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INTRODUCED BY: Paul Barden

PROPOSED NO. 89-891

# 9240

ORDINANCE NO. 9240

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4  
5 AN ORDINANCE establishing policies,  
6 procedures and programs to encourage and  
7 increase the procurement of recycled  
8 products and recyclable products by King  
9 County departments and contractors.

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11 PREAMBLE:

12 King County finds it desirable to adopt a procurement policy  
13 promoting use of recycled products and recyclable products by  
14 county department and contractors, thereby stimulating the  
15 demand for these products and helping to develop markets for  
16 materials that have been diverted from the solid waste stream.

17 The procurement policy is further intended to be consistent  
18 with federal and state laws and policies encouraging the use  
19 of products containing materials recovered from solid waste.

20 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

21 SECTION 1. Purpose. This ordinance shall be known as the  
22 "King County Recycled Product Procurement Policy." Its purpose  
23 is to promote market development of recycled products and  
24 recyclable products by establishing preferential purchase  
25 programs applicable to county departments and contractors,  
26 thereby diverting materials from the solid waste stream.

27 SECTION 2. Policies.

28 A. All departments shall whenever practicable use recycled  
29 products and recyclable products to meet their needs.

30 B. The county shall whenever practicable require its  
31 contractors and consultants to use recycled products and  
32 recyclable products in fulfilling contractual obligations to the  
33 county.

C. In procuring designated products pursuant to this  
ordinance, the county shall require recovered material and/or  
post-consumer material content to be factors in determining the  
lowest responsive and responsible bid in any competitive bidding  
procurement process initiated pursuant to state and county law.

1 D. The county shall promote the use of recycled products and  
2 recyclable products by publicizing its procurement program and by  
3 disseminating information about recycled products.

4 SECTION 3. Definitions. The following terms shall have the  
5 assigned definitions for all purposes under this ordinance:

6 A. "Building insulation" means a material, primarily  
7 designed to resist heat flow, which is installed between the  
8 conditioned volume of a building and adjacent unconditioned  
9 volumes or the outside. This term includes but is not limited to  
10 insulation products such as blanket, board, spray-in-place, and  
11 loose-fill that are used as ceiling, floor, foundation, and wall  
12 insulation.

13 B. "Cement" means a powder-like manufactured mineral  
14 product, often referred to as "Portland cement," used in the  
15 manufacture of cement concrete.

16 C. "Cement concrete" means concrete which contains cement.

17 D. "Cement with fly ash or cement concrete with fly ash"  
18 means cement or cement concrete containing any amount of fly ash.

19 E. "Contractor" means any person, group of persons,  
20 consultant, designing architect, association, partnership,  
21 corporation, or other type of business entity which has a  
22 contract with King County (including suppliers) or which serves  
23 in a subcontracting capacity with an entity having a contract  
24 with King County for the provision of goods and/or services.

25 F. "Departments" shall refer to any department as defined by  
26 King County ordinance or other applicable law and shall include  
27 all county agencies not associated with a department, the King  
28 County prosecuting attorney, the King County assessor, and the  
29 King County council.  
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1 G. "Designated products" means all products that have been  
2 or may be identified pursuant to Section 4 of this ordinance as  
3 products that can be procured with significant levels of  
4 recovered materials.

5 H. "Designing architect" means any architect or engineer  
6 performing architectural or engineering services for the county  
7 in connection with a county construction project, and who is  
8 chiefly responsible for the project's design.

9 I. "Director" means the director of the department of  
10 executive administration or the director's designee.

11 J. "End use" means an intended final use of a product by a  
12 consumer which will not result in additional value being added to  
13 the product.

14 K. "Fly ash" means the component of coal which results from  
15 the combustion of coal, and is the finely divided mineral residue  
16 which is typically collected from boiler stack gases by  
17 electrostatic precipitator or mechanical collection devices.

18 L. "Lubricating oils" means engine lubricating oils,  
19 hydraulic fluids, and gear oils, excluding marine and aviation  
20 oils.

21 M. "Minimum content standards" means standards set by the  
22 county specifying the minimum level of recovered material and/or  
23 post-consumer material necessary for designated products to  
24 qualify as recycled products,

25 N. "Mixed municipal solid waste" means waste consisting of  
26 solid waste generated by residences, stores, offices, and other  
27 generators of wastes that are not industrial, agricultural, or  
28 demolition wastes.

29 O. "Paper and paper products" means all items manufactured  
30 from paper or paperboard.

1 P. "Post-consumer material" means only those products  
2 generated by a business or consumer which have served their  
3 intended end uses, and which have been separated or diverted from  
4 the solid waste stream for the purposes of collection, recycling  
5 and disposition.

6 Q. "Post-consumer paper material" means:

7 1. Paper, paperboard and fibrous wastes including  
8 corrugated boxes, newspapers, magazines, mixed waste paper,  
9 tabulating cards and used cordage from places like retail stores,  
10 office buildings and homes after the point at which they have  
11 passed through their end use as consumer items; and

12 2. All paper, paperboard and fibrous wastes that enter and  
13 are collected as mixed municipal solid waste.

14 R. "Purchasing contract" means any contract which is awarded  
15 by the County for the purchase of tangible goods.

16 S. "Recovered material" means material and by products which  
17 have been recovered or diverted from solid waste, but does not  
18 include those materials and byproducts generated from, and  
19 commonly reused within, an original manufacturing process (such  
20 as mill broke or home scrap).

21 T. "Recovered paper material" means paper waste generated  
22 after the completion of a papermaking process, such as  
23 post-consumer material, envelope cuttings, bindery trimmings,  
24 printing waste, cutting and other converting waste, butt rolls,  
25 and mill wrappers, obsolete inventories, and rejected unused  
26 stock. Recovered paper material, however, shall not include  
27 fibrous waste generated during the manufacturing process such as  
28 fibers recovered from waste water or trimmings of paper machine  
29 rolls (mill broke), or fibrous byproducts of harvesting,  
30 extractive or woodcutting processes, or forest residue such as  
31 bark.

1 U. "Recyclable product" means a product which, after its  
2 intended end use, can demonstrably and economically be diverted  
3 from the King County solid waste stream for use as a raw material  
4 in the manufacture of another product.

5 V. "Recycled designated product" means a product designated  
6 in or pursuant to Section 4 of this ordinance that meets or  
7 surpasses (1) county minimum content standards, and (2) all other  
8 criteria for qualification as specified in this ordinance.

9 W. "Retread tire" means a worn automobile, truck, or other  
10 motor vehicle tire, excluding airplane tires, whose tread has  
11 been replaced.

12 X. "Reusable product" means a product that can be used  
13 several times for an intended end use before being discarded,  
14 such as a washable food or beverage container or a refillable  
15 ball point pen.

16 Y. "Solid waste" means all putrescible and nonputrescible  
17 solid and semisolid wastes, except wastes identified in  
18 WAC 173-304-015, including but not limited to garbage, rubbish,  
19 ashes, industrial wastes, swill, demolition and construction  
20 wastes, abandoned vehicles or parts thereof, discarded  
21 commodities, sludge from wastewater treatment plants and septage  
22 from septic tanks, woodwaste, dangerous waste, and problem  
23 wastes. This includes all public, private, industrial,  
24 commercial, mining and agricultural operations. Unrecovered  
25 residue from recycling operations shall be considered solid waste.

26 Z. "User department" means a department that purchases any  
27 amount of a given designated product, except when the department  
28 has made no purchase within the current or preceding calendar  
29 year.

30 SECTION 4. Designated products and recycled designated  
31 products. For all purposes of this ordinance, the products  
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1 listed in this section or added pursuant to it are designated as  
2 products that can be readily procured with significant levels of  
3 recovered materials. Designated products shall qualify as  
4 recycled designated products if they meet minimum content  
5 standards established in this chapter. Designated products shall  
6 include:

7 A. Paper and paper products.

8 B. Cement concrete.

9 C. Lubricating oil.

10 D. Tires.

11 E. Building insulation products.

12 F. Other products, including plastic and compost products,  
13 designated on a case-by-case basis as specified in this ordinance.

14 SECTION 5. Requirements for purchasing contracts.

15 A. Invitations to bid issued by the county after March 31,  
16 1990, for the purchase of designated products shall contain no  
17 terms, requirements or specifications prohibiting or discouraging  
18 post-consumer or recovered material content, unless a user  
19 department provides the director or his designee with  
20 satisfactory evidence that, for technical reasons and for a  
21 particular end use, a product containing such materials will not  
22 meet reasonable performance standards.

23 B. In determining the lowest responsive and responsible bid  
24 for the purchase of designated products pursuant to invitations  
25 to bid issued after March 31, 1990, the director or his designee  
26 shall use the procedures and evaluation criteria specified in  
27 this ordinance. If the lowest offered price for a recycled  
28 designated product is not more than the specified percentage  
29 higher than the lowest offered price for the same designated  
30 product that is not recycled, the offered price for the recycled  
31 designated product shall be considered the low bid if such bidder  
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1 is otherwise responsive and responsible. However, nothing  
2 contained in this ordinance shall preclude user departments from  
3 requiring post-consumer or recovered material content as a  
4 specification in invitations to bid for designated products.

5 C. Each contractor supplying the county with recycled  
6 designated products pursuant to an invitation to bid process  
7 initiated after March 31, 1990 shall provide certification  
8 acceptable to the county from all product manufacturers that the  
9 products being supplied meet or surpass county minimum content  
10 standards, and shall agree to reasonable verification procedures  
11 specified by the director or the director's designee.

12 D. Invitations to bid issued after March 31, 1990 for  
13 designated products, whether recycled or not, shall require all  
14 contractors to provide quarterly summaries of the quantities of  
15 designated products purchased by user departments, unless the  
16 director or the director's designee determines that this  
17 requirement would significantly reduce the number of bids  
18 received by the county.

19 SECTION 6. Rules and regulations for procurement of paper  
20 and paper products.

21 A. King County's recycled paper procurement goal for user  
22 departments (expressed as a percentage of the total volume of  
23 paper purchased) shall be: not less than ten percent by 1990; not  
24 less than thirty percent by 1992, and not less than sixty percent  
25 by 1995. Each department shall be responsible for making its  
26 best effort to meet or surpass these goals.

27 B. The solid waste division manager and the director, or  
28 their designees, shall jointly adopt minimum content standards  
29 for recycled paper products by January 31, 1990. The minimum  
30 content standards shall, at a minimum, be consistent with  
31 standards promulgated by the United States Environmental  
32 Protection Agency  
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1 and found in 40 CFR Part 250.21, unless the solid waste division  
2 manager and the director, or their designees, determine that a  
3 different standard would significantly increase recycled product  
4 availability or competition or would increase recycled content  
5 without adversely affecting availability.

6 C. The director or his designee shall use a percentage  
7 factor of fifteen percent in the process of determining the  
8 lowest responsive and responsible bidder for paper and paper  
9 products, except for paper to be used for county letterhead.

10 D. All imprinted letterhead paper used by county departments  
11 shall be recycled paper.

12 E. Departments shall publicize the county's use of recycled  
13 paper by printing the words "Printed on Recycled Paper" and a  
14 recycling logo as specified by the solid waste division on all  
15 letterhead paper and on the title page of all reports printed on  
16 recycled paper.

17 F. To reduce the volume of paper purchased, departments  
18 shall use both sides of paper sheets whenever practicable.

19 G. Requests for proposal or qualifications issued by the  
20 County after March 31, 1990, shall require all proposed  
21 contractors or consultants submitting proposals to agree to the  
22 following as a precondition to contract award:

23 1. All reports submitted to the county by a contractor in  
24 fulfillment of contract obligations shall use recycled paper when  
25 it is available at a reasonable price. For purposes of this  
26 paragraph, the price of recycled paper shall be considered  
27 "reasonable" if its cost is no more than 15% higher than the  
28 lowest price offered for non-recycled paper.

29 2. Reports submitted to the county by contractors shall  
30 use both sides of paper sheets whenever practicable.

31 3. Contractors shall maintain records of purchases of  
32 paper and paper products which are used for reports submitted to  
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1 the county in fulfillment of contract obligations. Records shall  
2 include product description, supplier, amount purchased, unit  
3 prices, and justifications for any use of non-recycled paper.  
4 Contractors shall submit such records to the county, according to  
5 procedures to be established jointly by the solid waste division  
6 and the purchasing agency by March 31, 1990. Contractors shall  
7 be responsible for maintaining and submitting these records for  
8 all of its subcontractors.

9 SECTION 7. Rules and regulations for procurement of building  
10 insulation products.

11 A. The solid waste division manager and the director, or  
12 their designees, shall jointly adopt minimum content standards  
13 for recycled building insulation products by January 31, 1990.  
14 The minimum content standards shall at a minimum be consistent  
15 with standards promulgated by the United States Environmental  
16 Protection Agency, and found in 40 CFR Part 248.21, unless the  
17 solid waste division manager and the director or their designees  
18 determine that a different standard would significantly increase  
19 recycled product availability or competition.

20 B. All designing architects shall include as a design  
21 consideration in all bid and construction documents they prepare  
22 the county's policy preferring the use of building insulation  
23 products containing recovered materials.

24 C. Designing architects shall select the type of building  
25 insulation to be procured, and shall whenever practicable procure  
26 the type with the highest post-consumer material content.

27 D. Designing architects shall provide to the county a  
28 written statement explaining the architect's selection of  
29 building insulation types not on the county's minimum content  
30 standards list.

1 E. Designing architects shall determine whether the selected  
2 types of building insulation are practicably available in  
3 products that meet the county's minimum content standards. If  
4 not, the architect shall advise the county in writing as to the  
5 recovered materials content that is practicably available.

6 F. If the selected type of insulation is available in  
7 products that meet minimum content standards, these standards  
8 shall be included in bid solicitations for construction work. If  
9 the selected type of insulation is not available in products that  
10 meet minimum content standards, the bid documents shall specify a  
11 minimum content level equal to what is practicably available, as  
12 determined by the designing architect.

13 G. Prospective suppliers of insulation products for use in  
14 county funded projects shall provide the county with estimates of  
15 the percentage of recovered material of each building insulation  
16 product to be supplied.

17 H. Contractors, including suppliers, shall certify, prior to  
18 delivery or installation, that the building insulation products  
19 provided meet or exceed the county's minimum content standard or  
20 the minimum content standard specified by the designing architect.

21 I. Departments administering contracts in which building  
22 insulation is procured shall maintain records on the amount of  
23 each type of insulation purchased; the percentage of recovered  
24 materials in each; and reasons for not procuring insulation  
25 meeting minimum content standards.

26 SECTION 8. Rules and regulations for procurement of cement  
27 or cement concrete.

28 A. Cement or cement concrete containing any amount of fly  
29 ash shall qualify as a recycled product.

30 B. Each department that administers construction contracts  
31 is responsible for ensuring that all invitations to bid issued by  
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1 the County after March 31, 1990 contain specifications that allow  
2 cement or cement concrete with fly ash as an optional or  
3 alternate material for all construction projects.

4 C. Where cement or cement concrete is purchased by purchase  
5 order, contractors shall estimate in signed bid documents the  
6 percentage of fly ash by weight, as well as the total weight of  
7 fly ash to be supplied.

8 D. Where cement or cement concrete is purchased as a  
9 component of a construction contract, the engineer responsible  
10 for the mix design shall maintain records of the percentage of  
11 fly ash (as a percentage of total cementitious material) and the  
12 total weight of fly ash supplied.

13 SECTION 9. Rules and regulations for procurement of  
14 lubricating oil.

15 A. Lubricating oil with re-refined oil content shall contain  
16 the maximum practicable amount of re-refined oil, but not less  
17 than twenty-five percent of total product weight.

18 B. The director or his designee shall use a percentage  
19 factor of ten percent in the process of determining the lowest  
20 responsive and responsible bidder for lubricating oil.

21 C. Each department that purchases lubricating oil is  
22 responsible for ensuring that all invitations to bid issued by  
23 the county after March 31, 1990 contain specifications that allow  
24 lubricating oil with re-refined content. If lubricating oil with  
25 re-refined content does not satisfy warranty or performance  
26 standards, the affected departments shall submit documentation to  
27 the Purchasing Agency.

28 SECTION 10. Rules and regulations for procurement of tires.

29 A. All retread tires shall qualify as recycled products.

30 B. All departments that purchase replacement tires shall  
31 review specifications for tires by March 31, 1990 to ensure that  
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specifications do not discriminate against retread tires.

1 Specifications shall be based upon specific performance  
2 requirements, such as mileage warranties or speed ratings.

3 C. All departments shall procure retreading services for  
4 their used tires to the maximum extent practicable before  
5 obtaining replacement tires.

6 D. In response to invitations to bid, bidders shall be  
7 required to certify the number of retread tires and the  
8 percentage of the total tires to be supplied that will be retread  
9 tires.

10 SECTION 11. Rules, regulations and procedures for  
11 designation and procurement of recycled plastic products,  
12 compost, and other recycled designated products.

13 A. A vendor of a product that contains recovered materials,  
14 such as post-consumer plastic or yard waste, and is not a  
15 designated product, may petition the county to qualify the  
16 product as a recycled designated product on a case-by-case  
17 basis. The vendor shall be responsible for providing sufficient  
18 evidence to the county that the product is suitable for its  
19 intended end use by the county.

20 B. The director and the solid waste manager or their  
21 designees shall jointly determine on a case-by-case basis the  
22 percentage factor to be used by the director or the director's  
23 designee in the process of determining the lowest responsive and  
24 responsible bidder for products qualifying as recycled products  
25 in this section; provided that the percentage factor shall be no  
26 higher than ten percent.

27 C. In determining product qualification and the percentage  
28 factor, the solid waste division manager and the director, or  
29 their designees, shall jointly develop evaluation criteria,  
30 including but not limited to the following: effect on solid  
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1 waste stream reduction; product performance and quality;  
2 information provided by the vendor about product composition,  
3 safety or durability; comparative post-consumer material content;  
4 and conformance with county, state and federal standards.

5 D. The solid waste division manager and the director, or  
6 their designees, shall solicit the input of departments that are  
7 potential users of products under consideration in evaluating  
8 product efficacy and performance.

9 E. Recycled designated products qualified under the terms of  
10 this section shall maintain their qualification for a period of  
11 three years, at which time qualifications may be reviewed for  
12 renewal; provided that the county may revoke qualification at any  
13 time if products are found to be unsatisfactory or unsafe, or if  
14 the recovered material or post-consumer material content of the  
15 products decreases.

16 SECTION 12. Procurement of recyclable products.

17 A. A vendor may petition the county to qualify a product as  
18 a recyclable product on a case-by-case basis. The vendor shall  
19 be responsible for providing all information requested by the  
20 county, including evidence that there is an existing market for  
21 the product after it has served its intended end use, and that it  
22 will be diverted from the solid waste stream.

23 B. The solid waste division manager and the director, or  
24 their designees, shall jointly determine on a case-by-case basis  
25 the percentage factor to be used by the director or the  
26 director's designee in the process of determining the lowest  
27 responsive and responsible bidder for products qualifying as  
28 recycled products in this section. For recyclable products which  
29 are also recycled designated products, the combined percentage  
30 factor shall at no time be greater than fifteen percent.

1 C. In determining product qualification and the percentage  
2 factor, the solid waste division manager and the director, or  
3 their designees, shall develop evaluation criteria, including but  
4 not limited to the following: documented marketability of the  
5 recycled material; and specific contractual arrangements for  
6 collection of materials after they have been used by the county.

7 D. Recyclable products qualified under the terms of this  
8 section shall maintain their qualification for a period of three  
9 years, at which time qualifications may be reviewed for renewal;  
10 provided that the county may revoke qualification at any time if  
11 the county determines that the products are not in fact  
12 recyclable products.

13 SECTION 13. Disposable Food and Beverage Containers.

14 A. The county prefers the use of reusable food and beverage  
15 containers when practicable.

16 B. When it is necessary to purchase disposable food and  
17 beverage containers, all departments and all concessionaires  
18 operating on county property or on property managed by the county  
19 shall whenever practicable purchase recyclable products.

20 SECTION 14. Capital Improvement Projects and Construction  
21 Contracts.

22 A. The county's preference for the purchase and use of  
23 products containing recovered materials shall be included as a  
24 factor in the design development of county capital improvement  
25 projects.

26 B. Where the King County design commission is required to  
27 review proposals for the design of a project, the commission  
28 shall determine whether the proposals have made a reasonable  
29 attempt to include products containing recovered materials.

30 C. Specifications for materials in construction contracts  
31 shall specify or encourage the use of designated recycled  
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1 products whenever practicable. Specifications shall not prohibit  
2 or discriminate against the use of designated recycled products  
3 unless the department issuing the contract provides the director  
4 or the director's designee with written documentation that, for  
5 technical reasons and for a particular end use, a product  
6 containing such materials will not meet reasonable performance  
7 standards.

8 SECTION 15. Annual report. The solid waste division shall  
9 submit to the county council each year in September, beginning in  
10 1990, a report evaluating the procurement program, including the  
11 following components:

12 A. Quantities of designated products purchased by  
13 departments;

14 B. Quantities and types of recycled product purchased;

15 C. Prices and relative quantities purchased of recycled and  
16 non-recycled designated products;

17 D. A determination as to whether minimum content standards  
18 should be changed or remain the same;

19 E. A summary of program promotional efforts;

20 F. An assessment of the effectiveness of the procurement  
21 program and an evaluation of program goals; and

22 G. Recommendations for changes in procurement policy,  
23 including designation of additional products.

24 SECTION 16. Responsibilities and reporting requirements of  
25 departments. All user departments are responsible for:

26 A. Purchasing and using recycled products whenever  
27 practicable;

28 B. Documenting any technical problems that preclude the use  
29 of recycled products;

30 C. Providing written explanations to the director or the  
31 director's designee for not purchasing recycled products;

1 D. Conducting comparative tests of the performance of  
2 recycled products and non-recycled products, as specified by the  
3 solid waste division and the purchasing agency;

4 E. Transmitting to contractors, upon their request, recycled  
5 product and vendor lists prepared by the purchasing agency and  
6 solid waste division;

7 F. Collecting information from contractors about their  
8 designated product purchases before contract expiration dates,  
9 according to procedures established by the solid waste division;

10 G. Submitting a report on the purchase of designated  
11 products by contractors to the solid waste division by July 31  
12 each year, beginning in 1991.

13 H. Informing the purchasing agency of potential uses of  
14 recycled products by contractors.

15 SECTION 17. Responsibilities of the solid waste division:

16 A. Providing information and technical assistance to local  
17 governments, schools, colleges, and other public and private  
18 organizations interested in purchasing recycled products;

19 B. Assisting departments in resolving problems and  
20 complaints concerning recycled product performance or  
21 availability;

22 C. Preparing press releases and fact sheets publicizing the  
23 successes of the program;

24 D. Preparing a report evaluating the procurement program, to  
25 be submitted to the county council each year in September,  
26 beginning in 1990; and

27 E. Assisting the purchasing agency in fulfilling its  
28 responsibilities in connection with this ordinance.

29 SECTION 18. Responsibilities of the purchasing agency. The  
30 purchasing agency is responsible for:

31 A. Revising or amending standard bid documents and contract  
32 language where necessary to implement this ordinance.



1 B. Collecting data on purchases by departments of designated  
2 products on county purchase orders, to be compiled by the solid  
3 waste division;

4 C. Preparing bid invitations for recycled products;

5 D. Maintaining a directory of recycled products and local  
6 vendors;

7 E. Disseminating recycled product information to departments;

8 F. Assisting the solid waste division in fulfilling its  
9 responsibilities in connection with this ordinance.

10 SECTION 19. Exemptions. Nothing in this ordinance shall be  
11 construed as requiring a department or contractor to procure  
12 products that do not perform adequately for their intended end  
13 use or are not available at a reasonable price in a reasonable  
14 period of time.

15 SECTION 20. Effective date of ordinance. The provisions of  
16 this ordinance shall apply to all county procurement processes,  
17 including invitations to bid, and requests for proposals,  
18 initiated after March 31, 1990.

19 SECTION 21. Severability. Should any section, subsection,  
20 paragraph, clause or phrase of this ordinance be declared  
21 unconstitutional or invalid for any reason, such decision shall  
22 not affect the validity of the remaining portion of this  
23 ordinance.

24 INTRODUCED AND READ for the first time this 13<sup>th</sup> day  
25 of November, 19 89.

26 PASSED this 11<sup>th</sup>, day of December, 19 89.

27 KING COUNTY COUNCIL  
28 KING COUNTY, WASHINGTON


29   
Chair

30 ATTEST:

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32 Clerk of the Council

33 APPROVED this 22<sup>nd</sup> day of December, 19 89.

  
King County Executive