Ordinance No. 3187

["Beginning July 1, 1998"]

(Amending or Repealing Ordinances)

Amended by Ord. 3618 (Sec. 3.70.050)
AN ORDINANCE of the City Council of the City of Kent, Washington, repealing Chapter 3.60 and establishing a new Chapter 3.70, relating to procurement contracts.

WHEREAS, the City of Kent adopted a procurement code currently codified in Chapter 3.60 of the Kent City Code to establish guidelines for the procurement of goods and services by the City; and

WHEREAS, the procurement code has since been amended to add reporting and disclosure procedures for purchases; and

WHEREAS, the requirements of the procurement code are burdensome, costly, and on many occasions have caused delays in purchases; and

WHEREAS, it is desirable to repeal Chapter 3.60 of the code and to enact a new procurement code to allow for more efficient and cost effective purchasing while maintaining accountability; NOW, THEREFORE,
THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES
HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Kent City Code Chapter 3.60 entitled
"Procurement Contracts" (Ordinances 3024 and 3106) is hereby
repealed in its entirety:

SECTION 2. There is hereby added to the Kent City
Code, a new chapter, 3.70, entitled "Procurement Contracts" to
read as follows:

CHAPTER 3.70. PROCUREMENT CONTRACTS

Sec. 3.70.010. Purpose.

It is the purpose of this ordinance to provide guidelines
for the purchase of goods and services by the City in order to
maintain an accountable procurement process. It is also the
purpose of this ordinance to allow for the flexible application
of these guidelines for more efficient and cost effective
purchases where their strict application would not be in the
City's best interest, such as, for example, in those instances
where bids would not be appropriate due to a sole source supplier
or where negotiations with a particular supplier would be more
appropriate due to a specialized need of the City.
Sec. 3.70.020. Applicability.

A. Any contract, written or oral, for the purchase of materials, supplies, equipment or services or the lease or rental of equipment ("purchase" or "procurement"), the estimated cost of which will be fifty thousand dollars ($50,000.00) or more, shall be subject to the provisions of this chapter.

B. For purchases under fifty thousand dollars ($50,000.00), the mayor is hereby authorized to promulgate procurement policies and guidelines, and such purchases shall not be subject to the provisions of this chapter, except for Section 3.70.050 below relating to council authorization for purchases. All procurement policies and guidelines promulgated by the mayor, and any amendments thereto, shall be subject to the review and approval of the city council.

C. Except for Section 3.70.050 below relating to council authorization, the limitations contained in this chapter shall not apply to:

1. Public works or improvement contracts governed pursuant to Section 35.22.620 RCW;
2. Contracts for architectural and engineering services governed pursuant to Chapter 39.80 RCW.
3. Purchases of materials at auctions conducted by the United States government or any agency thereof, or by the State of Washington and any of its political subdivisions.
D. Contract as used in this chapter shall mean formal written contract, purchase order, verbal agreement, cash or credit purchase from a wholesaler, retailer or dealer, or other similar transaction. Contracts may not be split to avoid the bidding and authorization requirements set forth in this chapter.

Sec. 3.70.030. Advertised bids.

If it appears that the estimated cost of a contract to purchase, lease or rent supplies, materials, equipment or services, will be fifty thousand dollars ($50,000.00) or more, then, at least ten (10) days before entering into that contract, the city shall publish notice calling for sealed bids in a newspaper of general circulation most likely to bring responsive bids. The notice shall generally state the nature of the contemplated purchase, lease or rental agreement and the description or specifications therefor, and it shall require that the bids or proposals be sealed and filed with the city clerk within the time specified therein. The city council shall let the contract to the lowest and best responsible bidder or may reject any or all bids or proposals and/or further call for bids or proposals. A bid conducted by another public agency for substantially the same purchase shall constitute compliance with the bid requirements herein.
Sec. 3.70.040. Requests for proposals.

In lieu of advertised bids as required by this chapter, requests for proposals may be utilized when deemed appropriate under such terms and conditions determined suitable to meet the needs and requirements of the particular procurement.

Sec. 3.70.050. Authorization by city council required.

Any contract twenty-five thousand dollars ($25,000.00) or more (thirty-five thousand dollars ($35,000.00) or more for public works and improvement contracts), intended for the purchase, lease or rental of supplies, material, equipment or services, must be in writing and authorized by the city council before becoming effective and binding upon the city. When the council has specifically considered and approved a particular program or matter in which the amount of the contract and the contracting parties have been identified, such as awards of bids, funding of certain programs, authorization to purchase or to negotiate for the purchase of a particular item or service, or other similar program or matter, such consideration shall constitute council authorization for the purpose of this section.

Sec. 3.70.060. Professional and consultant contracts.

This section shall apply to professional and/or technical service consultant contracts in which the city enters into an agreement to purchase consultant services for city government
from a corporation, firm, agency, individual, or group of individuals based on their recognized experience and knowledge within a specialized area of expertise. Contracts for professional and consultant services are not required to follow the procurement requirements set forth in Section 3.70.030 above, but may be entered into through direct negotiations. All such contracts are subject to the authorization requirements of Section 3.70.050 above.

Sec. 3.70.070. Supply contracts.

A. To determine the cost of a contract for the purpose of establishing the appropriate procurement procedures under this chapter, when the contract has no definite term or unit amount, the amount of the estimated annual cost shall be deemed the contract cost.

B. In lieu of requesting bids for each procurement, the city may solicit bids or proposals for a contract for a specific term to supply goods, materials, supplies, equipment or services on an as needed basis in those instances where the specific service or product in a product line or volume of units is undetermined such as the city's needs and use of office supplies.

Sec. 3.70.080. Waiver.

The procurement requirements set forth in Sections 3.70.030 above may be waived by the mayor upon a finding that either the
materials, supplies, equipment or services are clearly and
legitimately limited to a single source of supply within the near
vicinity, or that the materials, supplies, equipment or services
are subject to special market conditions, involve special
facilities or services, or that a bid, or the bidding
requirements of Section 3.70.030 above, would otherwise not be
practicable or in the city's best interests under the
circumstances, in which instances the purchase may be best
established by direct negotiation.

Sec. 3.70.090. Emergencies.
When any emergency requires the immediate execution of any
contract to purchase, lease or rent as described in this chapter,
upon the finding of the existence of such an emergency, the mayor
shall have the power to make and enter into such contract without
strict compliance with the procurement requirements set forth in
this chapter. The mayor or the designated department head shall
issue a written basis for the emergency determination accompanied
by a description and/or specification and cost estimate of the
contract after the commencement of the purchase.

Sec. 3.70.100. Exception for recycled products.
Nothing in the chapter shall prohibit the city from
preferentially purchasing products made from recycled materials
or products that may be recycled or reused.
SECTION 3. 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 4. Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage, approval and publication as provided by law.

TIM WHITE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK (DEPUTY)

DONNA SWAY
APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED 4th day of OCTOBER, 1994.

APPROVED 5th day of OCTOBER, 1994.

PUBLISHED 7th day of OCTOBER, 1994.

I hereby certify that this is a true copy of Ordinance No. 3187, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

DONNA SWAW (SEAL)
BRENDA JACOBER, CITY CLERK (DEPUTY)