

Ordinance No. 6304

AN ORDINANCE related to contracts; requiring contractors on City contracts to provide employee benefits to their employees with domestic partners equivalent to those provided to their employees with spouses; and adopting Chapter 3.18 entitled "Equal Benefits - City Contracts - Non-Discrimination in Benefits" of the Olympia Municipal Code.

WHEREAS, employee benefits routinely comprise between 30 to 40 percent of total employee compensation; and

WHEREAS, discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work; and

WHEREAS, it is the City's intent, through the contracting practices outlined herein, to equalize the total compensation between similarly situated employees with spouses and employees with domestic partners.

THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. The Olympia Municipal Code is hereby amended to include Chapter 3.18 which shall be as follows:

CHAPTER 3.18

EQUAL BENEFITS

CITY CONTRACTS - NON-DISCRIMINATION IN BENEFITS

Sections:

- 3.18.010 Definitions.
- 3.18.020 City Contracts -- Non-Discrimination in Benefits.
- 3.18.030 Limitations.
- 3.18.040 Powers and Duties of the City.
- 3.18.050 Appeals.
- 3.18.060 Effective Date.

3.18.010 Definitions. For the purposes of this ordinance:

- A. "Contract" means a contract for public works, consulting, or supplies, material, equipment or services estimated to cost fifty thousand dollars (\$50,000) or more;
- B. "Contract awarding authority" means a City Department, Council, employee, or board authorized to enter into or to administer contracts on behalf of the City;
- C. "Domestic partner" means any person who is registered with his/her employer as a domestic partner or, in the absence of such employer-provided registry, is registered as a domestic partner with a governmental body pursuant to state or local law authorizing such registration. Includes same sex and opposite sex partners.

- D. "Employee benefits" means the provisions of health insurance benefits (medical, dental, vision), provided that it does not include benefits to the extent that the application of the requirements of this ordinance to such benefits may be preempted by federal or state law.

3.18.020 City Contracts - Non-Discrimination in Benefits.

- A. No contractor on a City contract shall discriminate in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular benefit to domestic partners, so long as the contractor provides the employee with a cash equivalent.
- B. Other options for compliance allowed. Provided that a contractor does not discriminate in the provision of benefits between employees with spouses and employees with domestic partners, a contractor may:
1. Elect to provide benefits to individuals in addition to employees' spouses and employees' domestic partners;
 2. Allow each employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent benefits; or
 3. Provide benefits neither to employees' spouses nor to employees' domestic partners.
- C. Requirements inapplicable under certain conditions. The City may waive the requirements of this ordinance where:
1. Award of a contract or amendment is necessary to respond to an emergency;
 2. The contractor is a sole source;
 3. No compliant contractors are capable of providing goods or services that respond to the City's requirements;
 4. The contractor is a public entity;
 5. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
 6. The City is purchasing through a cooperative or joint purchasing agreement.
- D. The City shall reject an entity's bid or proposal, or terminate a contract, if the City determines that the entity was set up, or is being used, for the purpose of evading the intent of this ordinance.
- E. No contract awarding authority shall execute a contract with a contractor unless such contractor has agreed that the contractor will not discriminate in the provision of employee

benefits as provided for in this ordinance. A signed *Equal Benefits Compliance Declaration* shall be completed by the contractor for all contracts awarded.

- F. All contracts awarded by the City shall contain provisions prohibiting discrimination in the provision of employee benefits, including provisions containing appropriate remedies for the breach thereof as prescribed by this ordinance.

Section 3.18.030 Limitations. The requirements of this ordinance shall apply only to those portions of a contractor's operations that occur:

- A. Within the City;
- B. On real property outside of the City if the property is owned by the City or if the City has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the City; and
- C. Elsewhere in the United States where work related to a City contract is being performed. The requirements of this ordinance shall not apply to subcontracts or subcontractors of any contract or contractor.

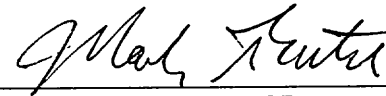
Section 3.18.040 Powers and duties of the City. The City Manager shall have the power to:

- A. Adopt rules and regulations in accordance with this ordinance, establishing standards and procedures for effectively carrying out this ordinance;
- B. Determine and impose appropriate sanctions and/or liquidated damages for violation of this chapter by contractors including, but are not limited to:
 - 1. Disqualification of the contractor from bidding on or being awarded a City contract for a period of up to five years; and
 - 2. Contractual remedies, including, but not limited to, liquidated damages and termination of the contract.
- C. Examine contractor's benefit programs covered by this ordinance;
- D. Allow for remedial action after a finding of non-compliance, as specified by this ordinance;
- E. Perform such other duties as may be required by ordinance or which are necessary to implement the purposes of this ordinance.

3.18.050 Appeals. Any aggrieved party may appeal a decision of the City to the City Manager by the submittal of a written request within ten (10) working days of the decision to be appealed. The City Manager's decision will be in writing with findings upon which the decision was made. Subsequent appeal will be to the Thurston County Superior Court.

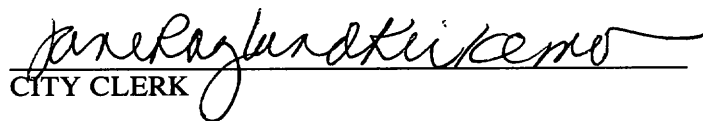
3.18.060 Effective Date. The provisions of this chapter shall apply to any contract awarded on or after January 1, 2005. On or about March 1, 2006, City staff will present to the Council a status report on the implementation of these provisions.

Section 2. Severability. If any provision of this ordinance, or its application to any person or circumstances, is held invalid, the remainder of this ordinance, or application of the provision to other persons or circumstances, shall be unaffected.

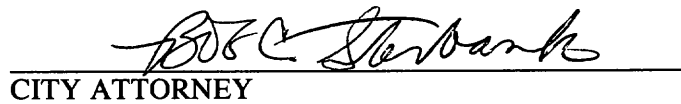


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

Passed: March 16, 2004
Approved: March 16, 2004
Published: March 19, 2004

SUMMARY OF ORDINANCE 6304

On March 16, 2004, the Olympia City Council passed 6304 - AN ORDINANCE related to contracts; requiring contractors on City contracts to provide employee benefits to their employees with domestic partners equivalent to those provided to their employees with spouses; and adopting Chapter 3.18 entitled "Equal Benefits - City Contracts - Non-Discrimination in Benefits" of the Olympia Municipal Code.

The full text of Ordinance No. 6304 may be obtained for a fee at Olympia City Hall, 900 Plum Street, SE or will be mailed upon request for a fee. Call (360)753-8325 or write to City of Olympia, P.O. Box 1967, Olympia, WA 98507-1967.

Do not publish below this line

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