



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

November 7, 2000

Ordinance 13983

Proposed No. 1999-0628.3

Sponsors Gossett

1 AN ORDINANCE creating a program to promote the use of
2 small economically disadvantaged businesses in competing
3 for county contracting opportunities; adding a new chapter to
4 the King County Code and prescribing penalties.

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6

7 **STATEMENT OF FACTS:**

8 1. The success of small economically disadvantaged businesses is
9 important to the region's overall economy, including the development of
10 job opportunities and social mobility in the county.

11 2. Businesses located within the county that seek contracting opportunities
12 operate under a competitive disadvantage with businesses located
13 elsewhere because of higher taxes and higher operating and administrative
14 costs.

- 15 3. Economic justice is served by enhancing opportunities for small
16 economically disadvantaged business owners who pursue relevant
17 technical and entrepreneurial training to become more skilled
18 competitors.
- 19 4. Businesses that locate and remain in economically distressed areas
20 help to strengthen those areas by stimulating economic activity and
21 revitalizing neighborhoods.
- 22 5. Through its contracting activities, the county is in a position to create
23 important economic incentives to use small economically
24 disadvantaged businesses.
- 25
- 26 6. It is in the county's economic interest to provide incentives to
27 encourage small economically disadvantaged businesses to locate and
28 remain within the county.
- 29
- 30 7. It is also in the county's economic interests to continue to encourage
31 participation of women and minority-owned business enterprises that
32 meet the criteria for being economically disadvantaged and to do so in
33 a manner consistent with current law and the overall interests of the
34 polity.

35
36 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

37 NEW SECTION. SECTION 1. Boost program for small economically

38 **disadvantaged businesses.** The executive shall implement a boost program under which
39 the county and its contractors have an incentive to make use of small economically
40 disadvantaged businesses as prime contractors, subcontractors and suppliers on county
41 contracts.

42 NEW SECTION. SECTION 2. **Scope.** The boost program shall apply to county
43 public works, consulting and procurement contracts.

44 NEW SECTION. SECTION 3. **Definitions.** The definitions in this section apply
45 throughout this chapter unless the context clearly requires otherwise.

46 A. "Administrator" means the manager of the contract compliance and
47 minority/women and disadvantaged business division in the department of finance.

48 B. "Economically distressed area" means a geographic area determined by the
49 county council to require the use of incentives in order to stimulate economic activity and
50 revitalize declining neighborhoods.

51 C. "Located within" the county or an economically distressed area means that a
52 business that at least:

- 53 1. has its primary offices or distribution points, other than residential or post
54 office box, physically within the relevant boundaries;
- 55 2. lists the address on a valid business permit as being within the relevant
56 boundaries;
- 57 3. has been doing business within the relevant boundaries for at least twelve
58 months; and
- 59 4. submits other proof of compliance with subsection C. 1 through 3 of this
60 section as required by the administrator.

61 D. "Small economically disadvantaged business" means that a business and the
62 person or persons who own and control it are in a financial condition which
63 puts the business at a substantial disadvantage in attempting to compete for
64 public contracts. In assessing these financial conditions, the administrator
65 shall substantially adopt the approach used by the federal Small Business
66 Administration, but the administrator shall adjust the Small Business
67 Administration dollar ceilings for various standard business classifications and
68 levels for owners' personal net worth to account for local market conditions.
69 Initially, the dollar ceiling for standard business classifications shall be fifty
70 percent of the 1999 Small Business Administration thresholds.

71 NEW SECTION. SECTION 4. Criteria for participation. To be certified for
72 the boost program, a business must be a small economically disadvantaged business
73 serving a commercially useful function, as defined in K.C.C. 4.18, and must be a business
74 involved with business development.

75 A small economically disadvantaged business can meet and maintain this criterion
76 by having the person or persons who own and control the business annually complete at
77 least fifteen hours of business-related training in a program approved by the
78 administrator. In establishing regulations for approval of such a training program, the
79 administrator shall look for one or more of the following indications of the program's
80 value: the program's historical use of support from within the relevant industry;
81 affiliation the program has with established schools, if any, and accreditation by an
82 established association.

83 NEW SECTION. SECTION 5. Certification process. The administrator may

84 develop a process for certifying businesses for participation in the boost program. If
85 feasible, the administrator shall arrange or contract for a coordinated certification agency
86 in cooperation with other agencies that may adopt compatible programs.

87 NEW SECTION. SECTION 6. Limitation of certification. To provide
88 significant opportunities and incentives for boost program businesses to prove themselves
89 competitive within the market, the certification of the businesses is limited to five years
90 or a specified contract and dollar volume of participation.

91 NEW SECTION. SECTION 7. Methods of providing incentive. A. The boost
92 program shall use one or more methods to create an incentive to promote the use of boost
93 program businesses. This incentive shall be produced either through a bonus system in
94 which the increased participation of boost program businesses is a factor in the award of
95 contracts; through a factor in compensation to the contractor; or through a set-aside
96 system under which contractors are required to achieve a specified level of participation
97 by boost program businesses. If the bonus system is used, the contract shall state the
98 maximum incentive available for boost program participation and the possible methods
99 for making use of the incentive. If a set-aside system is used, the contract shall state a
100 required minimum utilization.

101 B. As a matter of policy, opportunities for small economically disadvantaged
102 businesses to act as prime contractors will be identified on an on-going basis.

103 C. The specific methods to be used to provide incentives to boost program
104 participating small economically disadvantaged businesses and for them to be prime
105 contractors, as opportunities arise, shall be fully addressed in the rule-making process.

106 NEW SECTION. SECTION 8. Violations and sanctions. A person who

107 violates this chapter or the rules adopted under this chapter or who fails to comply with
108 representations or commitments made to receive a benefit or qualify for an incentive
109 under the boost program is subject to sanctions including but not limited to: liquidated
110 damages; withholding of funds, a civil fine or penalty; and disqualification from
111 eligibility for bidding on or entering into or participating, as a subcontractor or in any
112 other manner, in a contract with the county for a period not to exceed five years. The
113 administrator shall: set forth either the sanctions or liquidated damages, or both, to be
114 imposed and the reasons for the imposition in a written order; promptly furnish a copy of
115 the order to the contract awarding authority or contract administering authority; and mail
116 a copy by certified mail, return receipt requested, to the person being sanctioned.

117 NEW SECTION. SECTION 9. Appeals. A person against whom sanctions are
118 imposed by the administrator under this chapter may appeal within fifteen days from the
119 date the administrator's decision was mailed to the person being sanctioned, by filing a
120 notice of appeal with the office of the hearing examiner. Within forty-five days after
121 receiving the notice of appeal, the hearing examiner shall convene the appeal hearing.
122 Written notice of the hearing date shall be given to the appellant and to the department of
123 finance at least thirty days before the hearing. Within thirty days after conclusion of the
124 appeal hearing, the hearing examiner presiding at the hearing shall prepare a written
125 decision and order. The final decision shall be filed as a public record with the county
126 clerk, and copies of the final decision mailed to each party of record and to the
127 administrator.

128 NEW SECTION. SECTION 10. Rule making. The executive shall adopt rules
129 to implement this chapter, the council must approve them before they become effective.

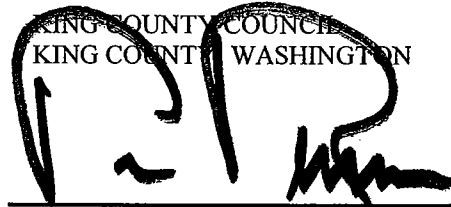
130 Where appropriate, the executive may employ a factor in favor of businesses located in
131 economically disadvantaged areas of King County.

132 SECTION 11. Sections 1 through 10 of this ordinance should constitute a new
133 chapter in the King County Code.

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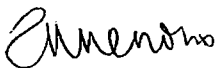
Ordinance 13983 was introduced on 11/15/99 and passed as amended by the
Metropolitan King County Council on 11/6/00, by the following vote:

Yes: 13 - Mr. von Reichbauer, Ms. Miller, Ms. Fimia, Mr. Phillips, Mr. Pelz,
Mr. McKenna, Ms. Sullivan, Mr. Nickels, Mr. Pullen, Mr. Gossett, Ms.
Hague, Mr. Vance and Mr. Irons
No: 0
Excused: 0



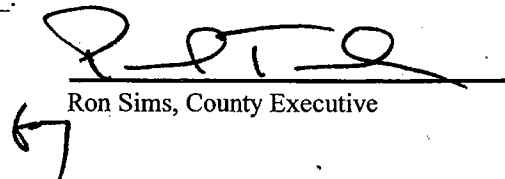
Pete von Reichbauer, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 17th day of November, 2000



Ron Sims, County Executive

Attachments None