



ORDINANCE NO. 28970

1 AN ORDINANCE relating to employment; amending Chapter 1.90 of the
2 Tacoma Municipal Code, relating to the Local Employment and
3 Apprenticeship Training Program, by amending various sections, to
4 replace outdated elements and strengthen program outcomes.

4 WHEREAS in 1997, the City of Tacoma (“City”) created the Local
5 Employment and Apprenticeship Training Program (“LEAP”) to counteract
6 economic and social ills which accompany high rates of unemployment within
7 the City, and

8 WHEREAS LEAP provides opportunities to access apprenticeship
9 through partnerships with local workforce development providers, and

10 WHEREAS the program requires prime contractors awarded City-funded
11 public work and improvement projects and related service contracts to fulfill
12 workforce utilization requirements, and

13 WHEREAS the Community Economic Development Department last
14 presented LEAP updates and proposed Tacoma Municipal Code (“TMC”)
15 revisions to the Economic Development Committee (“EDC”) on January 23,
16 2024, and

17 WHEREAS the EDC members recommended bringing the revisions to
18 the LEAP Advisory Committee for input, and on February 29, 2024, the TMC
19 revisions were reviewed and supported by the LEAP Advisory Committee, and

20 WHEREAS the proposed revisions will help strengthen the effectiveness
21 of LEAP in enforcing workforce utilization requirements; Now, Therefore,
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BE IT ORDAINED BY THE CITY OF TACOMA:

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Section 1. That the City Council hereby adopts the Recitals of this Ordinance as its formal legislative findings.

Section 2. That Chapter 1.90 of the Tacoma Municipal Code, entitled “Local Employment and Apprenticeship Training Program”, is hereby amended as set forth in the attached Exhibit “A.”

Section 3. That the City Clerk, in consultation with the City Attorney, is authorized to make necessary corrections to this ordinance, including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Chief Deputy City Attorney



EXHIBIT "A"
CHAPTER 1.90

LOCAL EMPLOYMENT AND APPRENTICESHIP TRAINING PROGRAM

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Sections:

- 1.90.010 Purpose.
- 1.90.020 Scope.
- 1.90.030 Definitions.
- 1.90.040 LEAP ~~Requirements~~goals.
- 1.90.050 *Repealed.*
- 1.90.060 Effect of program on prime contractor/subcontractor relationship.
- 1.90.070 Apprentice utilization requirements – Bidding and contractual documents.
- 1.90.080 Enforcement.
- 1.90.090 Compliance with applicable law.
- 1.90.100 Review and reporting.
- 1.90.105 Authority
- 1.90.110 Interpretation.

1.90.010 Purpose.

The purpose of this Chapter is to establish a means of providing for the development of a trained and capable workforce possessing the skills necessary to fully participate in the construction trades.

1.90.020 Scope.

The provisions of this Chapter shall apply to all Public Works or Improvements [and Service Contracts related to Public Works or Improvements](#) funded in whole or in part with City funds or funds which the City expends or administers in accordance with the terms of a grant.

1.90.030 Definitions.

As used in this chapter, the following terms shall have the following meanings:

~~1.90.030.A-~~

“Apprentice” shall mean a person enrolled in a course of training specific to a particular construction trade or craft, which training shall be approved by the Washington State Apprenticeship and Training Council established pursuant to RCW 49.04.010.

~~1.90.030.B-~~

“Building Projects” shall mean all Public Works or Improvements having an Estimated Cost greater than \$750,000.00, and for which a building permit must be issued pursuant to Chapter 1 of the current edition of the state building code (Uniform Building Code).

~~1.90.030.C-~~

“City” shall mean all divisions and departments of the City of Tacoma, and all affiliated agencies, provided, however, that the Tacoma Community Redevelopment Authority shall not be included within this definition.

~~D-~~“Civil Projects” shall mean all Public Works or Improvements that are not defined as a “Building Project,” provided that those projects having an Estimated Cost of less than \$250,000.00 shall not be included in this definition.



~~E.~~ “Contractor or Service Provider” means a person, corporation, partnership, or joint venture ~~entering into~~ entering a contract with the City to construct a Public Work or Improvement or provide a service related to a Public Work or Improvement.

1.90.030.D

~~F.~~ “Director” shall mean the Director of Community and Economic Development, or the Director’s Designee.

1.90.030.E

~~G.~~ “Economically Distressed ZIP Codes”* shall mean ZIP codes in the Tacoma Public Utilities Service Area that meet two out of three (2/3) of the ~~criteria~~ thresholds of:

1. High concentrations of residents living under 200% of the federal poverty line in terms of persons per acre (69th percentile)
2. High concentrations of unemployed people in terms of persons per acre (45th percentile)
3. High concentrations of people 25 years or older without a college degree in terms of persons per acre (75th percentile)

(*Current ZIP Codes are available on the Local Employment and Apprenticeship Program web page.)

~~Said thresholds shall be updated within 30 days following any Prevailing Wage updates issued by the Washington State Labor and Industry. All updates are to be published on the first business day in August and in February of each calendar year.~~

~~H.~~ “Electrical Utility” and “Water Utility” shall mean, respectively, the Light Division of the Department of Public Utilities of the City of Tacoma, and shall include the electrical ~~and telecommunications~~ services of that Division, and the Water Division of the Department of Public Utilities of the City of Tacoma.

~~I.~~ “Estimated Cost” shall mean the anticipated cost of a Public Work or Improvement or related Service Contract, as determined by the City, based upon the expected costs of materials, supplies, equipment, and labor, but excluding taxes and contingency funds.

~~J.~~ “Estimated Labor Hours” shall mean the anticipated number of Labor Hours determined by the City to be necessary to construct a Public Work or Improvement and set forth in the specifications for the project, or as may be subsequently revised due to contract or project adjustment, or pursuant to an agreed upon change order.

~~K.~~ “Existing Employee” shall mean an employee whom the Contractor or Service Provider can demonstrate was actively employed by the Contractor or Service Provider for at least 1000 hours in the calendar year prior to bid opening plus one month following bid opening, and who was performing work in the construction trades.

1.90.030.L.

“Labor Hours” shall mean the actual number of hours worked by workers receiving an hourly wage who are employed on the site of a Public Work or Improvement or related Service Contract, and who are subject to state or federal prevailing wage requirements. The term “Labor Hours” shall include hours performed by workers employed by the Contractor or Service Provider and all ~~Subcontractors,~~ and Subcontractors and shall include additional hours worked as a result of a contract or project adjustment or pursuant to an agreed upon change order. The term “Labor Hours” shall not include hours worked by workers who are not subject to the prevailing wage requirements set forth in either RCW 39.12 or the Davis-Bacon Act - 40 U.S.C. 276 (a).

~~M.~~ “LEAP Coordinator” shall mean the City of Tacoma staff member who administers LEAP.

~~N.~~ “LEAP Program” or “Program” shall mean the City of Tacoma’s Local Employment and Apprenticeship Training Program, as described in this chapter.

~~O.~~ “LEAP Regulations” or “Regulations” shall mean the rules and practices established in this document.



1 ~~P.~~ “LEAP Utilization Plan” shall mean the document submitted by the Contractor to the LEAP Coordinator which outlines how the associated LEAP requirements goals will be met ~~will be met on the project.~~

2 1.90.030.P

3 ~~Q.~~ “Priority Hire Resident” shall mean any resident within the Economically Distressed ZIP Codes.

4 ~~R.~~ “Project Engineer” shall mean the City employee who directly supervises the engineering or administration of a particular construction project subject to this chapter.

5 ~~S.~~ “Public Work or Improvement” shall have the same meaning as provided in Section 39.04.010 RCW, as that Section may now exist or hereafter be amended.

6 1.90.030.R

7 ~~T.~~ “Resident of Tacoma” shall mean any person, ~~not defined as a Resident of the Community Empowerment Zone~~, who continues to occupy a dwelling within the boundaries of the City of Tacoma, has a present intent to continue residency within the boundaries of the City, and who demonstrates the genuineness of that intent by producing evidence that the person’s presence is more than merely transitory in nature.

9 1.90.030.S

10 ~~U.~~ “Service Area - Electrical” or “Electrical Service Area” shall mean that area served with retail sales by the Electrical Utility of the City of Tacoma at the time a bid is published by the Electrical Utility for a Public Work or Improvement or related Service Contract to be performed primarily for the Electrical ~~Electrical~~ Utility.

12 ~~V.~~ “Service Area - Water” or “Water Service Area” shall mean that area served with retail sales by the water utility of the City of Tacoma at the time a bid is published by the ~~W~~water ~~U~~tility for a Public Work or Improvement or related Service Contract to be performed primarily for the ~~W~~water ~~U~~tility.

14 ~~W.~~ “Service Contract” shall mean all City contracts relating to a Public Work or Improvement which utilize labor at a City site and which are not within the exceptions to nor defined as “Building Projects” or “Civil Projects.”

16 ~~X.~~ “Subcontractor” means a person, corporation, partnership, or joint venture that has contracted with the Contractor or Service Provider to perform all or part of the work to construct a Public Work or Improvement or related Service Contract by a Contractor.

17 1.90.030.T

18 ~~Y.~~ “Tacoma Public Utilities” means the City of Tacoma, Department of Public Utilities.

19 ~~Z.~~ “Tacoma Public Utilities Service Area” shall mean every ZIP code listed by Tacoma Public Utilities as an area that either receives services or maintains infrastructure to provide services.

20 1.90.030.W

21 ~~AA.~~ “Washington State Labor and Industries ~~y~~ Prevailing Wage” shall mean the hourly wage, usual ~~benefits~~ benefits, and overtime, paid in the largest city in each county, to the majority of workers, laborers, and mechanics. Prevailing wages are established, by the Department of Labor & Industries, for each trade and occupation employed in the performance of public work. They are established separately for each ~~county, and~~ county and are reflective of local wage conditions.

24 **1.90.040 LEAP Requirements ~~goals~~.**

25 A. Utilization Requirements ~~Goals~~.

26 1. All Contractors constructing Civil Projects or Building Projects, and all Service Providers involved with the construction of a Public Work or Improvement, shall ensure that at least 15 percent of the total



Labor Hours ~~actually worked~~ worked on the Project are performed by persons having their residence within the boundaries of the City of Tacoma or Economically Distressed ZIP Codes, whether or not any such person is an Apprentice.

- a. The thresholds for this section shall be \$250,000.00 for Civil Projects and \$750,000.00 for Building Projects.
2. Fifteen percent (15%) of the Total Labor Hours on contracts above one-million dollars (\$1,000,000.00) shall have work performed by Apprentices who are residents of the Tacoma Public Utilities Service Area consistent with RCW 39.04.320(1)(a), subject to waiver based on exceptions as specified in RCW 39.04.320(2)(a), (b), and (c).
3. Labor Hours performed by non-residents of the State of Washington will be deducted from a project's total Labor Hours for purposes of determining compliance with the requirements of this chapter.
4. All Contractors and Service Providers shall submit a LEAP Utilization Plan as provided for in the regulations adopted under this chapter, and shall meet with the LEAP Coordinator to review said Plan prior to being issued a Notice to Proceed. Failure to submit a LEAP Utilization Plan may be grounds for the City to withhold remittance of a progress payment until such Plan is received from the responsible Contractor or Provider. A meeting with the LEAP Coordinator prior to issuance of a Notice to Proceed shall be excused only when the LEAP Coordinator is unavailable to meet prior to the scheduled date for issuance of the Notice to Proceed and the Contractor and the LEAP Coordinator have otherwise scheduled a meeting for the coordinator to review the Contractor's or Provider's plan.

The Contractor or Service Provider shall be responsible for meeting the LEAP utilization ~~goal~~ requirements of the contract, including all amendments and change orders thereto, and shall be responsible for overall compliance for all hours worked by Subcontractors. To the extent possible, the Contractor or Service Provider shall recruit Apprentices from multiple trades or crafts.

B. Failure to Meet Utilization ~~Requirements~~ ~~Goal~~.

1. Contracts for the construction of Building projects or Civil projects and Service Contracts shall provide that Contractors or Service Providers failing to meet the LEAP utilization ~~goal~~ ~~requirements~~ shall be assessed an amount for each hour that is not achieved. The amount per hour shall be based on the extent the Contractor or Service Provider met its ~~requirements~~ ~~goal~~. The amount per hour that shall be assessed shall be as follows:

Percent of Requirements Goal Met	Assessment per unmet hour
100%	\$ 0.00
90% - 99%	\$ 12.00
75% to 89%	\$ 20.00 3.50
50% to 74%	\$ 30 5.00
1% to 49%	\$ 45 7.5.00
0%	\$ 60 10.00

When determining the percent of ~~requirements~~ ~~goal~~ that ~~are~~ ~~is~~ met, all rounding shall be down to the nearest whole percent. No penalty shall be waived by the City unless it is determined by the Director to be in the best interests of the City, which determination shall be made after consultation with the LEAP Coordinator.

2. Deposit of Assessments. All assessments imposed pursuant to this section shall be deposited into a separate account and utilized to support the City's pre-apprenticeship and training program~~s~~. The policies and regulations adopted by the City Manager and Director of Utilities pursuant to this chapter shall address issues pertaining to a Contractor's existing workforce. Contributions need not be made for Labor Hours that have been adjusted in accordance with Section 1.90.040(E).



C. LEAP Reports.

1 Notwithstanding the provisions of TMC 1.90.100, the LEAP Coordinator~~Director~~ shall, not less than
2 annually, publish a LEAP report setting forth Contractor compliance with this chapter. Said report shall
3 include information on all contracts and all Contractors to which this chapter applies, and shall detail the
4 level and nature of LEAP participation by contract and by Contractor, The LEAP Coordinator's~~Director's~~
LEAP report may include such other information as may be helpful to assuring fair and accurate
representation of the contracts, Contractors or projects covered in the report. The LEAP Coordinator's
~~Director's~~ LEAP reports may be considered by the Board of Contracts and Awards in its determinations as
to bidder responsibility.

5 D. LEAP Requirement~~Goal~~ Adjustments.

6 1. LEAP utilization requirements~~goals~~ may be adjusted prior to bid opening and/or as a result of a
contract amendment or change order on a Building Project, Civil Project, or Service Contract.

7 a. If LEAP utilization requirements~~goals~~ are adjusted prior to bid opening, they shall be set forth in the
8 bid or Request For Proposal advertisement and specification documents or in an addendum timely
9 provided to prospective bidders, provided that such adjustment shall be based upon a finding by the
10 Project Engineer that the reasonable and necessary requirements of the contract render LEAP utilization
11 unfeasible at the required levels. The Director shall concur with the Project Engineer's finding, provided
12 that should the Project Engineer and the Director fail to reach agreement on the Project Engineer's
13 finding, then in that circumstance the matter shall be referred to the City Manager or the Director of
14 Utilities, as appropriate, for ultimate resolution. Notwithstanding any other provision of this chapter to the
15 contrary, the decision of the City Manager or the Director of Utilities with regard to LEAP
16 requirement~~goal~~ adjustments may not be appealed.

17 b. If LEAP utilization requirements~~goals~~ are adjusted due to contract amendment or change order, the
18 amount of adjustment shall be consistent with the utilization requirements~~goals~~ set forth in this chapter
19 and shall be determined pursuant to regulations adopted pursuant to this chapter for administration of
LEAP utilization requirement~~goal~~ adjustments.

20 2. The methodology of determining the appropriate adjustments to LEAP utilization requirements~~goals~~
21 shall be determined in consultation with the LEAP Advisory Committee, established pursuant to this
22 ordinance for so long as the LEAP Advisory Committee remains in existence.

23 3. LEAP utilization requirements~~goals~~ shall not apply to those portions of a project that are funded by
24 sources other than

25 (a) City funds, or (b) funds which the City expends or administers in accordance with the terms of a grant
26 to the City, provided that the Project Engineer shall notify the LEAP Coordinator~~Director~~ of such non-
application prior to bid advertisement. For the purposes of this paragraph, credits extended by another
entity for the purpose of providing project funding shall not be considered to be City funds.

E. Utilization - Electrical Projects Outside Electrical Service Area.

20 Civil Projects or Building Projects that are constructed primarily for the benefit or use by the City's
21 Electrical Utility, which are wholly situated outside the Electrical Service Area, and for which the
22 estimated cost is less than \$1,000,000.00, are exempt from the requirements of this chapter.

F. Utilization - Water Projects Outside Water Service Area.

23 Civil Projects or Building Projects that are constructed primarily for the benefit or use by the City's water
24 utility, which are wholly situated outside the Water Service Area, and for which the estimated cost is less
25 than \$1,000,000.00 are exempt from the requirements of this chapter.

G. Utilization - Projects Outside Tacoma Public Utilities Service Area.

25 Civil Projects or Building Projects that are constructed primarily for the benefit or use by Tacoma Public
26 Utilities, which are wholly situated outside the retail service area of the Tacoma Public Utilities Service
Area, and for which the estimated cost is less than \$1,000,000.00 are exempt from the requirements of



1 this chapter. Projects wholly situated outside the Tacoma Public Utilities Service Area, and for which the
 2 estimated cost is more than \$1,000,000.00, shall be exempt from 15% utilization ~~requirement~~^{goal}
 3 specified in subsection A1. of this section. The 15% utilization ~~requirement~~^{goal} specified in subsection
 4 A2. of this section may be met if project work is performed by Apprentices who are enrolled in a course
 5 of training specific to a particular construction trade or craft, provided such training has been approved by
 6 the Washington State Apprenticeship and Training Council in accordance with Chapter 49.04, RCW.

7 H. Emergency.

8 This chapter shall not apply in the event of an Emergency. For the purposes of this section, an
 9 “Emergency” means unforeseen circumstances beyond the control of the City that either: (a) present a
 10 real, immediate threat to the proper performance of essential functions; or (b) will likely result in material
 11 loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

12 I. Conflict with State or Federal Requirements.

13 If any part of this chapter is found to be in conflict with federal or state requirements which are a
 14 prescribed condition to the allocation of federal or state funds to the City, then the conflicting part of this
 15 chapter is inoperative solely to the extent of the conflict and with respect to the City departments directly
 16 affected. This provision does not affect the operation of the remainder of this chapter. Administrative
 17 rules or regulations adopted under this chapter shall meet federal and state requirements which are a
 18 necessary condition to the receipt of federal or state funds by the City.

19 * * *

20 **1.90.080 Enforcement.**

21 A. The ~~LEAP Coordinator~~^{Director} shall review the Contractor’s or Service Provider’s and all
 22 Subcontractor’s employment practices during the performance of the work for compliance with LEAP
 23 Program requirements. On-site visits may be conducted as necessary to verify compliance with the
 24 requirements of the LEAP Program. The Contractor, Service Provider, or Subcontractors shall not deny to
 25 the City the right to interview its employees, provided that the ~~LEAP Coordinator~~^{Director} shall make
 26 reasonable efforts to coordinate employee interviews with employers.

B. Any knowing failure or refusal to cooperate in compliance monitoring may disqualify the defaulting
 Contractor, Service Provider, or Subcontractor from eligibility for other City contracts.

C. The making of any material misrepresentation may disqualify the defaulting Contractor, Service
 Provider, or Subcontractor from eligibility for other City contracts.

D. Any action by the City, its officers and employees, under the provisions of this Chapter may be
 reviewed by the ~~Hearings Examiner~~^{Board of Contracts and Awards}, upon written application of the party
 so affected. Application shall be made within twenty (20) days of the date of the action upon which the
 appeal is based, and provided to the City by certified mail or by personal service. Any action taken by the
~~Hearings Examiner~~^{Board of Contracts and Awards} may be ~~appealed to the City Council or Public Utility~~
~~Board, as appropriate~~ ^{appealed pursuant to Hearings Examiner Code TMC Chapter 1.23.-, and thereafter}
~~if desired, to the Superior Court of Pierce County, Washington, within fifteen (15) days of the previous~~
~~decision.~~

* * *



1 **1.90.100 Review and reporting.**

2 The City Manager and Director of Utilities shall review the Program on or before January 1, 2000, and
3 every two (2) years thereafter, and shall report to the City Council and Public Utility Board the
4 Manager's and LEAP Coordinator's~~Director's~~ findings, conclusions, and recommendations as to the
5 continued need for the Program, and any revisions thereto that should be considered by the Council and
6 Board.

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