Ordinance No. 4235
(Amending or Repealing Ordinances)

2/7/2017
Amending various sections of Chapter 3.70 of the KCC entitled "Public Contracting and Procurement"
Amends KCC Chapter 3.70.220; 3.70.230; 3.70.240

Amends Ords. 4150
ORDINANCE NO. 4235

AN ORDINANCE of the City Council of the City of Kent, Washington, amending various sections of Chapter 3.70 of the Kent City Code, entitled "Public Contracting and Procurement," to clarify the signing authority granted to department directors and the Mayor concerning contract amendments, change orders, and grant reimbursement requests.

RECITALS

A. On May 19, 2015, the Kent City Council adopted Ordinance No. 4150, which for the first time in more than 10 years, substantively amended and clarified Kent’s procurement and contracting provisions. In applying these new code revisions, staff became aware of two areas where further clarification is required to properly define who has proper approval and signatory authority.

B. The first amendment is to expressly provide that department directors or their designees have the authority to sign all reimbursement requests and certification statements a federal, state, or other local agency may require from Kent as a grant recipient, once the overall grant agreement has otherwise been approved as required by the Kent City Code.
C. The second amendment is to clarify that the approval and signatory authority granted to department directors and the Mayor for change orders and contract amendments is limited to those changes that fall below the stated maximum threshold amount for an individual change order, as well as the cumulative total of all change orders. The existing language includes the word “or” where “and” is required to properly convey the original intent of the provision.

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

ORDINANCE

SECTION 1. - Amendment – KCC 3.70.220. Section 3.70.220 of the Kent City Code, entitled “Director approval”, is amended as follows:

Sec. 3.70.220. Director approval. Directors may approve work or purchases, and have signatory authority to execute any requisite contract, for the following:

A. Contracts – Twenty thousand dollars ($20,000) or less. All purchases or work authorized by a director and valued at twenty thousand dollars ($20,000) or less should be memorialized in a written contract. Any contract or procurement in the amount of twenty thousand dollars ($20,000) or less, which can be paid from the originating department’s existing annual budget, may be approved and signed by the director.

B. Change orders or contract amendments. The director is authorized to approve and sign the following contract change orders or amendments:

1. Change orders or contract amendments that involve only an extension of time for the contractor to perform.

2. Individual change orders or contract amendments that do not exceed the original contract amount by more than twenty thousand dollars.
($20,000), and cumulatively are within ten (10) percent or sixty-five thousand dollars ($65,000) of the original contract amount, whichever amount is greater, if: sufficient funds remain in the approved project or department budget to pay the change order or amendment amount.

C. **Grant applications, award agreements, bequests, donations, or other gifts – twenty-five thousand dollars ($25,000) or less.** The director may approve and sign all grant applications, unless the application itself requires otherwise. The director may also accept any grant, bequest, donation, or other gift in the total amount of twenty-five thousand dollars ($25,000) or less, and is authorized to approve and sign all documents necessary to receive the grant, bequest, donation, or other gift. In determining the total grant, bequest, donation, or gift amount for application of this section, the cost of any matching funds and the cost of fulfilling all conditions placed on the city’s acceptance of the grant, bequest, donation, or gift must be included in the calculation. In order for the director to have the authority granted by this section, any matching funds required to obtain the grant, bequest, donation, or gift must be available within the director’s existing budget. Upon the city’s receipt of the grant, bequest, donation, or gift funds in the total amount of twenty-five thousand dollars ($25,000) or less, the finance director is authorized to amend the department director’s budget and authorize expenditure of the funds. The finance director may then include these funds in the budget adjustment ordinance.

1. **Grant reimbursement requests.** Once a grant agreement is approved as provided for in this chapter, the director or designee is authorized to sign any grant reimbursement request or voucher, annual or final fiscal report, or any certification statement that may be required by the federal, state, or other local agency awarding or administering the grant. This delegation of authority specifically includes without limitation...
the certification required by 2 CFR 200.415, as currently enacted or hereafter amended or recodified.

SECTION 2. - Amendment - KCC 3.70.230. Section 3.70.230 of the Kent City Code, entitled "Mayor approval", is amended as follows:

Sec. 3.70.230. Mayor approval. The mayor has signatory authority and may approve the following:

A. Contracts - Over twenty thousand dollars ($20,000). All purchases or work valued at an amount in excess of twenty thousand dollars ($20,000) must be memorialized in a written contract and signed by the mayor. Any contract valued at an amount of sixty-five thousand dollars ($65,000) or less may be signed by the mayor without city council approval if funds are available within the existing budget to pay the associated contract costs.

B. Change orders or contract amendments. The mayor is authorized to approve and sign: (1) individual change orders or contract amendments that do not exceed the original contract amount by more than sixty-five thousand dollars ($65,000), and or (2) cumulatively are within twenty (20) percent or one hundred thirty thousand dollars ($130,000) of the original contract amount, whichever amount is greater, if sufficient funds remain within the existing budget.

C. Grant acceptance, award agreements, bequests, donations, or other gifts. The mayor is authorized to approve and sign any application requesting grant funds for various city purposes if the grant application requires. The mayor may also accept any grant, bequest, donation, or other gift in the amount of sixty-five thousand dollars ($65,000) or less, and is authorized to sign all documents necessary to receive the grant, bequest, donation, or other gift. In determining the total grant, bequest,
donation, or gift amount for application of this section, the cost of any matching funds and the cost of fulfilling all conditions placed on the city’s acceptance of the grant, bequest, donation, or gift must be included in the calculation. In order for the mayor to have the authority granted by this section, any matching funds required to obtain the grant, bequest, donation, or gift must be available within the existing budget. Upon the city’s receipt of the grant, bequest, donation, or other gift funds as provided in this section in the amount of sixty-five thousand dollars ($65,000) or less, the finance director is authorized to amend the budget and authorize expenditure of the funds. The finance director may then include these funds in the budget adjustment ordinance. All reimbursement requests, vouchers, reports, or certification statements are to be signed by the director or designee in accordance with KCC 3.70.220(C)(1).

D. Interlocal agreements. The mayor may approve and sign any agreement between the city and another public agency, including those entered into under the Interlocal Cooperation Act, Chapter 39.34 RCW, without council approval, so long as any money that may be paid or received by the city under the terms of the agreement, or any resources dedicated by the city to the cooperative effort, does not exceed sixty-five thousand dollars ($65,000), and any payment or dedicated resource obligation under the agreement may be paid through the existing budget.

E. Real property interests. The mayor is specifically authorized to do the following:

1. To acquire and convey rights-of-way and other property interests by lease or purchase when the city council has dedicated sufficient funds for the lease or purchase within the existing annual budget or project budget.
2. To enter into any lease or other agreement conveying an interest in real property where the total annual amount paid or received under the agreement, or the total annual fair market value of the real property interest conferred, is twenty-five thousand dollars ($25,000) or less. However, no authority delegated under this section shall authorize approval of a lease or other agreement conveying an interest in real property for a term greater than two (2) years, including all options to renew, without express approval of the city council. The mayor, chief administrative officer, or appropriate department director will report to the applicable council committee or to the full council, at least quarterly, a record of any lease or other agreement entered into pursuant to this subsection.

3. To accept land, appurtenances, and other real property interests that are dedicated to the city as a condition of a private developer’s development permit or regulatory approval, or to release the same as part of such development approval, subject to prior review and approval by the city attorney.

F. **Surplus.** Except for real property, or utility equipment and property as provided for in RCW 35.94.040, as the same may be later amended, or property that is sold to another governmental entity that is valued over fifty thousand dollars ($50,000) as provided for in RCW 39.33.020, as the same may be later amended, the mayor, upon a director’s recommendation, is authorized to surplus equipment or property the mayor determines is surplus to the city’s needs, and the mayor may sell or otherwise dispose of such surplused equipment or property for fair market value or as otherwise allowed by law.

G. **Pass-through fee contracts.** Service contracts entered into at no or a nominal cost to the city, but that result in any associated fee or charge being passed through to a party other than the city, such as an agreement
H. Emergency. If an emergency exists as provided for in KCC 3.70.110(B), the mayor may sign all documents and take all actions necessary to address the emergency. If council approval would have been required by KCC 3.70.240, the city council shall be subsequently notified, but formal ratification is not required.

SECTION 3. - Amendment – KCC 3.70.240. Section 3.70.230 of the Kent City Code, entitled “Council approval”, is amended as follows:

Sec. 3.70.240. Council approval. Council authorization is required before the mayor is authorized to purchase or sign the items identified below. Upon council approval, all attachments and documents pertinent to the authorized act are impliedly approved even if they are not expressly stated or identified. Further, minor adjustments may be made to any documents or additional action taken if such changes are consistent with council’s approval and do not result in additional costs being paid by the city in excess of the amounts provided in KCC 3.70.230(B), if those additional costs are within established budgets.

A. Contracts – Over sixty-five thousand dollars ($65,000). All purchases or work valued at an amount in excess of sixty-five thousand dollars ($65,000) must be memorialized in a written contract. If a contract’s estimated cost is over sixty-five thousand dollars ($65,000), or if there are not sufficient funds in the existing budget to pay the full contract amount, the city council must first authorize the contract before the mayor may sign the contract to make it effective and binding upon the city.

1. When the city council has specifically considered and approved a project with a line item in the budget that identifies: (a) the
with a collection company, may be approved and signed by the mayor, subject to prior review by the city attorney.

H. **Emergency.** If an emergency exists as provided for in KCC 3.70.110(B), the mayor may sign all documents and take all actions necessary to address the emergency. If council approval would have been required by KCC 3.70.240, the city council shall be subsequently notified, but formal ratification is not required.

**SECTION 3. – Amendment – KCC 3.70.230.** Section 3.70.230 of the Kent City Code, entitled “Council approval”, is amended as follows:

**Sec. 3.70.240. Council approval.** Council authorization is required before the mayor is authorized to purchase or sign the items identified below. Upon council approval, all attachments and documents pertinent to the authorized act are impliedly approved even if they are not expressly stated or identified. Further, minor adjustments may be made to any documents or additional action taken if such changes are consistent with council’s approval and do not result in additional costs being paid by the city in excess of the amounts provided in KCC 3.70.230(B), if those additional costs are within established budgets.

A. **Contracts – Over sixty-five thousand dollars ($65,000).** All purchases or work valued at an amount in excess of sixty-five thousand dollars ($65,000) must be memorialized in a written contract. If a contract’s estimated cost is over sixty-five thousand dollars ($65,000), or if there are not sufficient funds in the existing budget to pay the full contract amount, the city council must first authorize the contract before the mayor may sign the contract to make it effective and binding upon the city.

1. When the city council has specifically considered and approved a project with a line item in the budget that identifies: (a) the
contracting party, if known, (b) specific information as to the purchase or scope of the contract, (c) the estimated total cost of the purchase or contract, and (d) the term of the anticipated contract does not exceed two (2) years, that budget line item allocation shall constitute council authorization for the purposes of this section if the actual cost does not exceed the amount budgeted for that expense.

2. The city council may delegate to a third-party procurement authority on the city’s behalf. If such a delegation is made, no further council approval is required. Any delegated procurement authority must be exercised in accordance with KCC 3.70.110(G).

B. **Change orders or contract amendments.** All change orders or amendments that exceed the mayor’s authority under KCC 3.70.230(B) must be authorized by the city council and signed by the mayor before becoming effective and binding upon the city.

C. **Agreements for receipt of grants, bequests, donations, or other gifts.** If the city is awarded any grant, bequest, donation, or other gift in excess of sixty-five thousand dollars ($65,000), the city council first must authorize acceptance of the funds and the mayor’s execution of any resulting agreement. All reimbursement requests, vouchers, reports, or certification statements are to be signed by the director or designee in accordance with KCC 3.70.220(C)(1).

D. **Interlocal agreements.** Any agreement between the city and another public agency that involves the payment or receipt of money, or the dedication of city resources, in excess of sixty-five thousand dollars ($65,000), including agreements entered into under the Interlocal Cooperation Act of Chapter 39.34 RCW, or that involves a payment obligation the city is unable to meet under the existing budget, must be authorized by the city council and signed by the mayor before becoming effective and binding upon the city.
E. **Real property interests.** Except for the limited authority codified in KCC 3.70.230(E), council approval is required for all real property leases, sales, or purchases that are not incidental to implementation of a prior project or program approved by council. Council approval is also required before the mayor may sign any lease or other agreement conveying an interest in real property where the total annual rental value of the lease or other real property interest conferred is more than twenty-five thousand dollars ($25,000) or for a term greater than two (2) years, including all options to renew.

**SECTION 4.** – **Severability.** If any one or more section, subsection, or sentence of this ordinance is 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 5.** – **Corrections by City Clerk or Code Reviser.** Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

**SECTION 6.** – **Effective Date.** This ordinance shall take effect and be in force thirty (30) days from and after its passage, as provided by law.

[Signature]

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