

PROPOSED BY: BROWNE

INTRODUCED: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AMENDING WHATCOM COUNTY CODE TITLE 3 REVENUE AND FINANCE,  
SPECIFICALLY CHAPTERS 3.06 (GRANTS) AND 3.08 (PURCHASING SYSTEM)  
TO INCORPORATE NEW STATE LEGISLATION, REMOVE SUNSET CLAUSE,  
AND REVISE PARAMETERS FOR COUNCIL APPROVAL**

**WHEREAS**, Whatcom County residents entrust the County Council and Executive to procure goods responsibly, efficiently, and with transparency; and

**WHEREAS**, Whatcom County Council wishes to revise the purchasing code to provide greater transparency for the public while allowing for efficient purchasing processes; and

**WHEREAS**, Whatcom County Council adopted Ordinance 2014-047 setting forth requirements for grant application approvals in Chapter 3.06; and

**WHEREAS**, Whatcom County Council adopted Ordinance 2016-032 to achieve greater administrative efficiencies through clarifying purchasing processes and delivering timely and complete procurement information; and

**WHEREAS**, Whatcom County Council adopted Ordinance 2018-033 to extend the sunset clause date to December 31, 2021; and

**WHEREAS**, Whatcom County Council wishes to update the purchasing code to include new purchasing guidance from state law regarding advertisement requirements; and

**WHEREAS**, Whatcom County Council experienced results from revised approval thresholds and wants to make additional revisions and remove the sunset clause.

**NOW, THEREFORE, BE IT ORDAINED**, that the Whatcom County Code Chapters 3.06 and 3.08 shall hereby be amended as detailed in the attached Exhibit A.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**ATTEST:**

**WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON**

\_\_\_\_\_  
Dana Brown-Davis, Clerk of the Council

\_\_\_\_\_  
Barry Buchanan, Council Chair

**APPROVED AS TO FORM:**

**WHATCOM COUNTY EXECUTIVE  
WHATCOM COUNTY, WASHINGTON**

\_\_\_\_\_  
Karen Frakes (by email 10/19/2021)  
Civil Deputy Prosecutor

\_\_\_\_\_  
Satpal Sidhu, County Executive

( ) Approved ( ) Denied

Date Signed: \_\_\_\_\_

1 **EXHIBIT A**

2  
3 **Chapter 3.06**

4 **GRANTS**

5 Sections:

6 3.06.010 Approval by council

7  
8  
9  
10 3.06.010 Approval by council.

11 A. All grants that propose county direct cost sharing in an amount exceeding \$20,000, or  
12 require additional personnel, must be approved by the council.

13  
14 B. All Grants exceeding \$40,000 must be approved by the County Council.

15  
16 C. All grants that have provisions other than compliance with state and federal regulations  
17 and funding and reporting on existing county programs must be approved by the council.

18  
19 D. The requirements of this section shall not apply to emergencies declared by the county  
20 executive. (Ord. 2014-047 Exh. A; Ord. 84-109).

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21  
22  
23 **Chapter 3.08**

24 **PURCHASING SYSTEM**

25  
26 Sections:

27 3.08.010 Purpose.

28 3.08.020 Administration.

29 3.08.030 Authority and functions.

30 3.08.040 Price quotations.

31 3.08.050 Vendor lists.

32 3.08.060 Bids and proposals required.

33 3.08.070 Contractor's bond required for public works.

34 3.08.080 Labor and material claims.

35 3.08.090 Bid specifications, deposits and awards.

36 3.08.095 Small works roster contract award process.

37 3.08.100 Council approval required.

38 3.08.110 Unregistered or unlicensed contractors prohibited.

39 3.08.120 Joint purchasing.

40 3.08.125 Nondiscrimination.

41 3.08.130 Amendments to chapter.

42  
43 3.08.140 Severability.

44  
45 3.08.010 Purpose.

46 It shall be the purpose of this chapter to establish a purchasing system to work with all  
47 county departments, agencies, boards and commissions, and other operations of the county  
48 to ensure efficiency in procurement of supplies and equipment of the necessary quality at  
49 the lowest possible cost; to ensure compliance with purchasing statutes, regulations,  
50 policies and procedures; to ensure efficient utilization of county property, new and used;  
51 and to minimize employee time devoted to purchasing functions.

52  
53 In addition, it is intended that the purchasing system be as transparent as possible, deliver  
54 timely and complete procurement information to prospective vendors, and report successful

1 bids, contracts and project expenditures to the public using the county's website. (Ord.  
2 2016-032 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord.  
3 93-042 Exh. H).

4  
5 3.08.020 Administration.

6 The director of the administrative services department shall have full authority and  
7 responsibility for the operation and ongoing improvement of the purchasing system under  
8 the direction of the county executive. (Ord. 2016-032 Exh. A; Ord. 2013-029 Exh. A; Ord.  
9 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

10  
11 3.08.030 Authority and functions.

12 A. The authority to recommend and implement administrative policies and procedures that  
13 provide a comprehensive basis for purchasing functions shall fall under the purview of the  
14 purchasing system.

15  
16 B. The following responsibilities shall be coordinated through the purchasing system:

17  
18 1. Continue to improve services to departments and agencies in the area of purchasing.

19  
20 2. Develop automated requisition and reporting systems.

21  
22 3. Improve purchasing productivity and control for all departments.

23  
24 4. Standardize high volume purchases.

25  
26 5. Develop efficient policies and procedures for acquiring goods and services.

27  
28 6. Implement inventory controls and minimize costs of goods and services.

29  
30 7. Prepare and make available to all departments standardized forms for requisitions,  
31 vouchers, inventories and any other form required for county operations.

32  
33 8. Assign purchase order numbers for the acquisition of supplies, materials, equipment,  
34 tools, services, rental of personal property, professional services and contracted public  
35 works exceeding \$2,500.

36  
37 9. Maintain vendor list pursuant to RCW 39.04.190.

38  
39 10. Whenever practically possible, contact at least three vendors to assure competitive  
40 pricing.

41  
42 11. Promote a competitive procurement environment by actively soliciting subscribers to the  
43 county's web-based purchasing notification system.

44  
45 12. Review and approve bid specifications and prepare invitations to bid pursuant to  
46 provisions set forth in this chapter.

47  
48 13. Check bids for accuracy and compliance with specifications and invitation to bid.

49  
50 14. Make bid recommendations on all awards to the county executive.

51  
52 15. Perform such other duties as may be required to further the purposes of this chapter.  
53 (Ord. 2016-032 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A;  
54 Ord. 93-042 Exh. H).

1  
2 3.08.040 Price quotations.

3 Whenever practically possible, price quotations from at least three vendors shall be solicited  
4 for contracted work constituting a public work and the acquisition of materials, supplies,  
5 services, tools, equipment or rental of personal property involving amounts greater than  
6 \$10,000 not exceeding \$40,000. Quotations for architects and engineers are subject to the  
7 requirements of Chapter 39.80 RCW. Records of all quotations obtained shall be maintained  
8 and shall be open to public inspection. Bids submitted periodically for the roster of rental  
9 equipment with operators may be used as the source of quotations for public works projects  
10 not exceeding \$40,000. (Ord. 2016-032 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh.  
11 A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

12  
13 3.08.050 Vendor lists.

14 Whatcom County will maintain a vendor list pursuant to RCW 39.04.190. (Ord. 2016-032  
15 Exh. A; Ord. 2013-029 Exh. A).

16  
17 3.08.060 Bids and proposals required.

18 Awards of contracts for the acquisition of materials, supplies, services, tools, equipment or  
19 rental of personal property and professional services exceeding \$40,000 will be based upon  
20 bids or proposals received in response to specifications and invitations to bid, except as  
21 follows:

22  
23 A. Sole source purchases shall not be required to go through competitive bidding. A  
24 purchase may be determined to be sole source by the county executive or designee when  
25 the bidding process would be futile because only one bidder could respond to the invitation.

26  
27 B. In the event of an emergency when the public interest or property of the county would  
28 suffer material injury or damage by delay, upon an order of the county executive declaring  
29 the existence of such emergency and reciting the facts constituting same, the requirements  
30 governing competitive bids with reference to any purchase or contract may be waived  
31 pursuant to RCW 36.32.270.

32  
33 C. Public works projects involving funds not exceeding the amount allowed in RCW  
34 39.04.155, Small works roster contract procedures – Limited public works process, or any  
35 successor statute, may be completed utilizing the small works roster contract award  
36 process.

37  
38 D. Acquisition is from another public entity.

39  
40 E. Contract does not require use of county funds.

41  
42 Proposals from architects and engineers are subject to the requirements of Chapter 39.80  
43 RCW. (Ord. 2016-032 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034  
44 Exh. A; Ord. 93-042 Exh. H).

45  
46 3.08.070 Contractor's bond required for public works.

47 Whatcom County shall comply with the requirements of RCW 39.08.010. (Ord. 2016-032  
48 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042  
49 Exh. H).

50  
51 3.08.080 Labor and material claims.

52 Labor and material claims shall be filed pursuant to RCW 39.08.030. (Ord. 2016-032 Exh.  
53 A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

54

1 3.08.090 Bid specifications, deposits and awards.

2 A. In developing specifications for bids or proposals, all reasonable efforts shall be made to  
3 ensure a competitive process and that a variety of vendors shall be capable of fulfilling the  
4 stated requirements of the county. Performance considerations shall be included in the  
5 specifications. However, nothing in this section shall be construed to limit the county from  
6 pursuing sole source procurement where adequate justification has been presented that  
7 such procurement is in the best interests of county operations.

8  
9 B. When the acquisition of materials, supplies, purchased services, tools, equipment, rental  
10 of personal property or professional services involves amounts greater than \$40,000 for a  
11 nonpublic work or public work award, the administrative services department shall be  
12 responsible for the review and approval of specifications and the preparation of invitations  
13 to bid pursuant to provisions set forth in this chapter.

14  
15 C. All bid specifications shall be in writing and placed on file for public inspection.

16  
17 D. All invitations for bids, requests for proposals, requests for qualifications and bid packets  
18 will be posted on the county's website. Project announcements and bid solicitations or  
19 proposals shall be published in the official county newspaper, and when in the county's best  
20 interest, other regional publications. Additionally, the county will offer complimentary bid  
21 packets to multiple northwest and national plan centers. Advertisements shall be published  
22 at least once at least 13 days prior to the last date upon which bids will be received. Such  
23 advertisement shall state:

24  
25 1. The date after which bids will not be received;

26  
27 2. The character of the work to be done, or the materials, equipment or service to be  
28 purchased; and

29  
30 3. Instruction on how to obtain additional information, including the complete bid packet.

31  
32 E. No bid shall be considered for public works unless it is accompanied by a bid deposit in  
33 the form of a surety bond, postal money order, cash, cashier's check, or certified check in  
34 an amount equal to five percent of the amount of the bid proposed.

35  
36 F. Should the bidder to whom the contract is awarded fail to enter into the contract or fail to  
37 furnish the contractor's bond within 10 days (exclusive of the date of notice) after notice of  
38 the award, the amount of the bid deposit shall be forfeited to the county. Thereafter, the  
39 award shall be made to the next lowest responsive bidder. The bid deposit of an  
40 unsuccessful bidder (if his bid deposit has not been forfeited) shall be returned after the  
41 required contractor's bond of the successful bidder has been accepted.

42  
43 G. Bids received shall be opened and read in public on the date named in the advertisement  
44 for bids, or on a subsequent date established in a bid addendum.

45  
46 H. After opening, all bids shall be reviewed and referred to the requisitioning department for  
47 recommendation of award. Bids will be forwarded by the director of the administrative  
48 services department or designee with a recommendation to the county executive for award.

49  
50 I. After opening and award, all bids shall be filed for public inspection, and available by  
51 telephone inquiry.

52  
53 J. Any or all bids may be rejected for good cause. If all bids are not rejected, the award  
54 shall be to the lowest responsive bidder. In determining which is the lowest responsive

1 bidder, the county may take into consideration the bidder's responsiveness to the county's  
2 requirements, the quality of the articles to be purchased or leased, availability of parts and  
3 service, delivery time, the tax revenue the county would receive from purchasing from a  
4 supplier located within its boundaries and prior dealings with the bidder.  
5

6 K. The county may issue requests for proposals for services, or for technologically complex  
7 equipment including but not limited to computers, software, or telephone systems. If all  
8 proposals are not rejected, the award shall be to the highest rated proposal, taking into  
9 account the selection criteria published in the request for proposals.  
10

11 L. The county may award to multiple bidders for the same commodity or service when the  
12 bid specifications provide for special circumstances in the determination of which vendor is  
13 truly the lowest price to the county. Special circumstances may include differences in ability  
14 to deliver, delivery time, availability of material, special loading or unloading conditions,  
15 total cost including transport or labor if not included with bid item, performance of the  
16 delivered material, location of the source, and proximity to the delivery point.  
17

18 M. Contracts that require county council approval per WCC 3.08.100 may be  
19 administratively amended to a cumulative amount not to exceed \$10,000 or 10 percent of  
20 contract amount, whichever is greater; larger amounts require council approval. No  
21 administrative contract amendment may exceed authorized expenditure authority. (Ord.  
22 2016-032 Exh. A; Ord. 2015-011 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A;  
23 Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).  
24

25 3.08.095 Small works roster contract award process.

26 This section may be utilized in the acquisition of contractual services necessary to complete  
27 public works projects as allowed under RCW 36.32.250, and consistent with RCW  
28 39.04.155. In order to use a small works roster contract award process in lieu of formal  
29 sealed bidding, the county shall:  
30

31 A. Publish at least twice each year in the official county newspaper a notice of the existence  
32 of the roster and solicit the names of contractors that are qualified for the requested  
33 categories of work. Notice shall be published at least once in each week for two consecutive  
34 weeks prior to the last date upon which response to the notice will be received, and may be  
35 published for as many additional publications as shall be considered in the county's interest.  
36

37 B. In every case a certain category of work is to be accomplished under this section, all  
38 contractors responding to the above notice and indicating their qualification to perform the  
39 category of work proposed shall be contacted and provided an invitation to bid.  
40

41 C. Include in the invitation to bid the date on which bids will be received, the scope and  
42 nature of work to be performed, the materials and equipment to be furnished, and, if not  
43 provided otherwise in the invitation to bid, where the detailed plans and specifications may  
44 be seen and obtained.  
45

46 D. Otherwise apply the provisions of WCC 3.08.090(B), (E), (F), (G), (H), (I), (J), and (M).  
47

48 E. Forgo the advertisement of a contract awarded through use of the small works roster.  
49 (Ord. 2016-032 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A).  
50

51 3.08.100 Council approval required.

52 County council approval is required for the following:  
53

54 A. Contracts or bid awards exceeding \$40,000 and all real property leases, except when:

- 1  
2 1. Exercising an option contained in a contract or lease previously approved by the council.  
3  
4 2. Contract is for the design, construction, right-of-way acquisition, professional services, or  
5 other capital costs approved by the county council in a capital budget appropriation  
6 ordinance.  
7  
8 3. Contract or bid award is for supplies or for equipment approved in a capital budget  
9 appropriation ordinance.  
10  
11 4. Contract is for technical support and software maintenance from the developer of  
12 proprietary software which is currently being used by Whatcom County.  
13  
14 5. Contract is for manufacturer's technical support and hardware maintenance of electronic  
15 systems.  
16  
17 6. Pursuant to and within the scope of a declaration of emergency made by the county  
18 executive under WCC 3.08.060(B). The county executive, pursuant to a declaration of  
19 emergency, shall submit the contract to the county council for informational purposes at the  
20 council's next regular or special meeting.  
21  
22 B. All informational materials distributed to more than 20 percent of county residences for  
23 the purpose of informing or educating the public on a specific capital project, levy or tax.  
24 (Ord. 2016-032 Exh. A; Ord. 2015-011 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh.  
25 A; Ord. 2000-025; Ord. 97-034 Exh. A; Ord. 96-034; Ord. 93-042 Exh. H).  
26  
27 3.08.110 Unregistered or unlicensed contractors prohibited.  
28 No contract shall be entered into or executed with any contractor who is not registered or  
29 licensed as required by the laws of this state (except only as permitted under RCW  
30 39.06.010 for highway projects for contractors who have been prequalified as required  
31 under RCW 47.28.070). (Ord. 2016-032 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh.  
32 A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).  
33  
34 3.08.120 Joint purchasing.  
35 The county may enter into agreements with the state or with any agency, political  
36 subdivision, or unit of local government to purchase goods or services cooperatively. Joint  
37 purchasing services are hereby authorized and encouraged with any other municipal  
38 corporation in Whatcom County. Assistance to the participating municipal corporation may  
39 be given in any way except that a sale or contract shall be between the vendor and the  
40 participating municipal corporation and not Whatcom County. Bids and quotes may be  
41 obtained jointly based on volume if it is in the county's best interest to do so. (Ord. 2016-  
42 032 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-  
43 042 Exh. H).  
44  
45 3.08.125 Nondiscrimination.  
46 Whatcom County endeavors to secure for all individuals within the county the freedom from  
47 discrimination because of race, color, religion, national origin, gender, sexual orientation  
48 (including gender identity), age, marital status, or disability in connection with employment,  
49 and thereby to promote the interests, rights and privileges of individuals within the county.  
50  
51 A. All contracts proposed by county staff shall incorporate equal employment opportunity  
52 clauses which shall read as follows, or as subsequently amended to be consistent with  
53 existing law:  
54

1 1. Nondiscrimination in Employment. The county's policy is to provide equal opportunity in  
2 all terms, conditions and privileges of employment for all qualified applicants and employees  
3 without regard to race, color, creed, religion, national origin, sex, sexual orientation  
4 (including gender identity), age, marital status, disability, or veteran status. The contractor  
5 shall comply with all laws prohibiting discrimination against any employee or applicant for  
6 employment on the grounds of race, color, creed, religion, national origin, sex, sexual  
7 orientation (including gender identity), age, marital status, disability, political affiliation, or  
8 veteran status, except where such constitutes a bona fide occupational qualification.  
9

10 Furthermore, in those cases in which the contractor is governed by such laws, the  
11 contractor shall take affirmative action to ensure that applicants are employed, and treated  
12 during employment, without regard to their race, color, creed, religion, national origin, sex,  
13 age, marital status, sexual orientation (including gender identity), disability, or veteran  
14 status, except where such constitutes a bona fide occupational qualification. Such action  
15 shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations,  
16 rate of pay or other forms of compensation benefits, selection for training including  
17 apprenticeship, and participation in recreational and educational activities. In all solicitations  
18 or advertisements for employees placed by them or on their behalf, the contractor shall  
19 state that all qualified applicants will receive consideration for employment without regard  
20 to race, color, religion, sex or national origin.  
21

22 The foregoing provisions shall also be binding upon any subcontractor; provided, that the  
23 foregoing provisions shall not apply to contracts or subcontractors for standard commercial  
24 supplies or raw materials, or to sole proprietorships with no employees.  
25

26 2. Nondiscrimination in Client Services. The contractor shall not discriminate on the grounds  
27 of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation  
28 (including gender identity), disability, or veteran status; or deny an individual or business  
29 any service or benefits under this agreement unless otherwise allowed by applicable law; or  
30 subject an individual or business to segregation or separate treatment in any manner  
31 related to his/her/its receipt any service or services or other benefits provided under this  
32 agreement unless otherwise allowed by applicable law; or deny an individual or business an  
33 opportunity to participate in any program provided by this agreement unless otherwise  
34 allowed by applicable law.  
35

36 B. Noncompliance with the nondiscrimination in employment and client services provisions  
37 will be grounds for terminating a contract and may hinder a contractor's eligibility for future  
38 contracts. (Ord. 2021-016 Exh. A).  
39

40 3.08.130 Amendments to chapter.

41 The county council reserves the exclusive right to alter, amend, rescind, abrogate, delete,  
42 supersede or replace the provisions of this chapter, or any part thereof, in any manner not  
43 inconsistent with state law. Whether or not the county council takes action, the provisions of  
44 this chapter shall be deemed automatically altered, amended, or superseded to conform to  
45 any mandatory state administrative ruling or statute, as of the effective date of any such  
46 enactment appertaining to the matters covered in this chapter, to the effect that the  
47 provisions of this chapter shall at all times conform to, and never conflict with, said state  
48 laws and regulations. (Ord. 2016-032 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A;  
49 Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).  
50

51 3.08.140 Severability.

52 If any provision of this chapter is held to be invalid, the remainder of the chapter shall  
53 remain in effect. (Ord. 2016-032 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A;  
54 Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).