



City of Tacoma
City Attorney's Office - City Clerk's Office

April 25, 2019

Honorable Mayor Woodards and
Members of the City Council

SUBJECT: Tacoma Community Workforce Advisory Committee Report

I am forwarding the attached report from the Tacoma Community Workforce Advisory Committee relating to the hiring of residents who live in economically distressed areas of the City and Women and Minority Business Enterprises in City Public Works projects and as to whether a Community Workforce Agreement would promote hiring from these two groups.

A formal presentation on the report and recommendations will be given to the City Council at the May 21, 2019 Study Session.

Please let me know if you have any questions.

A handwritten signature in blue ink, appearing to read "Doris Sorum".

Doris Sorum
City Clerk

Report of the Tacoma Community Workforce Advisory Committee

March 2019

Executive Summary

As Tacoma seeks to promote a vibrant and diverse economy with good jobs for all Tacoma residents, and ensure that residents are thriving with abundant opportunities for life-long learning, the legacy of discriminatory treatment against women and minorities is a central challenge. The Tacoma Community Workforce Advisory Committee was convened in December 2018 at the direction of the City Council. Our charge is as follows:

...[T]o review hiring of (1) residents who live in economically distressed areas of the City and (2) Women and Minority Business Enterprises (WMBE) in City public works projects and provide a recommendation as whether a Community Workforce Agreement (CWA)... would promote hiring from these two groups. The Advisory Committee will review a draft CWA and PHO developed by staff and offer recommendations on these draft documents. The Advisory Committee may consider and recommend other potential City actions as well.

This report presents our recommendations with respect to this mission. The issues involved here go to the heart of the livelihood of many of the Committee members. The subject matter is complex. The challenge centers around how to create a level playing field for all those seeking to join or already participating in the construction workforce, and for public works contractors of all types and sizes, unionized and not.

Issues central to drafting a dual-purpose CWA relate to how to engage both union and open shop firms and individuals on a single public works project, under terms negotiated in advance of any contractor being selected. This is not a conflict around “ends” but “means.” Our recommendations are as follows:

- We share consensus support for the City’s dual goals of promoting hiring of residents of economically distressed areas and WMBEs in City public works projects.
- We also support by consensus implementing race and gender conscious goals in public works contracting and hiring to the extent permitted by law to address existing disparities.
- **We are not convinced that a dual purpose CWA can be constructed that will effectively promote both of the City’s goals. We are aware of no CWAs with an equivalently broad scope. Specifically, we are not convinced that open shop WMBE firms can effectively be placed on a level playing field with unionized firms under a CWA.** Having looked at several potential CWA models, we identify four core structural challenges:
 - Implications for WMBEs of meeting union obligations—dual pay; core employee limits, and the sourcing of priority hires
 - Unionized contractors have collective bargaining agreements that may conflict with a CWA

- Unions have foundational concerns that a CWA not disrupt their dispatch procedures from union hiring halls
- Ideally, contractors should be a signatory to an agreement like this – as they are in a Project Labor Agreement (PLA) – but no one can represent and bind all potential contractors in advance
- Rather than pursue a dual-purpose CWA, we recommend strengthening City policies on WMBE and priority hire goals by ordinance while continuing to explore ways to resolve the challenges we have identified. The Committee was divided on this recommendation and a minority statement with respect to this is included in the report; two other minority statements are also included.
- The Committee identifies over two dozen separate actionable recommendations, not predicated on adoption of a CWA, that we believe will promote the City’s dual goals.
- To inform Council’s future consideration of these issues, the Committee provides information on key needs and concerns of each represented stakeholder group (See Table 5).

We see this report as a first phase of effort to address the City’s goals. More work is to come. One starting point we think is promising would be for the City to adopt policies and programs to support the City’s dual goals and monitor their success. This would allow progress towards the goals and provide guidelines for future discussions on CWA-related issues.

Report of the Tacoma Community Workforce Advisory Committee

March 2019

Introduction

Core priorities in the vision for the future of our City, as set forth in *Tacoma 2025*,¹ include securing a vibrant and diverse economy with good jobs for all Tacoma residents, and ensuring that residents are thriving with abundant opportunities for life-long learning. The legacy of discriminatory treatment against women and minorities is a central challenge in achieving this vision. The Tacoma Community Workforce Advisory Committee (“Committee”) was convened in December 2018, at the direction of the City Council, pursuant to Council Resolution 40124. This report presents our recommendations.

The City’s charge to us is as follows:

The mission of the Advisory Committee is to review hiring of (1) residents who live in economically distressed areas of the City and (2) Women and Minority Business Enterprises (WMBE) in City public works projects and provide a recommendation as whether a Community Workforce Agreement (CWA) and/or Priority Hiring Ordinance (PHO) would promote hiring from these two groups. The Advisory Committee will review a draft CWA and PHO developed by staff and offer recommendations on these draft documents. The Advisory Committee may consider and recommend other potential City actions as well. The Advisory Committee will provide its report and recommendations to the Mayor and City Council no later than March 31, 2019.

To say this was a challenging mission would be something of an understatement. The issues involved go to the heart of the livelihood of many of the Committee members. The subject matter is complex and our timeframe was limited. While the goal is to ensure more residents of economically distressed areas, and more small WMBEs benefit from Tacoma’s public works projects, the challenge essentially centers on the question of how to promote a level playing field for all those seeking to join or are already participating in the construction workforce, and for public works contractors of all types and sizes, unionized and not.

Committee Process

The Committee met seven times between December 2018 and March 2019. Committee members were drawn from a broad range of stakeholders with interests and experience relative to our mission, including: union leaders; large and small construction contractors some of whom run open-shop firms and some of whom have a unionized labor force; owners of women and minority owned businesses; representatives from minority business advocacy groups; representatives from open shop apprentice programs; the executive director of the

¹ Tacoma 2025 is the City’s strategic plan adopted in 2014.

Tacoma Housing Authority; and several local advocates for residents of economically distressed communities. At the direction of City Council members, we were joined at the table mid-way in our process by two additional stakeholders who served as non-voting members but participated in our deliberations. A list of Committee Members (and the supporting staff team) is presented at **Attachment A**.

Mark Martinez of the Pierce County Building Trades and Tim Attebery of the Associated General Contractors of Washington (AGC) served as Co-Chairs of the Committee. We were supported by City staff and an independent facilitator.

Early in our process, we adopted a charter with rules to guide our decision making. The charter includes a two-tiered approach to Committee recommendations:

- *A Consensus Recommendation* is one approved by no fewer than 80% of Committee Members present and voting.
- *A Recommendation* of the Committee is one approved by no fewer than 60% but less than 80% of Committee members present and voting.

Our charter further required that this final report be approved by not less than 60% of Committee members present and voting, and allowed Committee members objecting to a recommendation to submit a summary minority statement for inclusion in this report. The draft report was unanimously approved by Committee members present at our last meeting as an accurate representation of the Committee's process and recommendations, and 14 of 15 voting members reaffirmed this after reviewing the final report incorporating changes to the report we requested at our last meeting.² There are three minority statements submitted with this report, presented at **Attachment G**.

The Committee's process included consideration of the following items:

Grounding in Committee purpose, City procurement processes and current City programs

- Council Resolution 40124 directing creation of the Committee.
- Presentation from City staff about the "LEAP" and "SBE" programs — current City programs to support residents of economically distressed areas and small businesses.
- An overview of the City's current public works procurement processes and the number and size of City public works projects in recent years.
- The mission and programs of Workforce Central, an organization created by the City and Pierce County to lead and oversee the regional workforce development system.

Review of current state law and some legal matters related to our mission

- Presentation on Statewide initiative I-200, which has been interpreted to prohibit race or gender conscious decisions in public contracting, but does not apply to federally funded projects.
- Information outlining an unfair labor practice filed in December 2018 by AGC with the National Labor Relations Board challenging the legality under the National Labor

² One Committee member did not respond.

Relations Act of a Community Workforce Agreement (“CWA”) recently negotiated by the Washington State Department of Transportation with a number of unions.

Review of recent City-commissioned study on WMBEs and CWAs

- The recently completed disparity study conducted by Griffin & Strong on behalf of the City. This study focused on assessing disparity in hiring of women and minority businesses in Tacoma and making recommendations for addressing those disparities.
- A supplemental memorandum by Griffin & Strong related to the firm’s perspectives on community workforce agreements.
- Committee Members had an opportunity to question staff from Griffin & Strong about their findings and process at our second meeting.

Information about other approaches to meeting priority hire and WMBE participation goals

- Information about the approach the Tacoma Housing Authority recently took on two major projects in which they successfully advanced local hire and WMBE goals.

Review and discussion of existing CWAs and a proposed Tacoma Draft CWA

- The 2017 Seattle CWA. We also heard a presentation from City of Seattle staff involved in oversight of that agreement, and their results observed so far.
- Limited information City Staff were able to gather regarding the experience of some other communities around the country with community workforce agreements.
- A draft CWA prepared by the Deputy City Attorney (the “Tacoma Draft CWA”).
- A comparison of the Tacoma Draft CWA with the Seattle CWA and a third proposed CWA submitted by the Pierce County Building Trades.
Note that we did not review a separate Priority Hire Ordinance (“PHO”) because a PHO is essentially simply an ordinance implementing the CWA.

Committee Deliberations

- Offered suggestions via a “homework” exercise on ways to address some of the key challenges and conflict points arising in CWAs.
- Completed a rating exercise design to gauge our level of support for all the “homework” ideas as well as the recommendations in the Griffin & Strong Study and other ideas that arose in our deliberations.
- Discussed the results of the rating exercise and deliberated on which items to forward as recommendations.
- Deliberated on what to recommend with respect to the Tacoma Draft CWA.
- Reviewed a draft of this report; provided direction on edits to finalize the report, and voted to support its submittal to Council.

The Challenge

- **What problem is the City seeking to solve through a CWA?**

In sum, to create conditions in City public works contracting processes that will achieve (i) proportionate representation among workers hired of residents of economically distressed areas of the City (and adjacent areas served by Tacoma Public Utilities (TPU)) on City public works projects, and (ii) the proportionate utilization of WMBE firms as contractors and subcontractors in City public works projects. Defining terms here is important:

“City Public Works Projects” are construction projects other than ordinary maintenance executed at the cost of the City. Services and supplies are excluded. The City (including TPU) averaged about 80 public works projects a year between 2014 and 2017. Sixteen of these had a total contracted cost in excess of \$1 million; three were over \$5 million.

“Residents of economically distressed zip codes” are *defined by the City* to mean residents of zip codes in the Tacoma Public Utilities Service Area that meet two out of three of the thresholds of:

1. Residents living under 200% of the federal poverty line in terms of persons per acre (69th percentile)³
2. Unemployed people in terms of persons per acre (45th percentile), and/or
3. People 25 years or older without a college degree in terms of persons per acre (75th percentile)

The estimated total population of these zip codes is 370,893. The City has not conducted a disparity study to quantify the under-representation of these groups in City public works hiring. A map of these zip code areas is presented at **Attachment B**.

Women and Minority Business Enterprises (WMBEs) are businesses in which a woman and/or minority owns or controls the business. Because this could apply to firms of *any size, including very large firms*, we agree that the City should focus its WMBE efforts on those firms meeting the State of Washington certification requirements as such. These require that a woman and/or minority owns at least 51% of the business; controls the management of day-to-day operations and is a U.S. citizen or permanent US resident. In addition, WMBE firms must establish:

1. Owners have a personal net worth less than \$1.32 M (excluding the value of their residence and business)
2. The business has not had annual gross receipts in excess of \$23.98 million over a three-year period.

³ In other words, the first threshold is that the zip code must rank in the 69th percentile or higher of all zip codes when looking at the *ratio* of (1) residents living under 200% of the federal poverty line to (2) persons per acre in the zip code.

The Washington State Office of Minority and Women’s Business Enterprise (State OMWBE) has five related types of certifications for WMBEs. See **Attachment C** for additional detail. Note that the conditions for certification change over time: these are the current requirements.

The City of Tacoma recently engaged the Atlanta-based firm of Griffin & Strong to conduct a Disparity Study to determine if a disparity exists in City engagement of WMBEs, and to offer recommendations to address that disparity. The study did *not* evaluate disparities in workforce hiring (which would evaluate representation of residents of economically distressed zip codes).

The Griffin & Strong Study found significant under-utilization in *prime contract awards by the City* for FY2012-2016 in construction, across all minority groups and women owned businesses, excepting Hispanic American owned firms (the under-representation found for that group was not statistically significant). Total *availability* of WMBE contractors *in construction* was estimated at 15.63% of total contractors. In contrast, *utilization* of WMBE’s by the City as *prime contractors* was at 6.45%, and *utilization* of WMBE firms as *subcontractors* on city construction projects as at 4.66% of all such subcontracts.⁴

Based on demonstrated disparity between availability and utilization, Griffin & Strong offered a series of recommendations to the City to reduce that disparity. The Griffin & Strong Study can be found online at [insert link]

Small Business Enterprises (SBEs) or Disadvantaged Business Enterprises (DBEs). The City uses the term SBE; the qualifications are similar to the state certification requirements for “Socially and Economically DBEs” (**SEDBEs**), *with an additional local requirement specific to Tacoma*. The term **DBE** is used at the state level by WSDOT and has similar requirements.

The Tacoma SBE requirements are similar, but not identical to state SEDBE / MBE or WBE certification criteria (in part because the SBE term encompasses all three of these other terms and is gender and race neutral):

1. Owners must have a personal net worth less than \$1.32 M (excluding the value of their residence and business)
2. Company gross receipts for any 3 consecutive years in the last 6 years may not exceed \$36.5M for public works companies (slightly higher than the state SEDBE certification)

In addition, to qualify for the Tacoma SBE program, a Tacoma or Pierce County office or residence connection must be documented.

What does the City do today in support of public works hiring of residents of economically distressed areas and WMBEs?

The City operates two programs—“LEAP” and “SBE”—aimed at these goals, but in large part due to I-200, both programs are race and gender neutral. The “LEAP” and “SBE” Programs are

⁴ *City of Tacoma Disparity Study Final Report*, August 2018, by Griffin & Strong PC, pp. 10-12. There is considerable additional detail about disparities by job type/construction sector in the Griffin & Strong report.

summarized in **Tables 1 and 2**. Note that the SBE program could be revised to incorporate narrowly tailored race and gender goals now that the City has conducted a WMBE disparity study. A *second disparity study* focused on *workforce availability* would be needed as a precursor to incorporating gender or race specific goals in workforce hiring on public works projects.

Table 1 LEAP Program “Local Employment and Apprenticeship Training Program”	
<p>Overview: This program functions as the City’s equivalent of a “priority hire” program. It is intended to incentivize prime contractors to hire residents of economically distressed areas (See map at Attachment B) and the hiring of apprentices from any zip code served by TPU.</p> <p>Key features of the program:</p> <ul style="list-style-type: none"> • Local employment goal of 15 % of total labor hours on a public works project (applies to City public works construction projects over \$750K, or civil projects over \$250K) <ul style="list-style-type: none"> ○ The top priority is to City residents, and then others in the identified economically distressed zip codes within the TPU service area. • Apprenticeship goals of 15% of total labor hours. (public works projects over \$1M) <ul style="list-style-type: none"> ○ Target population includes residents of all areas served by TPU, not just economically distressed zip codes. (This goal can be met by either union or open shop state certified apprentice programs). • Failure to meet goals is tied to a sliding scale penalty per hour of labor on the project. The program is race and gender neutral. • The program is neutral in terms of preferring union versus open shop labor. <p>Challenges: The vast majority of contractors are in compliance with the LEAP goals for priority hire and apprentices. That said, with a staffing level of 0.75 FTE, the program is unable to provide any direct services to either contractors or the labor force. Some contractors report difficulty in meeting the apprenticeship goals in some cases due to a limited number (if any) of qualified apprentices for some types of work (e.g., flaggers).</p>	
Similarities between LEAP and other Priority Hire programs:	Differences between LEAP and other priority hire program:
<ul style="list-style-type: none"> • Goals of program are similar: labor and apprentices • Goals apply to each contract over a certain size • This is a City mandate (although as drafted doesn’t function as such) 	<ul style="list-style-type: none"> • Many priority hire programs include “aspirational” race and gender conscious goals. • Priority hire commitments are typically negotiated between a prime contractor, the project owner, and local labor • Priority hire programs typically demonstrate strong preference for Union labor.

Table 2 SBE Program Small Business Enterprise Program (formerly known as the Historically Under-utilized Business Program (HUB)---re-scoped after passage of I-200)	
<p>Overview of Program: This program functions as the City’s program to promote small businesses on city-funded contracts.</p> <p>Key features of the program:</p> <ul style="list-style-type: none"> • It is focused on firms, not the labor force within those firms. • It is race and gender neutral. • It applies to all City contracts over \$25K. The City assigns each such contract an “SBE use goal” based on the availability of SBEs on a City SBE roster, based on City defined qualifications, not to exceed 22% of the total contract amount. <p>Challenges: Although bidders must identify any SBE firms with which they intend to subcontract, they may identify no such firms without penalty as the code is currently drafted. With a staffing level of 0.6 FTE, all City Departments cannot avail themselves of the program. There is no active recruitment of SBEs, no investigations or wage verifications, and only limited outreach to potentially qualified SBEs is possible. The City’s SBE roster includes only about 150 firms which is insufficient to cover needs on all City projects. Overall, the City’s SBE goals are not being met.</p>	
Similarities between SBE and other WBME programs	Differences between SBE and other WMBE programs
<ul style="list-style-type: none"> • Application to not just public works but other city contracts 	<ul style="list-style-type: none"> • City program is race and gender neutral. • Contractors need not identify a plan for meeting goals, only the scope of SBE work.

In sum, we identified six inter-related challenges:

- There are an insufficient number of apprentices coming into the workforce
- Meeting SBE utilization goals in bids is not a condition of award.
- Prior contractor performance in SBE hiring is not considered in awarding City contracts
- There is insufficient utilization of WMBEs on City funded public works projects
- There is a lack of supportive services for WMBEs
- The City has no goals specifically targeting small WMBE firms

As noted, there are limited resources applied to both the LEAP and SBE programs, so their activities are fairly limited. There are limited statistics on outcomes of either the LEAP or SBE programs.

Community Workforce Agreement as a Potential Solution to the Dual Goals of the City

Our mission, in short, was to evaluate a draft CWA for Tacoma, and make other recommendations that would promote *both* of the Cities goals of advancing hiring of residents of economically distressed areas and WMBE firms.

- **What is a “Community Workforce Agreement”?**

A CWA is a relatively new concept that has been implemented recently in a small handful of cities across the Country. It is essentially a new type of “project labor agreement” (PLA). A CWA is negotiated by the City and unions *in advance of the issuance of project bids* incorporating community benefits and applicable to *all future projects over a certain threshold* for the duration of the CWA.

In contrast, Project Labor Agreements are a longstanding tool used to meet hiring and other goals in the context of *a specific project*; PLAs have been adopted for public works projects since the 1930s. Any special hiring goals or other community benefits sought are identified in the bid documents and are negotiated after selection of a prime contractor, between that contractor, the project owner and unions.

- **Who has enacted a CWA and what has been their experience?**

Information to respond to this question is scarce. The closest example is Seattle, which adopted a CWA in 2015. We received a presentation from two Seattle staff members assigned to oversee implementation of the Seattle CWA. What is in the Seattle CWA? The Seattle CWA applies to public works projects over \$5 million. It does not include WMBE hiring goals; the City of Seattle separately adopts a WMBE inclusion plan with aspirational goals *for each public works project*, and all bidders must meet certain minimum qualifications with respect to WMBE hiring in order to be considered a qualified bidder.

The Seattle CWA does not require that firms be unionized to secure bids, however, they must pay union dues and benefit costs for all their project labor (unionized or not) to the unions with jurisdiction over each laborer for the duration of the project. Importantly, the City of Seattle reimburses open-shop firms for these benefit and other required dual payments *at the open-shop firm’s internal cost rates*—not the union cost. The Seattle CWA also limits the number of non-unionized employees that may work on any project (up to 5).

Seattle staff shared that 21 public works projects have thus far been subject to the city’s CWA; 11 projects have been completed. Four (4) of 14 general contractors on these projects are open shop; the open shop shops tend to be awarded the smaller projects. Seattle has seen good results in meeting goals for apprentice hiring and priority hire requirements, but have seen WMBE utilization lower on CWA projects (16%), as compared to other public works projects (18%). Concern about this trend in WMBE utilization has led the City to recently engage a stakeholder group to discuss possible solutions; that group’s work is ongoing.

Seattle staff also shared with us that concerns expressed by contractors about the CWA include: (1) the amount of pre-contract work required with unions; and (2) limits in the CWA to the number of their own employees they can place on a job.

Tacoma staff searched online and sought out CWAs in a number of jurisdictions. They reported to us as follows:

- San Francisco just approved a CWA in January 2019, but it has not been implemented. It does not contain WMBE hiring requirements.
- Santa Ana California adopted a CWA in 2018 but Tacoma staff were unable after repeated tries to contact staff to learn more about the results they have seen. It does not include WMBE hiring requirements. We were provided a copy of this CWA.
- Cleveland and Cuyahoga County have taken a somewhat different approach than either a PLA or CWA to promote local hire goals: all companies receiving financial incentives agree to consider referrals from a state-sponsored workforce agency (there is one in each County in Ohio) and to hire qualified candidates from these agencies for available positions during the term of the incentive. These workforce agencies help bring employees and employers together and provide workforce training.
- Los Angeles Department of Public Works has an agreement called a PLA, but which applies to “all Covered Projects,” which makes it more akin to a CWA. The agreement does not include WMBE hiring requirements. It requires documentation of good faith effort of Unions and contractors to place “Transitional Workers” (Los Angeles residents who are veterans, homeless, involved with criminal justice system, impacted by other barriers to employment, residents of designated zip codes) on projects.
- King County and Sound Transit have PLAs – project specific agreements, rather than CWAs.
- Louisville KY is reported to have a CWA, but staff could find no information on it on their website or in city ordinance.

While the staff search may have missed some CWAs, there seem to be very few of them nationally, as compared to the more traditional single-project PLAs. And, none of the CWAs we saw included the dual goals of both priority hire for economically distressed residents and WMBEs.

- **Observations from Griffin & Strong With Respect to CWAs and PLAs**

The January 2019 memorandum prepared by Griffin & Strong with respect to CWAs and WMBE hiring goals concluded that:

[Griffin & Strong] is not in opposition to building a viable local workforce, working alongside organized labor groups, or the use of PHOs/CWAs and other types of Community Benefits Agreements, when appropriate, as a means of building a strong local workforce, which is critical in community economic development. However, it has been [Griffin & Strong’s] experience that similar

types of PLA agreements have been used to prioritize contract access by labor unions and depress the utilization of M/WBE businesses in public contracting.⁵

Also in this same memo, Griffin & Strong cited potential benefits of PLAs and CWAs, based on a 2011 report commissioned by the US Department of Labor, including:

- Eliminate risk of strikes and disruptions during construction period
- Provide a process for resolution of disputes that allows work to proceed while disputes are being resolved
- Provide access to a pool of skilled labor through union hiring halls
- Allow for meeting labor requirements through other sources if the hiring halls are not able to meeting the requirements in a timely fashion; and
- Administer uniform work rules to improve efficiency and save money; these provisions are often the source of the largest cost savings. They normalize shift work to be consistent among the trades and to suite the conditions of construction.⁶

- **Alternative Strategies Deployed Successfully in Tacoma**

Closer to home, the Tacoma Housing Authority (THA) has had impressive success in meeting ambitious local hire goals and WMBE hiring on two of its recent major projects, Salishan and Bay Terrace. Committee Member Michael Mirra, the Executive Director of THA, shared his strategies and lessons learned with us. Rather than a PLA or a CWA, THA used a RFP process to select a General Contractor/Construction Manager,⁷ and negotiated hiring goals with them. There were goals for MBEs, WBEs, Section 3 (a federal program to support disadvantaged businesses) utilization and Section 3 hires. A particular focus of THA was to hire residents being displaced by renovation/reconstruction of their public housing.

THA noted that its effort was similar to a PLA in that project goals were established, and there was a need for upfront planning and partnering with Workforce Central, JobFit and the WMBE community. Differences between the THA approach and a traditional PLA, from THA's perspective include:

A PLA would have necessitated qualified open shop contractors to sign one-time agreements with union (resulting in **decreasing the pool of diverse bidders**) and **higher overall project costs**.

With a PLA there would have been reduced opportunities to mentor small or disadvantaged businesses

PLAs bring more stringent monitoring and compliance tracking

⁵ Memorandum Re: Community Workforce Agreements to City of Tacoma, prepared by Griffin & Strong PC, December 7, 2018, p. 1.

⁶ *Ibid.* p. 2

⁷ General Contractor / Construction Manager (also known as "GCCM") is an alternative public works contracting method authorized by RCW 39.10.200 and 39.10.340.

A PLA would have **improved Apprenticeship Utilization**.⁸

Among the reasons for THA's success in meeting its local hire and WMBE goals, Mr. Mirra noted that as project owner, THA made this a priority and communicated that to the contractors; THA was prepared to pay more to accomplish the project with these goals; they inventoried residents being displaced for skills and gave that information to contractors; they provided job-readiness training; they selected great contractors who shared these values and had dedicated FTEs to support these hiring goals.

- **Considering a Tacoma Draft CWA**

At the end of our third meeting, we received for our review and comment a draft CWA prepared by Deputy City Attorney Steve Victor. Mr. Victor worked from the Seattle CWA and peeled out provisions that assume or require that the labor force be unionized, including but not limited to:

- Union dues and benefit requirement imposed on open shop contractors (as noted, the Seattle CWA has the City reimbursing contractors for these costs)
- Limits on the number of employees of the contractor that may work on a job
- Working conditions requirements
- Requirements that workers or apprentices be dispatched from a Union Hall

He added to the document a general provision without specific goals or mandates requiring all parties to "commit to provide outreach, and train, mentor and support woman and minority contractors on any" project subject to the CWA. The Tacoma Draft CWA, like Seattle's, would apply to all public works projects over \$5 million. (In discussing this \$5M threshold, the Committee agreed that a lower threshold would be appropriate in Tacoma, were a CWA to be pursued by the City.)

A novel aspect of the Tacoma Draft CWA is that it is structured as a three-way agreement, rather than as a two-way agreement: in addition to Unions and the City, the draft proposes that AGC also be a party.

After our fifth meeting, Co-Chair Mark Martinez submitted an additional draft CWA: it is essentially identical to the Seattle CWA, but the project threshold is lowered from \$5 million to \$1 million. **Attachment D** presents a high-level comparison of the three CWA documents: Seattle, Tacoma Draft CWA; and the Pierce County Building Trades Proposed CWA.

We deliberated on the pros and cons of the Tacoma Draft CWA for the better part of three meetings. **Attachment E** presents our section-by-section comments on the Tacoma Draft CWA. In an effort to clarify the themes presented in **Attachment E**, we present four items below.

- First, we developed some definitions and recommended priorities around three groups that the City seeks to assist/promote: WMBEs, SBEs, and apprentices. See **Table 3**.

⁸ Source: Presentation materials provided by Michael Mirra, THA. Emphasis in original.

- Second, we developed a set of “**consensus points**” around the City’s dual goals and a CWA. These points are presented at **Figure 1**.
- Third, we identified our individual **preference as between three general approaches**: (1) a Seattle-type CWA; (2) the Tacoma Draft CWA; or (3) Not adopting a CWA and seeking other means to promote the City’s dual goals. The results of this exercise are presented at **Table 4**.
- Fourth, splitting into small discussion groups, we identified our priorities as to what is most important to each of us in the CWA discussion, and what ideas are most problematic. In order to highlight **core interests and concerns of different stakeholder groups**, for this discussion we self-selected into one of four discussion groups that we each perceived as being most in sync with our individual interests. Those four groups were:
 - Open-Shop Contractors
 - WMBEs
 - Contractors
 - Advocates for Residents of Distressed Communities & Workforce Agencies (The labor representative present chose to participate in this group.)
 Results of this discussion are presented at **Table 5**.

Table 3		
Clarifying Definitions and Priorities for WMBE, SBE and Apprentice Hiring		
This table shows the recommendations of the Committee with respect to clarifying the definitions and priorities for hiring of WMBEs, SBEs, and Apprentices*		
<u>Group</u>	<u>Status Should be Confirmed By:</u>	<u>Recommended Tacoma Priorities</u>
WMBE	State Certification	<i>For all three groups:</i> First priority: Those living or operating in Tacoma or economically distressed areas served by TPU Second priority: Those living or operating outside Tacoma but inside TPU service territory Third priority: Those living or operating outside Tacoma and TPU service territory
SBE	State Certification as a DBE or SEDBE	
Apprentices	State certified apprentice training program	
<p>The Committee notes that additional work will be needed to clearly prescribe how these priorities will be observed by Contractors, as well as the interface between any new race and gender specific goals for WMBEs and the existing SBE program: these items appear in our recommendations list (Table 5).</p> <p>*from any state certified program—union or open shop.</p>		

While as a whole the Committee does not recommend that the City move to adopt a CWA, some of our members are strongly in favor of the City doing so.

Figure 1

Advisory Committee Consensus Points with Respect to the City's Goals and a Community Workforce Agreement

Note: the Committee's charter defines consensus as items receiving support of not less than 80% of Committee Members present and voting.

1. The Committee supports City policy goals to (1) provide more apprenticeship opportunities and employment for persons in disadvantaged zip codes, and (2) provide outreach, assistance and increased participation for WMBE firms.
2. The Committee supports these policy goals being race and gender conscious to the extent permitted by law, and supports the City pursuing such race and gender conscious programs to address demonstrated disparities.
3. The Committee supports the concept that any CWA or agreement of this type should be limited in term (3-5 years) and should include specific metrics/goals and a built-in mechanism to annually review results and consider possible adjustment to the agreement in the event the metrics/goals are not being met.
4. The Committee supports using state-certification criteria to define WMBE firms. It is noted that this will require some consideration of how the SBE program will be applied if this changes is made, or contractors will be faced with two different lists of firms and a lack of clarity about how to synchronize City requirements.
5. Promoting hiring of veterans on city public works projects is an important goal (the Committee is not expressing support for any specific target here).
6. There are many actions the City should take to promote its priority hire and WMBE participation goals: See **Table 6** for our list of recommended actions.
7. More programs and specific commitments are needed to support WMBE firms than is presented in any version of a CWA that we have reviewed. One route we believe the City should explore is to establish set-asides for WMBE firms.

<p align="center">Table 4 Committee Member Preferences as between Three General Options Related to Tacoma Adopting a CWA</p>		
<p align="center"><u>Option 1</u> Tacoma adopting a “Seattle-style” CWA*</p>	<p align="center"><u>Option 2</u> Tacoma adopting the “Tacoma Draft CWA”*</p>	<p align="center"><u>Option 3</u> Meeting the dual goals of the City by other means</p>
<p>Number of Committee Members preferring this option: 4</p> <p><i>Also noted by these Committee Members:</i></p> <ul style="list-style-type: none"> • We need stronger, separate WMBE ordinances. It is difficult to get both issues addressed in a single document. • The 3-party approach in the Tacoma CWA is probably unworkable: AGC cannot bind contractors. 	<p>Number of Committee Members preferring this option: 1, subject to stronger provisions being included with respect to WMBEs</p>	<p>Number of Committee Members preferring this option: 9</p> <p><i>Also noted by these Committee Members:</i></p> <ul style="list-style-type: none"> • Instead of a “dual purpose” CWA, the City should seek to meet its local hire and WMBE goals through ordinance and policy—strengthening LEAP and WMBE program offerings. • The Tacoma Draft CWA tries to do too much, which makes it a weaker document than the other approaches. • The carve-outs in the Tacoma Draft CWA are insufficient to even the playing field for WMBEs as compared to unionized firms.

*Committee members recommend (more than 60% but less than 80% of those voting) that if a CWA is pursued by Tacoma, the threshold for applicability should be lower than \$5 million.

Table 5: Core interests and concerns of different stakeholder groups with respect to a CWA

<p style="text-align: center;">Group 1: Open Shop Contractors</p> <p><u>Must haves:</u></p> <ul style="list-style-type: none"> • Clear rules for open shop contractors • Ability to recruit/hire apprentices from open-shop apprentice programs <p><u>Strongly opposed to:</u></p> <ul style="list-style-type: none"> • Terms requiring payment of union dues and benefits for any open shop employees • Union requirements that prevent union-signatory prime contractors from utilizing non-union contractors and key work limits <p><u>Other:</u></p> <ul style="list-style-type: none"> • Many open shops are WMBE firms. There is overlap in our interests with that group. 	<p style="text-align: center;">Group 2: Contractors (Unionized and larger firms)</p> <p><u>Must haves:</u></p> <ul style="list-style-type: none"> • Refinements to how the “low bid” is defined – a point system or hybrid of cost and points for social justice goals. <p><u>Strongly opposed to:</u></p> <ul style="list-style-type: none"> • Language prescribing how we utilize our workforce—such as key worker limits. • Requirements to wait days to get qualified priority hires <p><u>Other:</u></p> <ul style="list-style-type: none"> • Exempting open-shop WMBEs from CWA requirements doesn’t help: a unionized prime contractor cannot hire them without violating its union collective bargaining agreement.
<p style="text-align: center;">Group 3: WMBEs</p> <p><u>Must haves:</u></p> <ul style="list-style-type: none"> • Exempt certified WMBEs from the CWA requirements • Requirement the WMBEs are state certified to qualify as such <p><u>Strongly opposed to:</u></p> <ul style="list-style-type: none"> • Terms requiring payment of union dues and benefits for any open shop employees • Union shop requirements <p><u>Other:</u></p> <ul style="list-style-type: none"> • Pre-apprentice program requirements are not needed—we tend to hire these people now. • We support the idea of priority hire, with a first preference to local hires and then others. 	<p style="text-align: center;">Group 4: Advocates for Residents of Distressed Communities & Workforce Agencies (including labor)</p> <p><u>Must haves:</u></p> <ul style="list-style-type: none"> • Public agencies (owners) want freedom to pursue their social justice goals. • Mechanisms to meaningfully increase the amount of work going to firms owned by women and minorities and to increase the amount of work going to residents of disadvantaged areas. Open doors to those traditionally locked out –women and minority firms, workers and apprentices—and ensure they receive a fair and equitable amount of tax dollars spent on public works. The challenge is incentivizing action by people who may not share these goals. • Open shop apprentice programs want to retain their ability to dispatch apprentices to public works projects/contractors. • Improved linkage between pre-apprenticeship training and jobs. Clear entry, pathways and coordination to help people get jobs with benefits and a living wage. • Sanction companies that don’t meet the goals. • Threshold lower than \$5M for application of a CWA.

One of the challenges we ran into again and again in our discussions is how to engage both union and open shop firms on the same project—particularly since a CWA is negotiated in advance of any contractor being selected for a project. We see this breaking down into four core structural challenges, discussed further below.

- Implications for WMBEs of meeting union obligations—dual pay; core employee limits, and the sourcing of priority hires
- Unionized contractors have collective bargaining agreements that may conflict with a CWA
- Unions have foundational concerns that a CWA not disrupt their dispatch procedures from union hiring halls
- Ideally, contractors should be a signatory to any CWA— as they are in a Project Labor Agreement (PLA) – but no one can represent and bind all potential contractors in advance

The Tacoma Draft CWA includes a “cut-out” for open shop WMBEs such that they do not need to meet union dues and benefit requirements or secure apprentices from union halls. WMBE firms tend to be open shop. However, any unionized prime contractor is likely to have a collective bargaining agreement (CBA) that precludes it from using open shop firms on a job— unless the prime or the subcontracting open shop firm pays union dues, wages and benefits for its workers on the project.⁹ Unions must agree to waive this requirement in order for the prime to hire an open shop WMBE for labor covered by the CBA. Without that waiver or payment of the incremental union labor costs by the prime or WMBE, an open shop WMBE firm is unlikely to be brought onto a unionized prime contractor team.

To make it additionally complex, some Committee Members from unionized firms noted that providing the cut-out for non-unionized WMBEs may give those firms an unfair advantage over unionized WMBEs who are paying more in benefits costs for their labor. On the other hand, open shop firms that do pay their employees benefits would have to pay dual benefits under a CWA, which means they would not be at a competitive advantage.

Seattle worked around this conflict by paying this extra cost for union fees and benefits from open shop firms itself. Are the City of Tacoma and its taxpayers prepared to pay this same premium? Or are there other equally or more effective ways to promote hiring of WMBE firms on public works projects? Even if the City of Tacoma were to agree to reimburse the dual benefits premium for WMBEs, this would still not resolve the penalty that union contractors have if they use open-shop WMBEs on a project: this is the other half of the equation that must be addressed in order to enable and ensure the increased participation of open-shop WMBEs in public works projects.

⁹ Note that the issue is not basic wages: prevailing wage requirements will apply to all contractors—union or not— on a public work.

Union rules don't necessarily dispatch labor based on the City's goals. As a result the City may be unable to meet more aggressive local hire and apprentice goals than current LEAP requirements unless unions sign an agreement (CWA or PLA or other) with the City. Unions have a significant investment in their apprentice programs. Will a CWA preclude access by apprentices from non-union apprentice programs? Should the workforce pipelines—union and non-union pre apprentice and apprentice programs – have equal access to opportunities on City of Tacoma construction contracts? How can that happen? Again, these are important unresolved questions.

Because there are clearly implications for how contractors can perform work under a CWA, ideally they would be a party to such an agreement. That is what is proposed in the Tacoma Draft CWA presented to us for consideration. However, the Associated General Contractors, for example, cannot bind its members by signing a CWA, and it does not seem feasible to us for the City to be able to secure approval from all potential contractors in advance of specific bids being issued.

These are some of the questions the City must grapple with moving forward. Challenges remain, but again, the disagreement is not about the “ends” but rather, the “means.”

Other Committee Recommendations

To provide additional recommendations that are not dependent on approval of a CWA to address the City's dual goals, the Committee rated over 60 other ideas – derived from an early homework exercise, discussion in our meetings, and the recommendations of the Griffin & Strong WMBE Disparity Study-- that could potentially assist in bringing more public works dollars to WMBEs and residents of economically distressed areas. The ideas were initially sorted into eight areas based on some of the significant issues we identified early on in the process, listed below:

- The disadvantaged resident hiring goals are not being met.
- There are an insufficient number of apprentices coming into the workforce
- Meeting SBE utilization goals in bids is not a condition of award.
- There is insufficient utilization of WMBEs on City funded public works projects
- There is a lack of supportive services for WMBEs
- Prior contractor performance in SBE hiring is not considered in awarding City contracts
- The City has no goals specifically targeting small WMBE firms

We submitted our votes individually on these 60-plus ideas as a “homework” exercise between Meetings 5 and 6, and discussed and reconsidered the results in Meetings 6 and 7. Several items not initially recommended were re-voted and moved up to become recommendations.

The items that we are recommending the City consider are presented in **Table 6** below, consolidated to link closely related concepts. Our initial votes on all items are presented at

Attachment F (note that several of these initial votes were revised as a result of our deliberations in Meeting 6 and 7, leading to the recommendations in **Table 6**.)

We note that City staff has not had an opportunity to vet the cost or timeline to implement these recommendations (other than to ensure basic legality of the concepts), and we understand that will be an important next step in the process.

Please note that the recommendations in **Table 6** are not prioritized.

Table 6

Recommended Strategies to Increase WMBE Utilization on City Projects	
	<i>Recommendations from the Griffin & Strong Disparity Study also recommended by the Committee include:</i>
1	Regularly update the WMBE list and ensure that it mirrors the list of state certified WMBEs. (3.g), (7.e) ¹⁰ <i>The committee supports the concept that WMBE’s that are used to meet contractor goals should be state certified. (See also Table 3)</i>
2	Increase funding for the City’s contract compliance department so they can oversee contractor compliance with WMBE goals and other recommendations of the diversity study (3.a)
3	Provide more advance notice of upcoming public works opportunities to increase ability of smaller firms to prepare and bid (3.b)
4	Fund supportive service programs for WMBE firms—how to get certified, complete bid forms, etc. (3.c), (3.t), (7.b), (9.b), (6.d), (3.u), (6.c) <ul style="list-style-type: none"> • <i>Committee supported ideas here include:</i> <ul style="list-style-type: none"> ○ <i>Partnering with private and nonprofit firms to create a one-stop assistance shop for WMBEs</i> ○ <i>Expanding efforts to help contractors connect with qualified WMBEs</i> ○ <i>Create a communication platform for WMBEs and SBEs to find jobs, training opportunities</i> ○ <i>Provide contractors with lists of registered WMBEs and SBEs</i>
5	Include national procurement coding in procurements to synchronize contracting across city departments, increase the ability for small firms to determine if the work offered is something for which they are qualified. (3.e) <ul style="list-style-type: none"> • <i>We note the City has already implemented this recommendation that was originally offered in the Griffin & Strong study.</i>
6	Institute a small business reserve program for projects that can only be bid on by small businesses. (3.d)
7	Collect award and paid subcontractor data on all public works contracts—including information on the minority and minority subcontractors. (3.f)
8	Where the City is providing benefits to private sector projects (land, tax incentives, infrastructure, or other items of value), the City should extend WMBE participation requirements. (3.i), (6.e)

¹⁰ Numbers in parentheses indicate the number of the correlating item on the original “ballot” voted upon by Committee Members. The raw data from the initial ballot exercise is presented at Attachment F.

9	Establish race and gender-based subcontracting goals that are aspirational, as well as project goals, compliant with I-200, based on availability of WMBE firms in the local market. Update goals annually based on data on available WMBE firms. (Note these goals must have a 5 year sunset / additional disparity study per <u>Croson</u> .) (3.j) (7.a), (7.g), (6.e), (3.l) <i>To the extent possible under law, the Committee supports mandatory goals for hiring certified WMBEs, and linking meeting these goals to meaningful reward for contractors.</i>
10	Investigate possible discrimination where bidders on large projects submit little to no proposed WMBE utilization—bidders should be required to list firms they contacted, bids received from subcontractors, as well as who was selected. (3.h)
Other recommended strategies in support of promoting WMBE utilization on City public works project include:	
11	Change city processes to track prime contractor performance data, set performance expectations, and use it in bid process to evaluate bidders—track who bidders said they would hire, and who they actually hired.(6.a)
12	Close the loophole in current codes that allows bidders offering zero percent SBE hiring to be considered responsive. (1.d, re-worded)
13	Require prompt payment of WMBE subcontractors (3.n)
14	Promote and/or fund small firm mentorship programs (3.s)
Recommended Strategies in Support of Employing Residents of Economically Distressed Areas on City Projects	
15	Work with education system to promote construction jobs as a career path (5.a)
16	Amend code to require bidders to submit a plan to show how they will meet goals for hiring of residents of economically distressed areas (and WMBEs) and make a plan meeting specific requirements a condition of being a responsive bidder (a “point system”) (8.a)
17	Increase pre-apprenticeship training opportunities in City in partnership with local institutions (2.a)
18	Support and promote apprenticeships programs and hiring of apprentices (2.i), (2.f), (2.h) <i>Programs should target both employed and underemployed people and use strategies to make it easy for people to participate—weekend and evening training sessions.</i>
19	Fund skills training for Tacoma residents (3.q)
20	Participate in regional coordination of workforce development efforts (9.a)
21	Adjust code to ensure bidders considered responsive only if they clearly demonstrate a plan/strategy to meet priority hire goals.”(1.d)
22	Include workforce development system as a partner in developing workforce strategies(2.o), (2.n) <i>The Workforce Development Council is a key partner here.</i>
Other Recommendations:	
23	Promote a strong education system and business friendly environment (7.c)
24	Clarify the interaction between any new WMBE goals and the SBE program. (See Table 3)

25	Clarify the process contractors should use to verify that with respect to hiring of WMBEs, SBEs or Apprentices, they have met the three tier priorities identified in Table 3 with respect to hiring Tacoma and TPU service area firms and residents before reaching out to other qualified firms/individuals (See Table 3)
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Conclusion

The Committee strongly supports the City’s dual goals of increasing the hiring of residents of economically distressed areas of the City and Women and Minority Business Enterprises (WMBEs) in City public works projects. We also agree that to the extent allowed by law, these goals should include race and gender targets to address established disparities.

For us, this is not a conflict around “ends” but rather, “means.” Our report identifies over two dozen actionable recommendations that we encourage the Council to pursue that we believe will promote both of the City’s goals.

Introducing the mechanism of a Community Workforce Agreement to promote these goals brings with it challenging issues around how to include both union and open shop firms and laborers on a single project. Although we have some points of consensus with regard to CWAs, a majority of us do not see a convincing work-around to those challenges in either document that we could be confident would support both the City’s dual goals. Specifically, we are not convinced that WMBE firms can be placed on a level playing field with unionized firms under a CWA. For that reason, although some on the Committee strongly support a CWA, overall the Committee does not recommend the City adopt a CWA—at least in any of the versions with which we have been presented.

One starting point we think is promising would be for the City to adopt policies and ordinance in support of these dual goals and monitor their success. This would allow progress towards the goals to proceed while discussions can continue to explore resolution of CWA-related issues.

The Griffin & Strong Disparity Study (August 2018) provides a number of recommendations with respect to advancing the hiring of state certified WMBEs in ways that can (now that the disparity study has been completed) include race and gender conscious goals. Our recommendations include support for the vast majority of those recommendations.

This was a challenging but worthy effort, given the importance of the City’s policy goals. We applaud the City for seeking to advance the goals at the heart of our mission. We welcome the opportunity to meet with you to discuss our recommendations.

Attachments:

- A. Committee Member and Non-Voting Participants Names/Affiliations, and Staff Team members
- B. Map of Economically Distressed Zip Codes in the Tacoma Public Utilities Service Area.
- C. Definition of State Certified MBEs, WBEs, MWBEs, CBEs SEDBEs (together referred to as WMBEs in this Report)
- D. Side-by-side comparison of terms in Seattle CWA, Tacoma Draft CWA, and Pierce County Business Trades CWA
- E. Committee comments on Tacoma Draft CWA
- F. Rating Concepts to Promote the City's Dual Goals: Results of Initial Voting Exercise
- G. Minority Statements Submitted by Committee Members



Attachment A



Attachment A: Tacoma Community Workforce Advisory Committee Members

Name	Title	Organization
Tim Attebery (Co-Chair)	Southern District Manager	AGC
Yolanda Brooks		Tacoma Ministerial Alliance
James Faison	Owner	Faison Construction, Inc
Eric Frank	Owner	Sustain-A-Build-ity
Nathaniel Lawver	Political Director and Community Liaison	Laborers Local 252
Frank Lemos	President	National Minority Business Advisory Council
Mark Martinez (Co-Chair)	Executive Secretary	Pierce County Building Trades
Michael Mirra	Executive Director	Tacoma Housing Authority
Marilynn Moch	Representative	LenCan Builders
Korbett Moseley	Director of Family Stability Initiatives	United Way <i>Alternate: Eric Alozie (voting in Meeting 7)</i>
Arti O'Brien	Owner	Advanced Government Services <i>Alternate: Doug Sibert</i>
Billie Otto	Chief Strategy & Risk Officer	Absher
Lyle Quasim	President	Tacoma/Pierce County Black Collective
Halene Sigmund	President	CITC <i>Alternate: Adriana Gamboa</i>
Michael Tucci	President	Tucci & Sons Inc.
Linda Nguyen (Non-voting)	CEO	Workforce Central
Eric Alozie (Non-voting)	Owner	NWE Construction Co.

Notes:

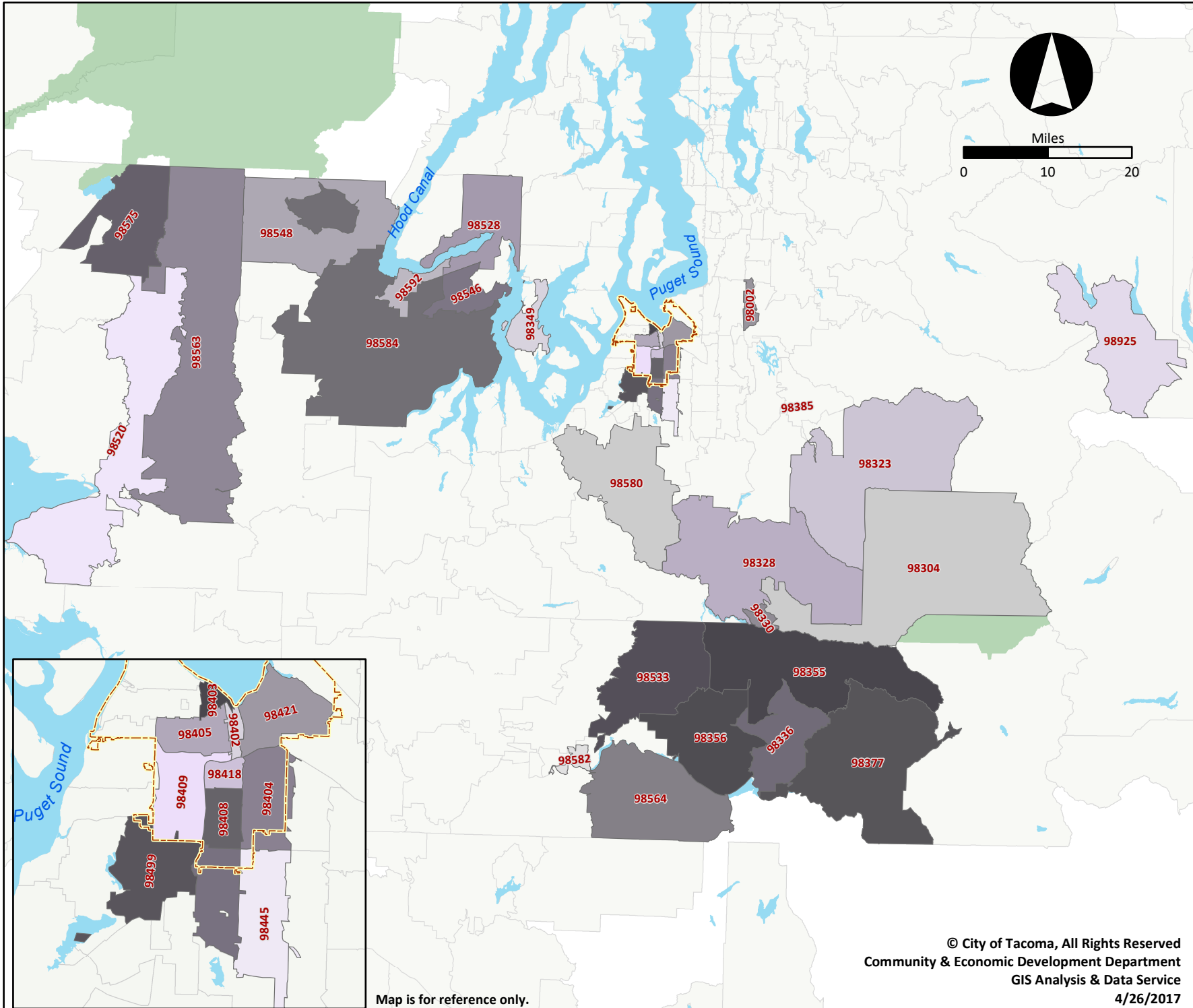
1. Martha Cerna (Puget Sound Latino Chamber of Commerce), Justin Satiacum (Puyallup Tribe of Indians), and Loren Pease (Pease Construction) were invited as members but their schedules were such that they stepped down from the Committee.
2. Committee members were allowed, but not required, to designate an alternate to participate in their absence.



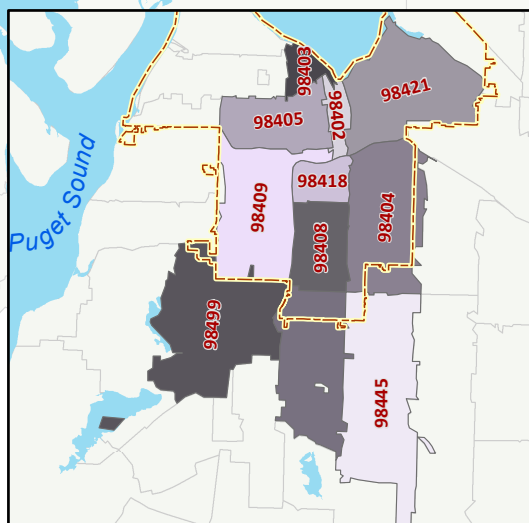
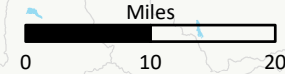
Attachment B



Attachment B: Economically Distressed ZIP Codes Map



City Limits



Map is for reference only.

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 Community & Economic Development Department
 GIS Analysis & Data Service
 4/26/2017

Z:\R2017\7\188\Mxd\Priority Hire Zipcodes 8x11 042617.mxd Created by: aabramovich



Attachment C



Attachment C: Definition of State Certified MBEs, WBEs, MWBEs, CBEs SEDBEs (together referred to as WMBEs in this Report)

The Washington State Office of Minority and Women's Business Enterprises (State OMWBE) provides five different types of certifications:

MBE - Minority Business Enterprise

WBE - Woman Business Enterprise

MWBE - Minority Women Business Enterprise

CBE - Combination Business Enterprise

SEDBE - Socially and Economically Disadvantaged Business Enterprise

The certification conditions set forth on the State OWMBE website

(<https://omwbe.wa.gov/certification/state-certification>) are *in part* as follows:

The business must be:

- For profit.
- Licensed to do business in Washington State.
- Able to perform the core services necessary to fulfill a contract in the business's eligible owner(s) area of specialty or expertise.
- A small business based on U.S. Small Business Administration (SBA) size standards, which is measured in two ways:
 - An overall business size standard of \$23.98 million in gross receipts over a three-year average.
 - Size standards according to your businesses' North American Industry Classification System (NAICS) codes. OMWBE will assign your business NAICS codes according to the goods and services you indicate your business will provide. Each NAICS code has a size standard listed in the SBA's size standard tables.

The eligible owner(s) must:

- Be a minority or woman. Minority is defined as African American/Black, Hispanic/Latino, Asian American, Pacific Islander, Native Hawaiian, Alaska Native, or Native American. Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis
- Own at least 51% of the business and show contribution of capital and expertise.
- Control the managerial and day-to-day operations.
- Be a U.S. citizen or permanent U.S. resident.
- Be economically disadvantaged. "Economically disadvantaged" is generally defined as having a personal net worth less than \$1.32 million, not including a person's primary residence or an applicant business.



Attachment D



Attachment D: Side-by-Side Comparison of SEATTLE CWA, DRAFT TACOM Community Workforce Agreement (CWA), and PIERCE COUNTY BUILDING & CONSTRUCTION TRADES COUNCIL PROPOSED CWA.

Seattle CWA	Tacoma Draft CWA Presented by Tacoma Deputy City Attorney	Pierce County Building & Construction Trades Council Proposed CWA.
Purpose and Intent		
a. To provide apprenticeship opportunities and employment for persons located in disadvantaged zip codes though local construction trade unions.	a. To provide apprenticeship opportunities and employment for persons located in disadvantaged zip codes though local construction trade unions, b. To provide outreach, assistance and increased employment for women and minority owned businesses (WMBEs) though local contractor's organizations.	a. To provide apprenticeship opportunities and employment for persons located in disadvantaged zip codes though local construction trade unions.
Parties to the CWA		
a. Local construction trade unions	a. Local construction trade unions, b. Local contractor's organizations.	a. Local construction trade unions
Applicability of CWA		
a. All public works projects over \$5 M	a. All public works projects over \$5 M b. Staff can exempt projects	a. All public works projects over \$1 M
Relationship to other existing city programs		
a. Designed to work with existing Seattle apprenticeship and small contractor programs.	a. Designed to work with existing Tacoma SBE and LEAP programs.	a. Intended to work with existing Tacoma SBE and LEAP programs.

Seattle CWA	Tacoma Draft CWA Presented by Tacoma Deputy City Attorney	Pierce County Building & Construction Trades Council Proposed CWA.
Priority Hire Requirements		
<p>a. Goals set by City for each project on the hours to be worked by Priority Workers from target zip codes.</p>	<p>a. Goals set by City for each project on the hours to be worked by Priority Workers from target zip codes.</p>	<p>a. Goals set by City for each project on the hours to be worked by Priority Workers from target zip codes.</p>
Veteran Employment		
<p>a. Contractors and Unions agree to use certain programs as resources to orient, asset, refer, counsel and provide employment opportunities for veterans.</p> <p>b. Veterans living in economically distressed zip codes count as part of required priority hires.</p>	<p>a. Contractors and Unions agree to use certain programs as resources to orient, asset, refer, counsel and provide employment opportunities for veterans.</p> <p>b. Veterans living in economically distressed zip codes count as part of required priority hires.</p>	<p>a. Contractors and Unions agree to use certain programs as resources to orient, asset, refer, counsel and provide employment opportunities for veterans.</p> <p>b. Veterans living in economically distressed zip codes count as part of required priority hires.</p>
Apprenticeship Utilization/ "Preferred entry"		
<p>a. 15% -20% of project hours must be from apprentices trained through state certified programs.</p> <p>b. 1 of 5 apprentices must be from a recognized pre-apprenticeship program.</p> <p>c. Apprentice or pre-apprentices from distressed zip-codes count toward the priority hire requirements.</p>	<p>a. 15% -20% of project hours must be from apprentices trained through state certified programs.</p> <p>b. 1 of 5 apprentices must be from a recognized pre-apprenticeship program.</p> <p>c. Apprentice or pre-apprentices from distressed zip-codes count toward the priority hire requirements.</p>	<p>a. 15% -20% of project hours must be from apprentices trained through state certified programs.</p> <p>b. 1 of 5 apprentices must be from a recognized pre-apprenticeship program.</p> <p>c. Apprentice or pre-apprentices from distressed zip-codes count toward the priority hire requirements.</p>

Seattle CWA	Tacoma Draft CWA Presented by Tacoma Deputy City Attorney	Pierce County Building & Construction Trades Council Proposed CWA.
Consideration to Labor organizations for participation in CWA		
<ul style="list-style-type: none"> a. All covered projects are closed union shop, requiring open shop contractors to sign one-time labor agreements. b. Limits on contractors' use of their own employees. c. Describes role of Union Stewards 	<ul style="list-style-type: none"> a. All covered projects are card check neutral allowing access to the jobsite during working hours for union organizers. b. No limits on contractors' use of their own employees. c. Describes role of Union Stewards 	<ul style="list-style-type: none"> a. All covered projects are closed union shop, requiring open shop contractors to sign one-time labor agreements. b. Limits on contractors' use of their own employees. c. Describes role of Union Stewards
Consideration to contractor organizations for participation in CWA		
<ul style="list-style-type: none"> a. Not signatories. 	<ul style="list-style-type: none"> a. Covered projects are unconditionally open to open-shop contractors, and are open to contractors' organizations. b. No limits on contractor's use of their own employees. 	<ul style="list-style-type: none"> a. Not signatories.
Priority Hire		
<ul style="list-style-type: none"> a. Dispatch and training of Priority Workers apprentices from target zip codes. 	<ul style="list-style-type: none"> a. Dispatch and training of Priority Workers apprentices from target zip codes. b. If union can't fill request in 2 days, the Contractor requests a referral from City Job and Training Coordinator; If they cannot make a referral, all parties shall make reasonable efforts to comply with the goals. 	<ul style="list-style-type: none"> a. Dispatch and training of Priority Workers apprentices from target zip codes.

Seattle CWA	Tacoma Draft CWA Presented by Tacoma Deputy City Attorney	Pierce County Building & Construction Trades Council Proposed CWA.
Obligations of contractor organizations for participation in CWA		
a. Not signatories.	a. Utilization of Priority Workers apprentices from target zip codes. b. Outreach and technical assistance to women and minority owned contractors	a. Not signatories.
Term in Years of CWA		
a. 5 years	a. 5 years	a. 5 years
Other Terms and Conditions		
<ul style="list-style-type: none"> • Project conditions requirements • Wage rates and fringe benefit conditions • Requirements on hours of work, overtime and shifts • Union recognition as sole bargaining representative for all workers in the Union’s jurisdiction • Resolution of Union Jurisdictional Disputes 	Draft CWA includes none of these provisions.	<ul style="list-style-type: none"> • Project conditions requirements • Wage rates and fringe benefit conditions • Requirements on hours of work, overtime and shifts • Union recognition as sole bargaining representative for all workers in the Union’s jurisdiction • Resolution of Union Jurisdictional Disputes

Attachment E



Attachment E: Committee Member Comments on Draft Community Workforce Agreement (CWA) from Discussion at Meetings 4 and 5

Tacoma Draft CWA Text	Advisory Committee Member Comments
<p style="text-align: center;">PREAMBLE</p> <p>This Community Workforce Agreement (CWA) is entered into _____, 2019 by and between the City of Tacoma (hereafter referred to as “City”), and _____ (“Labor Organizations” or “Unions”) and its members and affiliates representing organized labor, acting on its own behalf, and on behalf of its respective affiliates and members whose names are affixed hereto and who have, through their duly authorized officers executed this Agreement, and _____ (“Contractor Organizations”) representing general and specialty contractors, acting on its own behalf and on behalf of its respective affiliates and members whose names are affixed hereto and who have, through their duly authorized officers executed this Agreement.</p>	<ul style="list-style-type: none"> • AGC doesn’t represent all potential contractors • A PLA avoids the problem of AGC not representing all contractors • Additional signatories could be added • AGC doesn’t think either a CWA or PLA are legal— CWA’s because the contractors are not at the table in negotiating the document, and A PLA because it is compels certain terms and conditions on workers • Tacoma should simply accomplish its goals through policy, rather than seeking an agreement with labor and contractors • AGC cannot bind its members • Contractors may not want AGC to negotiate an agreement that will bind them (contractors) • CWAs may conflict with contractors collective bargaining agreements. • City of Tacoma is giving Laborers Union the power of signing the document – which means right out of the gate, an open shop like myself is at a disadvantage. • Eliminate this section
<p style="text-align: center;">PURPOSE</p> <p>This Agreement, is intended to augment the processes and outcomes of the City’s Small Business Enterprise (“SBE”) and Local Employment Apprenticeship (“LEAP”) programs. The purpose of this Agreement is to promote workforce development in economically distressed areas, employment diversity, veteran preference, and lower barriers for, and increase the utilization of, minority and women owned contractors.</p>	<ul style="list-style-type: none"> • There is a conflict between these two goals in a CWA • The goals are important • CDWA creates problems in meeting these goals • Important to provide opportunities for workers and identify talent for contractors • We need a clear definition of WMBEs—otherwise they could be very large, highly profitable firms. Even DBEs should be defined. Recommend using state definition for WMBEs that are state certified.

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	<ul style="list-style-type: none"> • Concerned that the CWA moves the City away from awarding bids to the lowest bidder. • Untrained workers can create significant liability for contractors: we need trained people. • Apprenticeship requirements cost contractors- - could we find a way for this cost to be borne by someone other than the contractor? • Getting a responsive bidder is more important than the low bidder—we need a fair playing field. A point system or similar may help here. • These CWAs just dump the aspirational goals onto contractors. • A point system—similar to that used by Seattle and Tacoma would be a constructive alternative. • If the only issue in awarding bids is the cost, it reinforces institutional racism.
<p style="text-align: center;">ARTICLE I SCOPE OF AGREEMENT</p> <p>Section 1.1 This CWA applies and is limited to the recognized and accepted historical definition of public works under the direction of and performed by Contractors of every tier. Public works, also called Project Work, shall include site preparation and dedicated off site work. All City of Tacoma administered public works projects with a project construction budget plus contingency of \$5 million and over at the time of bid shall be covered by this CWA, except when exempted by the City Manager for general government projects, or the Director of Utilities for projects by Tacoma Public Utilities. Contractors of every tier who perform Project Work, and all Labor Organizations who provide representation to workers must agree to accept and be bound by all CWA terms and conditions, and sign a Letter of Assent.</p> <p>Section 1.2. Nothing herein shall prohibit, restrict or interfere with</p>	<ul style="list-style-type: none"> • Threshold should be lower—perhaps \$2.5M; There are too few projects greater than \$5M for this to have much impact in Tacoma • Any project –public or private—receiving public benefits from the City should be subject to the CWA requirements/policy goals. • Need to clarify the basis on which exemptions could be made from applying the CWA. Example: emergencies • The smaller the project, the greater the likelihood that you will have problems with conditions that require apprentices or priority hires—the labor force is smaller and less flexible on smaller projects. • Threshold should be at least \$5M

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<p>any operation, work, or function of the City's existing Small Business Enterprise ("SBE") program, or the City's Local Employment Apprenticeship ("LEAP") program. The parties acknowledge and agree that in any conflict between the City's SBE and LEAP ordinances and this CWA, the provisions of the City ordinances shall control.</p> <p>Section 1.3. This CWA is binding on the signatory parties hereto, Labor Organizations, and Contractors who sign a letter of assent; it does not apply to their parent companies, affiliates or subsidiaries.</p> <p>Section 1.4. The City has the right in its sole discretion to award to the best and lowest responsive and responsible bidders for project contracts without reference to the existence of any agreements between such bidder and any party to this Agreement; provided that on Covered Projects by the CWA such bidder assents to sign a letter of assent to be bound by this Agreement, should the bidder be designated the successful bidder.</p> <p>Section 1.5. On Covered Projects, any craft or trade identified in RCW Chapter 39.12 (Prevailing Wages) will be subject to the CWA.</p> <p>Section 1.6. This CWA does not apply to City employees and nothing herein shall prohibit or restrict City employees from performing Project Work. Once work or portions of work on the Covered Projects is completed and accepted by the City, the Agreement will have no further force or effect on such work.</p> <p>Section 1.7. The City, in its sole discretion, may manage, terminate, change, delay and/or suspend any or all portions of the City's contract on a specific Covered Project.</p> <p>Section 1.8. The liability of any Contractor and the liability of any Labor Organizations under this Agreement shall be several and not joint. The Labor Organizations agree this Agreement does not have the effect of</p>	<ul style="list-style-type: none"> • Need to define what constitutes the "best" bid in advance.

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<p>creating any joint employer status between or among the City and any Contractor.</p>	
<p style="text-align: center;">ARTICLE II EMPLOYMENT DIVERSITY</p> <p>Section 2.1. The City will set a requirement for each project that directs the Prime Contractor on a Covered Project to utilize workers from economically distressed ZIP codes (“Priority Workers”), including goals for the employment of women and persons of color for a specified share of total hours worked on the project by apprentices and journey-level workers. Workers that qualify towards those requirements shall be called “Priority Workers.”</p> <p>Section 2.2. Labor Organizations covered by this Agreement shall initially dispatch Priority Workers until the goals are achieved, and shall continue to prioritize the dispatch of such workers even after the required goals are achieved. The Labor Organizations shall prioritize dispatch of Priority Workers who are residents of Tacoma ZIP codes first, and then dispatch Priority Workers from ZIP codes in Pierce County, and then Priority Workers from any other economically distressed ZIP code (Attachment B). Labor hours performed by workers living outside of Washington will be excluded from priority worker calculations that the City performs when calculating whether required percentages of total Priority Worker hours were achieved.</p> <p>Section 2.3. Upon referral or dispatch from a Union, refusal by a Prime Contractor or Contractor to employ the dispatched worker (also known as a “turnaround”), requires a written explanation from the Contractor that shall be copied to the Prime Contractor (if different), City and affected Union, within two business days. The City shall make such turnaround explanations available in a timely way to other interested stakeholders, redacted as appropriate and subject to limitations of law.</p>	<ul style="list-style-type: none"> • Small WMBE firms should be exempt from the requirements of the CWA—whether they are the prime contractor, or hired as subcontractors. • Over-arching CBAs would need to include any exemption for WMBE firms and in our experience, unions will not agree to this. • Requiring that priority hire workers be dispatched by the union halls undercuts the goals (See also: Section 6.2 that says dispatched labor doesn’t need to come from union halls) • Other entities can dispatch apprentices – but not through the union halls. Example: CITC • The CWA compels me as a contractor to do things that I didn’t negotiate • Instead of using union halls for dispatch, rephrase that to speak about the entire workforce system— Let Workforce Center have the first round of deployments. • I would be interested in a 2-tier goal measure—can I meet this on this particular project OR across my entire company. Many of my employees work on multiple jobs in a single day. • Tracking the qualifications of subcontractors, who may be on a job for a few hours or days, adds significantly to administrative costs. <ul style="list-style-type: none"> • Can we incorporate flexibility as to who dispatches priority hires? In addition to or other than Unions?

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<p>Section 2.4. If the signatory Labor Organizations are unable to fill a request for employees within two (2) business days, the Contractor shall request a referral from the City Job and Training Coordinator. If the City is unable to refer a worker that can satisfy the request, the City, Union and Contractors shall make any other reasonable efforts to comply with priority hire requirements and goals as practicable given the needs of the work to be performed.</p> <p>Section 2.5. The Unions and Contractors agree to maintain copies of all worker requests on Covered Projects. The City may review and inspect any worker requests.</p>	<ul style="list-style-type: none"> • As a contractor, I cannot hold my project in abeyance for 2 days --or more-- waiting for a qualified worker.
<p style="text-align: center;">ARTICLE III APPRENTICESHIP UTILIZATION</p> <p>Section 3.1. The parties and assenting Contractors agree to utilize apprentices from Washington State Apprenticeship Training Council (WSATC) programs for total hours established within the City contract for the Covered Project for no less than 15% and no more than 20% of total project hours on each project with the exact requirement set by the City. The Prime Contractor shall provide a copy of their apprenticeship utilization plan to the City. The Prime Contractor’s apprenticeship utilization plan will be reviewed by the City and appropriate efforts by all parties to this Agreement shall be taken to increase utilization.</p> <p>Section 3.2. The parties and assenting Contractors agree to hire and facilitate utilization of those WSATC apprentices on Covered Projects and to facilitate the participation of people of color, women and persons from economically distressed areas. The City will establish a goal for labor hours performed by female apprentices and people of color who are apprentices, for each project and may substitute other efforts to meet the intent. The apprenticeship utilization plan provided by the Prime Contractor shall describe how the Prime Contractor will achieve the goals for utilization of apprentices who are people of color and women.</p>	<ul style="list-style-type: none"> • Apprenticeship goals are impossible to meet in some types of work. There are not apprentice “flaggers”. • We need to define apprenticeship • I like that we can use union or others to find our apprentices. • This requirement is hard on small businesses

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<p style="text-align: center;">ARTICLE IV VETERAN EMPLOYMENT</p> <p>Section 4.1. This CWA desires to facilitate the entry into the building and construction trades of veterans interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (“Center”), the Center’s “Helmets to Hardhats” program, and other appropriate veteran programs, to serve as resources for preliminary orientation, assessment of construction aptitude, referral to WSATC registered apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.</p> <p>Section 4.2. The Labor Organizations, Contractors and City agree to coordinate with the Center and other appropriate veteran referral sources, to maintain an integrated database of veterans interested in working on Covered Projects, and of apprenticeship and employment opportunities for Covered Projects. To the extent permitted by law, the Labor Organizations will give credit to such veterans for bona fide, provable past experience.</p> <p>Section 4.3. This agreement will include Helmets to Hard Hats qualified applicants and other qualified veteran applicants from within the economically distressed ZIP codes as defined by the City, as part of the Priority Worker hours that the contract shall require the Prime Contractor to achieve for the Covered Project.</p>	<ul style="list-style-type: none"> • Really important that this is here given the large military presence in the region. • This goal is additive to the apprentice goals—but there isn’t a set additional target here, and there are not residency requirements for the veterans. <ul style="list-style-type: none"> • Suggest not limiting qualified veterans to those living in the distressed zip codes. We have a labor shortage. • I like the zip codes approach because it focuses help in this community.
<p style="text-align: center;">ARTICLE V PREFERRED ENTRY</p> <p>Section 5.1. The parties seek to construct and expand pathways to good jobs and lifetime careers for Priority Workers, women and people of color, through collaborative workforce development systems that also likely includes community-based training providers and WSATC registered</p>	<ul style="list-style-type: none"> • Note this language doesn’t have a percentage goal for priority hire hours on the project. • This only works if all unions sign the CWA.

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<p>apprenticeship programs. This facilitates a workforce reflective of the diversity and needs of Tacoma and the local region, supporting goals of workforce inclusiveness.</p> <p>Section 5.2. This CWA establishes a Preferred Entry program that will identify individuals, especially women, people of color, and those from economically distressed ZIP codes as defined by the City, who meet entry standards for WSTAC apprenticeship programs that allow qualified preferred entry applicants into their programs. Preferred Entry candidates shall be placed with Contractors working on Covered Projects, subject to an interview if requested by the Contractor. Selected Preferred Entry candidates who are not already first year apprentices shall become first period apprentices.</p> <p>Section 5.3. The Prime Contractor shall ensure one (1) of each five (5) apprentices on the Covered Project is from a recognized Pre-Apprenticeship program. Such programs include the Tacoma Training and Employment Program (TTEP), the Clover Park Construction Technology Program, Apprenticeship and Non-Traditional Employment Program for Women (ANEW), YouthBuild, or other City approved programs that serve people living in economically distressed ZIP codes, people of color, women and/or veterans.</p> <p>Section 5.4. The Labor Organizations and Prime Contractor agree to ensure hiring of Preferred Entry apprentices during the early start of work on the Covered Projects. The City, labor Organizations and Contractors recognize Preferred Entry Apprentices that are still completing their first 1500 hours of employment.</p> <p>Section 5.5. If a preferred entry apprentice leaves, Contractors will replace that apprentice with another from the preferred entry program.</p> <p>Section 5.6. The hours worked by eligible Preferred Entry qualified</p>	<ul style="list-style-type: none"> • I am concerned about the administrative challenge of this, and how it fits into the other apprenticeship goals. • I support this—it gives us standing to hire pre-apprentices beyond our normal union rules—this broadens the group we can hire from. • Zip code mapping should be better aligned with the screening used by pre-apprenticeship programs. • I don't see how this will not harm the WMBE businesses. • The list of programs could change over time—find a way to give us information, but not get tied down to this specific list. • Pre-apprenticeship programs are required to have contracts with unions or trades, so it shouldn't be a problem getting these folks into a union • Sections 5.3 and 5.4 are very challenging—going inside a contractor's workforce management. I am opposed to requirements that tell us How to do our work. • I can only support this if the city pays the costs of this requirement.

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<p>applicants hired from such distressed economic ZIP codes will count towards accomplishment of the Priority Worker requirements.</p>	
<p style="text-align: center;">ARTICLE VI UNION RECOGNITION AND RESPONSIBILITIES</p> <p>Section 6.1. The Contractor(s) recognize the signatory Labor Organizations as the sole and exclusive bargaining representatives for all workers covered by this CWA who are Union members and working for a Contractor signatory to a collective bargaining agreement other than this CWA. Such workers shall remain members in said Union during the project.</p> <p>Section 6.2. No worker shall be required to become a member of a Union to be eligible for employment under this CWA. No Contractor shall be required to become affiliated with the Union to be eligible for work under this CWA, and there shall be no limits on the Contractors utilization of its own employees.</p> <p>Section 6.3. Union representatives shall have reasonable access to Covered Projects, provided they do not interfere with the work of the workers and if such representatives fully comply with the visitor, safety and security rules established for Covered Projects.</p> <p>Section 6.4. The Business Representative(s) for each of the local Unions signatory hereto shall have the right to designate for each shift worked with each Contractor one (1) working journey-level represented worker as Steward for all represented craft personnel, who shall be recognized as a Union representative. Such designated Stewards shall be qualified workers assigned to a crew and shall perform the work of their craft.</p> <p>Section 6.5 Working Stewards shall be paid at the applicable wage</p>	<ul style="list-style-type: none"> • I like this carve out for WMBEs. It will help us. • I am opposed to this: it gives an unfair advantage to non-union shops (they pay less in benefits) • AGC thinks it is critical to keep Section 6.2 in document • This is not acceptable to unions. We are trying to bring people into apprenticeship programs locally and this undercuts that investment. • I am concerned that we want to promote apprentice hiring and this doesn't help that. • Truly lifting a community requires gaining assets not just a union job. Minorities hire more minorities so the care out is the only way to promote hiring of these groups. I haven't seen data that shows minorities benefit from union jobs. • Seattle's CWA disadvantages e as a small contractor. Only larger businesses can do all the steps.

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<p>rate for the job classifications in which they are employed.</p> <p>Section 6.6. Steward(s) for each craft of the Unions employed on Covered Projects shall be permitted on Covered Projects site at all times. They shall not be subjected to discrimination or discharge for performing proper union business. The Unions agree that such business shall not unreasonably interfere with the Steward’s work for the Contractor.</p> <p>Section 6.7. The employee selected as Steward shall remain on the job if there is work within their craft for which they are qualified, willing and able to perform. The Contractor shall be notified in writing of the selection of each Steward. The Contractor shall give the Unions prior written notice before discharging a Steward.</p> <p>Section 6.8. The Steward may not cause or encourage a work stoppage and, if found guilty of instigating such action, will be subject to disciplinary action by the Contractor, including discharge.</p> <p>Section 6.9. The Steward’s duties shall not include hiring and termination.</p> <p>Section 6.10. The Stewards shall be given the option of working all reasonable overtime within their craft and shift provided they are qualified to perform the task assigned.</p> <p>Section 6.11. During this CWA, there shall be no strikes, picketing, work stoppages, slowdowns or other disruptive activity for any reason by the Union, any applicable local Union or by any worker, and there shall be no lockout by the Contractor. Failure of any Union, local Union or worker to cross any picket line established at Covered Project sites violates this Article.</p> <p>Section 6.12. The signatory Labor Organizations and every applicable local Union shall not sanction, aid or abet, encourage or continue any work</p>	<ul style="list-style-type: none"> • Unions are open to considering a CWA with a WMBE carve out but we would prefer instead a stronger WMBE ordinance and not include this language in the CWA. Tough to make a carve-out work. • The carve-out needs to Attebery clarified. • Only state certified WMBE’s should be allowed. • I want to see local WMBE requirements • Small WMBEs will not get jobs without a carve-out from the CWA. • The steward language is not really needed—it only applies to unions. • The steward language is not consistent with my collective bargaining agreement and sends mixed messages about non-union hiring.

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<p>stoppage, strike, picketing or other disruptive activity at the Contractor’s project site and shall undertake all reasonable means to prevent or to terminate any such activity. No worker shall engage in activities that violate this Article. Any worker who participates in or encourages any activities that interferes with normal operations on a Covered Project, shall be subject to disciplinary action, including discharge, and if justifiably discharged shall not be eligible for rehire on the project for a period of not less than ninety (90) days.</p> <p>Section 6.13. Neither the Union nor any applicable Local Union shall be liable for acts of workers for whom it has no responsibility. The International Union General President or Presidents will immediately instruct order and use the best efforts of his office to cause the Local Union or Unions to cease any violations of this Article. An International Union complying with this obligation shall not be liable for unauthorized acts of its Local Union. The principal officer or officers of a Local Union will immediately instruct, order and use the best efforts of his office to cause the workers the Local Union represents to cease any violations of this Article. A Local Union complying with this obligation shall not be liable for unauthorized acts of employees it represents. The failure of the Contractor to exercise its right in any instance shall not be deemed a waiver of its right in any other instance.</p>	<ul style="list-style-type: none"> • “best efforts” language is vague. I don’t know how to apply it. It gives staff great discretion which is problematic, I’d prefer a brighter line.
<p style="text-align: center;">ARTICLE VII SUBCONTRACTING</p> <p>Section 7.1. Every Contractor of any tier agrees that they will not subcontract any Covered Project work except to a person, firm or corporation who has signed a letter of assent to this CWA. Any Contractor working on the Project shall, as a condition to working on said Project, perform all work exclusively under this Agreement.</p> <p>Section 7.2. The Prime Contractor, City, the Unions and the Contractor Organizations commit to provide outreach, and train, mentor</p>	

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<p>and support woman and minority contractors on any Covered Project. The City, Prime Contractor and Unions also will provide training and assistance about working under the CWA to any interested contractor and those contractors who may wish to bid on such work.</p> <p>Section 7.3. Any Contractor conducting a bid process for work to be performed for a Covered Project, shall notify all bidders of the requirement to comply with the terms and conditions of this CWA.</p> <p>Section 7.4. If a Contractor of any tier subcontracts any work covered by this Agreement, such subcontractors of all tiers, shall sign letter of assent to this CWA, prior to beginning work on the Project.</p> <p>Section 7.5. The parties agree that open shop contractors of any tier often have employees, which they use commonly on their work and who contribute to the efficiency and competitiveness of those open shop contractors. The parties agree there are no barriers for open shop Contractors to compete effectively on projects covered by the CWA without displacing their own workers to do so. The open shop contractor may bring employees onto the Covered Project.</p>	<p>AGC views this section 7.5 as critical.</p>
<p style="text-align: center;">ARTICLE VIII DISPUTES AND GRIEVANCES</p> <p>Section 8.1. This CWA promotes close cooperation between management and labor. Each Union will assign a representative to ensure Covered Projects are completed economically, efficiently, continuously, and without interruptions, delays, or work stoppages.</p> <p>Section 8.2. The Contractors, Unions, and workers, collectively and individually, realize the importance to all parties to maintain continuous and uninterrupted performance of project work and agree to resolve disputes under the grievance arbitration provisions herein.</p>	<ul style="list-style-type: none"> • This only applies to union shops. What would the process be for non-union shops? • We need smoothing in here to help identify how jurisdictional disputes between unions would be addressed. • Not clear how we can comply with this as a non-union firm. • Remove this language.

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<p>Section 8.3. Any dispute on a Covered Project that is specific to labor relationships shall be considered a grievance and subject to resolution under the following. The Prime Contractor and City shall be given copies of all notices and invited to participate in any meetings or proceedings. Failure of the grieving party to adhere to the time limits established renders the grievance null and void. The time limits established may be extended by written mutual consent of the parties at the step where the extension is agreed.</p> <p>Step 1. If a worker, Contractor or Union subject to this CWA feels aggrieved by a labor issue, the worker may give notice to their Union representative. Within ten (10) business days after becoming aware of the grievance, the Union representative (which may be the business agent or the Steward) shall give verbal or written notice to the Contractor’s worksite representative. The notice shall describe the violation(s) and provision violated.</p> <p>The Union representative and Contractor’s work-site representative shall meet or discuss the dispute within 3 business days after such notice. Each party may keep meeting minutes and send a copy to the other. If the discussion does not resolve the issue, either party may escalate the grievance to Step 2.</p> <p>Step 2. To escalate the grievance into Step 2, the Union may, within two (2) business days after the discussion, send a written notice to the Contractor setting forth the alleged violation(s), providing a description, the date on which the violation(s) provoking the grievance occurred, and the provisions of the CWA that are alleged to have been violated. The Union will send a copy to the City.</p> <p>The local Business Manager and/or their designee and the Prime Contractor and sub-tier Contractor (if any), shall meet within seven (7) business days after the written notice was delivered to the Contractor, to</p>	

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<p>arrive at a satisfactory agreement. The meeting will be scheduled to also include a designee of the Director on behalf of the City. The City will take meeting minutes and share with the Prime Contractor, sub-tier Contractor (if applicable), and the Union as soon as practicable after the meeting, which is intended to be within two (2) business days.</p> <p>Step 3. (a) If the grievance has not been resolved within five business days under Step 2, either party may request that the grievance be submitted to an Arbitrator mutually agreed upon by them. The Contractor and the involved Union shall attempt mutually to select an arbitrator, but if they cannot do so, they shall request the American Arbitration Association to provide them with a list of arbitrators from which the Arbitrator shall be selected. The rules of the American Arbitration Association shall govern the conduct of the arbitration hearing. The decision of the Arbitrator shall be final and binding on all parties. The fee and expenses of such Arbitration shall be borne equally by the Contractor and the involved Local Union(s).</p> <p>(b) The Arbitrator shall have the authority to decide only issues presented to him or her, and he or she shall not have authority to change, amend, add to or detract from this Agreement.</p>	
<p style="text-align: center;">ARTICLE IX TERM</p> <p>Section 9.1. This agreement shall commence upon execution by all parties and shall continue in full force for a period of _____. The parties may mutually agree to amendments or modifications of this agreement.</p> <p>Section 9.2. The agreement shall continue in full force and effect for each Covered Project throughout the duration of each project and until the last of the Covered Projects concludes.</p>	<ul style="list-style-type: none"> • A shorter time frame is appropriate. • Time frame needs to be long enough to see projects through and then assess. • 5 years • 3 years • There need to be goals tracked and the CWA should be tweaked as you go along to address problems. Don't want to have to wait 5 years to make corrections: include an periodic review process that would occur to facilitate this.
<p style="text-align: center;">ARTICLE X GENERAL CONDITIONS</p>	

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<p>Section 10.1. Entire Agreement. This Agreement and any documents attached as exhibits thereto contain the entire agreement between the Parties as to the subject matter hereof and supersedes all prior discussions and understandings between them with reference to such subject matter.</p> <p>Section 10.2. Modification. This Agreement may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized representative of each party hereto in the same manner as such party has authorized this Agreement.</p> <p>Section 10.3. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the Parties hereto. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired its interest in compliance with the terms of this Agreement, or under law.</p> <p>Section 10.4. Notices. All notices which may be or are required to be given pursuant to this Agreement shall be in writing and delivered to the Parties at the following addresses:</p> <p>Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, (c) sent by email transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next Business Day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered on the date of the hand delivery. The above addresses and email</p>	

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<p>addresses may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.</p> <p>Section 10.5. Waiver. No waiver by any party of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing by the party granting the waiver; and no such waiver shall be construed to be a continuing waiver. The waiver by one party of the performance of any covenant, condition, or promise shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition, or promise hereunder. The waiver by either or both Parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.</p> <p>Section 10.6. Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party.</p> <p>Section 10.7. Applicable Law; Jurisdiction. This Agreement shall be interpreted under and pursuant to the laws of the State of Washington. In the event any action is brought to enforce any of the provisions of this Agreement, the Parties agree to be subject to the jurisdiction in the Pierce County Superior Court for the State of Washington or in the United States District Court for the Western District of Washington.</p> <p>Section 10.8. No Joint Venture. Nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between</p>	

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<p>the Parties. No term or provision of this Agreement shall be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder, except as may be otherwise expressly provided herein.</p> <p>Section 10.9. Attorneys' Fees. In the event any proceeding is instituted to interpret or enforce any provision or resolve any dispute under this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, each party shall bear its own attorneys,' paralegals, accountants,' and other experts' fees and all other fees, costs, and expenses.</p> <p>IN WITNESS WHEREOF, the Parties hereto have executed this document as of the day and year first above written.</p>	

Attachment F



Attachment F - Rating Concepts to Promote the City's Dual Goals: Results of Initial Voting Exercise

Tacoma Community Workforce Advisory Committee
Ballot on Proposed Mechanism to Promote City Public Works Hiring Goals

Instructions: For each concept, please provide a rating between 1 and 5. You can rate everything a "1" or a "5" or anything in between—this is not a forced ranking exercise; it is about gauging your level of support for these ideas. If you don't know how to rate the item, leave the rating column blank and instead insert a "0" in the "Don't Know" column. Please only insert numbers into the yellow cells. If you desire, write in the "Comments" column (gray cells). You do not have to insert any comments if you do not wish. However, please note that "Comments" are limited to 250 characters.

NAME: **TCWAC Group Whole List Sort**

Date: **3/13/2019**

Ratings Key	
0	Don't Know
1	Strongly Oppose
2	Oppose
3	Neutral
4	Support
5	Strongly Support

Proposal #	Concept	Group Rating (Average)	Don't know (Total)	Comments
5.a	Work with education system to promote construction jobs as a career path	4.83	0	Many labor unions do this already
7.b	Do outreach, provide support services to help small WMBEs	4.80	1	***These services are worthy. I do not know if the city should provide them. ***Again, support during the job is needed more than prior.
2.a	Increase pre-apprenticeship training opportunities in City in partnership with local institutions	4.69	0	***This needs to include opportunities that are recognized by state for Traffic control companies ***This makes sense, link to the CWA/PLA ***Only if the city comes up with a way to pay for the program Pre-apprenticeship programs should be linked to active CWAs or PLAs.
2.i	Promote awareness of existing apprenticeship programs	4.62	0	***Labor is already fighting to expand this in K-12. ***Policy makers and the K-12 system must present the entire universe of post secondary education to students.
3.u	Expand outreach to help contractors connect with qualified WMBEs	4.58	0	
9..b	Create a communication platform for WMBEs and SBEs to find jobs, training opportunities	4.58	1	
3.g	Regularly update the WMBE list and ensure that it mirrors the list of state certified WSMBES. (DS)	4.50	0	Super easy to do. A no-brainer. Also check any bid winners with OMWBE
3.s	Promote/fund small firm mentorship programs	4.45	1	AGC should be doing this in a thoughtful, strategic fashion to develop the next generation of contractors
6.c	Help contractors by providing list / database of registered SBEs (and WMBEs)	4.42	0	OMWBE list should be used.
6.a	Change city processes to track this prime contractor performance data, set performance expectations, and use it in bid process to evaluate bidders—track who bidders said they would hire, and who they actually hired.	4.42	0	***This has to happen. Cannot let the prime get away once they get awarded ***Yes, if we don't track our goals, we will never achieve them. Critical. A 5+
7.c	Promote a strong education system and business friendly environment	4.42	0	"business friendly" is used extensively in modern rhetoric to describe an anti-worker, anti-regulation, anti-government environment. This I cannot support.
8.a	Amend code to require bidders to submit a plan to show how they will meet goals for hiring of disadvantaged residents (and WMBEs) and make a plan meeting specific requirements a condition of being a responsive bidder (a "point system")	4.42	0	Yes.
9.a	Participate in regional coordination of workforce development	4.42	1	

Proposal #	Concept	Group Rating (Average)	Don't know (Total)	Comments
7.e	Require WMBE's that are used to meet contractor goals to be state certified.	4.36	1	***This should be a mandate ***Absolutely! A 5+
3.a	Increase funding for the City's contract compliance department so they can oversee contractor compliance with WMBE goals and other recommendations of the diversity study (Diversity Study Recommendation (DS))	4.33	0	***This is the only way a program is successful when it is monitored and the primes are held accountable. This should be same as how UDBE/DBE is monitored by WSDOT. ***Should do much more than fund a compliance officer -- if the City doesn't provide resources for the wmbe and prime contractors, monitoring
3.b	Provide more advance notice of upcoming public works opportunities to increase ability of smaller firms to prepare and bid (DS)	4.27	1	***Absolutely - this is extremely important ***Seems ok as is to me
3.c	Fund supportive service programs for WMBE firms—how to get certified, complete bid forms, etc. (DS)	4.27	0	Does not address the issue. There are many such programs. What is needed is support AFTER getting the contract.
3.q	Fund skills training for Tacoma residents	4.27	1	
2.f	Increase apprentice retention funding/support in City of Tacoma	4.23	0	Supportive services for newer apprentices will help with retention, as will the availability of work.
3.e	Include national procurement coding in procurements to synchronize contracting across city departments, increase ability for small firms to determine if the work is something for which they are qualified.(DS)	4.20	2	Sounds right, but what does this mean?
3.d	Institute a small business reserve program for projects that can only be bid on by small businesses. (DS)	4.18	1	***The more guidelines are put around the program to use small WMBE businesses the more participation will take place and meet the City's goals. ***Contracting Should be open to all and if small businesses compete on the prime level there should be a level playing fieldLike the state has.
6.d	Expand outreach to help contractors connect with qualified WMBEs	4.18	0	
3.t	Partner with private and nonprofit firms to create a one-stop assistance shop for WMBEs	4.18	0	***Same as above. ***See 3c and comments. How assistance might be provided needs city discussion/decisions. Avoid competition/duplication.
1.d	Adjust code to ensure bidders considered responsive only if they clearly will meet the goal.	4.17	0	
2.h	Promote apprenticeship programs that target both underemployed and unemployed people—use weekend and evening training sessions	4.09	2	***The very nature of apprentice level work is that it is a job. ***I believe we have programs that could work -- we just need to utilize them ***Not sure the intent of the statement. Apprenticeship starts with a job. How could this work?
2.o	Include workforce development system as a partner in workforce strategies	4.09	1	***I am on the WDC, so I support their work, but do not think it proper to comment further. ***See above.
6.e	Require utilization of SBE's as a condition of award for public works projects – or private projects where contractors are receiving public benefits or grants.	4.08	0	This will give the primes to work hard and incentive to hire SBE firms

Proposal #	Concept	Group Rating (Average)	Don't know (Total)	Comments
3.f	Collect award and paid subcontractor data on all public works contracts—including information on the minority and minority subcontractors. (DS)	4.08	0	
3.i	Where the city is providing benefits to private sector projects (Land, tax incentives, infrastructure, or other items of value), the City should extend WMBE participation requirements. (DS)	4.08	0	The City needs to promote investment in the city, not make it more difficult to develop a project
7.a	Establish mandatory goals for small WMBE hiring	4.08	0	***This is a must. ***Make sure it is legal
3.j	Establish race and gender-based subcontracting goals that are aspirational, as well as project goals, compliant with I-200, based on availability of WMBE firms in the local market. Update goals annually based on data on available WMBE firms. These goals must have a 5 year sunset / additional disparity study per <u>Croson</u> . (DS)	4.00	0	Review every 5 years with a 10 year sunsetAspirational and studies showing "availability" haven't been useful.
2.n	Include Workforce Development Council in City workforce planning efforts	4.00	1	***I am on the WDC, so I support their work, but do not think it proper to comment further. ***See above. ***Not sure what the Workforce Dev. Council does.
3.h	Investigate possible discrimination where bidders on large projects submit little to no proposed WMBE utilization—bidders should be required to list firms they contacted, bids received from subcontractors, as well as who was selected.(DS)	3.92	0	***Needs to have strict guidelines and monitored in order to be successful. ***to require all of the information listed in this suggestion at bid time is too onerous on Prime contractors and will lead to bid errors, bid protests and bid disqualifications ***A bit onerous. How about only those who submit little WMBE utilization?
3.n	Require prompt payment of WMBE subcontractors	3.92	0	Don't all subcontractors need to be paid promptly? there are prompt pay laws in place that already insure this
2.k	Fund support for needs of apprentices other than training—child care, transportation, etc.	3.92	1	***This is a worthy use of funds. I do not know how much this would cost the city to make it a meaningful amount, or where the money would come from. ***Important across the entire employment force ***apprentices should not be treated differently than journeymen -- they will need to be self sufficient and able to meet the demands of the job ***Supportive services, such as childcare and affordable housing are very valuable to the success of apprentices.
2.e	Evaluate challenges/capacity of LEAP program and address those challenges, increase capacity	3.85	0	Accountability is important to foster change. Tighter enforcement of the LEAP goals should be established.
3.l	Require utilization of WMBE's as a condition of award for public works projects – or private projects where contractors are receiving public benefits or grants.	3.83	0	There should never be an option - there should always be a COA.
1.c	Increase the value to the bidder of meeting the target	3.75	0	

Proposal #	Concept	Group Rating (Average)	Don't know (Total)	Comments
6.f	Create oversight committee to track progress on SBE hiring	3.70	2	<p>***And report back to the prime(s) who are not utilizing or low on utilization</p> <p>***Can be done with proper tracking software, but a committee might be good ... maybe.</p> <p>***but give it some teeth</p>
2.c	Contract with agencies other than unions to provide apprentice training to residents of distressed areas	3.67	1	<p>***Unions should not have a city monopoly on this work if other organizations can be effective.</p> <p>***Obviously this statement was made by someone unfamiliar with the apprenticeship system of education.</p>
2.l	Provide information to individuals considering new employment about the impact of it may have on their other government benefits	3.67	1	<p>***This is a worthy goal. I do not know if the city should be the one to do it.</p> <p>***These benefit cliffs need to be smoothed out at the state level and federal level.</p> <p>***The wages for apprentices may bar them from certain benefits.</p>
8.c	Increase SBE goals from 15% of hours to 25% of hours	3.50	4	<p>Again this further force primes to use SBE/WMBE businesses. Goals should always be "stretch goals" and not easy to meet.</p>
	<p>Most ideas expressed under this item are included under item 3 above, specifically:</p> <ul style="list-style-type: none"> · Supporting mentorship programs for WMBEs (3.s) · Fund support services for WMBEs (3.c) · Any private project receiving public benefit should be subject to WMBE hiring requirements.(3.i) 	3.40	0	<p>I strongly disagree with 3.i</p>
2.j	City should seek Union action to make union apprenticeship programs more accessible to low-income persons and persons of color and women	3.38	0	<p>***City should seek action form all apprenticeships, not just union apprenticeships, to be more accessible to low income persons and persons of color.</p> <p>***Do not see how this would help non-union WMBE businesses</p> <p>***This is already a target population for union recruitment</p> <p>***this should not be about creating union program</p> <p>***Unions already promote and recruit throughout the entire community. What needs to happen is to dispell the myth that you have to know someone to get in and encourage anyone interested to apply.</p>
3.o	Provide contractors with incentives to offset WMBE costs	3.36	1	<p>Not sure how to ascertain costs.</p>
6.g	Apply federal standards/guidelines in this areas to city projects	3.33	3	<p>***Without any guidelines and ongoing monitoring, no program can be successful</p> <p>***must comply with i200</p> <p>***Not familiar with the federal standards to make a comment.</p> <p>***What might be the downside?</p>
7.d	Have different qualifications/goals for WMBEs set based on the size of a public works project (tiers)	3.33	3	<p>***possible reasonable compromise here</p> <p>***Primes already do this. Also, they can carve out a section of the work for smaller firms.</p>

Proposal #	Concept	Group Rating (Average)	Don't know (Total)	Comments
2.b	Contract with unions to provide apprentice training to residents of distressed areas	3.30	3	<p>***Need to contract with more than just the unions to meet the needs of the City.</p> <p>***This gives the unions the monopoly on the apprenticeship training and again does not support a non-union WMBE</p> <p>***Unions are already targeting these populations</p> <p>***Not sure what the intent of the statement.</p>
7.g	Set WMBE goals and link them to meaningful rewards or for contractors	3.27	1	<p>***The reward is our innovative process in Tacoma can create more opportunities for our community, providing stability for our neighbors and families.</p> <p>***See 3.o</p>
3.p	Do not create incentives for WMBE firms to remain small—larger firms will have more capacity to hire the target populations the City seeks to support	3.25	3	<p>***I do not know what incentives the proposal refers to.</p> <p>***The labor force is separate from the ownership force and should be treated as such.</p> <p>***Leave this up to OMWBE. Do not duplicate/create confusion.</p>
2.m	Use Workforce Central as the City's workforce department –rather than setting something up inside City government	3.22	2	<p>***I am on the WDC, so I support their work, but do not think it proper to comment further.</p> <p>***since I serve on the workforce board, it would not be appropriate to vote nor comment on this suggestion.</p>
6.h	Create a formal city evaluation process that allows Primes to help evaluate performance of SBE's in a way that informs the City about whether to keep them on the list.	3.17	0	<p>***It should not only be Primes evaluation - there should be formal evaluation process how the SBE's performance is rated - this should ultimately be done by the City.</p> <p>***dunno. Might be a good idea to have it be part of the SBE review process</p> <p>***Interesting idea.</p> <p>***Who does the evaluating? A good germ of an idea, but...</p>
7.h	Award small business contracts in a rotation within the same NAIC	3.00	3	<p>This may help parity and make sure small businesses are actually getting the business based on their NAICneeds to be competitively bidWA small business roster is a good model.</p>
8.b	Create a City funded program that subsidizes wages and on-the job training costs for disadvantage resident apprentice hires --- money would be given to contractors to offset their additional costs (subject to confirmation of hiring)	2.73	1	<p>***Union apprentices are already paid a percentage of Journeyman wages, and their training cost is already set and paid for. The contractors are training their own workforce for the future. I'm not sold on handouts for this.</p> <p>***Union apprenticeship programs are already funded through collectively bargained contracts.</p> <p>***A level playing field of apprentices/local hires/WMBEs will let the primes bid according to their perceived costs</p>
2.d	Eliminate LEAP and create new oversight committee focused on apprentice recruitment and training	2.60	3	<p>***This should be kept in place as it meets one of the goals of hiring priorities in the distressed zip codes</p> <p>***I think leaqp could work if tweaked</p> <p>**If now CWA is established, LEAP is a preferred alternative.</p> <p>***Not sure what eliminating LEAP would mean.</p>
1.e	Reduce the 5% incentive to better meet the reality of the cost of SBE bids to prime contractors	2.50	2	<p>By doing this, there is no incentive for the Primes to meet the SBE goal - it has to be a reach out goal think the 5% should be raised to allow for higher costs of the SBE Bidder</p>

Proposal #	Concept	Group Rating (Average)	Don't know (Total)	Comments
1.b	Create a City funded program that subsidizes SBE wages and on-the-job training costs for these firms --- money would be given to contractors to offset their additional costs (subject to confirmation of hiring the SBEs)	2.42	0	***Does the city have the money for this? ***I do not think wage subsidy is right or fair to a union contractor ***See 3.o. What incentives to use needs further city discussion.
6.b	Before proceeding with more regulation in this area, complete further data collection on the amount and extent of problem	2.27	1	Nope. We have enough data. Already have the disparity study.
3.r	Subsidize prime contractors costs for up to a capped number of WMBEs	2.20	2	***This is a worthy goal. I do not know if the city has the money for it. ***See 3.0 instead. Needs city discussion on nature of 'incentives'.
7.f	Other agencies are in a better place to provide supportive services to small WMBEs than is the City—don't expand into this area.	2.30	2	The city does need to support these goals and expectations with education and outreach.
3.k	City should work to be a "business friendly" city—promoting quality infrastructure and an excellent educational system, rather than placing WMBE hire requirements on contractors	2.17	0	***I do not see the effort to make the city "business friendly" or to promote "quality infrastructure and an "excellent educational system" to be inconsistent with requirements for WMBE participation. ***The issues with lack of WMBE is a systemic issue that perpetuates racist notions. Doing nothing is not an option. ***Shouldn't be posited as "either-or"
2.g	City should take no additional actions	2.00	0	
1.a	Make no change to current City bid protocols around SBE utilization requirements	2.00	0	The way the draft is written and having Laborers Union having the authority to sign - it does not help WMBE's at all
3.m	Do not impose any WMBE mandates on public works bidders	2.00	0	Nope. Ignoring systemic issues that perpetuate racist notions is wrong.

Attachment G



Exhibit G. Minority Statements Submitted by Committee Members

Three minority statements submitted by Committee members are presented in the following pages.

**A Minority Report for the City of Tacoma Community Workforce Agreement Taskforce by
Worker and Community Advocates**

Members of the City Council:

We offer this minority report for your better understanding of the process and conclusions of the taskforce. In our opinion, the outcome of the deliberations regarding a CWA was a foregone conclusion from the beginning. 11 of the 18 members (61%) were either prime contractors, sub-contractors or directly tied to the contracting community. One of the first statements from a contractor representative at the first meeting was “CWAs are illegal” with no supporting evidence. The anti-union animus was palatable throughout the proceedings. Issues pertaining to collectively bargained contract language, which are far beyond the scope of the taskforce, were routinely debated and caused disruptive shading of the discussions. A straw vote during the 4th meeting that ended with a no recommendation for a CWA should have ceased the taskforce and saved the City staff time and energy. The taskforce was a rigged, scripted, and cynical effort to denigrate worker advocates and downplay the need to help local residents into meaningful careers in the construction industry.

We do note an important and long overdue outcome of the taskforce, namely the acknowledgement of the disparity study and the recommendation that the City of Tacoma make a conscious, immediate and enforceable effort to strengthen policies, procedures and ordinances around the use of Minority and Women Owned Business (MWBE) construction firms. We strongly support such legislation and pledge our resources to such an effort. For too long the established contracting community has disregarded diversifying their pool of sub-contractors and now are waking up only through community efforts such as this taskforce.

Signed,

Mark P. Martinez, Executive Secretary, Pierce County Building & Construction Trades Council, AFL-CIO

Lyle Quasim, President, Tacoma/Pierce County Black Collective

Nathe Lawver, Political Director & Community Liaison, Laborers Local Union #252

Korbett Moseley, Director of Family Stability Initiatives, nited Way

Eric Frank, Owner, Sustain-A-Build-ity

Minority Opinion – Tacoma Community Workforce Advisory Committee

Presented by Frank Lemos, President, National Minority Business Advisory Council (MBAC 501c4)

I would like to start off by thanking the Mayor and the City Council for putting together this Advisory Committee. I would also like to thank my fellow committee members who worked diligently over these past few months to study this important issue and come up with a final report.

In working through these issues as a committee it is my opinion that entering into any agreement with labor will be to the detriment of any meaningful minority business inclusion efforts. Time and time again we have seen these sorts of partnerships between public agencies and labor set up with the best of intentions only to end up hurting the underrepresented groups they set out to assist. The most successful way to reach employment goals, apprenticeship goals and women and minority business inclusion goals is through city ordinances. Union rules and regulations will immediately create a natural imbalance between union shops and non-union shops. Most all small minority owned business subcontractors are non-union and cannot fulfill the goals for the prime contractors.

To best illustrate this argument and ongoing problems please refer to the attached links:

<https://nationalbcc.org/news/testimonials/1672-project-labor-agreement-testimony-before-the-uscommission-for-civil-rights>

<https://thetruthaboutplas.com/2010/10/26/congressional-testimony-says-project-labor-agreements-harm-minority-contractors-and-employees/>

<http://www.opencompca.com/issues/project-labor-agreements/pla-facts/>

In the end minority businesses need to be able to use their own employees for their contracts.

As for the argument that minority business and their workers do not adequately meet the goal of hiring minorities at a high enough rate, this is a total fallacy spread by those that are pro PLA / CWA. The fact of the matter is, white owned businesses hire people of color at a rate of about 3 to 4 %. Whereas minority owned businesses hire people of color at a rate of 46%. Again the very businesses and employees the city is attempting to assist are being punished when working under a CWA or PLA. Working under these agreements, subcontractors have less work to go around for their direct employees.

These are the facts and I urge you to visit these links provided and read these reports that prove beyond the shadow of a doubt that CWA's and PLA's are a detriment to small minority owned businesses.

See UCLA Report – Minority VS Majority Hiring Section

<https://www.labor.ucla.edu/publication/exploring-targeted-hire/>



Date: March 27, 2019

To: The Honorable Mayor and Members of the Tacoma City Council
From: Arti O'Brien – President, AGS
Re: **MINORITY WMBE STATEMENT** to Report of the Tacoma Community Workforce Advisory Committee

Since the launch of the Tacoma Community Workforce Advisory Committee (TCWAC), I have been an active contributor and participant as the owner and President of Advanced Government Services (AGS), a UDBE, WMBE, SBE/LEAP and Open-Shop subcontractor serving Tacoma for over 15 years. AGS currently practices Priority Hire initiatives and provides 2nd chances for residents seeking a career that will provide them with a sustainable wage and benefits package for them and their families.

The Report of the TCWAC is a well written, comprehensive description of the work and correctly highlights that there is not a conflict around the “ends” but rather, the “means” to achieving the city’s goals. Notwithstanding, I am submitting this Minority WMBE (Open-Shop) Statement to provide increased prominence and explanation of the key obstacles to achieving the stated goals of the city by adopting the Seattle or another comparable Community Workforce Agreements (CWAs). Below are the key issues that will further eliminate the opportunity and possibly discriminate against participation of Open-Shop WMBE’s:

- Committee did not reach agreement on how to address **two key barriers to entry/obstacles** with CWAs which need simultaneous resolution in order to increase Priority Hire and Open-Shop WMBE participation in public works projects:
 - **Payment of Dual Benefits Expense** by WMBEs (approx. \$11.50/hour per Laborer’s Agreement) unless reimbursement with *taxpayer dollars* is permitted or ideally payment of Dual Benefits is not required at all.
 - **Union Contractors are “Penalized/Fined”** per current language in their Collective Bargaining Agreements (i.e. Laborer’s CBA) if they take along a non-union WMBE subcontractor on projects, including public works projects. A concession or an exemption would need to be incorporated in their contract language in order to allow for their Union contractors to “freely” choose to work with Open-shop WMBEs on public works projects.
- Reduction of **project thresholds** in any potential CWA, i.e. \$5.0M (current Seattle CWA threshold) down to \$1.0M would have the effect of granting Unions increased **access and influence in more public works projects** without ensuring increased Open-Shop WMBE participation and Priority Hiring unless resolution is reached to the above two key barriers.
- Open-Shop WMBE Core Employee vs. Union Hall dispatched **employee utilization ratio** requirement ultimately serves to limit Open-Shop WMBE participation and potentially Priority Hire initiatives with public works projects.
- **Apprentice Utilization requirements** and unions being “primary” or near-exclusive sourcing and training of apprentices present unfair competitive challenges and additional barriers to open-shop WMBE firms.
- Outcome of recent December 2018 filing by Associated General Contractors of Washington (AGC) of unfair labor practice “with the National Labor Relations Board **challenging the legality** under the National Labor Relations Act of a Community Workforce Agreement recently negotiated by the Washington State Dept. of Transportation with a number of unions” should be ascertained before the City of Tacoma decides to potentially execute a CWA.

In closing, having Unions be a signatory (possibly without having a legal basis) to a CWA cedes to them significant power and influence over public works projects and could serve to perpetuate the economic and social disparities that were discussed by the Committee if the above challenges are not directly addressed and resolved. I would be happy to meet with each of you or with your respective staffs to propose and review solutions to the numerous challenges facing Open-Shop WMBEs.

Sincerely,

A handwritten signature in blue ink that reads "Arti O'Brien".

Arti O'Brien- President, Advanced Government Services, Inc.

8644 Pacific Avenue

Tacoma, Washington 98444

253-531-9782