

ORDINANCE NO. 3878

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECDC 18.00.050 TO REVISE THE ESTIMATED PROJECT COST THRESHOLD FOR APPRENTICE UTILIZATION; TO REVISE THE TIMING OF THE SUBMITTAL OF THE APPRENTICESHIP UTILIZATION FORM AND THE INFORMATION TO BE PROVIDED ON THE REQUIRED FORMS; TO CLARIFY THE INTENT OF THE FAILURE TO MEET UTILIZATION GOAL REQUIREMENTS; TO ADDRESS POTENTIAL CONFLICTS WITH STATE OR FEDERAL LAW; PROVIDING FOR SEVERABILITY; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, ECDC 18.00.050 currently requires the use of apprentices on public works construction projects with an estimated cost of Two Hundred Fifty Thousand Dollars (\$250,000) or more;

WHEREAS, the City has determined that apprenticeship utilization requirements are more appropriate for public works construction projects that are estimated to cost more than the \$300,000 dollar amount threshold for small works roster contracts, as that amount is currently set forth in RCW 39.04.155;

WHEREAS, ECDC 18.00.050(B)(3) currently requires that an Apprenticeship Utilization Form, which identifies the intended usage of apprentices by the contractor and any subcontractors, be completed by contractors when submitting their bid documents;

WHEREAS, the City has determined that it is more appropriate for an Apprentice Utilization Plan form to be submitted by the successful bidder after the contract award has been made;

WHEREAS, ECDC 18.00.050(B)(3) currently requires that the Apprenticeship Utilization Form include the identification of individual apprentices by name and Washington

State Apprenticeship registration number, an estimate of the total number of apprentice labor hours, and the identification of apprentice hours to be worked by minorities, women, persons with disabilities and disadvantaged youth;

WHEREAS, the City has determined that, rather than providing this information at the beginning of the public works project, it is more appropriate to include this information in the Monthly Apprentice Utilization Report, to be submitted by the contractor at the conclusion of the project;

WHEREAS, the City wishes to clarify the intent of the Failure to Meet Utilization Goal requirement of this section, as set forth in ECDC 18.00.050(B)(4); and

WHEREAS, the City wishes to clarify that the provisions of this ordinance shall not apply to the extent that they are deemed to be in conflict with state or federal grant funding requirements; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Section 18.00.050 of the ECDC Apprentice Requirements is hereby amended to read as follows (deleted language in strike through and new language underlined):

18.00.050 Apprentice Requirements.

This section is intended to supplement, and to be followed in conjunction with, the City of Edmonds Purchasing Policies and Procedures, dated January 20~~12~~⁰⁹, or as amended.

A. Definitions.

1. “Apprentice” means an apprentice enrolled in a state-approved apprenticeship training program.
2. “Contractor” means a person, corporation, partnership, limited liability company, or joint venture entering into a contract with the city to construct a public work.
3. “Labor hours” refers to the total number of hours worked by workers receiving an hourly wage who are directly employed on the site of the public work and who are subject to state or federal prevailing wage requirements. “Labor hours” shall also include

hours worked by workers employed by subcontractors on the site of the public work, and shall include additional hours worked as a result of a contract or project adjustment or pursuant to an agreed-upon change order.

4. "Estimated cost" means the anticipated cost of a public work, as determined by the city, based upon the expected costs of materials, supplies, equipment, and labor, but excluding taxes and contingency funds.

5. "Public work" refers to all city funded construction projects that constitute a public work pursuant to RCW 39.04.010 as now or hereafter amended and estimated to cost \$25300,000 or more.

6. "State-approved apprenticeship training program" means an apprenticeship program approved or recognized by the Washington State Apprenticeship and Training Council.

7. "Subcontractor" means a person, corporation, partnership, limited liability company, or joint venture that has contracted with the contractor to perform all or part of the work to construct a public work by a contractor.

B. Apprentice Utilization. Apprentices shall be utilized for the construction of public works by contractors and subcontractors in accordance with this section.

1. Apprenticeship Utilization Program Goal. For public works contracts with an estimated cost of \$25300,000 or more, the director of public works, or his designee, is authorized to require that up to 15 percent of the contract labor hours, including contractor and subcontractor hours, be performed by apprentices.

2. Contract Requirements. Contract documents for such public works construction projects shall include provisions detailing the apprentice labor requirements.

3. Monitoring. The city will ~~include~~ make available an aApprenticeship Utilization Plan ~~form for contractors to complete when submitting their bid documents, which identifies the intended usage of apprentices by the contractor and any subcontractors. This document is to be submitted by the successful bidder after the contract has been awarded. will require the identification of individual apprentices by name and Washington State apprenticeship registration number, an estimate of the total apprentice labor hours, and the identification of apprentice hours to be worked by minorities, women, persons with disabilities and disadvantaged youth. This provision is not intended and shall not be used to discriminate against any applicant for training. In addition, the city will require periodic reporting on apprentice utilization, to include the submittal of an a~~ Monthly aApprenticeship Utilization Report ~~verification form~~ by the contractor at the conclusion of the public works project that will identify the actual work

performed by apprentices for the contractor and subcontractors on a monthly basis. Required reporting will include the identification of individual apprentices by name and Washington State apprenticeship registration number, the total apprentice labor hours worked, and identification of apprentice hours worked by minorities, women, persons with disabilities and disadvantaged youth. This provision is not intended and shall not be used to discriminate against any applicant for training.

4. Failure to Meet Utilization Goal. Failure by a contractor to comply with established apprenticeship requirements, unless otherwise adjusted or waived in writing as set forth below, shall be deemed a breach of contract for which the city shall be entitled to all remedies allowed by law under the contract. Failure to comply with the apprenticeship requirements may also be considered evidence bearing on a contractor's qualification for award of future contracts with the city. ~~(Note: Some jurisdictions require an assessment of \$1.00 to \$10.00 per hour for each hour the contractor fails to meet the utilization goal instead of a breach of contract provision.)~~

5. Adjustment and Waiver. The director of public works, or his designee, may adjust or waive the requirements of this section for a specific project at any time for the following reasons:

- a. The demonstrated lack of availability of apprentices in specific geographic areas;
- b. A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation;
- c. The reasonable and necessary requirements of the contract render apprentice utilization infeasible at the required levels;
- d. In order to meet the requirement, the contractor will be forced to displace members of its workforce;
- e. The participating contractor has demonstrated a good faith effort to comply with the requirements of this section; and/or
- f. Other criteria deemed appropriate that are not inconsistent with the purpose and goals of this section. [Ord. 3854 § 1, 2011].

6. Grant Funding. The provisions of this ordinance shall not apply to the extent they are deemed to be in conflict with state or federal grant funding requirements.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:


MAYOR DAVID O. EARLING

ATTEST/AUTHENTICATED:


CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
JEFFREY B. TARADAY

FILED WITH THE CITY CLERK:	03-30-2012
PASSED BY THE CITY COUNCIL:	04-03-2012
PUBLISHED:	04-08-2012
EFFECTIVE DATE:	04-13-2012
ORDINANCE NO. <u>3878</u>	

SUMMARY OF ORDINANCE NO. 3878

of the City of Edmonds, Washington

On the 3rd day of April, 2012, the City Council of the City of Edmonds, passed Ordinance No. 3878. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECDC 18.00.050 TO REVISE THE ESTIMATED PROJECT COST THRESHOLD FOR APPRENTICE UTILIZATION; TO REVISE THE TIMING OF THE SUBMITTAL OF THE APPRENTICESHIP UTILIZATION FORM AND THE INFORMATION TO BE PROVIDED ON THE REQUIRED FORMS; TO CLARIFY THE INTENT OF THE FAILURE TO MEET UTILIZATION GOAL REQUIREMENTS; TO ADDRESS POTENTIAL CONFLICTS WITH STATE OR FEDERAL LAW; PROVIDING FOR SEVERABILITY; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 4th day of April, 2012.



CITY CLERK, SANDRA S. CHASE

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH

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The full text of this Ordinance will be mailed upon request.
DATED this 4th day of April, 2012.

CITY CLERK, SANDRA S. CHASE

Published: April 8, 2012.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance No. 3878

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

April 08, 2012

and that said newspaper was regularly distributed to its subscribers during all of said period.

Karen E. Zeimer

Principal Clerk

Subscribed and sworn to before me this

9th

day of April, 2012

Diana L. Hendrix

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

