ORDINANCE NO. 3935

AN ORDINANCE of the City Council of the City of Kent, Washington, adding a new section 3.70.045 to Chapter 3.70 of the Kent City Code establishing a procurement preference for purchasing from or contracting with local businesses.

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. - Amend Ch. 3.70 KCC – Local Business Preference. The following new section 3.70.045, entitled “Local Business Preference,” shall be added to Chapter 3.70 of the Kent City Code relating to procurement contracts as follows:

Sec. 3.70.045. Local Business Preference.
A. Findings and Intent. The City of Kent annually spends significant amounts on purchasing personal property, materials, and contractual services as part of its ongoing operation and management of the City and its infrastructure. The money used in making these purchases of goods and services is derived, in large part, from taxes, fees, and utility revenues derived from local businesses and local residents, many of whom work for
these local businesses. The City Council finds that funds expended by our City should, to the extent possible and as allowed by law, be placed back in the City to support our local economy.

B. **Local Business Defined.** The term, "local business," means any corporation, partnership, sole proprietor, limited liability company, or other business entity that has a Kent business license, maintains a physical business address within the City’s corporate limits (as may be amended in the future) in an area zoned or otherwise approved under the Kent City Code for the operation of that business, and has at least one (1) employee who reports to work at that address on a daily basis to operate or perform that business. Post office boxes shall not be used for the purpose of establishing physical address of a local business.

C. **Local Preference in Purchasing and Contracting.** When procuring contracts as provided for in this chapter, the City shall make every effort to purchase from or contract with local businesses. When other product models that meet the same specifications are locally available (i.e., GE 100-watt light bulb vs. Sylvania 100-watt light bulb), thoughtful consideration should be given to purchasing the model that is offered by a local business. When a local business offers functionally equivalent products for the goods or services sought by the City (i.e., 100-watt incandescent light bulb vs. a functionally equivalent fluorescent or LED bulb), thoughtful consideration should be given to purchasing the product that is offered by a local business. When selecting a business in response to a request for proposal, or when selecting a business that provides consulting services or other services that provide unique expertise, thoughtful consideration should be given to select a local business that can provide those products or services. However, the preference established in this section shall not prohibit the ability to compare quality or fitness for use of supplies, materials, equipment, or services proposed for
procurement and shall not prohibit the ability to select the best business when comparing the qualifications, character, responsibility, or fitness of the businesses under consideration.

D. **Written Record Required When Non-Local Business Selected.** Whenever any City staff member decides to procure goods or services valued at greater than $250 from a non-local business when a local business was also under consideration for that procurement, the manager in charge of making that procurement shall provide an explanation in a suitable format, electronic or otherwise, which will be retained in a central repository in the City.

E. **Exceptions to Local Business Preference.** The procurement preference set forth in this ordinance shall not apply to any of the following:

1. Goods or services provided under a cooperative purchasing agreement or interlocal agreement.

2. Purchases or contracts that are funded, in whole or in part, by a separate governmental entity and the laws, regulations, or policies of that separate governmental entity prohibit application of this local business preference.

3. Professional or technical service consultant contracts as referenced under KCC 3.70.060

4. Purchases or contracts made under emergency situations.

**SECTION 2. – Severability.** If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.
**SECTION 3. - Effective Date.** This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

PREPARED AS TO FORM:

BRENTA JACOBER, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 17th day of November, 2009.

APPROVED: 17th day of November, 2009.

PUBLISHED: 21st day of November, 2009.

I hereby certify that this is a true copy of Ordinance No. 3935 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENTA JACOBER, CITY CLERK (SEAL)