ORDINANCE NO. 4323

AN ORDINANCE of the City Council of the City of Kent, Washington, amending section 3.70.230 of the Kent City Code to clarify and expand the Mayor’s authority to accept dedications to the City of all property interests commonly related to public infrastructure improvements made as part of private development permit approvals.

RECITALS

A. As a condition of permit approval, the development of private property often requires the owner to build public infrastructure to ensure adequate facilities exist to accommodate growth and impacts resulting from the development.

B. Such public infrastructure generally includes new streets, sewers, watermains, stormwater facilities, and frontage improvements. Typical construction involves building curbs, gutters, and sidewalks, installing streetlights, manholes, pipes, and valves, as well as planting street trees and other landscaping. Once a project is completed, ownership of the infrastructure is generally transferred or dedicated to the City for it to control and maintain.

Amend KCC 3.70.230 - Re: Dedication of Infrastructure to City
C. As early as 2000, the City Council delegated authority to the Mayor to accept some types of property interests dedicated to the City as part of development approval. However, the current language of the Mayor’s authority in KCC 3.70.230(E)(3) can make it difficult to determine whether the Mayor is authorized to accept a particular infrastructure improvement. Due to the many individual parts that make up public infrastructure and the different character of each type of improvement, it can be challenging in some instances to label or characterize the legal status of the property that is to be transferred. Depending on the circumstances, infrastructure may include, or be considered, personal property, real property, a fixture, an appurtenance, or simply an improvement to real property.

D. Under the current language of KCC 3.70.230, many dedications of public infrastructure must be brought before Council for acceptance, a mostly ministerial act requiring little or no substantive review. In order to streamline the process, it is necessary to clarify and expand the Mayor’s authority to accept the dedication of all types of property interests commonly associated with the construction of public infrastructure as part of a private development’s permit or regulatory approval.

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

ORDINANCE

SECTION 1. - Amendment. Section 3.70.230 of the Kent City Code entitled “Mayor approval,” is amended as follows:

Amend KCC 3.70.230 - Re: Dedication of Infrastructure to City
Sec. 3.70.230. Mayor approval. The mayor has signatory authority and may approve the following:

A. Contracts – Over $20,000. All purchases or work valued at an amount in excess of $20,000 must be memorialized in a written contract and signed by the mayor. Any contract valued at an amount of $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 change orders or contract amendments that collectively are within 20 percent or $130,000 of the original contract amount, including any applicable taxes, whichever amount is greater, if sufficient funds remain within the existing project or city 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 $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, 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 $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 $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 years, including all options to renew, without express approval of the city council.

3. To accept land, attachments, fixtures, improvements, appurtenances, and other real or personal 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 $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 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.

I. *Collective bargaining agreements.* Unless the terms of a collective bargaining agreement provide otherwise, the mayor is authorized to sign all agreements, or subsequent amendments to those agreements, with the city’s bargaining units if the financial impact of the agreement or amendment is valued at $130,000 or less, and sufficient funds remain in the city’s budget to cover that financial impact. If the financial impact is
greater than $130,000, or if sufficient funds do not exist within the budget to cover the financial impact, council authorization must first be obtained before the mayor is authorized to sign the agreement or amendment.

**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.

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DANA RALPH, MAYOR  
Bill Boyce for President  
KIMBERLEY A. KOMOTO, CITY CLERK  
ARThUR "PAT" FITZPATRICK, CITY ATTORNEY

May 21, 2019  
Date Approved  
May 21, 2019  
Date Adopted  
May 24, 2019  
Date Published

Amend KCC 3.70.230 -  
Re: Dedication of Infrastructure to City
STATE OF WASHINGTON, COUNTY OF KING }
AFFIDAVIT OF PUBLICATION
PUBLIC NOTICE
Polly Shepherd, being first duly sworn on oath that she is the
Publisher of the

Kent Reporter

a weekly newspaper, which newspaper is a legal newspaper of general
circulation and is now and has been for more than six months prior to the date
of publication hereinafter referred to, published in the English language
continuously as a weekly newspaper in King County, Washington. The
Kent Reporter has been approved as a Legal Newspaper by order of
the Superior Court of the State of Washington for King County.
The notice in the exact form annexed was published in regular issues of
the Kent Reporter (and not in supplement form) which was regularly
distributed to its subscribers during the below stated period. The annexed
notice, a:

Public Notice
was published on May 24th, 2019.
The full amount of the fee charged for said foregoing publication is the
sum of $145.07.

Polly Shepherd
Publisher, Kent Reporter
Subscribed and sworn to me this 24th day of May, 2019.

Gale Gwin, Notary Public for the State of Washington, Residing in
Covington, Washington