

April 27, 1993

Introduced by: Derdowski

Proposed No.: 93-222

ORDINANCE NO. **10849**

AN ORDINANCE relating to discrimination and affirmative action in employment by county contractors, subcontractors, or vendors; establishing policies and procedures and prescribing penalties for noncompliance; amending Ordinance 4528, Sections 1-2, 4-10 and 15, as amended, and K.C.C. 12.16.010, 12.16.020 and 12.16.040 through 12.16.110 and 12.16.150; Ordinance 7788, Section 3, and K.C.C. 12.16.025; Ordinance 9383, Sections 2-5, and K.C.C. 12.16.145; repealing Ordinance 4528, Section 11 and K.C.C. 12.16.110; Ordinance 4528, Section 12, and K.C.C. 12.16.120; Ordinance 7787, Sections 1-5, and K.C.C. Section 12.16.035; and repealing and replacing Ordinance 4528, Section 3, and K.C.C. 12.16.030, and adding new Sections to K.C.C. 12.16.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 4528, Section 1, as amended, and K.C.C. 12.16.010 are hereby amended to read as follows:

Definitions. (~~For the purposes of this chapter, the words set out in this section shall have the following meanings:~~) 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. "Administrator" means the administrator of the office of civil rights and compliance.

~~((A-))~~ B. "Affidavit" means a sworn statement under oath.

~~((B-))~~ C. "Affirmative action" means policies, procedures and programs designed to increase the representation of and remedy the results of past discrimination against minorities, women, and ((handicapped)) persons with disabilities in employment, applications for employment, and employment-related training programs (of minorities, women and ((handicapped)) persons with disabilities).

1           ((C-)) D. "Contractor" means any person, firm, business,  
2 organization, company, partnership or corporation, excluding  
3 lessors and lessees, contracting to do business with King County  
4 including, but not limited to, construction contractors,  
5 consultant contractors, providers of professional services,  
6 service agencies, vendors, and suppliers selling or furnishing  
7 materials, equipment, goods or services, but not including  
8 governmental agencies.

9           E. "Disability" means any physical or mental impairment  
10 which substantially limits one or more major life activities.

11           ((D-)) F. "Discrimination" means differential treatment of or  
12 pursuit of policies or practices that have a disproportionate  
13 impact upon persons due to their creed, religion, race, color,  
14 sex, age, marital status, sexual orientation, national origin or  
15 the presence of any sensory, mental or physical ((handicap))  
16 disability, unless such policies or practices are necessary for  
17 the performance of the job and no less discriminatory alternatives  
18 are possible.

19           ((E-)) G. "Employment" means any and all terms and conditions  
20 and policies and practices of employment including, but not  
21 limited to, hiring, firing, upgrading, demotion, recruiting,  
22 transfer, lay-off, termination, pay rates and advertisement, hours  
23 and conditions of work.

24           ((F- ~~"Handicap" means any physical or mental impairment~~  
25 ~~which substantially limits one or more major life activities.))~~

26           ((G-)) H. "Minority or Minorities" ((includes Blacks, Asians,  
27 Pacific Islanders, American Indians, Alaska Natives, Hispanics and  
28 Mexican Americans.)) means a person who is a citizen of the United  
29 States and who is a member of one or more of the following  
30 historically disadvantaged racial groups:

31           1. Black or African American: Having origins in any of  
32 the Black racial groups of Africa;

33

1        2. Hispanic: Of Mexican, Puerto Rican, Cuban, or Central  
2 or South American culture or origin;

3        3. Asian American: Having origins in any of the original  
4 peoples of the Far East, Southeast Asia, the Indian subcontinent,  
5 or the Pacific islands; or

6        4. American Indian or Alaskan Native: Having origins in  
7 any of the original peoples of North America.

8        ((H-)) I. "Qualified ((handicapped)) disabled person" means a  
9 ((handicapped)) person with a disability who, with reasonable  
10 accommodation, can perform the essential functions of the job in  
11 question.

12        ((I-)) J. "Reasonable accommodation" means steps taken to  
13 modify facilities used by employees or to modify a particular job  
14 component which enables an otherwise qualified ((handicapped))  
15 person with a disability to perform the essential functions of the  
16 job.

17        ((J-)) K. "Sexual orientation" means male or female  
18 heterosexuality, bisexuality, or homosexuality, and includes a  
19 person's attitudes, preferences, beliefs and practices pertaining  
20 to sex.

21        ((K-)) L. "Underrepresentation" means presence in a  
22 contractor's work force of minorities, women, and ((handicapped))  
23 persons with disabilities in proportionate numbers lower than the  
24 goals established for the contractor's business under this  
25 chapter.

26        ((L-)) M. "Section 504" shall mean Section 504 of the  
27 Rehabilitation Act of 1973 as amended which states that, "No  
28 otherwise qualified handicapped individual in the United States  
29 shall, solely by reason of his handicap be excluded from the  
30 participation in, be denied the benefits of, or be subjected to  
31 discrimination under any program or activity receiving federal  
32 financial assistance."  
33

1            SECTION 2. Ordinance 4528, Section 2, as amended, and K.C.C.  
2 12.16.020 are hereby amended to read as follows:

3            **Nondiscrimination - General.** No contractor, subcontractor,  
4 or union doing business with the county, or furnishing workers or  
5 services in connection therewith, shall discriminate against any  
6 person on the basis of race, color, creed, religion, sex, age,  
7 nationality, marital status, sexual orientation, or the presence  
8 of any sensory, mental or physical ((handicap)) disability in an  
9 otherwise qualified ((handicapped)) disabled person in employment,  
10 and no such contractor, subcontractor, or union shall violate any  
11 of the terms of RCW Chapter 49.60, Title VII of the Civil Rights  
12 Act of 1964, or any other applicable federal, state or local law  
13 or regulation regarding nondiscrimination in employment.

14            SECTION 3. Ordinance 7788, Section 3, and K.C.C. 12.16.025  
15 are hereby amended to read as follows:

16            **Nondiscrimination - ((The handicapped)) Persons with**  
17 **disabilities.** In addition to the general prohibition against  
18 discrimination stated in Section 12.16.020 of this chapter, the  
19 following additional nondiscrimination provisions relating to  
20 employment of ((handicapped)) persons with disabilities shall  
21 apply to contractors, subcontractors, or unions doing business  
22 with or furnishing workers or services to King County.

23            A. Reasonable accommodation. Contractors shall make  
24 reasonable accommodation to the known physical or mental  
25 limitations of an otherwise qualified ((handicapped)) disabled  
26 applicant or employee unless the contractor can demonstrate that  
27 the accommodation would impair or cause undue hardship on the  
28 operation of the contractor's business.

29            B. Pre-employment inquiries. A contractor may not conduct a  
30 pre-employment medical examination or make a pre-employment  
31 inquiry as to whether an applicant is a ((handicapped)) disabled  
32 person or as to the nature or severity of a ((handicap))  
33 disability. A contractor may, however, make pre-employment

1 inquiry into an applicant's ability to perform job-related  
2 functions. Nothing in this section shall prohibit a contractor  
3 from conditioning an offer of employment on the results of a  
4 medical examination prior to initiation of the employment, if all  
5 entering employees are subjected to such an examination regardless  
6 of (~~handicap~~) disability.

7 SECTION 4. Ordinance 4528, Section 3, as amended, and K.C.C.  
8 12.16.030 are hereby repealed and replaced with the following:

9 **Goals and timetables - Affirmative action required.**

10 A. Goal setting - affirmative efforts. The executive, with  
11 the assistance of the administrator, shall set goals for the  
12 employment of minorities, women and persons with disabilities by  
13 county contractors. All contract awarding authorities shall make  
14 vigorous and affirmative efforts to assist county contractors in  
15 meeting their employment goals.

16 B. Goal setting methodology. The workforce availability of  
17 minorities, women and persons with disabilities for employment by  
18 county contractors shall be developed consistent with the eight  
19 factors set forth below. On or before the thirtieth day of April,  
20 1992, and every three years following that date, the administrator  
21 shall submit to the county executive for approval proposed  
22 affirmative action goals for county contractors for the following  
23 three year period. Separate employment goals shall be established  
24 for minorities, women and persons with disabilities. The goals  
25 shall be transmitted together with the annual report of the office  
26 of civil rights and compliance to the county council for approval.

27 The eight factors referenced above are:

28 1. The minority population of the labor area surrounding  
29 the facility;

30 2. The size of the minority unemployment force in the  
31 labor area surrounding the facility;

32 3. The percentage of the minority workforce as compared  
33 with the total workforce in the immediate labor area;

1           4. The general availability of minorities having requisite  
2 skills in the immediate labor area;

3           5. The availability of minorities having requisite skills  
4 in an area in which the contractor or subcontractor can reasonably  
5 recruit;

6           6. The availability of promotable and transferable  
7 minorities within the contractor's or subcontractor's  
8 organization;

9           7. The existence of training institutions capable of  
10 training persons in the requisite skills; and

11           8. The degree of training which the contractor or  
12 subcontractor is reasonably able to undertake as a means of making  
13 all job classes available to minorities.

14           C. Contract compliance goals. The 1992-1993 contract  
15 compliance goals are as follows:

	Minorities	Women	Disabled Persons
16 Construction Contractors	13.48%	15.41%	7.08%
17 Vendors/Service Contractors	14.16%	48.90%	6.60%

18 Existing employment goals shall remain in effect until such time  
19 as new goals receive formal county council approval.

20           SECTION 5. Ordinance 7787, Sections 1-5, as amended, and  
21 K.C.C. 12.16.035 are hereby repealed.

22           SECTION 6. Ordinance 4528, Section 4, as amended, and K.C.C.  
23 12.16.040 are hereby amended to read as follows:  
24

25           **Minimum affirmative action measures.** The evaluation of a  
26 contractor's compliance with this chapter shall be based upon the  
27 contractor's effort to achieve maximum results from its  
28 affirmative action (~~(program)~~) measures. The contractor shall  
29 document these efforts and shall implement affirmative action  
30 steps at least as extensive as the following:

31           A. (~~(Policy Dissemination)~~) POLICY DISSEMINATION.  
32 (~~(Internal and external dissemination)~~) Disseminate internally and  
33 externally (~~(of)~~) the contractor's equal employment opportunity

1 policy; post(~~ing of~~) nondiscrimination policies and (~~of the~~)  
2 requirements of this chapter on bulletin boards clearly visible to  
3 all employees; (~~notification~~) notify (~~to~~) each subcontractor,  
4 labor union or representative of workers with which there is a  
5 collective bargaining agreement or other contract, subcontract, or  
6 understanding, of the contractor's commitments under this chapter;  
7 (~~inclusion of~~) include the equal opportunity policy in  
8 advertising in the news media and elsewhere; (~~discussion of~~)  
9 discuss equal employment opportunities and affirmative action  
10 policies with new employees during employment orientation;  
11 (~~discussions~~) discuss the policies with managers and  
12 supervisory personnel (~~regarding the policies~~) and their roles  
13 and responsibilities in the implementation of the (~~program~~)  
14 measures required under this chapter.

15 B. RECRUITING. Adopt(~~ion~~) and implement(~~ation of~~)  
16 recruitment procedures designed to increase the representation of  
17 women, minorities and (~~handicapped~~) persons with disabilities in  
18 the pool of applicants for employment; including, but not limited  
19 to, establishing and maintaining a current list of minority,  
20 female and (~~handicapped~~) disabled recruitment sources, providing  
21 these sources written notification of employment opportunities and  
22 advertising vacant positions in newspapers and periodicals which  
23 have minority, female and/or (~~handicapped~~) disabled readership.

24 C. SELF-ASSESSMENT AND TEST VALIDATION. Review (~~of~~) all  
25 employment policies and procedures, including (~~review of~~) tests,  
26 recruitment, hiring and training practices and policies,  
27 performance evaluations, seniority policies and practices, job  
28 classifications and job assignments, to assure that they do not  
29 discriminate against, or have a discriminatory impact on,  
30 minorities, women and (~~handicapped~~) persons with disabilities  
31 and (~~validation of~~) validate all tests and other selection  
32 requirements where there is an obligation to do so under state or  
33 federal law.

1 D. RECORD REFERRALS. Maintain a current file of  
2 applications of ((each)) minority, female and ((handicapped))  
3 disabled persons who are applicants or referrals for employment  
4 indicating what action was taken with respect to each such  
5 individual and the reasons therefor. Contact these people when an  
6 opening exists for which they may be qualified. Names may be  
7 removed from the file after twelve months have elapsed from their  
8 last application or referral.

9 E. NOTICE TO UNIONS. Provide notice to labor unions of the  
10 contractor's nondiscrimination and affirmative action obligations  
11 pursuant to this chapter. Contractors shall also notify the  
12 executive if labor unions fail to comply with the  
13 nondiscrimination or affirmative action provisions.

14 F. SUPERVISORS. Ensure that all supervisory personnel  
15 understand and are directed to adhere to and implement the  
16 nondiscrimination and affirmative action obligations of the  
17 contractor under this chapter. Such direction shall include, but  
18 not be limited to, adherence to, and achievement of, affirmative  
19 action policies in performance appraisals of supervisory  
20 personnel.

21 G. EMPLOYEE TRAINING. When reasonable, develop on-the-job  
22 training opportunities which expressly include minorities, women  
23 and ((handicapped)) persons with disabilities and sponsor and/or  
24 utilize, training/educational opportunities for the advancement of  
25 women, minorities and ((handicapped)) persons with disabilities  
26 employed by the contractor, subject to acceptance by the county  
27 ((affirmative action office)) office of civil rights and  
28 compliance.

29 H. RESPONSIBLE PERSON. Designate an employee who shall have  
30 the responsibility for implementation of the contractor's  
31 affirmative action ((program)) measures.

32 I. PROGRESS REPORTING. Prepare as part of the affirmative  
33 action plan an analysis and report on the progress made toward



1 eliminating the underrepresentation of women, minorities and  
2 ((handicapped)) persons with disabilities in the contractor's  
3 workforce on an annual basis.

4 J. CONTRACTOR TRAINING. In addition, contractors who do not  
5 meet employment goals for women, minorities and ((handicapped))  
6 persons with disabilities and who do not have approved affirmative  
7 action ((plans)) measures may be required to attend county-  
8 sponsored training programs on relevant areas of affirmative  
9 action and equal employment opportunity.

10 SECTION 7. Ordinance 4528, Section 5, as amended, and K.C.C.  
11 12.16.050 are hereby amended to read as follows:

12 **Contract requirements.** The county's policy, as stated in  
13 this chapter, requiring nondiscrimination in contractor or  
14 subcontractor employment and affirmative action shall be included  
15 in all county contracts, except real property leases. Any  
16 violation of the specific provisions of this chapter and of any  
17 term of the affidavit of compliance required herein, including  
18 reporting requirements, shall be deemed a violation of this  
19 chapter. Any such violation shall be further deemed a breach of a  
20 material provision of the contract between the county and the  
21 contractor. Such breach shall be grounds for cancellation,  
22 termination, or suspension, in whole or in part, of the contract  
23 by the county, or for invoking the enforcement provisions of ((the  
24 ~~contract of~~)) this chapter providing for penalties, liquidated  
25 damages, or other remedies, and may result in ineligibility for  
26 further county contracts; provided, that underrepresentation of  
27 minorities, women and ((handicapped)) persons with disabilities  
28 and the failure or inability of any contractor to achieve  
29 employment goals will not be a violation where that contractor has  
30 adopted and pursued a reasonable affirmative action ((program))  
31 measures in compliance with this chapter. The burden is on the  
32 contractor to demonstrate its compliance with this chapter.  
33

1            SECTION 8. Ordinance 4528, Section 6, as amended, and K.C.C.  
2 12.16.060 are hereby amended to read as follows:

3            **Precontract qualification.** Prior to becoming eligible for  
4 all awards of any county contract, contractors must first be  
5 ~~((certified))~~ certified by the ~~((county administrative officer))~~  
6 administrator or his designee as having complied with the  
7 provisions of this section. The county shall not enter into a  
8 contract with nor receive products and services from an ineligible  
9 contractor.

10           A. WORK FORCE DATA. All contractors entering into contracts  
11 or agreements with King County valued at five thousand dollars or  
12 more shall submit to the ~~((county executive))~~ contract awarding  
13 authority a ~~((total))~~ personnel inventory ~~((employment profile))~~  
14 report providing minority, female and ~~((handicapped))~~ disabled  
15 employment data. This requirement shall also apply to contractors  
16 who accumulate contracts which total five thousand or more in a  
17 given calendar year. The ~~((executive))~~ office of civil rights and  
18 compliance may determine the form in which this data shall be  
19 provided.

20           B. COMPLIANCE AFFIDAVITS AND UNION STATEMENTS. All  
21 contractors entering into contracts with King County of more than  
22 ten thousand dollars, or which in the aggregate result in yearly  
23 sales to King County of more than ten thousand dollars, shall  
24 submit an affidavit of compliance, in the form provided by the  
25 county, demonstrating their commitment to comply with the  
26 provisions of this chapter, and shall further submit a signed  
27 statement of compliance from a union or employee referral agency.  
28 The contractor shall abide by all the terms and conditions set  
29 forth in the affidavit. The affidavit of compliance shall ~~((set~~  
30 ~~forth the contractor's specific employment goals,))~~ state the  
31 reporting requirements for each contractor, the requirements of  
32 subcontractors, the employment goals for minorities, women and  
33 persons with disabilities, minimum affirmative action

1 ((requirements)) measures, reporting requirements and other such  
 2 provisions as the ((executive)) administrator deems necessary and  
 3 appropriate for compliance with and enforcement of this chapter;  
 4 ~~((provided, that the affidavit of compliance shall not require~~  
 5 ~~actions or goals inconsistent with the standards, guidelines and~~  
 6 ~~affirmative action measures set forth in this chapter;)) provided  
 7 ((further)), that in lieu of the affidavit, the ((executive))  
 8 administrator may accept a statement pledging adherence to ((an))  
 9 existing contractor affirmative action ((plan)) measures where the  
 10 provisions of ((the plan)) these measures are found by the  
 11 ((executive)) administrator to substantially fulfill the  
 12 requirements of this chapter.~~

13 C. VENDORS, YEARLY RENEWALS. Vendors who become qualified  
 14 under subsections A. and B. of this section shall remain so  
 15 qualified until October 31st of the year in which they were  
 16 qualified and shall be entitled to bid and be considered for the  
 17 sale of materials, supplies and equipment at any time during that  
 18 year without requalification. Further, upon submittal of an  
 19 updated employment profile, such vendor's qualification shall be  
 20 extended from year to year.

21 During such time as a vendor remains continuously qualified  
 22 under this chapter to do business with King County, the affidavit  
 23 of compliance initially submitted to gain qualification shall be  
 24 deemed to be effective and in force without further renewal or  
 25 resubmission. Should qualification lapse or be terminated at any  
 26 time due to a change of ownership in the business or to a failure  
 27 to submit an annual employment profile or upon a finding of  
 28 violation of this chapter, the county having previously complied  
 29 with notice of hearing provisions, a new affidavit of compliance  
 30 and employment profile shall be required prior to vendor's being  
 31 requalified.

32 D. SELF EVALUATION, CORRECTIVE ACTION PLAN AND ASSURANCE OF  
 33 COMPLIANCE. In order to comply with Section 504, all contractors

1 entering into contracts with the county, except those for the  
2 direct purchase of goods, shall complete and maintain in their  
3 office a Section 504 self evaluation and corrective action plan.  
4 These plans are to be used by the contractor to review program,  
5 facility, and employment access by disabled persons and to  
6 determine what kind of corrective action may be needed. An  
7 assurance of compliance, contained in the corrective action plan,  
8 must be signed, notarized and returned to the contracting county  
9 department before the contract will be signed by the county.

10 Contractors who believe that taking corrective action will  
11 cause an undue administrative or financial burden may complete and  
12 submit an accessibility waiver request form to the appropriate  
13 contracting county department. The contracting department will  
14 forward it to the administrator who will approve or disapprove the  
15 request. The administrator will make the final determination and  
16 notify the contractor in writing regarding the decision. The  
17 Administrator shall be responsible for devising and promulgating  
18 criteria to be used in determining whether or not to grant a  
19 request for waiver from the requirement to complete and maintain a  
20 Section 504 self evaluation and corrective action plan.

21 SECTION 9. Ordinance 4528, Section 7, as amended, and K.C.C.  
22 12.16.070 are hereby amended to read as follows:

23 **Statements from unions.** Contractors required to submit  
24 compliance affidavits to include a union statement from a union or  
25 worker referral agency shall do so on forms provided by the  
26 ((executive)) administrator. The statement shall be in writing,  
27 signed by the authorized officers or agents of all labor unions or  
28 agencies referring workers or providing or supervising  
29 apprenticeship or other training programs from whom the contractor  
30 obtains employees. The statement shall affirm that the  
31 signer(s)'s organization has no practices and policies which  
32 discriminate on the basis of race, color, creed, religion, sex,  
33 age, sexual orientation, marital status, the presence of any

1 physical, mental or sensory (~~handicap~~) disability, or national  
 2 origin, that the signer(s)'s organization will affirmatively  
 3 cooperate in the implementation of the policies and provisions of  
 4 this chapter, and that the organization consents and agrees that  
 5 recruitment, employment, and the terms and conditions of  
 6 employment under all contracts with the county shall be in  
 7 accordance with the purposes and provisions of this chapter.

8 SECTION 10. Ordinance 4528, Section 8, as amended, and  
 9 K.C.C. 12.16.080 are hereby amended to read as follows:

10 **Subcontractors.** For all construction projects and contracts  
 11 (~~over one hundred thousand dollars~~), (~~the~~) prime contractors  
 12 shall be required to submit to King County (~~, along with its~~  
 13 ~~qualifying documents under this chapter, employment profiles,~~  
 14 ~~affidavits of compliance, reports~~) personnel inventory reports,  
 15 affidavits of compliance, and union statements from (~~its~~)their  
 16 subcontractors in the same manner as these are required of the  
 17 prime contractor. For these contracts, the (~~R~~)reporting  
 18 requirements (~~of~~) that apply to the prime contractor during the  
 19 contract period will apply equally to all subcontractors. As a  
 20 condition of their contract, prime contractors shall be  
 21 responsible for (~~both the submission of affidavits and reports~~  
 22 ~~and for requiring their subcontractors and vendors to employ~~  
 23 ~~racial minorities, women and handicapped persons~~) ensuring that  
 24 their subcontractors make affirmative efforts to meet the same  
 25 employment goals that apply to the prime contractors. Any  
 26 violation of this chapter or the (~~requirements~~) requirements of  
 27 the affidavit of compliance by the subcontractor will be deemed a  
 28 violation by the prime contractor and subject to the sanctions and  
 29 penalties set out in the contract and in this chapter.

30 SECTION 11. Ordinance 4528, Section 9, as amended, and  
 31 K.C.C. 12.16.090 are hereby amended to read as follows:

32 **Compliance monitoring.** The (~~county executive is authorized~~  
 33 ~~to contract with an appropriate agency to~~) office of civil rights

1 and compliance shall monitor compliance with this chapter and  
2 ~~((to))~~ shall conduct such investigations as may be necessary to  
3 determine compliance on the part of any firm or organization with  
4 the requirements of this chapter. It shall be the duty of each  
5 department responsible for and initiating contracts subject to  
6 this chapter to assure that contractors are notified of their  
7 obligations hereunder. The ~~((county administrative officer))~~  
8 administrator or his designee shall have the direct responsibility  
9 and authority to insure that contractors are properly monitored  
10 and that each county department is in full compliance with  
11 provisions of this chapter.

12 SECTION 12. Ordinance 4528, Section 10, as amended, and  
13 K.C.C. 12.16.100 are hereby amended to read as follows:

14 Reporting requirements. A. The county executive, through  
15 the administrator, shall have the responsibility for monitoring  
16 implementation of the requirements of this chapter and shall have  
17 the power to request from all county departments and offices,  
18 responding parties, and/or contractors any relevant records,  
19 information and documents.

20 B. County contract awarding authorities shall keep complete  
21 and detailed records regarding compliance with this chapter. The  
22 administrator shall devise and promulgate to all county  
23 departments uniform standards for the keeping of complete and  
24 detailed records as required by this chapter. The contractor  
25 will, upon request, furnish all information and reports as  
26 reasonably required by the ~~((executive))~~ administrator, and by any  
27 appropriate agency authorized under Section 12.16.090, to  
28 determine compliance with this chapter, and the affidavit of  
29 compliance, and will permit access to its books, records and  
30 accounts for purposes of investigation to ascertain compliance  
31 with the nondiscrimination and affirmative action requirements of  
32 this chapter. Unless otherwise required by law, all information,  
33 data or records obtained pursuant to the monitoring and

1 investigation activities authorized under this chapter shall be  
2 kept confidential by the county or authorized agency, except that  
3 the county may release such information when requested to do so in  
4 cooperation with state and federal agencies administering and  
5 enforcing state and federal laws against discrimination.

6 SECTION 13. Ordinance 4528, Section 11, as amended, and  
7 K.C.C. 12.16.110 are hereby repealed.

8  
9 SECTION 14. Ordinance 4528, Section 12, as amended, and  
10 K.C.C. 12.16.120 are hereby repealed.

11 SECTION 15. Ordinance 4528, Section 13, as amended, and  
12 K.C.C. 12.16.130 are hereby repealed.

13 NEW SECTION. SECTION 16. There is added to K.C.C. 12.16. a  
14 new section to read as follows:

15 A. Where a complaint alleging a violation of this chapter  
16 has been filed by any individual or entity, including a contract  
17 awarding authority, within one year of the completion of all work  
18 on a contract, or where, within that same time period, evidence of  
19 a violation is discovered from information gained through  
20 compliance monitoring, the administrator shall cause to be served  
21 or mailed, by certified mail, return receipt requested, a copy of  
22 the complaint or notice of investigation on the respondent within  
23 twenty days after the filing of said charge and shall promptly  
24 make an investigation thereof. The investigation shall be  
25 directed to ascertain the facts concerning the violation alleged  
26 in the complaint and shall be conducted in an objective and  
27 impartial manner. During such investigation, the administrator  
28 shall consider any statement of position or evidence with respect  
29 to the allegations of the complaint which the complainant or the  
30 respondent wishes to submit.

31 1. The administrator shall have the authority to sign and  
32 issue subpoenas requiring the attendance and testimony of  
33 witnesses, the production of evidence including but not limited to

1 books, records, correspondence or documents in the possession or  
2 under the control of the person or entity subpoenaed, and access  
3 to evidence for the purpose of examination and copying as is  
4 necessary for the investigation. The administrator shall consult  
5 with the prosecuting attorney before issuing any subpoena under  
6 this section.

7 If an individual or entity fails to obey a subpoena issued  
8 hereunder, the administrator may seek the assistance of the King  
9 County prosecuting attorney by requesting that the prosecutor seek  
10 on behalf of the administrator whatever judicial relief is  
11 necessary to secure enforcement of the subpoena.

12 2. The results of the investigation shall be reduced to  
13 written findings of fact and a finding shall be made that there  
14 either is or is not reasonable cause for believing that a  
15 violation has been or is being committed. If a finding is made  
16 that there is no reasonable cause, said finding shall be served on  
17 the complainant and respondent. Within thirty days after service  
18 of such negative finding, the complainant shall have the right to  
19 file a written request with the administrator asking for  
20 reconsideration of the finding. The administrator shall respond  
21 to such request in writing within a reasonable time by granting or  
22 denying the request and specifying the reasons for either granting  
23 or denying the request.

24 B. If the finding is made initially or on request for  
25 reconsideration that reasonable cause exists to believe that a  
26 violation by a contractor or subcontractor has occurred, the  
27 administrator shall endeavor to remedy the violation by  
28 conference, conciliation and persuasion, which may, by agreement  
29 of the parties, include monetary compensation, the creation of  
30 additional opportunities for minorities, women or persons with  
31 disabilities to be employed on other contracts, or such other  
32 requirements as may lawfully be agreed upon by the parties and the  
33 administrator. Any settlement agreement shall be reduced to



1 writing and signed by both parties. An order shall then be  
2 entered by the administrator setting forth the terms of the  
3 agreement. Copies of such order shall be delivered to all  
4 affected parties and the original thereof recorded with the  
5 division of records and elections.

6 If no agreement can be reached, a finding to that effect  
7 shall be made by the administrator and incorporated in a  
8 preliminary order, with a copy thereof furnished to the  
9 complainant and respondent. The preliminary order shall also  
10 include:

- 11 1. A finding that a violation has occurred;
- 12 2. The basis for such finding.

13 C. In the case of failure to reach an agreement for the  
14 elimination of such a violation, and upon the entry of a  
15 preliminary order, the complaint and any and all findings made and  
16 remedies ordered shall be certified by the administrator to the  
17 office of the King County hearing examiner for hearing.

18 A hearing shall thereafter be conducted by the office of the  
19 hearing examiner for the purpose of affirming, denying, or  
20 modifying the preliminary order. The hearing shall be conducted  
21 on the record and the hearing examiner shall have such rule making  
22 and other powers necessary for conduct of the hearing as are  
23 specified by K.C.C. 20.24.170. Such hearings shall be conducted  
24 within a reasonable time after receipt of the certification.

25 Written notice of the time and place of the hearing shall be given  
26 at least ten days prior to the date of the hearing to each  
27 affected party and to the administrator.

28 Each party shall have the following rights, among others:

- 29 1. To call and examine witnesses on any matter relevant to  
30 the issues of the complaint;
- 31 2. To introduce documentary and physical evidence;
- 32 3. To cross-examine opposing witnesses on any matter  
33 relevant to the issues of the complaint;

1           4. To impeach any witness regardless of which party first  
2 called such witness to testify;

3           5. To rebut evidence presented against a party;

4           6. To self-representation or to be represented by anyone  
5 of a party's choice who is lawfully permitted to do so.

6           D. Following review of the evidence submitted, the hearing  
7 examiner presiding at the hearing shall enter written findings and  
8 conclusions and shall order one or more of the following:

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

11           2. Suspension or cancellation of the contract in part or  
12 in whole;

13           3. Disqualification and/or debarment of the violator from  
14 participation in county contracts for a period of up to five  
15 years;

16           4. Exclusion of the violator from future contracts or  
17 vending until demonstration of compliance;

18           5. Enforcement of any provision of the contract providing  
19 remedies, such as penalties or liquidated damages for violation of  
20 contractual provisions, or as penalties or liquidated damages for  
21 violation of contractual provisions, or enforcement of any other  
22 remedy available under the laws of King County. Upon a finding by  
23 the hearing examiner that a contractor has in fact failed to abide  
24 by the provisions of this chapter, liquidated damages not to  
25 exceed the entire contract amount shall be imposed unless the  
26 hearing examiner finds that the imposition of such damages would  
27 be clearly inequitable, in which case the hearing examiner may  
28 grant such other relief as may be lawful and appropriate.

29           E. In the case where the alleged violator is the contract  
30 awarding authority, and a finding is made that there is reasonable  
31 cause to believe that the contract awarding authority has  
32 committed a violation, the finding shall be forwarded to the  
33

1 county executive, who shall review the evidence and may order one  
2 or more of the following:

- 3 1. Dismissal of the complaint when a violation is found  
4 not to have occurred;
- 5 2. Corrective personnel action;
- 6 3. Disqualification and suspension of authority of all  
7 members, any board, commission, or other body constituting the  
8 violating contract-awarding authority;
- 9 4. Enforcement of any other remedy available under the  
10 laws of King County.

11 F. In addition to any other remedy available under the laws  
12 of King County and the State of Washington, any person, firm,  
13 corporation, business, union, or organization which prevents or  
14 interferes with or retaliates against a contractor and/or  
15 subcontractor's efforts to comply with the requirements of this  
16 chapter or which submits false or misleading information to any  
17 King County department or employee concerning compliance with this  
18 chapter shall be subject to a civil penalty of up to five thousand  
19 dollars for each occurrence, King County having previously  
20 complied with the notice and hearing provisions of this chapter.  
21 Each submission of false or misleading information shall  
22 constitute a separate occurrence.

23 SECTION 17. Ordinance 9383, Sections 2-5, and K.C.C.  
24 12.16.145 are hereby amended to read as follows:

25 Section 504/ADA Advisory Committee. A. Creation. There is  
26 hereby created a King County Section 504/Americans with  
27 Disabilities Act (hereinafter referred to as ADA) Advisory  
28 Committee, hereafter referred to as the Committee.

29 B. Composition. The Committee shall be composed of no less  
30 than three individuals, subject to confirmation by the council,  
31 including the Chair. The executive will appoint the Chair who  
32 will also serve on the Affirmative Action Committee to ensure  
33 coordination of efforts.

1 C. Purpose. The Committee shall serve in an advisory  
2 capacity to the executive in developing strategies, systems and  
3 guidelines in implementing the 504/ADA Compliance Work Plan. The  
4 functions of the Committee shall include, but not be limited to,  
5 the following((-)):

6 1. Review the 504/ADA Compliance Workplan and make  
7 recommendations towards improving its effectiveness((.));

8 2. Review and monitor the progress of the 504/ADA  
9 Compliance Work Plan((.)); and

10 3. Review and monitor the affirmative action progress made  
11 in the employment of persons with disabilities in the county's  
12 workforce.

13 D. Staffing. The ((e))Committee shall be staffed by the  
14 administrator of the office of civil rights and compliance or his  
15 designee and the Section 504/ADA compliance specialist.

16 E. Designation of Americans With Disabilities Act (ADA)  
17 Coordinator. The Section 504/ADA compliance specialist in the  
18 office of civil rights and compliance is the designated county  
19 employee to coordinate the county's efforts to comply with and  
20 carry out its responsibilities under the ADA and its implementing  
21 regulations.

22 SECTION 18. Ordinance 4528, Section 15, as amended, and  
23 K.C.C. 12.16.150 are hereby amended to read as follows:

24 **Severability.** The provisions of this chapter shall be  
25 effective in all cases unless otherwise provided for by ((S))state  
26 or ((F))federal ((L))law. The provisions of this chapter are  
27 separate and severable. The invalidity of any clause, sentence,  
28 paragraph, subdivision, section, or portion of this chapter or the  
29 invalidity of the application thereof to any person or  
30 circumstances shall not affect the validity of the remainder of  
31 this chapter, or the validity of its application to other persons  
32 or circumstances.

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NEW SECTION. SECTION 19. There is added to K.C.C. 12.16 a new section to read as follows:

**Real Property Lessors and lessees.** No lessor or lessee doing business with the county shall discriminate on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or presence of any sensory, mental or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits under this chapter. The lessor or lessee shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations which prohibit such discrimination. These laws include, but are not limited to, Chapter 49.60 of the Revised Code of Washington, and Titles VI and VII of the Civil Rights Act of 1964. This language shall be included in all lease agreements.

INTRODUCED AND READ for the first time this 5<sup>th</sup> day of April, 1993.

PASSED this 1<sup>st</sup> day of June, 1993.

KING COUNTY COUNCIL  
KING COUNTY WASHINGTON

Audrey Dwyer  
Chair

ATTEST:

Paul Mazza  
Clerk of the Council

APPROVED this 11<sup>th</sup> day of June, 1993.

Chris Hill  
King County Executive