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Introduced By: Ron Sims

Proposed No.: 95-663

ORDINANCE NO. **12026**

AN ORDINANCE relating to the county's minority and women's business enterprises program, repealing Ordinance 5983, Sections 1, as amended, 2, 4, as amended, 5, as amended, 6, as amended, 7, as amended, 8, as amended, 9, as amended, and 10, as amended, Ordinance 9609, Sections 3 (part), 4, 10 and 11, as amended, and 12, Ordinance 8937, Section 8, and Ordinance 8313, Section 7, and K.C.C. 4.18.010, K.C.C. 4.18.020, K.C.C. 4.18.030, K.C.C. 4.18.040, K.C.C. 4.18.050, K.C.C. 4.18.060, K.C.C. 4.18.070, K.C.C. 4.18.080, K.C.C. 4.18.090, K.C.C. 4.18.095, K.C.C. 4.18.100, K.C.C. 4.18.105, K.C.C. 4.18.115 and K.C.C. 4.18.130, and adding new sections to K.C.C. 4.18.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 5983, Sections 1, as amended, 2, 4, as amended, 5, as amended, 6, as amended, 7, as amended, 8, as amended, 9, as amended, and 10, as amended, Ordinance 9609, Sections 3 (part), 4, 10 and 11, as amended, and 12, Ordinance 8937, Section 8, and Ordinance 8313, Section 7, and K.C.C. 4.18.010, K.C.C. 4.18.020, K.C.C. 4.18.030, K.C.C. 4.18.040, K.C.C. 4.18.050, K.C.C. 4.18.060, K.C.C. 4.18.070, K.C.C. 4.18.080, K.C.C. 4.18.090, K.C.C. 4.18.095, K.C.C. 4.18.100, K.C.C. 4.18.105, K.C.C. 4.18.115 and K.C.C. 4.18.130 are hereby repealed.

NEW SECTION. SECTION 2. There is added to K.C.C. 4.18 a new section to read as follows:

**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. "Administrator" shall mean the manager of the minority and women's business enterprises and contract compliance division.

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

5 C. "Affirmative Efforts" shall mean making vigorous, documented attempts in good  
6 faith to contact and contract with minority/women's businesses. Where affirmative efforts  
7 are required by, or are grounds for, waiving provisions of this chapter, the administrator's  
8 determination shall be based on procedures to be outlined in accordance with the dictates  
9 of this chapter.

10 D. "Agency Contracts" shall mean those contracts not subject to the usual  
11 competitive procurement requirements and which result in the provision of services to  
12 county residents such as legal public defense, mental health, and drug and alcohol  
13 treatment.

14 E. "Architectural and Engineering Contracts" shall mean contracts for the  
15 performance of architectural and engineering services by licensed and registered firms and  
16 persons acting as consultants to the county.

17 F. "Broker" shall mean a business which purchases goods or services from another  
18 business or businesses for the sole purpose of resale to the county or a contractor doing  
19 business with the county.

20 G. "Certification" shall mean the process by which the Office of Minority and  
21 Women's Businesses of the State of Washington determines a business meets the criteria  
22 for a minority-owned business enterprise, a women-owned business enterprise, and/or a  
23 combination minority and women's business enterprise as set forth in WAC chap. 326-02  
24 and WAC chap. 326-20.

25 H. "Combination Minority and Women Business" means a business certified as a  
26 combination minority and women's business enterprise by the Office of Minority and  
27 Women's Businesses of the State of Washington which is 50% legitimately owned and  
28 controlled by minority males or minority businesses as defined in this chapter.

29 I. "Commercially Useful Function" shall mean the performance of real and actual  
30 services in the discharge of any contractual endeavor. The contractor must perform a

1 distinct element of work which the business has the skill and expertise as well as the  
2 responsibility of actually performing, managing and supervising. In determining whether a  
3 business is performing a commercially useful function, factors, including but not limited to  
4 the following, will be considered:

- 5 1. Whether the business has the skill and expertise to perform work for which it  
6 is being/has been certified;
- 7 2. Whether the business actually performs, manages and supervises the work for  
8 which it is being/has been certified; and
- 9 3. Whether the business purchases goods and/or services from a non-  
10 minority/women's business enterprise and simply resells goods to the county, county  
11 contractor, or other person doing business with the county for the purpose of allowing  
12 those goods to be counted towards fulfillment of minority/women's business enterprise  
13 utilization goals.

14 J. "Concession Contracts" shall mean those contractual arrangements for the sale of  
15 food, beverages and/or items of personal property at any facility owned and/or managed by  
16 the county.

17 K. "Conduit" shall mean a minority/women's business with which a contractor has  
18 agreed to subcontract, when the minority/women's business does not perform the  
19 subcontract, and instead the subcontract is performed by a non-minority/women's business.

20 L. "Contract Awarding Authority" shall mean any person with the power to enter  
21 into a contractual arrangement binding the county and shall also mean the particular office,  
22 agency or division on whose behalf the contract is entered. In addition, this term shall  
23 include, but shall not be limited to heads of county departments, divisions or offices.

24 M. "Contractor" shall mean any person, partnership, corporation, or other type of  
25 business entity which has a contract with the county or serves in a subcontracting capacity  
26 with an entity having a contract with the county for the provision of goods and/or services,  
27 including but not limited to consultant, professional, non-professional and technical  
28 services and public work.

29 N. "Department" shall refer to any department as defined by county ordinance or  
30 other applicable law and shall include all county agencies not associated with a department.

1 These agencies shall similarly discharge those duties this chapter requires of departments  
2 and shall include the county prosecuting attorney, the county assessor, and the county  
3 council.

4 O. "Director" shall mean the directors of executive departments and chief officers of  
5 administrative offices.

6 P. "Front" shall mean a business which purports to be a minority/women's business  
7 but which is actually owned and/or controlled in a manner which is inconsistent with the  
8 requirements of certification.

9 Q. "Joint venture" shall mean an association of two or more persons, partnerships,  
10 corporations or any combination of them, established to carry on a single business activity  
11 which is limited in scope or direction. The degree to which a joint venture may satisfy,  
12 relevant utilization goals cannot exceed the proportionate interest of the minority/women's  
13 business held as a member of the joint venture in the work to be performed. The  
14 agreement establishing the joint venture, partnership or other multi-entity relationship shall  
15 be in writing. Further, minority/women's participation in a joint venture shall be based on  
16 the sharing of real economic interest in the venture and shall include proportionate control  
17 over management, interest in capital acquired by the joint venture, and interest in earnings.

18 R. "Legitimately Owned and Controlled" shall mean for the purpose of determining  
19 whether a business is a "minority business" that minorities shall possess:

20 1. Ownership of at least fifty-one percent interest in the business, unless the  
21 minority business qualifies as a corporate sponsored dealership under the provisions of  
22 WAC 326-02-030. The ownership shall be real and continuing, and shall go beyond the  
23 pro forma ownership of the business reflected in the ownership documents. The minority  
24 owner(s) shall enjoy the customary incidents of ownership and shall share in the risks and  
25 profits commensurate with their ownership interests, as demonstrated by an examination of  
26 the substance, rather than the form, of arrangements.

27 2. Control over management, interest in capital, interest in profit or loss and  
28 contributions to capital, equipment and expertise on which the claim of minority-owned  
29 status under this chapter is based. The minority owners must possess and exercise the legal  
30 power to direct the management and policies of the business and to make day-to-day as

1 well as major decisions on matters of management, policy, and operations. If the owners  
2 of the business who are not minorities are disproportionately responsible for the operation  
3 of the business, then the business is not controlled by minorities. The business must be  
4 owned, controlled, and managed on a day-to-day, full-time basis by the minority owner(s).  
5 The requirements of this subsection R.2. shall not apply, if the minority business qualifies  
6 as a corporate sponsored dealership under the provisions of WAC 326-02-030.

7 3. Ownership and control shall be measured as though not subject to the  
8 community property interest of a spouse if both spouses certify that:

- 9 a. Only one spouse participates in the management of the business;
- 10 b. The nonparticipating spouse relinquishes control over his/her community  
11 property interest in the subject business.

12 S. "Metropolitan functions" shall mean those function(s) authorized by  
13 RCW 35.58.050, approved by the voters, and assumed by the county pursuant to  
14 RCW 36.56.010.

15 T. "Minority Business" means a business certified by the Office of Minority and  
16 Women's Businesses of the State of Washington as a minority business enterprise which is  
17 legitimately owned and controlled by a minority person or persons as defined in this  
18 section and which has previously sought to do business in King County. The executive is  
19 authorized to determine that specific racial groups have not been discriminated against in  
20 their ownership and/or operation of particular trades or areas of business in King County.  
21 The executive may exclude such businesses from consideration as "minority businesses"  
22 under this chapter, in connection with contracts involving such trades or areas of business,  
23 as provided in Section 9 of this ordinance.

24 U. "Minority or Minorities" means a person who is a citizen or lawful permanent  
25 resident of the United States and who is a member of one or more of the following  
26 historically disadvantaged racial groups:

- 27 1. Black or African American: Having origins in any of the Black racial groups  
28 of Africa;
- 29 2. Hispanic: Of Mexican, Puerto Rican, Cuban, or Central or South American  
30 culture or origin;

1           3. Asian American: Having origins in any of the original peoples of the Far  
2 East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or

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

5           The executive shall have discretion to make a final decision as to whether an  
6 individual is a minority.

7           V. "Nonprofit Corporation" shall mean a corporation organized pursuant to  
8 RCW Ch. 24.03. In the case of nonprofit corporations organized under the laws of a state  
9 other than Washington, a nonprofit corporation shall mean one organized for one or more  
10 of the purposes set forth in RCW 24.03.015 and meeting the definitions in  
11 RCW 24.03.005.

12           W. "Pass-Through" means buying or obtaining goods from a non-women's business,  
13 non-minority business or non-combination women/minority business, and reselling or  
14 transferring those goods to the county, county contractors or other persons doing business  
15 with the county for the purpose of obtaining any advantage or benefit conferred under this  
16 chapter, without performing a commercially useful function.

17           X. "Percentage Factor" shall mean the special ranking factors established by this  
18 chapter to be applied in certain competitive bid situations where minority/women's  
19 businesses respond to solicitation or are included as subcontracts in responding parties'  
20 responses to solicitation.

21           Y. "Public Work Contracts" shall include all work, construction, alteration, repair,  
22 or improvement other than ordinary maintenance, executed at the cost of the county.

23           Z. "Responding Party" shall mean any person, partnership, corporation or business  
24 entity which makes a proposal as defined in this chapter in response to a solicitation as  
25 defined in this chapter.

26           AA. "Service Contracts" shall mean those contractual arrangements made for the  
27 procurement of all services including expert personal, professional, technical, and  
28 consultant services. Consultant services shall include legal services provided to the county  
29 but shall not include architectural and engineering contracts as defined by this chapter.

1 BB. "Set Aside" shall mean that proportion of each contract which is designated for  
2 participation of minority/women's businesses as established by this chapter.

3 CC. "Small Business Concern" means a small business as defined pursuant to  
4 Section 3 of the federal Small Business Act and relevant regulations promulgated thereto.

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

11 EE. "Tangible Personal Property Contracts" shall mean, but not be limited to, those  
12 contracts which are awarded by the county for the purchase of equipment, supplies,  
13 materials, goods and rolling stock (revenue producing buses, vans, cars, railcars,  
14 locomotives, and trolley cars and buses).

15 FF. "Utilization Goals" shall mean those separately designated annual goals for the  
16 use by the county of minority/women's businesses. The goals shall be expressed as a  
17 numerical percentage of the total dollar value of all contracts to be awarded by the county.  
18 These goals shall be applicable to businesses organized for profit, along with governmental  
19 agencies and quasi-governmental agencies, unless the agencies are specifically excepted by  
20 or in accordance with the provisions of this chapter.

21 GG. "Utilization Requirements" shall mean those efforts which the responding  
22 parties, the county and the particular department shall make to meet the county's utilization  
23 goals, including but not limited to the percentage factors and set aside requirements  
24 established by this chapter.

25 HH. "Violating Party" shall mean a person or entity which has violated a provision  
26 or provisions of this chapter.

27 II. "Waiver Statement" shall mean a written statement directed to the administrator  
28 containing reasons why any provision or provisions of this chapter shall not apply to a  
29 particular person, partnership, corporation, business entity, contract awarding authority,  
30 department, or other entity. Where a waiver or waivers are granted, the utilization goals

1 shall be applied in a manner so as to reflect the loss of the monetary value of those  
2 contracts exempted from the requisites of this chapter.

3 JJ. "Women's Business" means a business certified by the Office of Minority and  
4 Women's Businesses of the State of Washington as a women's business enterprise and  
5 which has previously sought to do business in King County. The executive is authorized to  
6 determine that women as a class have not been discriminated against in their ownership  
7 and operation of particular trades or areas of business in King County. The executive may  
8 exclude such businesses from consideration as "women's businesses" under this chapter, in  
9 connection with contracts involving such trades or areas of business, according to the  
10 procedure provided for in Section 9 of this ordinance.

11 NEW SECTION. SECTION 3. There is added to K.C.C. 4.18 a new section to read  
12 as follows:

13 **Powers and duties.** A. In addition to the powers and duties given to the executive  
14 elsewhere in this chapter, the executive shall, through the administrator, have responsibility  
15 for administering, monitoring and enforcing the goals and requirements identified in this  
16 chapter.

17 B. The administrator shall:

- 18 1. Establish rules, regulations, and procedures for implementing and administering  
19 this chapter;
- 20 2. Recommend to the executive annual utilization goals for the county;
- 21 3. Have the authority to enter into cooperative agreements with other government  
22 agencies concerned with increasing the participation of minority/women's businesses in  
23 government contracting;
- 24 4. With the advice of contract awarding authorities, formulate and periodically  
25 update a plan to make minority/women's businesses aware of contracting opportunities with  
26 the county; and
- 27 5. Review all county solicitation lists and where possible, place minority/women's  
28 businesses on such lists. These lists shall be updated periodically.

29 NEW SECTION. SECTION 4. There is added to K.C.C. 4.18 a new section to read  
30 as follows:



1           **Utilization goals.** Upon the completion of the disparity study called for in Ordinance  
2 11564 and in conjunction with recommendations to the council resulting from that study  
3 and every three years thereafter, the administrator shall submit to the executive for  
4 approval proposed utilization goals for the county for the following three year period.  
5 Separate utilization goals shall be established for the use of minority businesses and for the  
6 use of women's businesses. These utilization goals shall be established separately for each  
7 of the following types of contracts: architectural and engineering contracts, public work  
8 contracts, service contracts, concession contracts, and tangible personal property contracts.  
9 The utilization goals shall be transmitted with the minority and women's business  
10 enterprises and contract compliance division's annual report to the council for approval.  
11 Existing utilization goals shall remain in effect until newly submitted ones receive final  
12 council approval.

13           A. The utilization goals shall be reasonably achievable. To the extent that relevant  
14 information is available, the utilization goals shall be based on the following factors:

- 15           1. By contract category, the number of firms certified by the State Office of  
16 Minority and Women's Business Enterprises, seeking to do business with the county as  
17 either prime or subcontractors;
- 18           2. By contract category, the total number of firms seeking to do business with  
19 the county as either prime or subcontractors;
- 20           3. By contract category, the geographic area of competition;
- 21           4. By contract category, the capacity and/or capability of certified minority and  
22 women's businesses seeking to do business with the county compared with the capacity  
23 and/or capability of non-minority and non-women's businesses seeking to do business with  
24 the county;
- 25           5. By contract category, the number of minorities and women with requisite  
26 skills in related occupations;
- 27           6. By contract category, the affirmative action goals for minorities and women  
28 in related occupations;
- 29           7. By contract category, the rates of new entry by minorities and women into  
30 related training, educational fields, and occupations;

- 1           8. By contract category, what availability would be absent discrimination; and
- 2           9. By contract category, rates of entry of new minority and women's businesses
- 3 compared to non-minority and non-women's businesses.

4           B. The following goals shall be the annual goals for all departments until such time  
5 as new goals are approved by the council:

<u>Contract Category</u>	<u>MBE%</u>	<u>WBE%</u>
7           Architecture/Engineering	17%	10%
8           Concessions	10%	5%
9           Public work	14%	8%
10          Service	6%	15%
11          Tangible		
12          personal property	10%	3%

13          NEW SECTION. SECTION 5. There is added to K.C.C. 4.18 a new section to read  
14 as follows:

15           **Accomplishment of utilization goals.** A. For all contracts, accomplishment of  
16 utilization goals established by this chapter shall be based on the dollar amount of the  
17 contract in question. Accomplishment of the goals shall be calculated in the following  
18 manner:

19           1. General - The dollar value of any and all contracts awarded by a contract  
20 awarding authority to a minority/women's business shall be counted towards accomplishment  
21 of the applicable utilization goals.

22           a. The total dollar value of each contract awarded to businesses owned and  
23 controlled by both minority males and non-minority females shall be apportioned on the basis  
24 of the percentage of ownership to the utilization goals for minorities and women respectively.

25           b. The total dollar value of a contract with a minority/women's business owned  
26 and controlled by minority women shall be either counted toward the minority utilization  
27 goal or the goal for women, or apportioned on the basis of ownership between minorities and  
28 women, not to both.

1           2. Subcontracts - If a contractor uses subcontractors who are minority/women's  
2 businesses, the amount which is given to the minority/women's business for their work on the  
3 contract shall be credited towards meeting the applicable utilization goals.

4           3. Joint Ventures - Where one or more minority/women's businesses are  
5 participants in a joint venture with one or more non-minority or non-women's businesses, the  
6 amount of money received by the minority/women's business enterprise shall be calculated in  
7 proportion to their participation in the joint venture in accomplishing the applicable  
8 utilization goals.

9           4. Supplies/Materials - The contract awarding authority or a prime contractor may  
10 count toward its utilization goals:

11           a. expenditures for materials and supplies obtained from minority/women's  
12 business suppliers and manufacturers; provided that, the minority/women's business assume  
13 the actual and contractual responsibility for the provision of the materials and supplies;

14           b. its entire expenditure made to a minority/women's business manufacturer;  
15 that is, a supplier that produces goods from raw materials or substantially alters them before  
16 resale;

17           c. the amount of the commission paid to minority/women's businesses and  
18 resulting from a particular contract with the county; provided that a minority/women's  
19 business supplier performs a commercially useful function in the process.

20           5. Brokers - Fronts - or Similar Pass-Through Arrangements - Businesses acting as  
21 brokers, fronts, conduits or similar pass-through arrangements shall not be certified as  
22 minority/women's business enterprises, unless the brokering service reflects normal industry  
23 practice and the broker performs a commercially useful function. Such businesses  
24 determined to be acting under these arrangements or persons who create such arrangements  
25 shall be subject to the penalties enumerated in this chapter.

26           B. The administrator shall calculate the accomplishment of utilization goals for the  
27 county. In the event of disputes regarding these calculations, a department may request  
28 review of the administrator's decision by the executive.

29           C. After having met their annual utilization goals, departments shall continue to make  
30 affirmative efforts to do business with minority/women's businesses.

1 D. The failure of a department or the county to meet the annual dollar utilization goals  
2 established from time to time by this chapter shall not constitute grounds for a lawsuit against  
3 a department or the county, provided that the department or the county has made affirmative  
4 efforts to meet those goals. The failure of a department to meet the requirements of this  
5 chapter shall be reviewed by the executive and corrective action taken where appropriate.

6 NEW SECTION. SECTION 6. There is added to K.C.C. 4.18 a new section to read  
7 as follows:

8 **Utilization requirements, general.** In order to meet the utilization goals established  
9 in accordance with this chapter, efforts including but not limited to the following shall be  
10 made:

11 1. The administrator shall design a technical assistance, business development and  
12 outreach program. This program shall include the following elements:

13 a. A county-wide, industry-wide, regularly-scheduled contractor orientation  
14 program to promote compliance with and understanding of the provisions of this chapter and  
15 K.C.C. 12.16;

16 b. Feasible options for bonding, insurance, and banking assistance for  
17 minority-owned and women-owned businesses;

18 c. A county-wide program, designed to assist departments in enhancing  
19 opportunities for minority-owned and women-owned businesses;

20 d. A fully-developed and maintained resource list, to include all available  
21 resources state-wide for minority-owned and women-owned businesses; and

22 e. Such other program options as would serve to assist minority-owned and  
23 women-owned businesses in overcoming the barriers of past and present discrimination.

24 2. In conjunction with the administrator, each division within each department  
25 shall annually formulate a plan for achieving the purposes of this chapter, which plan shall be  
26 submitted to the administrator for review. Each plan should include a forecast of contracts to  
27 be administered by the division, including estimates of the number, probable monetary value,  
28 if known, and type of contracts to be awarded, and the estimated solicitation dates. In  
29 addition, each plan should include methods and suggestions for encouraging the development  
30 and participation by MWBs in such contracts.

- 1                   3. Prior to entering into any contract, the contract awarding authority shall:
  - 2                   a. Make affirmative efforts to solicit proposals from minority/women's
  - 3 businesses; and
  - 4                   b. Examine alternatives for arranging contracts by size and type of work so as
  - 5 to enhance the possibility of participation by minority/women's businesses.
- 6                   4. Prior to submitting any bid, proposal, or other response to a solicitation for
- 7 which subcontractors may be used, responding parties shall make good faith affirmative
- 8 efforts to contact, solicit bids and proposals from, and use minority/women's businesses.
- 9                   5. The following shall be included in the body of the contract document in any and
- 10 all contracts signed between the county and a contractor:
  - 11                   a. A provision indicating that this chapter is incorporated by reference into any
  - 12 and all county contracts and failure to comply with any of the requirements of the chapter by
  - 13 a contractor will be considered a breach of contract.
  - 14                   b. A requirement that during the term of the contract the contractor shall
  - 15 comply with, as to tasks and proportionate dollar amounts throughout the term of the
  - 16 contract, all requirements for the use of minority/women's businesses. In the absence of a
  - 17 waiver, minority/women's businesses which for any reason no longer remain associated with
  - 18 the contract or the contractor shall be replaced with other certified minority/women's
  - 19 businesses in accordance with procedures established by the administrator.
  - 20                   c. A provision prohibiting any agreements between a responding party and a
  - 21 minority/women's business in which the minority/women's business promises not to provide
  - 22 subcontracting quotations to other responding or potential responding parties.
  - 23                   d. The requirement of maintenance of relevant records, and information
  - 24 necessary to document compliance with this chapter and the contractor's utilization of
  - 25 minority and women's businesses in its overall public and private business activities, and
  - 26 shall include the right of the county to inspect such records.
  - 27                   e. A provision requiring the payment of specific liquidated damages in the
  - 28 event a contractor fails to perform a commercially-useful function and/or operates as a
  - 29 broker, front, conduit or pass-through, with the amount of liquidated damages established in
  - 30 advance by the administrator based on the type of contract involved. The provision should

1 include the following language: The purpose of King County's minority/women's business  
 2 ordinance is to provide a prompt remedy for the effects of past discrimination. The county in  
 3 general, and this program in particular, are damaged when a contract, or portion of a contract,  
 4 to be performed by a minority/women's business is not actually performed by a  
 5 minority/women's business enterprise in compliance with K.C.C. 4.18. Because the actual  
 6 amount of such damage is not reasonably calculable, the parties agree and stipulate that  
 7 liquidated damages equal to the dollar value of the utilization by certified and recognized  
 8 businesses lost to the county due to the violation, not to exceed 10 percent of the dollar value  
 9 of the contract, shall be the amount required to compensate the county for resulting delays in  
 10 carrying out the purpose of the program, the costs of meeting utilization goals through  
 11 additional contracts, the administrative costs of investigation and enforcement and other  
 12 damages and costs caused by the violation. The contractor shall be liable to the county for  
 13 such liquidated damages in the event the contractor or a subcontractor fails to perform a  
 14 commercially useful function and/or operates as a front, conduit or pass-through, as defined  
 15 in K.C.C. 4.18.

16 NEW SECTION. SECTION 7. There is added to K.C.C. 4.18 a new section to read  
 17 as follows:

18 **Utilization requirements, specific.** A. In order to expedite achieving of the  
 19 utilization goals established in accordance with this chapter, the following utilization  
 20 requirements shall apply to all competitive bids and other responses to solicitation:

21 1. For all tangible personal property, service, and concession contracts and all  
 22 architectural and engineering contracts, consultant contracts and public work contracts under  
 23 ten thousand dollars, the administrator shall determine a percentage factor appropriate to  
 24 offset the effects of discrimination in the industry involved, which percentage shall be used in  
 25 determining which responding party is the lowest responsible bidder or best proposal:

26 a. Responding parties whose bids are within the percentage factor of the best  
 27 proposal or the bid made by the lowest bidder shall be ranked in the following order:

28 First, minority/women businesses which will perform the entire contract  
 29 unassisted and those minority/women's businesses which will exclusively use

1 minority/women's businesses as subcontractors, suppliers or in similar assisting roles to the  
2 extent set forth above.

3 Second, minority/women's businesses which alone or as part of joint  
4 ventures serve as the prime contractor where minority/women's business participation is at  
5 least twenty-five percent of the dollar value of a contract;

6 Third, non-minority/non-women's businesses which use minority/women's  
7 businesses as subcontractors, suppliers, or in similar assisting roles in an amount equal to at  
8 least twenty-five percent of the contract amount; and

9 Fourth, non-minority/non-women's businesses which do not use  
10 minority/women's businesses as subcontractors, suppliers, or in similar assisting roles to the  
11 extent set forth above.

12 b. All responding parties within each particular ranking shall be grouped  
13 according to the amount of their bid or the evaluation score of their proposal as determined  
14 by the contract awarding authority, with low bidders and higher scoring proposals receiving  
15 the highest priority. The lowest bidder or higher scoring proposal within the highest ranking  
16 category shall be awarded the contract in question.

17 c. In determining the percentage factor to be used for a particular contract, the  
18 administrator shall consider the following factors:

19 (1) Price differentials between M/WBEs and non-MWBEs on previously-  
20 submitted bids;

21 (2) Standard industry costs;

22 (3) Standard industry profit margins;

23 (4) Availability of M/WBEs to perform as retailers, distributors,  
24 wholesalers and manufacturers, by commodity area; and

25 (5) Other pertinent facts.

26 d. Generally applied percentages shall be determined by commodity area.

27 2. For every public work, architectural and engineering, and service contract the  
28 following set aside requirements shall be met:

29 a. Contracts for public work, service and architectural/engineering services, the  
30 estimated cost of which exceeds ten thousand dollars, shall require responding parties to

1 include in their responses to solicitation both minority and women's business participation in  
2 the contract in a percentage which equals or exceeds the percentages determined for the  
3 contract by the administrator. The administrator shall determine the percentages for each  
4 contract based on the extent of subcontracting opportunities presented by the contract and the  
5 availability of minority and women's business enterprises qualified to perform such  
6 subcontracting work. Such percentages may be higher or lower than the annual goals for the  
7 type of contract involved.

8 b. Where a contract is awarded to a minority or women's business which will  
9 perform at least twenty-five percent of the work, the set aside requirements of these  
10 subsections shall not apply.

11 c. To the extent practicable and except in extenuating or special  
12 circumstances, as determined by the administrator, responding parties shall identify the  
13 specific minority/women's businesses to be used in performing the contract, the dollar  
14 and/or percentage value of the participation, the work to be performed by each  
15 minority/women's business, and other information reasonably related to determining the  
16 responding parties' compliance with the county's minority/women's business  
17 requirements. In determining what information shall be submitted and when it shall be  
18 submitted, the administrator shall take into account the county's policies of maximizing  
19 opportunities for minority/women's businesses, simplifying paperwork requirements for  
20 bidders and proposers, and prohibiting bidders and proposers from shopping bids,  
21 proposals and offers from minority/women's businesses.

22 d. During the term of the contract, any failure to comply with the percentages  
23 of minority/women's business participation required for the bid or proposal shall be  
24 considered a material breach of contract. The dollar value of the total contract used for the  
25 calculation of the set-aside shall be increased or decreased to reflect executed change orders  
26 unless:

27 (1) a waiver is obtained in accordance with Section 8.A of this ordinance  
28 after consultation among the contract awarding authority, the administrator and the  
29 contractor; or



1 (2) the department obtains a reduction in the amount of the set aside  
2 according to the procedure in Section 7.B of this ordinance.

3 B. Departments may request a reduction in the amount of the set aside for either or  
4 both minority business enterprises or women's business enterprises or in the percentage factor  
5 to be applied under the percentage preference method, by submitting the reasons therefor in  
6 writing to the administrator.

7 1. The administrator may grant such a reduction upon determination that:

8 a. The reasonable and necessary requirements of the contract render  
9 subcontracting or other participation of businesses other than the bidder or proposer  
10 infeasible at the adopted goal levels; or

11 b. Qualified minority and women's business enterprises capable of providing  
12 the goods or services required by the contract, are unavailable in the market area of the  
13 project, despite every feasible attempt to locate appropriate minority and women's business  
14 enterprises to meet adopted goals.

15 c. The available minority and/or women's businesses have given price quotes  
16 which are unreasonably high in that they exceed competitive levels beyond amounts which  
17 can be attributed to cover costs inflated by the present effects of discrimination.

18 2. Any reductions in set aside amount granted by the administrator shall specify  
19 the amount to which the set aside has been reduced.

20 C. Where Section 7 of this ordinance specifies that a set aside or a percentage factor  
21 shall be used for a particular type of contract, the method specified is the preferred method  
22 for achieving the utilization goals. A department may use the other method in its solicitation  
23 documents for a specific contract if it determines that a method other than the one established  
24 by Section 7 of this ordinance will be a more feasible method of achieving the annual  
25 utilization goal. In the event that a department chooses to use a method other than the one  
26 specified in Section 7 of this ordinance, it shall include in its annual report to the executive as  
27 required by Section 9.D of this ordinance, documents demonstrating that a method other than  
28 the one established by Section 7 of this ordinance is a more feasible method of achieving the  
29 annual utilization goal.

1 D. All solicitation documents shall include the applicable requirements of Sections 6  
2 and 7 of this ordinance. In addition, documents shall include a provision prohibiting any  
3 agreement between a responding party and a minority/women's business in which the  
4 minority/women's business promises not to provide subcontracting quotations to other  
5 responding or potential responding parties. Bids, proposals, and other responses which fail to  
6 meet the requirements of Section 7 of this ordinance shall, within the limitations of federal  
7 and state law, be deemed non-responsive unless a waiver has been granted pursuant to  
8 Section 8 of this ordinance.

9 E. The percentage factor and set aside requirements of Section 7 of this ordinance  
10 shall not apply to contracts awarded for the remainder of any calendar year in which the  
11 contract awarding authority is determined by the administrator to have met the applicable  
12 county utilization goals as established by this chapter. The percentage factor and set aside  
13 provisions of Section 7 of this ordinance shall again apply in each succeeding calendar year  
14 until the annual utilization goals for that year have been met by the contract awarding  
15 authority.

16 F. For the Kingdome food and beverage concession contract, the set aside method of  
17 achieving utilization goals shall apply.

18 G. The requirements of Section 7 of this ordinance shall cease to apply to contracts  
19 awarded by the county and its departments on December 31, 1997, unless reenacted by the  
20 council.

21 NEW SECTION. SECTION 8. There is added to K.C.C. 4.18 a new section to read  
22 as follows:

23 **Waivers.** Contract awarding authorities, along with or on behalf of responding parties  
24 and contractors, may apply for waiver of one or more requirements of this chapter as they  
25 apply to a particular contract or contracts.

26 A. Waivers may be granted by the administrator in any of the following  
27 circumstances;

28 1. When the needed goods and services are readily available from only one source,  
29 in which case the contracting awarding authority shall, in addition to the requirements  
30 contained in K.C.C. 4.16, submit a written justification of the need for sole source treatment

1 to the administrator who shall grant or deny the request for waiver within three business days,  
2 provided the request is complete;

3 2. Emergencies, in which case emergency contracting shall be handled in  
4 accordance with the requirements of K.C.C. 4.16.

5 3. Contracts for which neither a minority nor a women's business is available to  
6 provide needed goods or services, in which case a waiver may be applied for in accordance  
7 with procedures to be developed by the administrator. Prior to granting a waiver, the  
8 administrator shall certify that a minority/women's business is in fact not available to provide  
9 the needed goods and/or services.

10 4. Contracts awarded to non-profit organizations, governments and governmental  
11 organizations including but not limited to municipal corporations, consortiums and  
12 associations of governmental agencies or officials and agencies created by interlocal  
13 agreement, per RCW 39.34, or by operation of state or federal law; where because of a  
14 responding party's non-profit status, ownership of the corporation or other entity cannot be  
15 determined. However, solely with the exception of contracts between the county and cities  
16 and towns where the county is the grantee for federal or state funds passed through to such  
17 jurisdictions, the waiver shall not extend to those profit-making contractors which contract  
18 with the referenced responding parties.

19 5. When available minority and/or women's businesses have given price quotes  
20 which are unreasonably high in that they exceed competitive levels beyond amounts which  
21 can be attributed to cover costs inflated by the present effects of discrimination.

22 As a condition of granting any waiver, the administrator may require that contractors  
23 or the contract awarding authority make affirmative efforts to utilize minority and/or  
24 women's businesses in the contract.

25 B. Where the executive determines that the reasonable and necessary requirements of  
26 a contract render subcontracting or other participation of businesses other than a responding  
27 party unfeasible, he/she may grant a waiver from the set aside provisions of this chapter;  
28 PROVIDED THAT, the waiver shall not be granted after the solicitation request has been  
29 publicly released by the contract awarding authority; PROVIDED FURTHER THAT, the  
30 solicitation specifications shall state that the waiver has been authorized and that solicitations

1 received, proposing subcontracting or other participation of business other than the  
2 responding party, shall be rejected as non-responsive; PROVIDED FURTHER THAT,  
3 following award of the contract, should subcontracting or participation of businesses other  
4 than the responding party become necessary, the previously authorized waiver shall be null  
5 and void. The contractor (original responding party) shall solicit both minority and women  
6 business participation in a percentage which equals the contract awarding authority's annual  
7 goal.

8 C. Where the executive determines that compliance with the requirements of this  
9 chapter would impose an unwarranted economic burden on, or risk to, the county as  
10 compared with the degree to which the purposes and policies of this chapter would be  
11 furthered by requiring compliance, he/she may reduce or waive the utilization requirements  
12 of this chapter; PROVIDED THAT upon taking such action, the executive shall notify the  
13 members of the council in writing and FURTHER PROVIDED, upon receipt of the notice, if  
14 the council determines that the waiver does not meet the standards of this section, the council  
15 may by motion, within ten working days of the receipt of the notice determine the waiver to  
16 be null and void.

17 NEW SECTION. SECTION 9. There is added to K.C.C. 4.18 a new section to read  
18 as follows:

19 **Monitoring, reporting, and enforcement.** A. The executive, through the  
20 administrator, shall have the responsibility for monitoring implementation of the  
21 requirements of this chapter and shall have the power to request from departments,  
22 responding parties and/or contractors any relevant records, information and documents.

23 B. Contract awarding authorities shall keep complete and detailed records regarding  
24 compliance with this chapter. The records shall include the dollar value and the subject  
25 matter of each contract along with the name of the contractor, the participation levels (in  
26 dollars, number of contracts awarded, and type of work), of minority/women's businesses  
27 where the contract award provides for participation, and other information as the  
28 administrator deems necessary.

29 C. The administrator shall be responsible for gathering all information concerning  
30 compliance with this chapter and shall have access to all pertinent county records.

1 D. With the assistance of the administrator, each department shall submit to the  
2 administrator an annual report on its performance in meeting the utilization goals required by  
3 this chapter on or before March 15th of each year. This report shall include the number and  
4 dollar amount of contracts awarded, by contract category and the dollar amount and the  
5 percentage of minority/women's business participation by contract and contract category and  
6 by number of set-aside contracts, percentage preference contracts, contracts requiring  
7 affirmative efforts, and contracts for which waivers were granted. The report shall also  
8 identify problems in meeting the requirements of this chapter, if any, and suggestions for  
9 improvements.

10 E. Monitoring of Effects. The administrator shall establish procedures to collect  
11 evidence and monitor the effects of the provisions of this chapter in order to assure, insofar as  
12 is practical, that the remedies set forth herein do not disproportionately favor one or more  
13 racial or ethnic groups and that the remedies do not remain in effect beyond the point that  
14 they are required to eliminate the effects of discrimination in the local contracting industries.  
15 To the extent further amendments to this chapter are required to effect these ends, the  
16 administrator shall prepare appropriate ordinances for the council's consideration.

17 F. Certification and Recognition Process.

18 1. Pursuant to Chap. 328, Laws of 1987, the Office of Minority and Women's  
19 Businesses of the State of Washington shall be solely responsible for certifying and  
20 decertifying businesses. The county's minority and women's business enterprise program is  
21 only for minorities and minority business and women's businesses and combination  
22 businesses as defined in Section 2 of this ordinance; therefore the administrator shall  
23 recognize only those combination minority and women's business enterprises or minority  
24 business enterprises certified by the State of Washington which also meet the definitions of  
25 Section 2 of this ordinance, according to minority status information provided to the county  
26 by the Office of Minority and Women's Businesses of the State of Washington. Businesses  
27 are only eligible for the county's programs so long as they remain certified by the State of  
28 Washington.

29 2. It shall be considered a violation of this chapter to obtain, or attempt to obtain,  
30 certification or the benefits of any provision of this chapter, on the basis of false or

1 misleading information, whether provided to the county or to the Office of Minority and  
2 Women's Businesses of the State of Washington.

3           3. No contract requiring or proposing minority/women's business participation  
4 may be entered into unless all minority/women's businesses identified to meet the utilization  
5 goals by a responding party were, at the time the bid was submitted, certified by the Office of  
6 Minority and Women's Businesses of the State of Washington and recognized by the  
7 administrator as eligible to participate in the county's minority/women's business program  
8 and the administrator determines all identified minority/women's businesses appear able to  
9 perform a commercially useful function on that contract as proposed. Lists of certified and  
10 recognized minority/women's businesses shall be provided to all departments and made  
11 available to the public.

12           4. No business shall apply to the county in order to participate in the programs  
13 established by this chapter.

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

25           1. The administrator shall have authority to sign and issue subpoenas requiring the  
26 attendance and testimony of witnesses, the production of evidence including but not limited  
27 to books, records, correspondence or documents in the possession or under the control of the  
28 person subpoenaed, and access to evidence for the purpose of examination and copying as is  
29 necessary for the investigation. The administrator shall consult with the county prosecuting  
30 attorney before issuing any subpoena under this section.

1 If an individual fails to obey a subpoena, or obeys a subpoena but refuses to testify  
2 when requested concerning any matter under investigation, the administrator may invoke the  
3 aid of the county prosecuting attorney who shall petition to the Superior Court for King  
4 County for an order or other appropriate action necessary to secure enforcement of the  
5 subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service,  
6 and shall set forth in what specific manner the subpoena has not been complied with, and  
7 shall ask for an order of the court to compel the witness to appear and testify or cooperate in  
8 the investigation of the violation.

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

16 H. If the finding is made initially or on request for reconsideration that reasonable  
17 cause exists to believe that a violation by a contractor or subcontractor has occurred, the  
18 administrator shall endeavor to remedy the violation by conference, conciliation and  
19 persuasion, which may include monetary compensation, the creation of additional  
20 opportunities for minority or women's utilization on other contracts, or such other  
21 requirements as may lawfully be agreed upon by the parties and the administrator. Any  
22 settlement agreement shall be reduced to writing and signed by both parties. An order shall  
23 then be entered by the administrator setting forth the terms of the agreement. Copies of such  
24 order shall be delivered to all affected parties and the original thereof filed with the division  
25 of records and elections.

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

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

1 I. In the case of failure to reach an agreement for the elimination of such a violation,  
2 and upon the entry of a preliminary order, the complaint and any and all findings made and  
3 remedies ordered shall be certified by the administrator to the office of the county hearing  
4 examiner for hearing.

5 A hearing shall be conducted by the office of the hearing examiner for the purpose of  
6 affirming, denying, or modifying the preliminary order. The hearing shall be conducted on  
7 the record and the hearing examiner shall have such rule making and other powers necessary  
8 for conduct of the hearing as are specified by K.C.C. 20.24. Such hearings shall be  
9 conducted within a reasonable time after receipt of the certification. Written notice of the  
10 time and place of the hearing shall be given at least ten days prior to the date of the hearing to  
11 each affected party and to the administrator.

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

- 13 1. To call and examine witnesses on any matter relevant to the issues of the  
14 complaint;
- 15 2. To introduce documentary and physical evidence;
- 16 3. To cross-examine opposing witnesses on any matter relevant to the issues of the  
17 complaint;
- 18 4. To impeach any witness regardless of which party first called him to testify;
- 19 5. To rebut evidence against him/her; and
- 20 6. To represent himself/herself or to be represented by anyone of his/her choice  
21 who is lawfully permitted to do so.

22 J. Following review of the evidence submitted, the hearing examiner presiding at the  
23 hearing shall enter written findings and conclusions and shall render a written decision and  
24 shall order one or more of the following:

- 25 1. Dismissal of the complaint when a violation is found not to have occurred;
- 26 2. Suspension or cancellation of the contract in part or in whole;
- 27 3. Disqualification and/or debarment of the violator from participation in county  
28 contracts for a period of up to five years;
- 29 4. Exclusion of the violator from future contracts or vending until demonstration  
30 of compliance;



1           5. Enforcement of any provision of the contract providing remedies, such as  
2 penalties or liquidated damages for violation of contractual provisions, or enforcement of any  
3 other remedy available under the laws of the county. Upon a finding by the hearing  
4 examiner that a contractor has in fact failed to perform a commercially useful function or has  
5 operated as a broker, front, conduit or pass through business, liquidated damages specified in  
6 the contract shall be imposed unless the hearing examiner finds that imposition of such  
7 damages would be clearly inequitable, in which case the hearing examiner may order  
8 appropriate relief.

9           K. If a finding is made that there is reasonable cause to believe that a contract  
10 awarding authority has committed a violation, the finding shall be forwarded to the executive,  
11 who shall review the evidence and shall order one or more of the following:

- 12           1. Dismissal of the complaint when a violation is found not to have occurred;
- 13           2. Corrective personnel action;
- 14           3. Disqualification and suspension of authority of all members, any board,  
15 commission, or other body constituting the violating contract awarding authority;
- 16           4. Enforcement of any other remedy available under the laws of the county.

17           L. Upon receipt of a written and signed allegation that a business owner is improperly  
18 being considered to be, or has improperly been rejected as, a minority business or women's  
19 business as defined in this chapter, or that a waiver or reduction of set-aside requirements has  
20 been improperly denied or granted, or if such information is discovered from information  
21 gained through compliance monitoring, the administrator shall conduct or cause to be  
22 conducted an investigation. The pendency of such allegations or of subsequent hearings on  
23 such allegations shall not be grounds to postpone or restrain the award of any contracts then  
24 being advertised or for which bids have been received. If there is reasonable cause to believe  
25 that corrective action is warranted, the administrator will, upon ten days written notice to all  
26 interested parties of whom he/she is aware, and upon publication of notice of the hearing in  
27 the manner provided for the advertising of contracts, conduct or cause to be conducted a  
28 hearing to determine whether or not the allegation is correct. The hearing shall be recorded  
29 and each interested party shall have the right to call and examine witnesses, to produce  
30 documentary and physical evidence, to cross-examine witnesses, and to be represented by

1 anyone of his/her choice lawfully permitted to do so. The hearing officer designated by the  
2 administrator shall permit testimony to be given by any parties which would be directly  
3 affected by the matter, and a representative of the executive department or administrative  
4 office affected by the investigation.

5 After the hearing, the administrator or designated hearing officer shall make findings  
6 and conclusions and shall order appropriate corrective action, if any.

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

15 NEW SECTION. SECTION 10. There is added to K.C.C. 4.18 a new section to  
16 read as follows:

17 **Annual report required.** The administrator shall submit an annual report to the  
18 executive detailing performance of the program by April 15 of each year. This report shall  
19 be forwarded to the council no later than April 30. The report shall include:

20 A. Statistics, and narrative where appropriate, demonstrating the utilization of  
21 minority and women's businesses by department, contract category, and the county,  
22 overall;

23 B. Statistics, and narrative where appropriate, demonstrating the number and type of  
24 waivers granted;

25 C. Explanations of any investigative actions taken by the minority and women's  
26 business enterprises and contract compliance division regarding the implementation,  
27 monitoring and enforcement of this chapter;

28 D. Descriptions of any problems in the implementation reported by the department,  
29 including proposed solutions;

30 E. Recommendations, as appropriate, regarding amendments to this chapter; and

1 F. Proposed utilization goals, as necessary.

2 NEW SECTION. SECTION 11. There is added to K.C.C. 4.18 a new section to  
3 read as follows:

4 **Studies and recommendations graduating firms out of program.** A. The  
5 administrator is directed to prepare a recommendation to the council on a methodology and  
6 plan for graduating minority and women's businesses after a certain number of years of  
7 certification and level of income above that used for state certification. The executive shall  
8 submit such a recommendation as part of the overall recommendations resulting from the  
9 disparity study commissioned pursuant to Ordinance 11564.

10 B. The methodology and plan shall include specific objective criteria and  
11 timeframes for reviewing minority and women's business enterprise participation in the  
12 county's remedial program and determining when and under what conditions individual  
13 firms shall be graduated from the county's remedial program.

14 NEW SECTION. SECTION 12. There is added to K.C.C. 4.18 a new section to  
15 read as follows:

16 **Authorization to implement procedures.** The executive shall implement such forms,  
17 administrative processes, and operational procedures as are necessary to comply with the  
18 provisions of this chapter; provided that such forms, processes and procedures shall be  
19 promulgated in compliance with K.C.C. 2.98, with the exception that administrative rules and  
20 regulations related to this chapter shall be submitted for review by the administration and  
21 justice committee (or its successor committee) fifteen days prior to filing with the clerk of the  
22 council, the provisions of K.C.C. 2.98 notwithstanding.

23 NEW SECTION. SECTION 13. There is added to K.C.C. 4.18 a new section to  
24 read as follows:

25 **Minority and women's business enterprises program provisions applicable to**  
26 **metropolitan functions.** Notwithstanding the requirements set forth in this chapter, in  
27 order to foster a smooth transition and for the purposes of observing federal regulations,  
28 the minority and women business enterprise provisions for MWB utilization set forth in  
29 Ordinance 11032, Sections 19.G, 19.H, 19.J.2, and 19.K, and codified in  
30 K.C.C. 28.20.040 D, K.C.C. 28.20.040 E, K.C.C. 28.20.050 B, and K.C.C. 28.20.060 shall

1 continue to be applicable to the metropolitan functions performed by the county pursuant  
2 to chapter 35.58 RCW until the conclusion of the disparity study, commissioned pursuant  
3 to Ordinance 11564, and recommendations resulting from the study are adopted and  
4 approved by the council by ordinance or as otherwise provided by the council. The  
5 administrator shall administer and implement said provisions for contracts awarded in  
6 direct support of said metropolitan functions.

7 NEW SECTION. SECTION 14. There is added to K.C.C. 4.18 a new section to  
8 read as follows:

9 **Designation of DBE Liaison Officer.** The administrator shall serve as the  
10 Disadvantaged Business Enterprise ("DBE") Liaison Officer for purposes of compliance  
11 with federal Department of Transportation and other federal and state agency financial.  
12 assistance requirements.

13 NEW SECTION. SECTION 15. There is added to K.C.C. 4.18 a new section to  
14 read as follows:

15 **Federal and state requirements.** In order to secure financial assistance from  
16 federal and state agencies, the administrator shall provide for the participation of minority,  
17 women and disadvantaged businesses pursuant to regulations and requirements imposed by  
18 such federal and state agencies. The administrator may issue rules and procedures and take  
19 steps necessary to implement and comply with applicable federal and state laws and  
20 regulations, including the establishment of annual goals and contract goals for minority,  
21 women and disadvantaged businesses.

22 SECTION 16. Effective date. This ordinance shall take effect on January 1, 1996.

23 SECTION 17. Severability. The provisions of this ordinance shall be effective in  
24 all cases unless otherwise provided by federal law. The provisions of this ordinance are  
25 separate and severable. The invalidity of any clause, sentence, paragraph, subdivision,  
26 section or other portion of this ordinance or the invalidity of the application thereof to any  
27 person or circumstance shall not affect the validity of the remainder of this ordinance or the  
28 validity of the application to other persons or circumstances.

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SECTION 18. Continuation of ordinances. The provisions of this ordinance, so far as they are substantially the same as those of ordinances existing at the time of the enactment of this ordinance, shall be construed as continuations thereof.

INTRODUCED AND READ for the first time this 25<sup>th</sup> day of September, 1995.

PASSED by a vote of 11 to 0 this 20<sup>th</sup> day of November, 1995.

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

Kent Pullen  
Chair

ATTEST:

Gerald A. Peterson  
Clerk of the Council

APPROVED this 1<sup>ST</sup> day of December, 1995

Doug Locke  
King County Executive

Attachments:  
None