ORDINANCE NO. 4312

AN ORDINANCE of the City Council of the City of Kent, Washington, adding a new section to chapter 6.01 of the Kent City Code, establishing apprenticeship utilization requirements for public works contracts of $1,000,000 or more.

RECITALS

A. A well-trained, diverse workforce is critical to the economic and social vitality of the region.

B. Journey level construction workers are retiring in numbers greater than the number of applicants to replace them, creating shortages of skilled construction workers impacting the region's ability to expand the economy, decreasing competition for City construction projects and increasing bids.

C. Apprenticeship programs are an effective means of providing training and experience to individuals seeking to enter or advance in the workforce, offering the unique opportunity to earn living wages and receive excellent benefits while acquiring valuable marketable skills.

D. The experience of other agencies and jurisdictions in the region has shown that apprenticeship programs are effective in providing training and experience to individuals seeking to enter or advance in the workforce.

F. Actions by the Washington State Apprenticeship and Training Council have made apprenticeships more widely available in the
construction industry, and their program goals to attract women and minorities into their approved apprenticeship programs will provide greater opportunities for these workers on City public works projects.

G. The use of apprentices enrolled in an apprenticeship program approved by the Washington State Apprenticeship and Training Council ensures proper training and compliance with employment and wage regulation.

H. The City is committed to using training that is accepted industry-wide so that the resulting journey workers can enter the region's pool of skilled labor, fully qualified for the jobs throughout the industry.

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

ORDINANCE

SECTION 1. - Amendment. - Chapter 6.01 KCC. Chapter 6.01 of the Kent City Code, entitled "Public Works Contract Requirements" is amended as follows:

Sec. 6.01.010 State law contract requirements. All public works and improvements contracts entered into by the city shall be in conformance with, and subject to, the following minimum provisions of the Revised Code of Washington, which are not exclusive:

1. Chapter 39.04 RCW relating to public works.

2. RCW 35A.40.210, 35.22.620, 35.23.352, and 39.04.155 relating to competitive bidding for public works, and purchases of goods, materials, equipment, and supplies.

Amend KCC 6.01 - Re: Apprentice Utilization
3. RCW 9.18.120 and 9.18.150 relating to the suppression of competitive bidding.

4. Chapter 60.28 RCW relating to liens for materials and labor performed.

5. Chapter 39.08 RCW relating to contractor's bonds.

6. Chapter 39.12 RCW relating to prevailing wages.

7. Chapter 49.12 RCW relating to hours of labor.

8. Chapter 51.12 RCW relating to worker's compensation.

9. Chapter 49.60 RCW relating to antidiscrimination in employment.

10. Chapter 39.28 RCW relating to emergency public works.

**Sec. 6.01.020 Contracting and procurement process.** All public works and improvement contracts entered into by the city shall also be in conformance with and subject to the contracting and procurement process provided for in Chapter 3.70 KCC, unless otherwise provided.

**Sec. 6.01.030 Public works apprentice program.**

A. Purpose. The City of Kent recognizes that a well-trained construction work force is critical to the ability of constructing successful public works projects. Apprenticeship training programs are particularly effective in providing training and experience to individuals seeking to enter or advance in the work force. By providing for apprenticeship utilization on public works projects, the city can create opportunities for training and experience that will help assure that a trained work force will be available in sufficient numbers in the future for the construction of public works projects.
B. Project Requirements.

1. Public work projects, as defined in KCC 3.70.030 and RCW 39.04.010, with an estimated construction cost greater than $1,000,000 shall require that no less than 15 percent of the labor hours performed by workers subject to prevailing wages employed by the contractor or its subcontractors be performed by apprentices enrolled in a state-approved apprenticeship program.

2. The contractor may elect to meet the requirements of this Section 6.01.030(B) as part of the work of a subcontractor, however, the contractor shall retain the responsibility for complying with this Section.

C. Administration. The Chief Administrative Officer or his/her designee ("CAO") shall implement and administer this Section 6.01.030 and shall develop and adopt procedures to implement and enforce this Section 6.01.030. The Chief Administrative Officer or his/her designee shall establish and maintain contract specification language to implement the apprenticeship requirement and develop and implement a system for monitoring the actual use of apprentices on public work contracts.

D. The Chief Administrative Officer or his/her designee may waive or adjust the apprenticeship requirements for apprentices in bid documents under the following circumstances:

   1. The apprenticeship requirement conflicts with state or federal funding conditions, or the conditions of any other grant or funding program;

   2. An insufficient number of apprentices are available to meet the contract requirements;

   3. The project involves a high proportion of equipment and materials costs compared to the anticipated labor hour;
4. The contractor has demonstrated that is has utilized its “best efforts” to meet the established percentage requirement, but remains unable to fulfill the goal; or

5. In order to meet the requirement, the contractor will be forced to displace members of its workforce.

If waiver is appropriate, the director shall prepare a memo to the Chief Administrative Officer or his/her designee outlining the reasons for the requested waiver. If the Chief Administrative Officer or his/her designee authorizes the waiver, the project may proceed without complying with the requirements in KCC 6.01.030(B). The document evidencing the waiver granted by the Chief Administrative Officer or his/her designee shall be maintained with the contract on file with the city clerk’s office in accordance with KCC 3.70.050.

E. Penalty for noncompliance.

1. A contractor or subcontractor failing to comply with the apprenticeship requirements of this Section 6.01.030 shall be assessed a penalty of $10.00 (ten dollars) for each hour that is not achieved.

2. An appeal of an assessed penalty shall be filed in writing with the Chief Administrative Officer or his/her designee within ten (10) business days of the imposition of penalties.

3. The Chief Administrative Officer or his/her designee shall either affirm, reduce, or reverse the imposition of the penalty based upon the specific facts and circumstances and the existence and extent of any good faith efforts of the contractor to comply with the requirements of this Section 6.01.030.

**SECTION 2. – 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 3. - 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 4. - Effective Date. This ordinance shall take effect and be in force 30 days from and after its passage, as provided by law.

DANA RALPH, MAYOR
March 5, 2019
Date Approved

KIMBERLEY A. KOMOTO, CITY CLERK
March 5, 2019
Date Adopted

March 8, 2019
Date Published

APPROVED AS TO FORM:

ARTHUR "PAT" FITZPATRICK, CITY ATTORNEY