 Section 1. Snohomish County Code Section 3.04.165, last amended by  
15 Ordinance No. 92-085 on August 12, 1992, is amended to read:  
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17 **3.04.165 Estimates.**  
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19 Prior to any negotiation or call for bids for any public works contract or any other  
20 contract covered by this chapter, the estimated amount of which exceeds  
21 ~~((twenty-five))~~ twenty-five thousand dollars, the head of the county department  
22 involved shall prepare or cause to be prepared a detailed estimate of the amount  
23 of such contract. No contract for the construction of any public work shall be  
24 awarded on a bid exceeding the estimate by more than ten percent without  
25 supporting justification and the approval of the council on written motion. No  
26 other contract covered by this chapter shall be awarded on a bid which exceeds  
27 the estimate by more than ten thousand dollars without the approval of the  
28 council.  
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30 Section 2. Emergency declared. The County Council finds as facts that this  
31 ordinance is necessary (a) for the timely and efficient award of contracts on county  
32 public work bids under all market conditions, including volatile market conditions, and  
33 most particularly in light of the outstanding bids for a large County public work project,  
34 and (b) for the support of county government and its existing institutions. Based on the  
35 foregoing, the County Council declares that an emergency exists and this ordinance  
36 shall take effect immediately.  
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38 PASSED this 27<sup>th</sup> day of August, 2012.  
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40 SNOHOMISH COUNTY COUNCIL  
41 Snohomish County, Washington  
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45 Chairperson  
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ATTEST:

Debra J. Bratton

Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

DATE: 8/28/12

Don A. Khan  
County Executive

ATTEST:

Core E. Palmer

Approved as to form only:

Joel H. Ostergaard 8/23/12

Deputy Prosecuting Attorney

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