

Re the procurement of goods and services by the City from women's business enterprises and minority business enterprises.

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# Ordinance No. 109113

AB

AN ORDINANCE relating to the procurement of goods and services by the City of Seattle from women's business enterprises and minority business enterprises, establishing requirements for ensuring full and equitable opportunities for such businesses to provide goods and services to the City, and providing procedures and penalties to enforce compliance.

6/5/80 Finance

~~Amended~~ Pass as Amended

COMPTROLLER  
FILE NUMBER

## Council Bill No. 101233

INTRODUCED: APR 21 1980	BY: EXECUTIVE REQUEST
REFERRED: APR 21 1980	TO: FINANCE
REFERRED:	
REPORTED: JUN 16 1980	SECOND READING: JUN 16 1980
THIRD READING: JUN 16 1980	SIGNED: JUN 16 1980
PRESENTED TO MAYOR: JUN 17 1980	APPROVED: JUN 17 1980
RETD. TO CITY CLERK: JUN 20 1980	PUBLISHED:
VETOED BY MAYOR:	VETO PUBLISHED:
PASSED OVER VETO:	VETO SUSTAINED:

*SEE BACK COVER*

- Res. 26446 -West Seattle Bridge demolition contract -A resolution urging speedy resolution of questions concerning women & minority participation on the ...
- C.F. 289721 -"Establishing Women & Minority Business Enterprise Goals -Mayor Royer's Executive order ...
- C.F. 290284 -RULES of BPW implementing section 9(b) of the Ordinance 109113, for consultant & other service contracts.
- ORD. 109869 -AMENDS SEC'S 5 & 13 (Ord. 109113 & Title 20, Seattle Municipal Code) to define minority or female ownership & control, & to contemplate community property ownership interests.
- C.F. 290720 -PROPOSED RULES of Human Rights Dept re determinations as to when a business is a BONA FIDE MINORITY BUSINESS ENTERPRISE OR WOMEN BUSINESS ENTERPRISE.
- C.F. 290724 -TECHNICAL AMENDMENTS to WMBE (Women's & Minority Business Enterprises Ord.) Bid Specifications, effective June 14, 1981.
- C.F. 291813 -DIRECTORY OF CERTIFIED WOMEN & MINORITY BUSINESS ENTERPRISES, June 1982, edition of the Seattle Human Rights Dept's ...

ORDINANCE 109113

1  
2 AN ORDINANCE relating to the procurement of goods and services by the City of  
3 Seattle from women's business enterprises and minority business enterprises,  
4 establishing requirements for ensuring full and equitable opportunities for such  
5 businesses to provide goods and services to the City, and providing procedures  
6 and penalties to enforce compliance.

7 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

8 Section 1. SHORT TITLE. This ordinance shall be entitled the "Women's  
9 and Minority Business Utilization Ordinance" and may be cited as "the WMBE  
10 Ordinance."

11 Section 2. FINDINGS. Upon full consideration of all relevant  
12 facts, the City Council hereby finds that:

13 (A) Past societal discrimination, the City's overall contracting  
14 process, difficulties in the financing and bonding market, and problems obtaining  
15 credit and insurance, have had the effect of underutilization of women's business  
16 enterprises and minority business enterprises in contracts awarded by the City of  
17 Seattle, and have contributed to the underdevelopment of such businesses;

18 (B) As a result of this past discrimination against women's business  
19 enterprises and minority business enterprises, women and minorities have been  
20 deprived by numerous employment opportunities;

21 (C) It is in the best interests of the City of Seattle to promote  
22 the equitable utilization of women's business enterprises and minority business  
23 enterprises in City contracting; and

24 (D) The requirements of this ordinance are necessary to overcome  
25 the present effects of discrimination, and are designed to achieve the goal of  
26 equitable utilization of women's business enterprises and minority business enterprises,  
27 while at the same time maintaining a high quality of goods and services provided  
28 to the City through competitive bidding as required by State law and the City  
Charter.

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Section 3. DECLARATION OF POLICY. It is the policy of the City of Seattle to ensure the full and equitable participation by women's business enterprises and minority business enterprises in the provision of goods and services to the City on a contractual basis. The ultimate goal of this ordinance is to increase the use of women's business enterprises and minority business enterprises above the present low level to a level more comparable to the representation of women and minorities in the population.

Section 4. SCOPE. The provisions of this ordinance shall apply to all contracts awarded by the City and services utilized by the City except as may be hereinafter specifically exempted, and shall be liberally construed for accomplishment of its policies and purposes.

Section 5. DEFINITIONS.

(A) "Bidder" means any business which submits a bid or proposal to provide goods or services to the City.

(B) "Combination Women's and Minority Business Enterprise" means a business for profit which is not owned and controlled by either women or minorities, but which is owned and controlled by a combination of women and minorities.

(C) "Contract Awarding Authority" means the City officer, department, commission, employee, or board authorized to enter into contracts on behalf of the City.

(D) "Director" means the Director of the Department of Human Rights.

(E) "Minority", "Minorities", or "Minority person" means ethnic persons of color residing in the United States or its territories, including but not limited to American Indians, Asians (including, but not limited to, Chinese, Filipinos, Japanese, Koreans, Pacific Islanders and Samoans), Blacks, Hispanics, and Native Alaskans.

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(F) "Minority Business Enterprise" means a business for profit which is owned and controlled by one or more minority persons. For the purpose of this definition, the non-minority owner or owners of the minority business enterprise may not be the owner or operator, in whole or in part, of a business engaged in the same or similar type of business activity as the minority business enterprise.

(G) "Owned and controlled" means for purposes of determining whether a business is a minority business enterprise, women's business enterprise or combination women's and minority business enterprise, that the minorities, women, or combination of both, as the context requires, shall possess:

1. ownership of greater than fifty percent (50%) of the business; and
2. control over management, interest in capital, and interest in profit or loss commensurate with the percentage of ownership on which the claim of status under this ordinance is based; and
3. a real and continuing interest in the business.

(H) "Person" includes one or more individuals, partnerships, associations, organizations, trade or professional associations, corporations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, or any group of persons, including any official, agent or employee of the City of Seattle.

(I) "Subcontractor" means any business providing goods or services to a contractor for profit, if such goods or services are procured or used in fulfillment of the contractor's obligations arising from a contract with the City of Seattle, but shall not include businesses providing goods to a contractor whose contract with the City is for the provision of materials, equipment or supplies.

(J) "Women's Business Enterprise" means a business for profit which is owned and controlled by one or more women residing in the United States or its territories; provided that where the women's interest upon which the claim of women's business enterprise status is based on the

1 community property of the woman and her spouse, only fifty percent (50%)  
2 of their community property interest will be considered the women's  
3 interest for purposes of determining women's business enterprise status.  
4 For the purpose of this definition the male owner or owners in a women's  
5 business enterprise may not be the owner or operator, in whole or in part,  
6 of a business engaged in the same or similar type of business activity as  
7 the women's business enterprise.

8 Section 6. POWERS AND DUTIES.

9 (A) In addition to duties and powers given to the Director  
10 elsewhere, the Director shall:

11 1. provide information and other assistance to women's  
12 business enterprises and minority business enterprises to increase their  
13 ability to effectively compete for the award of City contracts;

14 2. assist City and community agencies to increase women's  
15 business enterprise and minority business enterprise participation on City  
16 contracts;

17 3. adopt rules and regulations, consistent with this  
18 ordinance and the Administrative Code of the City of Seattle (Ordinance  
19 102228, as amended), establishing standards and procedures for effectively  
20 carrying out this ordinance;

21 4. certify businesses as bona fide women's business  
22 enterprises and minority business enterprises and maintain a listing of  
23 such bona fide businesses for use by contract awarding authorities and  
24 contractors; and

25 5. recommend to the Mayor appropriate goals for minority and  
26 women's business enterprise utilization.  
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1 (B) The requirements of this ordinance are in addition to those  
2 imposed by the United States or the State of Washington as a condition of  
3 financial assistance or otherwise; therefore, the Director may authorize  
4 the substitution of such State or Federal women's business enterprise and  
5 minority business enterprise requirements for the requirements of this  
6 ordinance whenever such State or Federal requirements are substantially  
7 the same as those of this ordinance.

8 (C) The Director may enter into cooperative agreements with other  
9 government agencies concerned with increasing the utilization of women's  
10 or minority business enterprise in government contracting, subject to the  
11 approval of the legislative authority of the City of Seattle.

12 (D) In order to enhance the successful achievement of the policy  
13 and goals of this ordinance with respect to women's business enterprises,  
14 the Office for Women's Rights shall:

15 1. provide information and other assistance to Women  
16 Business Enterprises to increase their ability to compete effectively for  
17 the award of City contracts;

18 2. assist City and community agencies to increase women and  
19 business enterprise participation on City contracts;

20 3. provide advice and assistance to HRD regarding the  
21 adoption of rules and regulations consistent with this ordinance and the  
22 Administrative Code of the City of Seattle (Ordinance 102280, as amended)  
23 establishing standards and procedures for effectively carrying out this  
24 ordinance;

25 4. develop educational programs and otherwise assist women  
26 business enterprises to compete effectively for City contracts;

1                   5. review the progress of departments and awarding  
2 authorities toward achievement of their annual goals for the utilization  
3 of women business enterprises;

4                   6. make recommendations to the Director of HRD, departments,  
5 and awarding authorities to further the policies and goals of this  
6 ordinance; and

7                   7. recommend to the Mayor appropriate goals for  
8 women's business utilization.

9                   Section 7. UTILIZATION GOALS

10                  (A) Except as provided in Section 7(C), below, the Mayor, with  
11 the advice of the Director and contract awarding authorities, shall  
12 establish separate City-wide annual goals for the utilization of women's  
13 business enterprises and for the utilization of minority business  
14 enterprises. These goals shall be expressed in terms of a percentage of  
15 the total dollar value of all contracts to be awarded by the City, and may  
16 be established separately for categories of contracting such as public  
17 works, consultant, concession and purchasing contracts. Goals shall be  
18 reasonably achievable, and shall be based upon factors such as:

19                   1. the level of participation of women's business  
20 enterprises and minority business enterprises on past contracts awarded by  
21 the City which have contained minority business enterprise requirements;

22                   2. the level of participation of women's business  
23 enterprises and minority business enterprises on contracts awarded by  
24 other governmental agencies in the Seattle area which have utilized  
25 women's business enterprise and minority business enterprise  
26 requirements;



1           3. the availability of women's business enterprises and minority  
2 business enterprises which are capable of providing goods and services  
3 to the City; and

4           4. the degree to which such annual goals will contribute to the  
5 achievement of the ultimate goal as set forth in Section 3 of this ordinance.

6           The City-wide annual goal shall be not less than fifteen percent (15%)  
7 for minority business enterprises and not less than three percent (3%) for women's  
8 business enterprises.

9           (B) Except as provided in Section 7(C), below, the Mayor, with the  
10 advice of the Director and each contract awarding authority, shall establish  
11 separate annual goals for utilization of women's business enterprises and  
12 minority business enterprises by that awarding authority; these goals shall  
13 be expressed as a percentage of the total dollar value of all contracts to be awarded  
14 by the contract awarding authority, and may be established separately by contract  
15 category; they shall equal or exceed the City-wide annual goals.

16           (C) Because of the insufficiency of current information regarding the  
17 availability of women's business enterprises, and where necessary to ensure that  
18 goals for the utilization of such businesses are reasonably achievable, the Mayor,  
19 with the advice of the Office of Women's Rights and the Director, may study the  
20 availability of women's business enterprises for City contracting prior to establishing  
21 the utilization goals required by Section 7 of this ordinance. Such goals shall be  
22 established in any event no later than one year following the effective date of  
23 this ordinance.  
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1 Section 8. UTILIZATION REQUIREMENTS - GENERAL

2 (A) Contract awarding authorities shall:

3 1. make every effort to solicit bids and proposals from,  
4 women's business enterprises and minority business enterprises;

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6 2. to the maximum extent feasible and consistent with State  
7 Law, arrange contracting by size and type of work to be performed to most  
8 effectively enhance the opportunity for participation by women's business  
9 enterprises and minority business enterprises;

10 3. when advisable, waive bid bonding requirements for and/or  
11 make advance payments to women's business enterprises and minority business  
12 enterprises whenever such waivers or advances are permitted by the  
13 Constitution and the laws of the State of Washington and are appropriate  
14 and necessary to achieve the declared policy of this ordinance; and

15 4. impose such sanctions or take such other actions as are  
16 designed to ensure compliance with the provisions of this ordinance, which  
17 shall include, but are not limited to:

18 (a) refusal to award a contract;

19 (b) suspension of a contract;

20 (c) withholding of funds;

21 (d) rescission of a contract based upon a material breach  
22 of contract provisions pertaining to women's business enterprise and  
23 minority business enterprise utilization;

24 (e) disqualification of a bidder, contractor,  
25 subcontractor, or other business from eligibility for providing goods or  
26 services to the City for a period not to exceed two years; no contract  
27 shall be awarded to any person or business which is disqualified from  
28 doing business with the City under the provisions of this ordinance or

1 Ordinance 101432, nor shall any contract be awarded to any person or  
2 business which is disqualified from doing business with any governmental  
3 agency based on failure to comply with women's or minority business or  
4 contract compliance requirements which are substantially the same as those  
5 of this ordinance or Ordinance 101432.

6 (B) In addition to such other requirements as may be set forth  
7 elsewhere, the following shall apply to all contracts awarded by the City:

8 1. bid conditions, requests for proposals and all other  
9 specifications for contracts awarded by the City shall require that where  
10 subcontracting is utilized in performing the contract, the bidder or  
11 proposer, prior to the submission of bids or proposals, must make every effort to  
12 subcontract to or purchase from women's business enterprises and minority  
13 business enterprises. Such specifications shall require the bidder to  
14 keep records of such efforts adequate to permit a determination of  
15 compliance with the specifications;

16 2. contracts shall incorporate by reference this ordinance  
17 and shall provide that the failure of any bidder, contractor or  
18 subcontractor to comply with any of its requirements shall be a material  
19 breach of contract;

20 3. contracts shall require that during the term of the  
21 contract, the contractor shall:

22 (a) fulfill the women's business enterprise and  
23 minority business enterprise participation commitments submitted with  
24 their bid or proposal;

1 (b) continue to make every effort to utilize  
women's business enterprises and minority business enterprises; and

2 (c) require that their subcontractors make every  
3 effort to utilize women's business enterprises and minority business  
4 enterprises;

5 (d) maintain records reasonably necessary for monitoring  
6 their compliance with the provisions of this Ordinance.

7 4. As required by R.C.W. 35.22.650, and in addition to the  
8 requirements of this ordinance, the following clause shall be contained in  
9 all public works contracts exceeding the sum of Ten Thousand Dollars  
10 (\$10,000.00), or Fifteen Thousand Dollars (\$15,000.00) for construction of  
water mains:

11 "Contractor agrees that he shall actively solicit the  
12 employment of minority group members. Contractor  
13 further agrees that he shall actively solicit bids for  
14 the subcontracting of goods or services from qualified  
15 minority businesses. Contractor shall furnish evidence  
16 of his compliance with these requirements of minority  
17 employment and solicitation. Contractor further agrees  
18 to consider the grant of subcontracts to said minority  
19 bidders on the basis of substantially equal proposals  
20 in the light most favorable to said minority businesses.  
21 The contractor shall be required to submit evidence of  
22 compliance with this section as part of the bid. As  
23 used in this clause, the term 'minority business' means  
24 a business at least fifty-one percent of which is owned by  
25 minority group members. Minority group members include,  
26 but are not limited to, blacks, women, native Americans  
27 Orientals, Eskimos, Aleuts, and Spanish Americans."

28 5. Whenever contract supplements, amendments or change  
orders are made which increase the total dollar value of the contract by  
more than ten percent (10%) of the dollar value of the original contract,  
the contractor shall comply with those provisions of this Ordinance which  
applied to the original contract with respect to the supplement, amendment  
or change order;

6. All contracts or other agreements between the City of  
Seattle and other governmental or quasi-governmental agencies, or public  
corporations, whereby such agencies receive money from or through the City

1 for the purpose of contracting with businesses to perform public improvements  
2 shall require such agencies to comply with the provisions of this ordinance  
3 in awarding and administering such contracts.

4 (C) For the purpose of determining women's and minority  
5 business enterprise participation:

6 1. contracts or subcontracts awarded to joint ventures in which  
7 one or more women's business enterprises or minority business enterprises are combined  
8 with one or more businesses which are not women's or minority business enterprises  
9 shall be deemed to be awarded to women's or minority business enterprises only to  
10 the extent of the women's or minority business' participation in the joint venture;

11 2. one-half the dollar value of any contracts or subcontracts  
12 awarded to partnerships in which a woman is a 50% partner with a non-minority  
13 males not her husband, or in which a minority is a 50% partner with a non-minority,  
14 shall be deemed to be awarded to a women's business enterprise or minority business  
15 enterprise; and

16 3. contracts or subcontracts awarded to combination women's  
17 and minority business enterprises shall be deemed to be awarded to a women's  
18 business enterprise to the extent of women's ownership and to a minority business  
19 enterprise to the extent of minority ownership.

20 (D) To the extent permissible under applicable law, and where  
21 a contract awarding authority does not appear able to achieve its utilization goals  
22 by another available alternative, then a contract awarding authority may limit  
23 competition for certain negotiated contracts to women's business enterprises, or  
24 minority business enterprises, or both.

25 Section 9. UTILIZATION REQUIREMENTS - PUBLIC WORKS,  
26 CONSULTANT AND OTHER SERVICE CONTRACTS

27 (A) For all contracts for public works and contracts for  
28 consultant or other services, the estimated cost of which exceeds Five

1 Thousand Dollars (\$5,000), the contract awarding authority shall furnish  
2 the Director with an informational copy of all bid conditions and requests  
3 for proposals, if any, along with a statement identifying all funds  
4 provided by any other governmental agency which will be used in payment of  
5 the contract, prior to solicitation of bids or proposals, and the Director  
6 may make recommendations to the contract awarding authority with respect to  
7 provisions pertaining to women's business enterprise and minority business  
8 enterprise utilization.

9 (B) Contracts for public works the estimated cost of  
10 which exceeds Ten Thousand Dollars (\$10,000), and contracts for consultant  
11 or other services the estimated cost of which exceeds Fifteen Thousand  
12 Dollars (\$15,000), shall be awarded and administered in accordance with the  
13 following standards and procedures:

14 1. In addition to the requirements set forth in Section 8(B)  
15 and elsewhere bid conditions and requests for proposals shall require bidders  
16 and proposers to include in their bid or proposal both minority business  
17 enterprise and women's business enterprise participation in the contract in  
18 a percentage which equals or exceeds the awarding authority's annual goals.  
19 Except as provided in Section 7(C) and Section 9(B)(2), bids or proposals  
20 not including both minority business enterprise and women business enterprise  
21 participation in an amount which equals or exceeds that required by the bid  
22 conditions or request for proposals shall be declared non-responsive.

23 a. Bids and proposals shall identify the particular minority  
24 business enterprises and women's business enterprises to be utilized in per-  
25 forming the contract, specifying for each the dollar value of the participation,  
26 the type of work to be performed and such information as may reasonably be  
27 required to determine the responsiveness of the bid or proposal.

1                   b. During the term of the contract any failure to comply  
2 with the levels of minority business enterprise or women's business enterprise  
3 participation identified in the bid or proposal shall be considered a material  
4 breach of contract.

5                   2. A contract awarding authority or a department may request  
6 the Director to waive the set aside requirements of this subsection, or to reduce  
7 the amount of the set aside, for either or both minority business enterprises or  
8 women business enterprises, by submitting the reasons therefore in writing to  
9 the Director prior to solicitation of bids or proposals.

10                  (a) The Director may grant such a waiver or reduction upon  
11 determination that:

12                   1. the reasonable and necessary requirements of the contract render  
13 subcontracting or other participation of businesses other than the bidder or  
14 proposer infeasible; or

15                   2. sufficient qualified minority and women's business enterprises  
16 capable of providing the goods or services required by the contract, are unavailable  
17 in the market area of the project, despite every feasible attempt to locate appropriate  
18 minority and women's business enterprises.

19                  (b) Only the requirements of Section 9(B)1 are waived by a waiver  
20 under this paragraph.

21                  (c) Any reductions in set aside amount granted by the Director  
22 shall specify the amount to which the set aside has been reduced.

23                  (d) Whenever the Director denies a request to waive or reduce  
24 a set aside, the contract awarding authority may appeal that denial to  
25 the Mayor, whose decision on the request shall be final.  
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1 (C) All bid conditions and requests for proposals for consultant  
2 and other service contracts the value of which does not exceed Fifteen  
3 Thousand Dollars (\$15,000), shall require bidders and proposers to make  
4 every effort to utilize women's business enterprises and minority business  
5 enterprises as subcontractors and suppliers. All bids and proposals shall  
6 identify projected women's business enterprise and minority business  
7 enterprise participation, and the efforts made to utilize women's business  
8 enterprises and minority business enterprises.

9 (D) For all consultant and other service contracts the value of  
10 which exceeds One Thousand Dollars, (\$1,000) the contract awarding  
11 authority shall solicit proposals from qualified minority and women's  
12 business enterprises. The contract awarding authority shall notify the Director prior  
13 to solicitation of bids or proposals whenever such qualified businesses  
14 cannot be identified, unless the Director has waived such notification  
15 requirement based on the known unavailability of such businesses. The  
16 Director shall attempt to identify such businesses, and if successful,  
17 shall notify the awarding authority, who shall provide such women's  
18 business enterprise or minority business enterprise every practical  
19 opportunity to submit bids or proposals.  
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2 (E) All consultant selection panels and the Seattle Design  
3 Commission shall give appropriate consideration to the utilization goals  
4 of the contract awarding authority in evaluating, recommending and selecting  
5 contractors. The Director may assist such panels and the Design Commission  
6 in evaluating the impact of their recommendation or selection on achieve-  
ment of the contract awarding authority's utilization goals.

7 Section 10. UTILIZATION REQUIREMENTS - PURCHASING CONTRACTS. All  
8 contracts awarded by the Purchasing Agent for the purchase of materials,  
9 equipment, supplies or services, the estimated cost of which equals or  
10 exceeds One Thousand Dollars (\$1,000.00), shall be awarded and administered  
11 in accordance with the following standards and procedures:

12 The Purchasing Agent shall solicit bids from women's business  
13 enterprises and minority business enterprises qualified to supply the  
14 required materials, equipment, supplies or services. The Director shall  
15 provide the Purchasing Agent with a list of women's business enterprises  
16 and minority business enterprises qualified to provide each of those  
17 commodities which the Purchasing Agent indicates are required by the  
18 City. The Purchasing Agent shall notify the Director prior to solicitation  
19 of bids whenever no such qualified businesses are available, unless the  
20 Director waives such notification based on the known unavailability of such  
21 qualified businesses to perform a particular contract. The Director shall  
22 attempt to identify such qualified businesses, and if successful, shall  
23 notify the Purchasing Agent of their availability; the Purchasing Agent  
shall provide such women's business enterprises and minority business  
enterprises every practical opportunity to submit bids.

24 Section 11. UTILIZATION REQUIREMENTS - LEASE, CONCESSION AND  
25 OTHER CONTRACTS. All leases in which the City is the lessee and all con-  
26 tracts for concessions shall be awarded and administered in accordance with  
27 with the following standards and procedures:

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(A) City departments shall solicit proposals from women's business enterprises and minority business enterprises qualified to enter into leases or concession contracts. Whenever a department, after investigation, determines that no such qualified enterprises are available, the Director shall be so notified prior to signing of the lease or award of the concession contract, unless the Director waives such notification based on the known unavailability of such qualified businesses to perform a particular contract. The Director may attempt to identify such qualified businesses, and if successful, shall notify the contract awarding authority of their availability. The contract awarding authority shall provide such women's business enterprises and minority business enterprises every practical opportunity to submit bids or proposals.

(B) All requests for concession proposals shall require concessionaires to make every good faith effort to utilize women's business enterprises and minority business enterprises as subcontractors if subcontractors are used. Concession proposers shall be required to submit their projected utilization of women's business enterprises and minority business enterprises along with a description of the efforts made to utilize such businesses.

(C) All City departments, commissions, boards, officers and employees, in the deposit of City funds and performance of their other official duties, shall make every good faith effort to equitably utilize the services of women's business enterprises and minority business enterprises. Such services shall include, but are not limited to, the financial services of banks, savings and loan companies and other commercial financial institutions, arrangement of travel and accommodations when traveling on official City business, and legal services to City departments, commissions and boards shall submit to the Director on an annual basis a written report on the efforts made pursuant to this subsection. The City Treasurer, City Comptroller and Retirement Board shall report annually to the Mayor on their utilization of financial institutions which are women's business enterprises and minority business enterprises.

Section 12. EXCEPTIONS AND WAIVERS.

1 (A) A contract awarding authority may waive the utilization  
2 requirements of this ordinance except for those of Section 9(B), for a  
3 specific contract under the following circumstances:

4 1. whenever the contract awarding authority finds with the  
5 advice of the Director that needed goods or services are available only  
6 from a sole source, and the prospective contractor is not currently dis-  
7 qualified from doing business with the City under the provisions of  
8 Section 8(B)5. of this Ordinance, Ordinance 101432, or from doing business  
9 with any governmental agency based on a failure to comply with women's or  
10 minority business enterprise or contract compliance requirements; or

11 2. if the contract awarding authority certifies in writing  
12 to the Director prior to contract award:

13 (a) that an emergency exists which required goods or  
14 services to be provided with such immediacy that they are unable to comply  
15 with the requirements of this ordinance; and

16 (b) that the prospective contractor is a women's  
17 business enterprise or minority business enterprise, or if not, that the  
18 prospective contractor will make every good faith effort to subcontract  
19 to women's business enterprises and/or minority business enterprises should  
20 subcontracting be utilized.

21 3. if the contract awarding authority certifies in writing  
22 to the Director that the contract is necessary to respond to an emergency  
23 which endangers the public health or safety; provided that such certifica-  
24 tion shall be made within seven (7) days after the contract award.

25 (B) The Mayor may waive the utilization requirements of this  
26 Ordinance whenever he or she finds that compliance with the requirements  
27 of the Ordinance would impose an unwarranted economic burden or risk on  
28 the City of Seattle when compared to the degree to which the purpose and  
policy of this Ordinance would be furthered by requiring compliance.

1 (C) The requirements of this ordinance shall not apply to  
2 contracts with private, non-profit organizations for the delivery of social  
3 services.

4 Section 13. MONITORING, REPORTING AND COMPLIANCE.

5 (A) The Director shall monitor compliance with these requirements  
6 during the term of the contract. If the Director determines that there is  
7 cause to believe that a contractor or subcontractor has failed to comply  
8 with any of the requirements of this ordinance, rules and regulations  
9 adopted pursuant to this ordinance, or contract provisions pertaining to  
10 women's business enterprise or minority business enterprise utilization, the  
11 Director shall so notify the contract awarding authority and the contractor.  
12 The Director shall attempt to resolve the noncompliance through conciliation.  
13 If the noncompliance cannot be resolved, the Director shall submit to the  
14 contract awarding authority and the contractor a written finding of noncom-  
15 pliance. The contracting authority shall give the contractor an opportunity  
16 to be heard, and if the contract awarding authority concurs with the finding  
17 of the Director, it shall impose such sanctions or take such other action as  
18 will effectuate the purposes of this ordinance.

19 (B) Whenever the Director finds after investigation that a contract  
20 awarding authority has failed to comply with the provisions of this ordinance,  
21 a written finding specifying the nature of the noncompliance shall be trans-  
22 mitted to the contract awarding authority; and

23 The Director shall attempt to resolve any noncompliance  
24 through conference and conciliation. Should such attempt fail to resolve  
25 the noncompliance, the Director shall transmit a copy of the finding of  
26 noncompliance along with a finding that conciliation was attempted and  
27 failed to the Mayor who shall take appropriate action to secure compliance.

28 (C) The Director may require such reports, information, and  
documentation from contractors, bidders, contract awarding authorities, and  
the head of any department, division, or office of the City of Seattle,  
as are reasonably necessary to determine compliance with the requirements.

1 (D) In addition to the requirements set forth in subsection 13(C), awarding  
2 authorities shall maintain accurate records for each contract awarded, its dollar  
3 value, the nature of the goods or services to be provided, the name of the contractor  
4 awarded the contract, the efforts it employed to solicit bids from and award the  
5 contract to women's business enterprises and minority business enterprises, and  
6 all subcontracts awarded by the contractor, identifying for each its dollar value,  
7 the nature of the goods or services provided, and the name of the subcontractor.

8 (E) The Director shall submit an annual report to the Mayor and the  
9 City Council on the progress of the City toward the utilization goals established  
10 by Section 7 of this ordinance, together with an identification of problems and specific  
11 recommendations for improving the City's performance.

12 Section 15. SEVERABILITY. The provisions of this ordinance are declared  
13 to be separate and severable. The invalidity of any clause, sentence, paragraph,  
14 subdivision, section or portion of this ordinance, or the invalidity of the application  
15 thereof to any person or circumstances shall not affect the validity of the remainder  
16 of this ordinance, or the validity of its application to other persons or circumstances.

17 Section 16. EFFECTIVE DATE. This ordinance shall take effect and  
18 be in force thirty (30) days after its passage and approval by the Mayor; otherwise,  
19 it shall take effect at the time it shall become a law under the provisions of the  
20 City Charter.

21 Passed by the City Council the 16 day of June, 1980 and  
22 signed by me in open session in authentication of its passage this 16 day of  
23 June, 1980.

24 [Signature]  
25 President \_\_\_\_\_ of the City Council.

26 Approved by me this 17 day of June, 1980

27 [Signature]  
28 \_\_\_\_\_  
Mayor

Filed by me this 17 day of June, 1980

Attest: [Signature]  
City Comptroller and City Clerk

(SEAL)

Published \_\_\_\_\_ By [Signature]  
Deputy Clerk.

# The City of Seattle--Legislative Department

MR. PRESIDENT:

Date Reported  
and Adopted  
JUN 16 1980

Your Committee on *Finance*

to which was referred

C.B. 101233

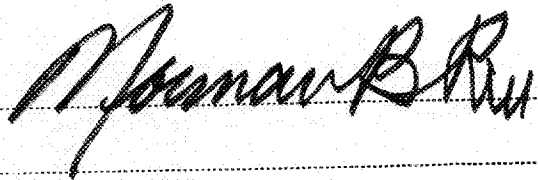
Re the procurement of goods & services by the City from women's business enterprises and minority business enterprises.

Relating to the procurement of goods and services by the City of Seattle by women's business enterprises and minority business enterprises, establishing requirements for ensuring full and equitable opportunities for such businesses to provide goods and services to the City, and providing procedures and penalties to enforce compliance.

6/5/80

Pass as Amended

Finance



Chairman

Chairman

Committee

Committee

# Affidavit of Publication

## STATE OF WASHINGTON KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

Ordinance No. 109113

was published on June 26, 1980

*P. Blaw*  
Subscribed and sworn to before me on

June 26, 1980

*J. Mahayo*  
Notary Public for the State of Washington,  
residing in Seattle.





AN ORDINANCE relating to the procurement of goods and services by the City of Seattle from women's business enterprises and minority business enterprises, establishing requirements for ensuring full and equitable opportunities for such businesses to provide goods and services to the City, and providing procedures and penalties to enforce compliance.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. SHORT TITLE. This ordinance shall be entitled the "Women's and Minority Business Utilization Ordinance" and may be cited as "the WMBE Ordinance."

Section 2. FINDINGS. Upon full consideration of all relevant facts, the City Council hereby finds that:

(A) Past societal discrimination, the City's overall contracting process, difficulties in the financing and bonding market, and problems obtaining credit and insurance, have had the effect of underutilization of women's business enterprises and minority business enterprises in contracts awarded by the City of Seattle, and have contributed to the underdevelopment of such businesses;

(B) As a result of this past discrimination against women's business enterprises and minority business enterprises, women and minorities have been deprived by numerous employment opportunities;

(C) It is in the best interests of the City of Seattle to promote the equitable utilization of women's business enterprises and minority business enterprises in City contracting; and

(D) The requirements of this ordinance are necessary to overcome the present effects of discrimination, and are designed to achieve the goal of equitable utilization of women's business enterprises and minority business enterprises, while at the same time maintaining a high quality of goods and services provided to the City through competitive bidding as required by State law and the City Charter.

Section 3. DECLARATION OF POLICY. It is the policy of the City of Seattle to ensure the full and equitable participation by women's business enterprises and minority business enterprises in the provision of goods and services to the City on a contractual basis. The ultimate goal of this ordinance is to increase the use of women's business enterprises and minority business enterprises above the present low level to a level more comparable to the representation of women and minorities in the population.

Section 4. SCOPE. The provisions of this ordinance shall apply to all contracts awarded by the City and services utilized by the City except as may be hereinafter specifically exempted, and shall be liberally construed for accomplishment of its policies and purposes.

Section 5. DEFINITIONS.

(A) "Bidder" means any business which submits a bid or proposal to provide goods or services to the City.

(B) "Combination Women's and Minority Business Enterprise" means a business for profit which is not owned and controlled by either women or minorities, but which is owned and controlled by a combination of women and minorities.

(C) "Contract Awarding Authority" means the City officer, department, commission, employee, or board authorized to enter into contracts on behalf of the City.

(D) "Director" means the Director of the Department of Human Rights.

(E) "Minority", "Minorities", or "Minority person" means ethnic persons of color residing in the United States or its territories, including but not limited to American Indians, Asians (including, but not limited to, Chinese, Filipinos, Japanese, Koreans, Pacific Islanders and Samoans), Blacks, Hispanics, and Native Alaskans.

(F) "Minority Business Enterprise" means a business for profit which is owned and controlled by one or more minority persons. For the purpose of this definition, the non-minority owner or owners of the minority business enterprise may not be the owner or operator, in whole or in part, of a business engaged in the same or similar type of business activity as the minority business enterprise.

(G) "Owned and controlled" means for purposes of determining whether a business is a minority business enterprise, women's business enterprise or combination women's and minority business enterprise, that the minorities, women, or combination of both, as the context requires,

shall possess:

1. ownership of greater than fifty percent (50%) of the business; and
2. control over management, interest in capital, and interest in profit or loss commensurate with the percentage of ownership on which the claim of status under this ordinance is based; and
3. a real and continuing interest in the business.

(H) "Person" includes one or more individuals, partnerships, associations, organizations, trade or professional associations, corporations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, or any group of persons, including any official, agent or employee of the City of Seattle.

(I) "Subcontractor" means any business providing goods or services to a contractor for profit, if such goods or services are procured or used in fulfillment of the contractor's obligations arising from a contract with the City of Seattle, but shall not include businesses providing goods to a contractor whose contract with the City is for the provision of materials, equipment or supplies.

(J) "Women's Business Enterprise" means a business for profit which is owned and controlled by one or more women residing in the United States or its territories; provided that where the women's interest upon which the claim of women's business enterprise status is based on the community property of the woman and her spouse, only fifty percent (50%) of their community property interest will be considered the women's interest for purposes of determining women's business enterprise status. For the purpose of this definition the male owner or owners in a women's business enterprise may not be the owner or operator, in whole or in part, of a business engaged in the same or similar type of business activity as the women's business enterprise.

Section 6. POWERS AND DUTIES.

(A) In addition to duties and powers given to the Director elsewhere, the Director shall:

1. provide information and other assistance to women's business enterprises and minority business enterprises to increase their ability to effectively compete for the award of City contracts;
2. assist City and community agencies to increase women's business enterprise and minority business enterprise participation in City contracts;
3. adopt rules and regulations, consistent with this ordinance and the Administrative Code of the City of Seattle (Ordinance 102228, as amended), establishing standards and procedures for effectively carrying out this ordinance;
4. certify businesses as bona fide women's business enterprises and minority business enterprises and maintain a listing of such bona fide businesses for use by contract awarding authorities and contractors; and
5. recommend to the Mayor appropriate goals for minority and women's business enterprise utilization.

(B) The requirements of this ordinance are in addition to those imposed by the United States or the State of Washington as a condition of financial assistance or otherwise; therefore, the Director may authorize the substitution of such State or Federal women's business enterprise and minority business enterprise requirements for the requirements of this ordinance whenever such State or Federal requirements are substantially the same as those of this ordinance.

(C) The Director may enter into cooperative agreements with other government agencies concerned with increasing the utilization of women's or minority business enterprise in government contracting, subject to the approval of the legislative authority of the City of Seattle.

(D) In order to enhance the successful achievement of the policy and goals of this ordinance with respect to women's business enterprises, the Office for Women's Rights shall:

1. provide information and other assistance to Women Business Enterprises to increase their ability to compete effectively for the award of City contracts;

2. assist City and community agencies to increase women and business enterprise participation on City contracts;

3. provide advice and assistance to SBO regarding the adoption of rules and regulations consistent with this ordinance and the Administrative Code of the City of Seattle (Ordinance 102280, as amended) establishing standards and procedures for effectively carrying out this ordinance;

4. develop educational programs and otherwise assist women business enterprises to compete effectively for City contracts;

5. review the progress of departments and awarding authorities toward achievement of their annual goals for the utilization of women business enterprises;

6. make recommendations to the Director of SBO, departments, and awarding authorities to further the policies and goals of this ordinance; and

7. recommend to the Mayor appropriate goals for women's business utilization.

#### Section 7. UTILIZATION GOALS

(A) Except as provided in Section 7(C), below, the Mayor, with the advice of the Director and contract awarding authorities, shall establish separate City-wide annual goals for the utilization of women's business enterprises and for the utilization of minority business enterprises. These goals shall be expressed in terms of a percentage of the total dollar value of all contracts to be awarded by the City, and may be established separately for categories of contracting such as public works, consultant, concession and purchasing contracts. Goals shall be reasonably achievable, and shall be based upon factors such as:

1. the level of participation of women's business enterprises and minority business enterprises on past contracts awarded by the City which have contained minority business enterprise requirements;

2. the level of participation of women's business enterprises and minority business enterprises on contracts awarded by other governmental agencies in the Seattle area which have utilized women's business enterprise and minority business enterprise requirements;

3. the availability of women's business enterprises and minority business enterprises which are capable of providing goods and services to the City; and

4. the degree to which such annual goals will contribute to the achievement of the ultimate goal as set forth in Section 3 of this ordinance.

The City-wide annual goal shall be not less than fifteen percent (15%) for minority business enterprises and not less than three percent (3%) for women's business enterprises.

(B) Except as provided in Section 7(C), below, the Mayor, with the advice of the Director and each contract awarding authority, shall establish separate annual goals for utilization of women's business enterprises and minority business enterprises by that awarding authority; these goals shall be expressed as a percentage of the total dollar value of all contracts to be awarded by the contract awarding authority, and may be established separately by contract category; they shall equal or exceed the City-wide annual goals.

(C) Because of the insufficiency of current information regarding the availability of women's business enterprises, and where necessary to ensure that goals for the utilization of such businesses are reasonably achievable, the Mayor, with the advice of the Office of Women's Rights and the Director, may study the availability of women's business enterprises for City contracting prior to establishing the utilization goals required by Section 7 of this ordinance. Such goals shall be established in any event no later than one year following the effective date of this ordinance.

#### Section 8. UTILIZATION REQUIREMENTS - GENERAL

(A) Contract awarding authorities shall:

1. make every effort to solicit bids and proposals from women's business enterprises and minority business enterprises;

2. to the maximum extent feasible and consistent with State Law, arrange contracting by size and type of work to be performed to most effectively enhance the opportunity for participation by women's business enterprises and minority business enterprises;

3. when advisable, waive bid bonding requirements for and/or make advance payments to women's business enterprises and minority business enterprises whenever such waivers or advances are permitted by the Constitution and the laws of the State of Washington and are appropriate and necessary to achieve the declared policy of this ordinance; and

4. impose such sanctions or take such other actions as are designed to ensure compliance with the provisions of this ordinance, which shall include, but are not limited to:

(a) refusal to award a contract;

(b) suspension of a contract;

(c) withholding of funds;

(d) rescission of a contract based upon a material breach of contract provisions pertaining to women's business enterprise and minority business enterprise utilization;

(e) disqualification of a bidder, contractor, subcontractor, or other business from eligibility for providing goods or services to the City for a period not to exceed two years; no contract shall be awarded to any person or business which is disqualified from doing business with the City under the provisions of this ordinance or Ordinance 101432, nor shall any contract be awarded to any person or business which is disqualified from doing business with any governmental agency based on failure to comply with women's or minority business or contract compliance requirements which are substantially the same as those of this ordinance or Ordinance 101432.

(B) In addition to such other requirements as may be set forth elsewhere, the following shall apply to all contracts awarded by the City:

1. bid conditions, requests for proposals and all other specifications for contracts awarded by the City shall require that where subcontracting is utilized in performing the contract, the bidder or proposer, prior to the submission of bids or proposals, must make every effort to subcontract to or purchase from women's business enterprises and minority business enterprises. Such specifications shall require the bidder to keep records of such efforts adequate to permit a determination of compliance with the specifications;

2. contracts shall incorporate by reference this ordinance and shall provide that the failure of any bidder, contractor or subcontractor to comply with any of its requirements shall be a material breach of contract;

3. contracts shall require that during the term of the contract, the contractor shall:

(a) fulfill the women's business enterprise and minority business enterprise participation commitments submitted with their bid or proposal;

(b) continue to make every effort to utilize women's business enterprises and minority business enterprises; and

(c) require that their subcontractors make every effort to utilize women's business enterprises and minority business enterprises;

(d) maintain records reasonably necessary for monitoring their compliance with the provisions of this Ordinance.

4. As required by R.C.W. 35.22.650, and in addition to the requirements of this ordinance, the following clause shall be contained in all public works contracts exceeding the sum of Ten Thousand Dollars (\$10,000.00), or Fifteen Thousand Dollars (\$15,000.00) for construction of water mains:

Contractor agrees that he shall actively solicit the employment of minority group members. Contractor further agrees that he shall actively solicit bids for the subcontracting of goods or services from qualified minority businesses. Contractor shall furnish evidence of his compliance with these requirements of minority employment and solicitation. Contractor further agrees to consider the grant of subcontracts to said minority bidders on the basis of substantially equal proposals in the light most favorable to said minority businesses. The contractor shall be required to submit evidence of compliance with this section as part of the bid. As used in this clause, the term 'minority business' means a business at least fifty-one percent of which is owned by minority group members. Minority group members include, but are not limited to, blacks, women, native Americans, Orientals, Eskimos, Aleuts, and Spanish Americans."

5. Whenever contract supplements, amendments or change orders are made which increase the total dollar value of the contract by more than ten percent (10%) of the dollar value of the original contract, the contractor shall comply with those provisions of this Ordinance which applied to the original contract with respect to the supplement, amendment or change order;

6. All contracts or other agreements between the City of Seattle and other governmental or quasi-governmental agencies, or public corporations, whereby such agencies receive money from or through the City for the purpose of contracting with businesses to perform public improvements shall require such agencies to comply with the provisions of this ordinance in awarding and administering such contracts.

(C) For the purpose of determining women's and minority business enterprise participation:

1. contracts or subcontracts awarded to joint ventures in which one or more women's business enterprises or minority business enterprises are combined with one or more businesses which are not women's or minority business enterprises shall be deemed to be awarded to women's or minority business enterprises only to the extent of the women's or minority business' participation in the joint venture;

2. one-half the dollar value of any contracts or subcontracts awarded to partnerships in which a woman is a 50% partner with a non-minority male not her husband, or in which a minority is a 50% partner with a non-minority, shall be deemed to be awarded to a women's business enterprise or minority business enterprise; and

3. contracts or subcontracts awarded to combination women's and minority business enterprises shall be deemed to be awarded to a women's business enterprise to the extent of women's ownership and to a minority business enterprise to the extent of minority ownership.

(D) To the extent permissible under applicable law, and where a contract awarding authority does not appear able to achieve its utilization goals by another available alternative, then a contract awarding authority may limit competition for certain negotiated contracts to women's business enterprises or minority business enterprises, or both.

#### Section 9. UTILIZATION REQUIREMENTS - PUBLIC WORKS, CONSULTANT AND OTHER SERVICE CONTRACTS

(A) For all contracts for public works and contracts for consultant or other services, the estimated cost of which exceeds Five Thousand Dollars (\$5,000), the contract awarding authority shall furnish the Director with an informational copy of all bid conditions and requests for proposals, if any, along with a statement identifying all funds provided by any other governmental agency which will be used in payment of the contract, prior to solicitation of bids or proposals, and the Director may make recommendations to the contract awarding authority with respect to

(Continued on Page 23 of Ordinance 1)

Ordinance No. 199113 continued from Page 21 provisions pertaining to women's business enterprise and minority business enterprise utilization.

(B) Contracts for public works the estimated cost of which exceeds Ten Thousand Dollars (\$10,000), and contracts for consultant or other services the estimated cost of which exceeds Fifteen Thousand Dollars (\$15,000), shall be awarded and administered in accordance with the following standards and procedures:

1. In addition to the requirements set forth in Section 8(B) and elsewhere bid conditions and requests for proposals shall require bidders and proposers to include in their bid or proposal both minority business enterprise and women's business enterprise participation in the contract in a percentage which equals or exceeds the awarding authority's annual goals. Except as provided in Section 7(C) and Section 8(B)(2), bids or proposals not including both minority business enterprise and women business enterprise

participation in an amount which equals or exceeds that required by the bid conditions or request for proposals shall be declared non-responsive.

a. Bids and proposals shall identify the particular minority business enterprises and women's business enterprises to be utilized in performing the contract, specifying for each the dollar value of the participation, the type of work to be performed and such information as may reasonably be required to determine the responsiveness of the bid or proposal.

b. During the term of the contract any failure to comply with the levels of minority business enterprise or women's business enterprise participation identified in the bid or proposal shall be considered a material breach of contract.

2. A contract awarding authority or a department may request the Director to waive the set aside requirements of this subsection, or to reduce the amount of the set aside, for either or both minority business enterprises or women business enterprises, by submitting the reasons therefore in writing to the Director prior to solicitation of bids or proposals.

(a) The Director may grant such a waiver or reduction upon determination that:

1. the reasonable and necessary requirements of the contract render subcontracting or other participation of businesses other than the bidder or proposer infeasible; or

2. sufficient qualified minority and women's business enterprises capable of providing the goods or services required by the contract, are unavailable in the market area of the project, despite every feasible attempt to locate appropriate minority and women's business enterprises.

(b) Only the requirements of Section 9(B) are waived by a waiver under this paragraph.

(c) Any reductions in set aside amount granted by the Director shall specify the amount to which the set aside has been reduced.

(d) Whenever the Director denies a request to waive or reduce a set aside, the contract awarding authority may appeal that denial to the Mayor, whose decision on the request shall be final.

(C) All bid conditions and requests for proposals for consultant and other service contracts the value of which does not exceed Fifteen Thousand Dollars (\$15,000), shall require bidders and proposers to make every effort to utilize women's business enterprises and minority business enterprises as subcontractors and suppliers. All bids and proposals shall identify projected women's business enterprise and minority business enterprise participation, and the efforts made to utilize women's business enterprises and minority business enterprises.

(D) For all consultant and other service contracts the value of which exceeds One Thousand Dollars, (\$1,000) the contract awarding authority shall solicit proposals from qualified minority and women's business enterprises. The contract awarding authority shall notify the Director prior to solicitation of bids or proposals whenever such qualified businesses cannot be identified, unless the Director has waived such notification requirement based on the known unavailability of such businesses. The Director shall attempt to identify such businesses, and if successful, shall notify the awarding authority, who shall provide such women's business enterprise or minority business enterprise every practical opportunity to submit bids or proposals.

(E) All consultant selection panels and the Seattle Design Commission shall give appropriate consideration to the utilization goals of the contract awarding authority in evaluating, recommending and selecting contractors. The Director may assist such panels and the Design Commission in evaluating the impact of their recommendation or selection on achievement of the contract awarding authority's utilization goals.

Section 10. UTILIZATION REQUIREMENTS - PURCHASING CONTRACTS. All contracts awarded by the Purchasing Agent for the purchase of materials, equipment, supplies or services, the estimated cost of which equals or exceeds One Thousand Dollars (\$1,000.00), shall be awarded and administered in accordance with the following standards and procedures:

The Purchasing Agent shall solicit bids from women's business enterprises and minority business enterprises qualified to supply the required materials, equipment, supplies or services. The Director shall

provide the Purchasing Agent with a list of women's business enterprises and minority business enterprises qualified to provide each of those commodities which the Purchasing Agent indicates are required by the City. The Purchasing Agent shall notify the Director prior to solicitation of bids whenever no such qualified businesses are available, unless the Director waives such notification based on the known unavailability of such qualified businesses to perform a particular contract. The Director shall attempt to identify such qualified businesses, and if successful, shall notify the Purchasing Agent of their availability; the Purchasing Agent shall provide such women's business enterprises and minority business enterprises every practical opportunity to submit bids.

Section 11. UTILIZATION REQUIREMENTS - LEASE, CONCESSION AND OTHER CONTRACTS. All leases in which the City is the lessee and all contracts for concessions shall be awarded and administered in accordance with the following standards and procedures:

(A) City departments shall solicit proposals from women's business enterprises and minority business enterprises qualified to enter into leases or concession contracts. Whenever a department, after investigation, determines that no such qualified enterprises are available, the Director shall be so notified prior to signing of the lease or award of the concession contract, unless the Director waives such notification based on the known unavailability of such qualified businesses to perform a particular contract.

The Director may attempt to identify such qualified businesses, and if successful, shall notify the contract awarding authority of their availability.

The contract awarding authority shall provide such women's business enterprises and minority business enterprises every practical opportunity to submit bids or proposals.

(B) All requests for concession proposals shall require concessionaires to make every good faith effort to utilize women's business enterprises and minority business enterprises as subcontractors if subcontractors are used. Concession proposers shall be required to submit their projected utilization of women's business enterprises and minority business enterprises along with a description of the efforts made to utilize such businesses.

(C) All City departments, commissions, boards, officers and employees, in the deposit of City funds and performance of their other official duties, shall make every good faith effort to equitably utilize the services of women's business enterprises and minority business enterprises. Such services shall include, but are not limited to, the financial services of banks, savings and loan companies and other commercial financial institutions, arrangement of travel and accommodations when traveling on official City business, and legal services to City departments, commissions and boards shall submit to the Director on an annual basis a written report on the efforts made pursuant to this subsection. The City Treasurer, City Comptroller and Retirement Board shall report annually to the Mayor on their utilization of financial institutions which are women's business enterprises and minority business enterprises.

#### Section 12. EXCEPTIONS AND WAIVERS.

(A) A contract awarding authority may waive the utilization requirements of this ordinance except for those of Section 9(B), for a specific contract under the following circumstances:

1. whenever the contract awarding authority finds with the advice of the Director that needed goods or services are available only from a sole source, and the prospective contractor is not currently disqualified from doing business with the City under the provisions of Section 8(B)5. of this Ordinance, Ordinance 101432, or from doing business with any governmental agency based on a failure to comply with women's or minority business enterprise or contract compliance requirements; or

2. if the contract awarding authority certifies in writing to the Director prior to contract award:

(a) that an emergency exists which required goods or services to be provided with such immediacy that they are unable to comply with the requirements of this ordinance; and

(b) that the prospective contractor is a women's business enterprise or minority business enterprise, or if not, that the prospective contractor will make every good faith effort to subcontract to women's business enterprises and/or minority business enterprises should subcontracting be utilized.

3. if the contract awarding authority certifies in writing to the Director that the contract is necessary to respond to an emergency which endangers the public health or safety, provided that such certification shall be made within seven (7) days after the contract award.

(B) The Mayor may waive the utilization requirements of this Ordinance whenever he or she finds that compliance with the requirements of the Ordinance would impose an unwarranted economic burden or risk on the City of Seattle when compared to the degree to which the purpose and policy of this Ordinance would be furthered by requiring compliance.

(C) The requirements of this ordinance shall not apply to contracts with private, non-profit organizations for the delivery of social

#### Section 13. MONITORING, REPORTING AND COMPLIANCE.

(A) The Director shall monitor compliance with these requirements during the term of the contract. If the Director determines that there is cause to believe that a contractor or subcontractor has failed to comply with any of the requirements of this ordinance, rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining to women's business enterprise or minority business enterprise utilization, the Director shall so notify the contract awarding authority and the contractor. The Director shall attempt to resolve the noncompliance through conciliation. If the noncompliance cannot be resolved, the Director shall submit to the contract awarding authority and the contractor a written finding of noncompliance. The contracting authority shall give the contractor an opportunity to be heard, and if the contract awarding authority concurs with the finding of the Director, it shall impose such sanctions or take such other action as will effectuate the purposes of this ordinance.

(B) Whenever the Director finds after investigation that a contract awarding authority has failed to comply with the provisions of this ordinance, a written finding specifying the nature of the noncompliance shall be transmitted to the contract awarding authority; and

The Director shall attempt to resolve any noncompliance through conference and conciliation. Should such attempt fail to resolve the noncompliance, the Director shall transmit a copy of the finding of noncompliance along with a finding that conciliation was attempted and failed to the Mayor who shall take appropriate action to secure compliance.

(C) The Director may require such reports, information, and documentation from contractors, bidders, contract awarding authorities, and the head of any department, division, or office of the City of Seattle, as are reasonably necessary to determine compliance with the requirements.

(D) In addition to the requirements set forth in subsection 13(C), awarding authorities shall maintain accurate records for each contract awarded, its dollar value, the nature of the goods or services to be provided, the name of the contractor awarded the contract, the efforts it employed to solicit bids from and award the contract to women's business enterprises and minority business enterprises, and all subcontracts awarded by the contractor, identifying for each its dollar value, the nature of the goods or services provided, and the name of the subcontractor.

(E) The Director shall submit an annual report to the Mayor and the City Council on the progress of the City toward the utilization goals established by Section 7 of this ordinance, together with an identification of problems and specific recommendations for improving the City's performance.

Section 14. SEVERABILITY. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 16. EFFECTIVE DATE. This ordinance shall take effect and be in force thirty (30) days after its passage and approval by the Mayor, otherwise, it shall take effect at the time it shall become a law under the provisions of the City Charter.

Passed by the City Council the 16th day of June, 1980, and signed by me in open session in authentication of its passage this 16th day of June, 1980.

PAUL KRABBEI,  
President of the City Council  
Approved by me this 17th day of June, 1980.

CHARLES ROYER,  
Mayor  
Filed by me this 17th day of June, 1980.

Attest: TIM HILL,  
City Comptroller and City Clerk  
(Seal)  
By G. C. HUBBERT,  
Deputy Clerk

Publication ordered by TIM HILL, Comptroller and City Clerk.  
Date of Official Publication in the Daily Journal of Commerce  
Seattle, June 24, 1980.