

*Repealed
by Ord 5983*

PROPOSED NO. 81-663

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ORDINANCE NO. 5700

AN ORDINANCE relating to the procurement of goods and services by King County from minority business enterprises and women's business enterprises, establishing requirements for ensuring full and equitable opportunities for such business to provide goods and services to King County, and declaring an emergency.

PREAMBLE:

The King County Council and County Executive recognize minority business enterprises and women's business enterprises have been denied equitable competitive opportunities due to societal discrimination and other factors as reflected by these findings and Attachment A. Having determined that the interest and general welfare of the county would be served by making vigorous efforts to extend business opportunities to minority business enterprises and women's business enterprises, the King County Council and the King County Executive declare that vigorous and affirmative steps are both required and shall be put forth by all levels of King County government to assure equal opportunity in the letting of King County contracts.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. DEFINITIONS

All words shall have their ordinary and usual meanings except those defined in this section which shall have in addition, the meaning set forth below. In the event of conflict, the specific definition spelled out below shall presumptively, but not conclusively prevail.

A. "Affirmative Action Plan " shall mean the written, formal county policy adopted annually, stating the goals and programs of county government to be performed in the areas of contract compliance and equal employment opportunity and minority/women's business enterprise contracting.

B. "Affirmative Efforts " shall mean the making of vigorous and aggressive attempts to contact and contract with minority business enterprises and women's business enterprises. Where affirmative efforts are required by, or are grounds for waiving provisions of this ordinance, the Affirmative Action Administrator's determination shall be based on procedures to be outlined in

1 accordance with the dictates of this ordinance.

2 C. "Certification" shall mean the process by which a
3 business is determined to meet the definition of "minority
4 business enterprise" and/or "women's business enterprise" as set
5 forth in this ordinance.

6 D. "Commercially Useful Function " shall, for the purposes
7 of this ordinance mean the performance of real and actual services
8 in the discharge of any contractual endeavor. Minority and/or
9 women's business enterprises must perform such functions to be
10 eligible for any and all advantages conferred by this legislation.

11 E. "Concession Contracts " shall mean, but shall not be
12 limited to, those contractual arrangements for the sale of food,
13 beverages and/or items of personal property at any facility owned
14 and/or managed by King County.

15 F. "Construction Contracts " shall mean, those contractual
16 arrangements made by King County for the construction, repair,
17 rehabilitation, alteration, conversion or extension of buildings,
18 parks, streets or other improvements to real property.

19 G. "Consultant Contracts " shall mean, but shall not be
20 limited to, those contractual arrangements made for the procurement
21 of expert personal, professional and/or technical services.

22 H. "Purchasing Contracts " shall mean, but shall not be
23 limited to, those contracts which are awarded by the Purchasing
24 Division as the representative of King County, but which are not
25 requested by any other contract awarding authority.

26 I. "Service Contracts " shall mean, but shall not be limited
27 to, those contracts for technical, professional or other work
28 performed by a vendor, such as the making of repairs, servicing,
29 maintenance and/or cleaning, and which does not involve the
30 provision of substantial tangible items such as materials, supplies
31 or equipment. For the purposes of this ordinance, the term
32 "service contracts" shall not include construction, rental or
33 leasing of equipment or the traditional professional services

1 such as consulting, legal services, feasibility studies and
2 design studies.

3 J. "Contract Awarding Authority " shall mean any person
4 with the power to enter into a contractual arrangement binding
5 King County and shall also mean the particular office, agency or
6 division on whose behalf the contract is entered. In addition,
7 this term shall include, but shall not be limited to, heads of
8 county departments, divisions or offices.

9 K. "Contractor " shall mean any person, partnership,
10 corporation, or other type of business entity which has a contract
11 with King County or serves in a subcontracting capacity with an
12 entity having a contract with King County for the provision of
13 goods and/or services provided that municipal corporations in the
14 in the provision of, or private non-profit corporations who
15 contract with King County to provide social and health services
16 shall be allowed to request a special waiver of one or more
17 provisions of this ordinance as herein provided.

18 L. "Department " shall refer to any department as defined by
19 King County ordinance or other applicable law. Those county
20 agencies not associated with a department shall similarly
21 discharge those duties this ordinance requires of departments and
22 shall include, but not be limited to, the Prosecuting Attorney, the
23 Assessor and King County Council.

24 M. "Joint Venture " shall mean an association of two or
25 more persons, partnerships, corporations or any combination thereof,
26 founded to carry on a single business activity which is limited in
27 scope and direction. The degree to which a joint venture may
28 satisfy relevant utilization goals cannot exceed the proportionate
29 interest of the minority business enterprise and/or a woman's
30 business enterprise as a member of the joint venture in the work
31 to be performed. The agreement establishing said joint venture,
32 partnership or other multi-entity relationship shall be in
33 writing.

1 1. Further, women's and/or minority participation in a
2 joint venture shall be based on the sharing of real economic
3 interests and shall include proportionate control over management,
4 interest in capital acquired by the joint venture and interest in
5 earnings.

6 N. "Legitimately Owned and Controlled " shall mean for the
7 purposes of determining whether a business is a "minority business
8 enterprise" and/or a "women's business enterprise" that women,
9 minority or a combination thereof shall possess:

10 1. Ownership of at least fifty-one percent interest in
11 the business; and

12 2. Control over management, interest in capital, and
13 interest in profit or loss commensurate with the percentage of
14 ownership on which the claim of status under this ordinance is
15 based.

16 O. "Minority Business Enterprise " means an incorporated or
17 unincorporated business other than a joint venture organized to
18 engage in commercial transactions, which is legitimately owned and
19 controlled by a minority person or persons if said ownership
20 interests are real and continuing and control over management,
21 interest in capital acquired by the business, and interest in
22 earnings are commensurate with the percentage of ownership upon
23 which the claim of Minority Business Enterprise status is based.

24 P. "Women's Business Enterprise " means an incorporated or
25 unincorporated business other than a joint venture organized to
26 engage in commercial transactions, which is legitimately owned and
27 controlled by a woman or women if said ownership interests are
28 real and continuing and control over management, interest in
29 capital acquired by the business and interest in earnings are
30 commensurate with the percentage of ownership upon which the claim
31 of Women's Business Enterprise status is based.

32 Q. "Minority Person " shall mean any ethnic person who is a
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1 citizen of the United States or its territories including Asians/
2 Pacific Islanders, persons of African descent, Hispanics and
3 Native-Americans/Alaskan Natives.

4 R. "Solicitation " shall mean a contract awarding authority's
5 request for the provision of any one or more of the following:
6 goods, services, equipment leases or rentals of space or the
7 purchase thereof. Solicitations shall include requests for
8 proposals, invitations to bid and similar items. "Solicitation
9 Specifications " shall mean any documents, literature or other
10 information accompanying a solicitation which provides additional
11 data regarding the contract awarding authority's request.

12 S. "Utilization Goals " shall mean those separately designa-
13 ted annual goals for the utilization of minority business enter-
14 prises and women's business enterprises by King County. The goals
15 shall be expressed as a numerical percentage of the total dollar
16 value of all contracts to be awarded by the county. These goals
17 shall be applicable to enterprises organized for profit along with
18 governmental agencies and quasi-governmental agencies unless such
19 agencies are specifically exempted by or in accordance with the
20 provisions of this ordinance.

21 T. "Utilization Requirements " shall mean those efforts
22 which King County and the particular department shall make to meet
23 the County's utilization goals.

24 U. "Violating Party " shall mean a person or entity which
25 has violated a provision or provisions of this ordinance.

26 V. "Waiver Statement " shall mean a written statement
27 directed to the Affirmative Action Administrator containing reasons
28 why any provision or provisions of this ordinance shall not apply
29 to a particular person, partnership, corporation, business entity,
30 contract awarding authority or department. Where a waiver or
31 waivers are granted, the utilization goals shall be applied in a
32 manner so as to reflect the loss of the monetary value of those
33 contracts exempted from the requisites of this ordinance.

SECTION 2. POWERS AND DUTIES

A. In addition to the powers and duties given to the County

1 Executive elsewhere in this ordinance, the County Executive shall:

2 1. Through the Affirmative Action Administrator have
3 responsibility for the administration, monitoring and enforcement
4 of the goals identified in this ordinance;

5 2. Establish a Minority and Women's Business Enterprise
6 section within the Affirmative Action Office;

7 3. Appoint a Minority and Women's Business Enterprise
8 Advisory Commission.

9 B. In addition to the powers and duties given the Affirmative
10 Action Administrator elsewhere in this ordinance, the Affirmative
11 Action Administrator shall:

12 1. With the advice and input of the minority and
13 women's business community, establish procedures for implementing
14 and administering this ordinance;

15 2. Establish a Minority and Women's Business Enterprise
16 section within the Affirmative Action Office.

17 C. The Affirmative Action Administrator with the assistance
18 of the King County Purchasing Division shall:

19 1. With the advice of contract awarding authorities,
20 formulate a plan to make minority business enterprises and women's
21 business enterprises aware of contracting opportunities with King
22 County. This plan shall be updated regularly.

23 2. Review all King County solicitation lists and where
24 possible, place minority business enterprises and women's business
25 enterprises on such lists.

26 SECTION 3. UTILIZATION GOALS.

27 A. On or before the first day of March of each year, the
28 Affirmative Action Administrator shall submit to the County
29 Executive for approval proposed utilization goals for the county
30 for that year. Separate goals shall be established both for the
31 use of minority business enterprises and the use of women's
32 business enterprises. These goals shall be established separately
33 for each of the following types of contracts: construction

1 contracts; consultant contracts; purchasing and service contracts;
2 concession contracts; and, for other contracts and purchases as
3 specified in the provisions of this ordinance. Said goals shall
4 be made part of King County Affirmative Action plan and shall be
5 transmitted with said plan to the King County Council for its
6 approval. Existing utilization goals shall remain in effect until
7 newly submitted ones receive final King County Council approval.

8 1. The Affirmative Action Administrator shall formulate
9 annual utilization goals for King County. Such goals should be
10 reasonably achievable and the following factors shall be used in
11 establishing such goals:

12 a. Those statistical indicators showing denial of
13 equitable competitive opportunities to minority and women-owned
14 business enterprises;

15 b. The information received from departments as required
16 by this ordinance;

17 c. The level of participation of minority business
18 enterprises and women's business enterprises in past contracts
19 awarded by the county;

20 d. The level of participation of minority business
21 enterprises and women's business enterprises in contracts awarded
22 in the King County area;

23 e. The level of participation as recommended by
24 governmental agencies and private agencies whose purpose is to
25 promote the use of minority business enterprises and women's
26 business enterprises;

27 f. The population of minorities and women in King
28 County;

29 g. The number of minority business enterprises and
30 women's business enterprises in and around King County as
31 identified by the Affirmative Action Administrator;

32 h. The recommendation made by the Minority and Women's
33 Business Enterprise Advisory Commission established by this

1 ordinance;

2 i. The concerns which led to the establishment of this
3 ordinance.

4 2. The proposed goals shall be accompanied by a justification
5 statement which shall identify the factors in this subsection and
6 any other factors used in formulation of the proposed utilization
7 goals.

8 B. Each department shall annually formulate a contract
9 forecast estimating the number, probable monetary value, if known,
10 and type of contracts said department expects to award along with
11 any waivers it expects to request in the upcoming year. In
12 addition, an implementation plan describing how the particular
13 department will accomplish its utilization goals shall be composed.
14 On or before the fifteenth day of February of each year, the
15 departments will submit these documents to the Affirmative
16 Action Administrator.

17 C. The utilization goals for the remainder of 1981 and
18 until such time as new goals are established are as follows:

- 19 1. Consultant contracts - Women 9%, Minorities 12%
20 2. Construction contracts - Women 2%, Minorities 10%
21 3. Purchasing and Service contracts - Women 3%,
22 Minorities 5%
23 4. Concession contracts - Women 1%, Minorities 1%

24 SECTION 4. ACCOMPLISHMENT OF UTILIZATION GOALS.

25 A. Accomplishment of utilization goals established by this
26 ordinance shall be based on the dollar amount of the contract in
27 question and shall be calculated in the following manner:

28 1. General -- The dollar value of any and all contracts
29 awarded by a contract awarding authority to a minority business
30 enterprise and/or women's business enterprise shall be counted
31 towards accomplishment of the applicable utilization goals.

32 a. The total dollar value of the contract awarded to a
33 minority business enterprise and/or women's business enterprise

1 owned and controlled by both minority males and non-minority
2 females is counted towards the goals for minority and women
3 respectively.

4 b. The total dollar value of a contract with a
5 minority business enterprise and/or women's business enterprise
6 owned and controlled by minority women is counted toward either
7 the minority goal or the goal for women, not to both. The contract
8 awarding authority shall, with the advice and consent of the
9 Affirmative Action Administrator, determine this apportionment.

10 2. Subcontracts -- If a contractor, as defined in this
11 ordinance, uses subcontractors who are minority business enter-
12 prises and/or women's business enterprises, the amount of money
13 which is given to said minority and/or women's business enterprises
14 for their work on such a contract, shall be credited towards meet-
15 ing the applicable utilization goals.

16 3. Joint Ventures -- Where one or more minority business
17 enterprises and/or women's business enterprises are participants
18 in a joint venture with one or more non-minority or non-women's
19 business enterprises, the amount of money received by the minority
20 business enterprise and/or women's business enterprise shall be
21 calculated in proportion to their participation in the joint
22 venture in accomplishing the applicable utilization goals.

23 4. Supplies/Materials -- The County or a contractor may
24 count toward its utilization goals expenditures for materials and
25 supplies obtained from minority business enterprises and/or women's
26 business enterprise suppliers and manufacturers, provided that the
27 minority business enterprise and/or women's business enterprise
28 assume the actual and contractual responsibility for the provision
29 of the materials and supplies.

30 a. The County may count its entire expenditure made to
31 a minority business enterprise and/or women's business enterprise
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1 manufacturer (i.e., a supplier that produces goods from raw
2 materials or substantially alters them before resale).

3 b. The County may count the amount of the commission
4 paid to minority business enterprise and/or women's business
5 enterprise suppliers and resulting from a particular contract
6 with the County, provided that a minority business enterprise
7 and/or women's business enterprise supplier performs a commer-
8 cially useful function in the process.

9 B. The Affirmative Action Administrator shall calculate the
10 accomplishment of utilization goals for the county. In the event
11 of disputes regarding these calculations, a department may request
12 review of the Affirmative Action Administrator's decision in
13 accordance with procedures to be developed by the County
14 Administrative Officer.

15 C. Departments shall continue to make affirmative efforts to
16 do business with minority business enterprises and women's
17 business enterprises after having discharged their annual utili-
18 zation goals.

19 SECTION 5. UTILIZATION REQUIREMENTS, GENERAL.

20 A. In order to meet the utilization goals established in
21 accordance with this ordinance, efforts including, but not limited
22 to, the following shall be made:

23 1. Under the auspices of the Affirmative Action Office,
24 a technical assistance and outreach program shall be established.

25 2. Prior to entering into any contract, the contract
26 awarding authority shall:

27 a. Make affirmative efforts to solicit proposals from
28 minority business enterprises and women's business enterprises;

29 b. Examine alternatives for the arrangement of contracts
30 by size and type of work so as to enhance the possibility of
31 participation by minority business enterprises and women's
32 business enterprises.

33 3. The following shall be included in the body of the

1 contract document in any and all contracts signed between a
2 contract awarding authority and a contractor:

3 a. A provision indicating that this ordinance is incor-
4 porated by reference into any and all King County contracts and
5 failure to comply with any of the requirements of such by a
6 contractor will be considered a breach of contract.

7 b. A requirement that during the term of the contract
8 the contractor shall:

9 (1) Comply with, as to tasks and dollar amounts
10 throughout the term of the contract, with any plans made in their
11 proposal for the use of minority business enterprises and/or
12 women's business enterprises. Affirmative efforts shall be made
13 to replace minority business enterprises and/or women's business
14 enterprises who for any reason no longer remain associated with
15 the contractor's efforts to complete said contract with other
16 minority business enterprises and/or women's business enterprises.

17 (2) Whenever contract supplements, amendments or
18 change orders are made which affect the total dollar value of the
19 contract, the contractor shall make affirmative efforts to comply
20 with those provisions of this ordinance which applied to the
21 original contract regarding the percentage use of minority business
22 enterprises and/or women's business enterprises.

23 (3) Not engage in agreements between a responding
24 party and a minority business enterprise and/or women's business
25 enterprise in which said minority and/or women's business
26 enterprise promises to provide subcontracting quotations to other
27 responding or potential responding parties.

28 SECTION 6. EXCEPTIONS AND WAIVERS

29 A. Contract awarding authorities, along or on behalf of
30 responding parties and contractors, may apply for waiver of one or
31 more requirements of this ordinance as they apply to a particular
32 contract or contracts. Waivers may be granted in any of the
33 following circumstances:

1 1. Sole Source -- When the needed goods and services are
2 readily available from only one source, the contracting awarding
3 authority shall, in addition to the requirements contained in
4 Ordinance No. 4551, K.C.C. 4.16.030, submit a written justification
5 of the need for sole source treatment to the Minority and Women's
6 Business Enterprise Officer who shall examine such statement and
7 grant or deny the request for waiver within three business days.

8 2. Emergencies -- Emergencies and emergency contracting shall
9 be handled in accordance with the requisites of Ordinance No. 4551,
10 K.C.C. 4.16.040.

11 3. Special Waiver -- When neither a minority business enter-
12 prise and/or women's business enterprise is readily available to
13 provide needed goods or services, a special waiver may be applied
14 for, in accordance with the procedures to be developed by the
15 Affirmative Action Administrator. The Affirmative Action Adminis-
16 trator shall certify that a minority and/or women's business
17 enterprise is in fact not readily available to provide the needed
18 goods and/or services.

19 SECTION 7. MONITORING, REPORTING, AND COMPLIANCE.

20 A. The County Executive through the Affirmative Action
21 Administrator shall have the responsibility of monitoring the
22 requisites of this ordinance and shall have the power to request
23 from departments, responding parties and/or contractors any
24 relevant records, information or documents.

25 B. Contract awarding authorities, with the assistance of the
26 Minority and Women's Business Enterprise section, shall keep
27 complete and detailed records regarding compliance with this
28 ordinance, said records shall include the dollar value and the
29 subject matter of each contract along with the name of the
30 contractor, the participation levels, in dollars and by type of
31 work, of minority business enterprises and women's business
32 enterprises where the contract award provides for such partici-
33 pation, and such other information as the Affirmative Action

1 Administrator deems necessary,

2 C. The Affirmative Action Administrator or his/her designee
3 shall have responsibility for gathering all information concerning
4 compliance with this ordinance and shall have access to all
5 pertinent King County records,

6 D. With the assistance of the Minority and Women's Business
7 Enterprise section, each department shall submit to the County
8 Executive an annual report on their performance in meeting the
9 utilization goals required by this ordinance. This report shall
10 include the number of contracts awarded, the number which went to
11 minority business enterprises and/or women's business enterprises,
12 the number of contracts which involved the use of subcontractors,
13 suppliers or similar assistance, and the number of minority and/or
14 women's business enterprises used in such roles. The report shall
15 also identify problems in meeting the requisites of this ordinance,
16 if any, and suggestions for improvements.

17 E. Upon receipt of an allegation that any contractor and/or
18 subcontractor or vendor has violated any provision of this
19 ordinance, or if a violation is discovered from information gained
20 through compliance monitoring, the County Executive, his designee,
21 or authorized agency, shall conduct an investigation. If it
22 appears that a violation has occurred, the County Executive, or
23 his designee, will, upon ten days' written notice to the alleged
24 violating party, conduct a hearing to determine whether a viola-
25 tion has occurred. The notice shall be recorded and each party
26 shall have the right to call and examine witnesses, to produce
27 documentary and physical evidence, to cross-examine witnesses,
28 and to be represented by anyone of his choice, lawfully permitted
29 to do so. The parties shall include the complainant, if any, the
30 alleged violating party and a representative of the Executive or
31 the agency conducting the investigation. The Executive may suspend
32 progress payments on a contract pending the outcome of the hearing.
33 Unless otherwise agreed to by all parties, the hearing shall be

1 commenced no later than twenty-one days after service of a written
2 notice of violation.

3 F. After the hearing, the County Executive, or hearing
4 examiner shall make written findings and conclusions and may
5 undertake one of the following:

6 . 1. Dismissal of the complaint when a violation is found
7 not to have occurred;

8 2. Suspension or cancellation of the contract in part
9 or in whole;

10 3. Disqualification of the contractor and/or sub-
11 contractor;

12 4. Exclusion from future contracts or vending until
13 demonstration of compliance;

14 5. Liquidated damages of up to ten percent of the
15 contract award;

16 6. Enforcement of any provision of the contract provid-
17 ing remedies, such as penalties or liquidated damages for
18 violation of contractual provisions, or enforcement of any other
19 remedy available by the law of the County.

20 G. Any person, firm, corporation, business, union, or
21 organization which prevents or interferes with a contractor and/or
22 subcontractor's efforts to comply with the requirements of this
23 ordinance shall be subject to a civil penalty of five hundred
24 dollars for each occurrence, the County having previously
25 complied with the notice and hearing provisions of this ordinance.

26 SECTION 8. MINORITY AND WOMEN'S BUSINESS ENTERPRISE
27 ADVISORY COMMISSION

28 A. There is established a King County Minority and Women's
29 Business Enterprise Advisory Commission to be composed of a total
30 of nine persons representing members of the public, the minority
31 business community, the women's business community, and such other
32 persons as the County Executive deems appropriate. Nominees shall
33 be appointed by the County Executive and confirmed by a majority

1 vote of the County Council. Once constituted the commission shall
2 establish terms of appointment per K.C.C. 2.28 by lot.

3 B. The King County Minority and Women's Business Enterprise
4 Advisory Commission shall act in an advisory capacity to the
5 County Executive to further the objectives of this ordinance. The
6 Commission shall recommend county-wide and departmental
7 utilization goals for each category of contract contained in this
8 ordinance, make recommendations for improving the operation of
9 this ordinance, including corrective legislation, and report
10 annually to the County Executive regarding departmental and
11 county progress in meeting utilization goals.

12 C. The King County Minority and Women's Business Enterprise
13 Advisory Commission shall organize, elect appropriate officers,
14 and shall adopt rules and administrative procedures for its own
15 operation. Such rules shall include a definition of conflict of
16 interest issues coming before the board, and appropriate voting
17 restrictions. The Commission shall meet at least four times a
18 year and all meetings shall be open to the public. Records of
19 the proceedings shall be maintained.

20 D. Five members shall constitute a quorum for the purpose of
21 conducting business. Any vacancies occurring in the membership
22 of the commission shall be filled for the remainder of the
23 unexpired term in the same manner as the original appointments.
24 The King County Minority and Women's Business Enterprise Advisory
25 Commission, specified in this section, shall expire December 31,
26 1982, unless reenacted by ordinance.

27 SECTION 9. SEVERABILITY.

28 The provisions of this ordinance shall be effective in all
29 cases unless otherwise provided for by State or Federal law.
30 The provisions of this ordinance are separate and severable. The
31 invalidity of any clause, sentence, paragraph, subdivision,
32 section or portion of this ordinance or the invalidity of the
33 application thereof to any person or circumstance shall not affect


1 the validity of the remainder of this ordinance, or the validity
2 of its application to other persons or circumstances.

3 SECTION 10. The County Council finds as a fact and declares
4 that an emergency exists and that this ordinance is necessary
5 for the immediate preservation of public peace, health or safety
6 or for the support of county government and its existing public
7 institutions.

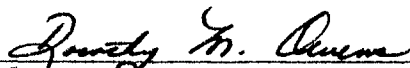
8 INTRODUCED AND READ for the first time this 28th day of
9 September, 1981.

10 PASSED this 28th day of September, 1981.

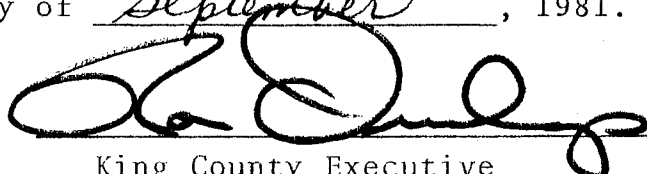
11
12 KING COUNTY COUNCIL
13 KING COUNTY, WASHINGTON

14 
15 _____
16 Chairman

17
18 ATTEST:

19
20 
21 **DEPUTY** Clerk of the Council

22
23 APPROVED this 28th day of September, 1981.

24 
25 _____
26 King County Executive

KING COUNTY
MINORITY AND WOMEN'S BUSINESS ENTERPRISE ORDINANCE
JUSTIFICATION STATEMENT

1 I. HISTORICAL FINDINGS

2 Minority business enterprises and women's business enterprises
3 have been denied equitable competitive opportunities due to
4 societal discrimination and other factors. An exhaustive survey
5 of documentation available at the national, state and local levels
6 (even though statistics are often in the developmental stage and
7 many times are rudimentary) overwhelmingly substantiates this
8 claim. A review of these statistics and other supporting
9 indicators is presented below.

10 One indication that minorities and women have been denied business
11 opportunities is evidenced by the insignificant revenues realized
12 by minority and women owned firms in the greater Seattle Area.

13 A 1977 ownership survey of minority and women business enterprises,
14 concluded that minority owned firms generated less than 0.5% and
15 women owned firms generated less than 0.8% of the total gross
16 income of all firms in King County.¹ And, if gross revenues are
17 juxtaposed next to the number of minority and women owned firms,
18 it is evident that the minority and women owned firms that do exist
19 have not gained equal access to business opportunities in proportion
20 to their percentage of ownership. That is, minority owned firms
21 represent 6.1% of the total number of firms, yet they only generate
22 0.5% of the total gross revenues in King County. In the same
23 manner, women owned firms represent 12.3% of the total number
24 of firms, but generate only 0.8% of total gross revenues.²
25 Further, the actual number of minority owned and women owned firms
26 also demonstrated underrepresentation of these groups. The 1977
27 survey shows that 6.1% and 12.3% of all firms in King County are
28 minority or women owned, respectively. When these figures are
29 compared to the minority population in
30

31 1 Survey conducted by the State of Washington, Dept. of Revenue
32 and the U.S. Dept. of Commerce, Bureau of Census

33 2 Ibid.

1 King County (12.0%)³ and the female population in King County
2 (51.0%)⁴, it is apparent that a disparity of opportunity exists
3 for these groups.

4 Finally, while the revenue data and the number of firms in King
5 County are based on 1977 statistics, the data collected by METRO
6 and the City of Seattle for their respective minority and women's
7 business enterprise ordinances indicate that these figures remain
8 accurate approximations of the current situation.

9 It has been argued, of course, that the small percentage of gross
10 revenue realized by minority and women owned firms relative to
11 their numerical percentage indicates that these firms may be unable
12 to perform the sophisticated range of jobs contracted for by King
13 County. However, King County's experience unquestionably disputes
14 this line of reasoning as is discussed below.

15 Historical data demonstrate that minority and women owned firms
16 are available in King County and have the expertise to perform
17 required work. The basis for this claim is past experience with
18 EDA⁵ funds and with Federal grants where minority and women
19 participation was required, e.g., UMTA and DOT, and the experience
20 of other local agencies such as METRO and the City of Seattle,
21 which currently administer a minority and women's business
22 enterprise ordinance.

23 The most persuasive evidence of the availability of capable firms
24 is demonstrated by METRO which has had a minority and women's
25 business enterprise ordinance in operation since 1978. Their
26 statistics indicate that the participation of minority and women
27 owned firms exceeds 21% of total annual dollars spent on
28 construction, and 29% of total annual dollars spent on consultant
29 contracts. The City of Seattle has also experienced a marked
30 increase in utilization of minority and women owned firms since
31

32 3 Source: 1980 O.F.M. estimate

33 4 It is assumed that the female population parallels national
averages.

5 Economic Development Administration

1 the passage of its ordinance. Total annual dollars for
2 construction by minority or women owned firms increased from
3 approximately 7.5% in 1978-79 to almost 16% in 1980 and total
4 annual dollars for minority and women consultants increased from
5 6% to over 15% for that same period.

6 Corroborating the experience of METRO and the City of Seattle is
7 national data and our own experience in King County. In 1977,
8 when EDA funds required a 10% set aside for minority firms,
9 national statistics for that year indicated 14% had been allocated
10 to minority firms; in King County, 27% of these funds had been
11 allocated to minority firms.

12 King County's experience with procurement contracts also demon-
13 strates that there are available minority and women owned firms
14 with the expertise to provide needed supplies. In 1978 and 1979,
15 the participation of minority and women owned firms in King
16 County's vendor/supplier contractors totaled 2.0% and 2.4%
17 respectively. However, in 1980, the participation level increased
18 to 6.0%. This increase was due to a concerted effort to locate
19 and inform minority and women owned firms of business opportunities
20 with King County.

21 The statistics presented above provide firm indications that
22 minority and women owned firms are available and have the expertise
23 to provide services to King County but that past practices have
24 denied equal access to these entities. Moreover, even though there
25 are available and competent minority and women owned firms in King
26 County a disparity of general opportunities for entry into the
27 marketplace has prevailed. The result of this disparity is that
28 the number and gross revenues of minority and women owned firms
29 is far less than would be expected based on their respective
30 populations in King County.

31 II. 1981 UTILIZATION GOALS

32 The utilization goals set forth in the proposed minority and
33 women's business enterprise ordinance establish a measure or

1 standard for 1981 accomplishment. These goals shall stand until
2 such time as 1982 goals are established.

3 1981 goals were based on the following factors:

4 King County's past experience -- In most instances the
5 availability of historical data is scarce; and
6 what is available may only be available in aggregate
7 and not separated by minority and female. At
8 minimum, we have uniformly taken into consideration
9 1980 and first quarter 1981 experience in
10 establishing 1981 goals.

11 Data available from other jurisdictions -- In many
12 instances, levels of minority and women's partici-
13 pation attained by other governmental or
14 quasi-governmental entities is not readily
15 transferable due to differences in the type and
16 levels of expenditures. This information does,
17 however, give King County some indication of the
18 availability of minority and women's firms within
19 specific markets.

20 Estimated King County Expenditure for the last half of
21 1981 -- We have sought to forecast the total dollars
22 which will be spent, by type of contract, over the
23 remainder of 1981 since we will have the greatest
24 ability to influence participation levels in these
25 contracts; please note, however, that this forecast
26 does not include funds which were contracted for
27 1981 but will not be expended until 1982.

28 Actual expenditures for the first half of 1981 -- King
29 County's Purchasing and Affirmative Action Offices
30 have sought on a case-by-case basis to negotiate
31 minority/women's participation in King County
32 contracts. To the extent these offices have been
33 successful or unsuccessful, our ability to meet or

1 exceed 1981 goals has already been constrained by
2 participation levels which have been achieved
3 during the first half of the year.

4 Variations or changes in King County expenditure

5 patterns -- Finally, 1981 goals have taken into
6 consideration all available information on the
7 types of contractual expenditures as compared to
8 probable availability of minority and women's
9 firms. For example, to the extent a large percen-
10 tage of 1981 consulting funds are dedicated to
11 highly technical assessments or areas in which
12 there is a dearth of minority and female owned
13 firms, utilization goals (based on past experience)
14 may be adjusted.

15 Specific utilization goals for 1981 are:

16 consultant contracts: 12% minority

17 9% women

18 These goals are based on 1) the large number of
19 minority and women owned consultant firms in King
20 County, and the growth in the number of these firms
21 evidenced over the past year; 2) 1980 and first
22 quarter 1981 actual experience which indicates
23 that 10.8% and 7.6% of King County consulting
24 contracts went to minorities and women
25 (respectively) in 1980, 12% and 21% year to date
26 in 1981; and 3) that an estimated \$462,999.08 is
27 available to contract out during the remainder of
28 1981 for consulting contracts.

1 indicate 0% minority and 1% women's participation.
2 These concessions are presently under contract for
3 the remainder of 1981 and their duration is from
4 1 to 3 years. Affirmative efforts shall be made
5 to replace existing concessionaires who for any
6 reason no longer remain under contract with the
7 county. Preliminary availability for these service
8 contracts indicates marginal availability for both
9 minority and women owned firms. Stadium
10 concessions are not, however, reflected in the
11 above goals. The stadium concession contract is a
12 ten year contract due to expire in 1985.
13 The Affirmative Action Office is currently
14 negotiating with the prime vendor to establish a
15 plan for increasing the participation of minority
16 and women owned firms within the constraints of
17 this contract.