

Appendix A: Tacoma Public Utilities Service Area

98001	Auburn
98002	Auburn
98003	Federal Way
98010	Black Diamond
98022	Enumclaw
98023	Federal Way
98030	Kent
98032	Kent
98038	Maple Valley
98042	Kent
98045	North Bend
98051	Ravensdale
98070	Vashon
98092	Auburn
98198	Seattle
98304	Ashford
98321	Buckley
98323	Carbonado
98327	DuPont
98328	Eatonville
98329	Gig Harbor
98330	Elbe
98332	Gig Harbor
98333	Fox Island
98335	Gig Harbor
98336	Glenoma
98338	Graham
98349	Lakebay
98354	Milton
98355	Mineral

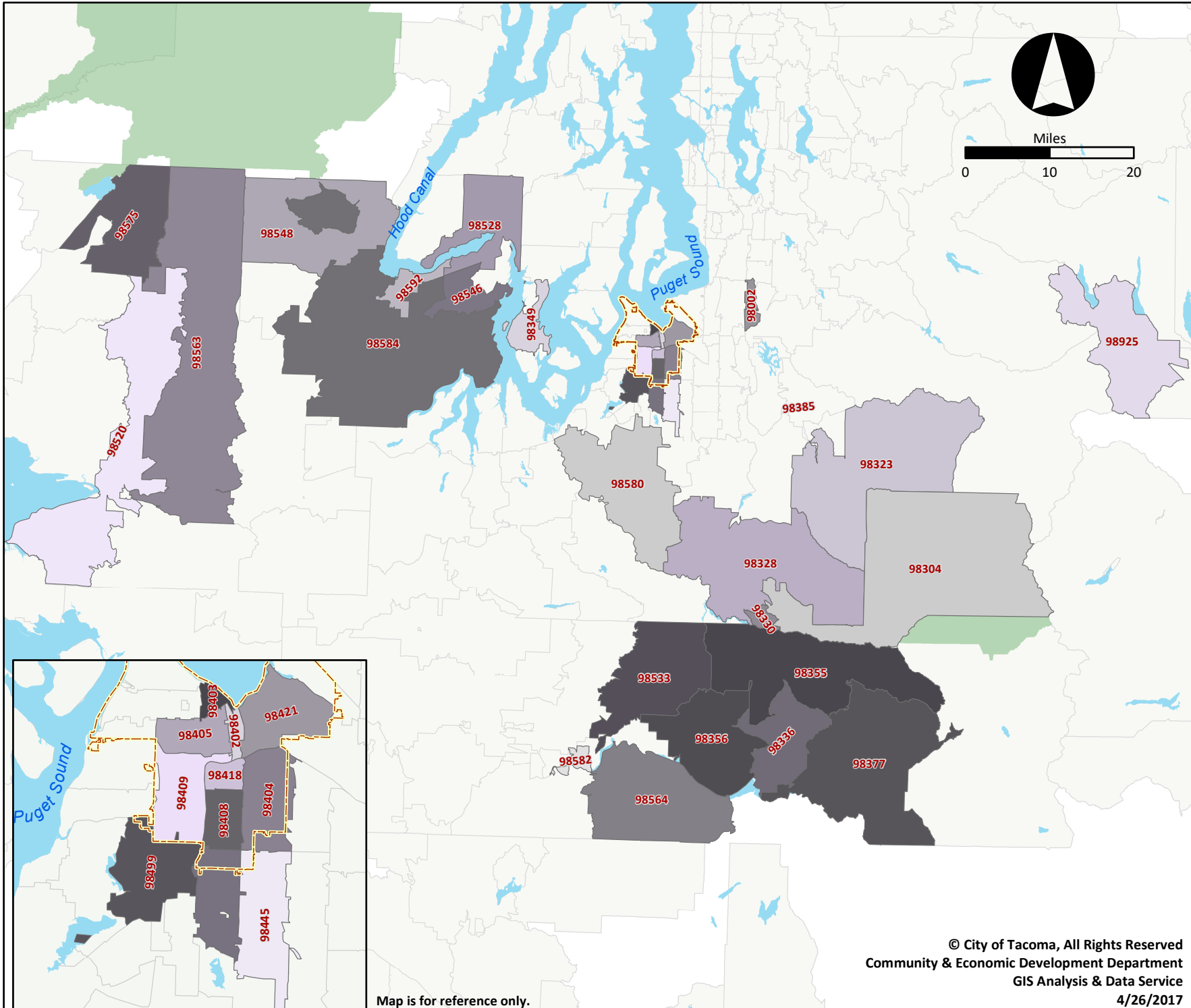
98356	Morton
98360	Orting
98371	Puyallup
98372	Puyallup
98373	Puyallup
98374	Puyallup
98375	Puyallup
98377	Randle
98385	South Prairie
98387	Spanaway
98388	Spanaway
98390	Sumner
98391	Bonney
98402	Tacoma
98403	Tacoma
98404	Tacoma
98405	Tacoma
98406	Tacoma
98407	Tacoma
98408	Tacoma
98409	Tacoma
98416	UPS
98418	Tacoma
98421	Tacoma
98422	Tacoma
98424	Tacoma
98430	Camp Murray
98433	Tacoma
98438	McChord
98439	Lakewood

98443	Tacoma
98444	Tacoma
98445	Tacoma
98446	Tacoma
98447	PLU
98465	Tacoma
98466	Tacoma
98467	University Place
98498	Lakewood
98499	Lakewood
98520	Aberdeen
98524	Allyn
98528	Belfair
98533	Cinebar
98546	Grapeview
98548	Hoodspoint
98555	Lilliwaup
98563	Montesano
98564	Mossyrock
98575	Quinault
98580	Roy
98582	Salkum
98584	Shelton
98585	Silver Creek
98591	Toledo
98592	Union
98597	Yelm
98925	Easton

Appendix B: Economically Distressed ZIP Codes

Zip Code	200% Pov	Unemployed	25+ College	Area
98002	Y		Y	Auburn
98304	Y		Y	Ashford/Rainier
98323	Y	Y	Y	Carbonado
98328	Y		Y	Eatonville
98330	Y		Y	Elbe
98336	Y		Y	Glenoma
98349	Y	Y		Lakebay
98355		Y	Y	Mineral
98356	Y	Y	Y	Morton
98377	Y	Y	Y	Randle
98385		Y	Y	South Prairie
98402	Y	Y		Downtown
98403	Y	Y		Stadium/St. Helens
98404	Y	Y		Eastside
98405	Y	Y		Hilltop/Central
98408	Y		Y	South End
98409	Y	Y		South Tacoma
98418	Y		Y	Lincoln/South End
98421	Y	Y	Y	Port
98439	Y	Y		McChord AFB
98444	Y	Y		Parkland
98445	Y		Y	Midland
98499	Y	Y		Lakewood
98520	Y	Y	Y	Aberdeen
98528	Y		Y	Belfair
98533		Y	Y	Cinebar
98546	Y	Y	Y	Grapeview
98548	Y	Y	Y	Hoodsport
98563	Y	Y	Y	Montesano
98564	Y	Y	Y	Mossyrock
98575	Y		Y	Quinault
98580	Y		Y	Roy
98582	Y		Y	Salkum
98584	Y		Y	Shelton
98591	Y		Y	Toledo
98592		Y	Y	Union
98925	Y		Y	Easton

Appendix C: Economically Distressed ZIP Codes Map



City Limits

- 98002
- 98304
- 98323
- 98328
- 98330
- 98336
- 98349
- 98355
- 98356
- 98377
- 98385
- 98520
- 98528
- 98533
- 98546
- 98548
- 98563
- 98564
- 98575
- 98580
- 98582
- 98584
- 98592
- 98925
- 98402
- 98403
- 98404
- 98408
- 98409
- 98418
- 98421
- 98444
- 98445
- 98499

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

Map is for reference only.

Appendix D: Proposed Changes

Definition Update

- We are removing language that is no longer applicable/relevant
- The program boundaries will be changed from the City of Tacoma or Pierce County (57 “lived” zip codes) to the Tacoma Public Utilities Service Area, which is 88 zip codes in 6 counties.
- The Community Empowerment Zone will be changed to the Economically Distressed ZIP Codes, which will be economically distressed zip codes from within the TPU Service Area (~36 zip codes).

1.90.040 (A) Utilization Goals

- Moving from one “LEAP Goal” to two
 - Local Employment Goal
 - Apprentice Goal
- The Local Employment Goal, which will be set at 15%, can be met by Journeyman or Apprentices
- The Apprentice Goal will also be set at 15%
- You can meet both goals simultaneously by utilizing apprentices who reside in a Local Employment eligible ZIP code (City of Tacoma or Economically Distressed Area of TPU Service Area).
- Exemptions for both goals will be included for out-of-state labor, to be in-compliance with the Privileges and Immunities Clause of the US Constitution.

1.90.040 (B) Adjustments

- Removed completely

Appendix E: Performance Outcomes

Table 1. Performance Outcomes on Contracts

	City of Seattle	King County	Port of Seattle	Sound Transit	City of Tacoma
Apprentice Utilization	15.0	15.6	15.4	14.3	9.56
People of Color: Percent of Apprentice Hours	46.0	31.4	24.5	35.6	
People of Color: Percent of Journey Hours	22.0	15.5		28.4	
Women: Percent of Apprentice Hours	31.0	11.8	15.2	19.0	
Women: Percent of Journey Hours	8.0	3.2		7.5	
People of Color: percent of all workers	25.0	16.9	19.8	27.4	19.51
Women: percent of all workers	6.0	1.1	4.4	7.3	4.09
Preferred Entry as Percent of Apprentices	8.0	15.6			
Priority Hire ZIP Codes: Percent of WA hours	24.0				6.98

Table 2. Goals for Contracts

	City of Seattle	King County	Port of Seattle	Sound Transit	City of Tacoma
Apprentice Utilization	15	15	15	20 (15 on tunnel work)	
People of Color: Percent of Apprentice Hours	19 to 50	21	15	*33 combined	
People of Color: Percent of Journey Hours	16 to 21				
Women: Percent of Apprentice Hours	4 to 12	12	10	*33 combined	
Women: Percent of Journey Hours	3 to 4				
People of Color: percent of all workers		21		21	
Women: percent of all workers		12		12	
Preferred Entry as Percent of Apprentices	20				
Priority Hire ZIP Codes: Percent of WA hours	15 to 24				15

Appendix E: Performance Outcomes

Additional Information

City of Seattle

- Numbers are cumulative Nov. 2013 – Feb. 2017 on Priority Hire projects
 - Goals vary by project type – majority of projects are still under construction

King County

- Numbers are for 2014 – 2016

Port of Seattle

- Numbers are for 2014 – 2016

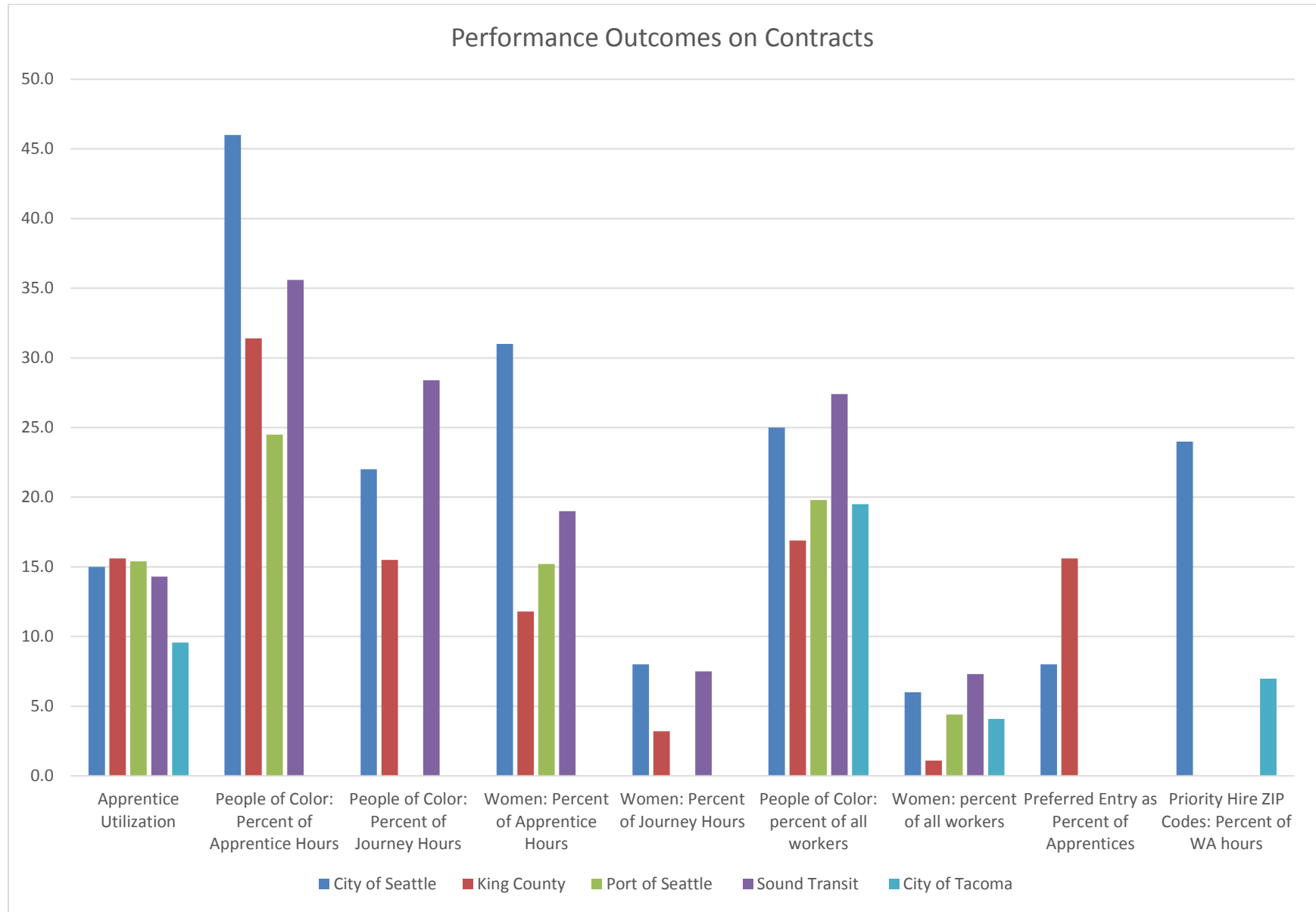
Sound Transit

- Goals are set by its PLA
 - *33% Combined goal includes subgoals of 21% people of color and 12% women

City of Tacoma

- Numbers are cumulative 2014 – 2016.
- Priority Hire ZIP Code is Community Empowerment Zone

Appendix E: Performance Outcomes



Appendix F: LEAP Success Count

LEAP Goal Annual Count					
Contract Year	Contracts	Total Labor	Leap Labor	Contract Success Count	Success Percentage
2003	19	705,169.39	84,676.51	6	12.01%
2004	23	357,491.69	118,544.66	15	33.16%
2005	36	501,589.81	111,534.10	18	22.24%
2006	27	321,997.02	54,223.05	14	16.84%
2007	20	299,792.69	37,253.98	10	12.43%
2008	29	491,120.96	93,832.61	18	19.11%
2009	31	234,779.41	63,424.01	16	27.01%
2010	26	420,570.34	64,251.39	12	15.28%
2011	25	135,575.40	18,362.45	9	13.54%
2012	34	267,400.49	50,573.90	12	18.91%
2013	32	212,049.10	33,205.81	14	15.66%
2014	38	287,889.91	43,179.20	20	15.00%
2015	23	220,759.90	53,080.28	14	24.04%
2016	21	51,052.43	4,198.50	8	8.22%
2017	20	81,984.78	9,891.75	9	12.07%
2018	3	3,250.83	10.50	0	0.32%

- Labor hours for contracts stay in the year in which the contract began.
 - Work for 2015 that is being performed in 2018 is reported in the 2015 year.
- Contract Success Count is the sum of contracts that met their LEAP Utilization Goal
- Success Percentage returns the LEAP Labor Hours divided by the Total Labor hours (this number should be no less than 15%)

Appendix G: Current Code

Chapter 1.90

LOCAL EMPLOYMENT AND APPRENTICESHIP TRAINING PROGRAM

Sections:

- 1.90.010 Purpose.
- 1.90.020 Scope.
- 1.90.030 Definitions.
- 1.90.040 LEAP 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.
(Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.020 Scope.

The provisions of this Chapter shall apply to all 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.
(Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.030 Definitions.

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

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.

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).

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. “Community Empowerment Zone (“CEZ”) shall mean that portion of those census tracts which are situated within the City of Tacoma and designated by the State of Washington as entitled to receive tax incentives because of high levels of poverty and unemployment.

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

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

H. “Electrical Utility” shall mean 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.

I. “Estimated Cost” shall mean the anticipated cost of a Public Work or Improvement, 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.

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

N. “Pierce County Apprentice” shall mean any person, not defined as a Resident of the Community Empowerment Zone or

Resident of Tacoma, who continues to occupy a dwelling within the boundaries of Pierce County, has a present intent to continue residency within the boundaries of Pierce County, who demonstrates the genuineness of that intent by producing evidence that the person’s presence is more than merely transitory in nature, and who is 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.

O. “Pierce County Veteran” shall mean any person, not defined as a Resident of the Community Empowerment Zone, Tacoma

Youth, or Pierce County Youth, who served for any length of time in any military service branch and who continues to occupy a dwelling within the boundaries of Pierce County, has a present intent to continue residency within the boundaries of Pierce

County, and who demonstrates the genuineness of that intent by producing evidence that the person’s presence is more than merely transitory in nature.

P. “Pierce County Youth” shall mean any person, not defined as a Resident of the Community Empowerment Zone or Tacoma

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Youth, between the ages of 18-24 who continues to occupy a dwelling within the boundaries of Pierce County, has a present intent to continue residency within the boundaries of Pierce County, and who demonstrates the genuineness of that intent by producing evidence that the person's presence is more than merely transitory in nature.

Q. "Project Engineer" shall mean the City employee who directly supervises the engineering or administration of a particular construction project subject to this chapter.

R. "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.

S. "Resident of the Community Empowerment Zone" ("CEZ Resident") shall mean any person who continues to occupy a dwelling within the boundaries of the Community Empowerment Zone, has a present intent to continue residency within the boundaries of the Community Empowerment Zone, and who demonstrates the genuineness of that intent by producing evidence that the person's presence is more than merely transitory in nature; provided, however, that an individual initially certified as a CEZ Resident shall retain such certification status for a period of up to 2 years or 1,000 Labor Hours worked from the date of initial certification, whichever is less, and such certification shall be recognized for any Civil Project, Building Project, or Service Contract covered by this chapter for said certification period. For example, if an individual initially certified as a CEZ Resident on January 1 of calendar year 1 on project A works 900 hours in that calendar year on project A, and is thereafter hired to work 700 hours in year 2 on project B, the individual will retain his or her CEZ status for all hours worked on project B; provided, if the individual commences work on project C after he or she has worked 100 or more hours on project B in year 2, and is no longer a CEZ Resident, the Contractor for project C will not be eligible to count the hours worked by said individual as hours worked by a CEZ resident.

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.

U. "Resident of Tacoma Power Hydro Project Areas" shall mean any person who continues to occupy a dwelling within the boundaries of the Cowlitz, Cushman, Wynoochee, and Nisqually Hydroelectric projects which are located in Lewis, Mason, Grays Harbor, Pierce, and Thurston counties; has a present intent to continue residency within the boundaries of the Tacoma Power Hydro Project Areas; and who demonstrates the genuineness of that intent by producing evidence that the person's presence is more than merely transitory in nature.

V. "Seattle's (City of) Duwamish and White Center Community Empowerment Zone" ("CEZ") shall mean that portion of those census tracts which are situated within the City of Seattle and designated by the state of Washington as entitled to receive tax incentives because of the high levels of poverty and unemployment. See Figure 1.

W. "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 to be performed primarily for the Electrical Utility.

X. "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 water utility for a Public Work or Improvement to be performed primarily for the water utility.

Y. "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."

Z. "Subcontractor" means a person, corporation, partnership, or joint venture that has contracted with the Contractor or

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Service Provider to perform all or part of the work to construct a Public Work or Improvement by a Contractor.

AA. "Tacoma Apprentice" shall mean any person 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 of Tacoma, who demonstrates the genuineness of that intent by producing evidence that the person's presence is more than merely transitory in nature, and who is 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.

BB. "Tacoma Power Hydro Project Areas" shall mean those areas within the boundaries of the Cowlitz, Cushman, Wynoochee, and Nisqually Hydroelectric projects, which are located in Lewis, Mason, Grays Harbor, Pierce, and Thurston counties.

CC. "Tacoma Veteran" shall mean any person, not defined as a Resident of the Community Empowerment Zone or Tacoma Youth, who served for any length of time in any military service branch and 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.

DD. "Tacoma Water's Green River Headworks and Watershed Area" shall mean that area in King County that is served with retail sales by the water utility of the City of Tacoma at the time a bid is published by the water utility for a public work or improvement to be performed primarily for the water utility." See Figure 2.

EE. "Tacoma Youth Resident" shall mean any person, not defined as a Resident of the Community Empowerment Zone, between the ages of 18-24 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.

(Ord. 28147 Ex. B; passed May 7, 2013; Ord. 28110 Ex. C; passed Dec. 4, 2012; Ord. 27815 Ex. A; passed Jun. 30, 2009; Ord. 27368 § 1; passed Jun. 21, 2005; Ord. 26698 § 1; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.040 LEAP goals.

A. Utilization Goals.

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 the lesser of at least 15 percent of the total Labor Hours actually worked on the Project, or 15 percent of the Estimated Labor Hours, are performed by persons having their residence within the boundaries of the City of Tacoma, whether or not an Apprentice, or by Apprentices who are residents of Pierce County, unless as adjusted per subsection B below.

2. Twenty-five percent (25%) of the Labor Hours or Estimated Labor Hours identified as the LEAP Utilization Goal above shall have work performed by a CEZ Resident; provided, however, that the Utilization Goal Estimated Labor Hours are subject to adjustment as provided in subsection B below.

3. If the Project is located within the Tacoma Power Hydro Project Areas, then 25 percent of the Labor Hours or Estimated Labor Hours identified as the LEAP Utilization Goal above in subsection A.1 or A.2 may be work performed by a Resident of the Tacoma Power Hydro Project Areas in which the Building Project, Civil Project, or Service Contract

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is located; provided however, that the Utilization Goal Estimated Labor Hours are subject to adjustment as provided in this section.

4. If the Project is within the Tacoma Water Green River Headworks and Watershed Area, then the 25 percent requirement of the Labor Hours or Estimated Labor Hours identified in subsection A.1 or A.2 above as the LEAP Utilization Goal may be work performed by Apprentices who reside in King County or by a Resident of the Duwamish and White Center CEZ or of Tacoma Water Green River Headworks and Watershed Area in which the Building Project, Civil Project, or Service Contract is located; provided however, that the Utilization Goal Estimated Labor Hours are subject to adjustment as provided in this section.

5. 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. Adjustments.

Contractors and Service Providers may achieve compliance with their LEAP Utilization Goal obligation through any combination of the following:

1. The number of hours worked by a Resident of the CEZ or Seattle's Duwamish and White Center CEZ shall be multiplied by two;
2. The number of hours worked by a Tacoma Youth, Tacoma Veteran or Tacoma Apprentice shall be multiplied by 1.5;
3. The number of hours worked by a Resident of Tacoma, Pierce County Youth, Pierce County Veteran or a Pierce or King County Apprentice shall be multiplied by 1;
4. The number of hours worked by a Tacoma Power Hydro Project Areas Resident shall be multiplied by 1.
5. Should the Contractor or Service Provider be unable to satisfy the sub-utilization goal requirement that 25 percent of the utilization goal hours be worked by CEZ Residents, the Contractor or Service Provider shall cure such deficiency by achieving a 2-for-1 ratio of hours worked by a Pierce County Apprentice, Pierce County Youth, Pierce County Veteran, Tacoma Power Hydro Project Areas Resident, or Resident of Tacoma for every unmet CEZ Resident labor hour until the CEZ deficiency is met. For example, if a Contractor has a total LEAP utilization goal of 20 hours, but is only able to achieve 4 of the 5 sub goal labor hours, then the Contractor must achieve a total of 17 non-CEZ Resident labor hours to satisfy the deficiency (15 non-sub goal hours plus 2 labor hours for the 1 missed sub goal hour).
6. For projects in the Tacoma Water Green River Headworks and Watershed Area, should the Contractor or Service Provider be unable to satisfy the subutilization goal requirement that 25 percent of the utilization goal hours be worked by CEZ Residents, the Contractor or Service Provider shall cure such deficiency by achieving a 2-for-1 ratio of hours worked by a

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King County Apprentice or Duwamish and White Center CEZ resident for every unmet CEZ Resident labor hour until the deficiency is met.

C. Failure to Meet Utilization 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 goals 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 goal. The amount per hour that shall be assessed shall be as follows:

Percent of Goal Met	Assessment per unmet hour
100%	\$ 0.00
90% - 99%	\$ 2.00
75% to 89%	\$ 3.50
50% to 74%	\$ 5.00
1% to 49%	\$ 7.50
0%	\$10.00

When determining the percent of goal that 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. 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).

D. LEAP Reports. Notwithstanding the provisions of TMC 1.90.100, the Director shall, not less than annually, publish a

LEAP report setting forth Contractor compliance with this chapter. Said report shall include information on all contracts and all Contractors to which this chapter applies, and shall detail the level and nature of LEAP participation by contract and by

Contractor, The 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 Director's LEAP reports may be considered by the Board of Contracts and Awards in its determinations as to bidder responsibility.

E. LEAP Goal Adjustments.

1. LEAP utilization 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.

a. If LEAP utilization goals are adjusted prior to bid opening, they shall be set forth in the bid or Request For Proposal advertisement and specification documents or in an addendum timely provided to prospective bidders, provided that such adjustment shall be based upon a finding by the Project Engineer that the reasonable and necessary requirements of the contract render LEAP utilization unfeasible at the

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required levels. The Director shall concur with the Project Engineer's finding, provided that should the Project Engineer and the Director fail to reach agreement on the Project Engineer's finding, then in that circumstance the matter shall be referred to the City Manager or the Director of Utilities, as appropriate, for ultimate resolution. Notwithstanding any other provision of this chapter to the contrary, the decision of the City Manager or the Director of Utilities with regard to LEAP goal adjustment may not be appealed.

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

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

3. LEAP utilization goals shall not apply to those portions of a project that are funded by sources other than (a) City funds, or (b) funds which the City expends or administers in accordance with the terms of a grant to the City, provided that the Project Engineer shall notify the 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.

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

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

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

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

(Ord. 28147 Ex. B; passed May 7, 2013: Ord. 27815 Ex. A; passed Jun. 30, 2009: Ord. 27368 § 2; passed Jun. 21, 2005: Ord. 26992 § 1; passed Oct. 15, 2002: Ord. 26698 § 2; passed Sept. 12, 2000: Ord. 26301 § 1; passed Oct. 6, 1998)

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1.90.050 Good faith efforts. *Repealed by Ord. 27368.*

(Ord. 27368 § 3; passed Jun. 21, 2005; Ord. 26698 § 3; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.060 Effect of program on prime contractor/service provider - subcontractor relationship.

The LEAP Program shall not be construed so as to modify or interfere with any relationship between any Contractor or Service Provider and Subcontractor. The LEAP Program shall not grant the City any authority to control the manner or method of accomplishing any construction work that is additional to any authority retained by the City in a Public Works contract.

(Ord. 26698 § 4; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.070 Apprentice utilization requirements – Bidding and contractual documents.

All packages of bid documents for every Building Project and every Civil Project shall incorporate provisions satisfactory to the City Attorney so as to allow enforcement of the provisions contained in this Chapter. Such contractual provisions may include liquidated damages, calculated to reimburse the City for the Contractor's breach of these performance requirements, which shall be published with the City's call for bids.

(Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.080 Enforcement.

A. The Director shall review the Contractor's or Service Provider's and all Subcontractor's employment practices during the performance of the work for compliance with LEAP Program requirements. On-site visits may be conducted as necessary to verify compliance with the requirements of the LEAP Program. The Contractor, Service Provider, or Subcontractors shall not deny to the City the right to interview its employees, provided that the Director shall make 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 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 Board of Contracts and Awards may be appealed to the City Council or Public Utility Board, as appropriate, and thereafter if desired, to the Superior Court of Pierce County, Washington, within fifteen (15) days of the previous decision.

(Ord. 26698 § 5; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.090 Compliance with applicable law.

Nothing in this Chapter shall excuse a Prime Contractor, Service Provider, or Subcontractor from complying with all relevant federal, state, and local laws.

(Ord. 26698 § 6; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.100 Review and reporting.

The City Manager and Director of Utilities shall review the Program on or before January 1, 2000, and every two (2) years thereafter, and shall report to the City Council and Public Utility Board the Manager's

Appendix G: Current Code

and Director's findings, conclusions, and recommendations as to the continued need for the Program, and any revisions thereto that should be considered by the Council and Board.
(Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.105 Authority.

The City Manager and the Director of Utilities shall have authority to jointly adopt policies and regulations consistent with this chapter to implement the LEAP program.
(Ord. 26698 § 7; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.110 Interpretation.

This Chapter shall not be interpreted or construed so as to conflict with any state or federal law, nor shall this Chapter be enforced such that enforcement results in the violation of any applicable judicial order.
(Ord. 26301 § 1; passed Oct. 6, 1998)

Appendix H: Proposed Changes w/ Strikethrough

Chapter 1.90

LOCAL EMPLOYMENT AND APPRENTICESHIP TRAINING PROGRAM

Sections:

- 1.90.010 Purpose.
- 1.90.020 Scope.
- 1.90.030 Definitions.
- 1.90.040 LEAP 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.

(Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.020 Scope.

The provisions of this Chapter shall apply to all 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.

(Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.030 Definitions.

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

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.

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).

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. ~~“Community Empowerment Zone (“CEZ”) shall mean that portion of those census tracts which are situated within the City of Tacoma and designated by the State of Washington as entitled to receive tax incentives because of high levels of poverty and unemployment.~~

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

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

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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 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)

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, 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.

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, 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 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.

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

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

~~O.~~ “Pierce County Veteran” shall mean any person, not defined as a Resident of the Community Empowerment Zone, Tacoma Youth, or Pierce County Youth, who served for any length of time in any military service branch and who continues to occupy a dwelling within the boundaries of Pierce County, has a present intent to continue residency within the boundaries of Pierce County, and who demonstrates the genuineness of that intent by producing evidence that the person’s presence is more than merely transitory in nature.

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

Appendix H: Proposed Changes w/ Strikethrough

P. ~~“Pierce County Youth” shall mean any person, not defined as a Resident of the Community Empowerment Zone or Tacoma Youth, between the ages of 18-24 who continues to occupy a dwelling within the boundaries of Pierce County, has a present intent to continue residency within the boundaries of Pierce County, and who demonstrates the genuineness of that intent by producing evidence that the person’s presence is more than merely transitory in nature.~~

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

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

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

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.

S. ~~“Resident of the Community Empowerment Zone” (“CEZ Resident”) shall mean any person who continues to occupy a dwelling within the boundaries of the Community Empowerment Zone, has a present intent to continue residency within the boundaries of the Community Empowerment Zone, and who demonstrates the genuineness of that intent by producing evidence that the person’s presence is more than merely transitory in nature; provided, however, that an individual initially certified as a CEZ Resident shall retain such certification status for a period of up to 2 years or 1,000 Labor Hours worked from the date of initial certification, whichever is less, and such certification shall be recognized for any Civil Project, Building Project, or Service Contract covered by this chapter for said certification period. For example, if an individual initially certified as a CEZ Resident on January 1 of calendar year 1 on project A works 900 hours in that calendar year on project A, and is thereafter hired to work 700 hours in year 2 on project B, the individual will retain his or her CEZ status for all hours worked on project B; provided, if the individual commences work on project C after he or she has worked 100 or more hours on project B in year 2, and is no longer a CEZ Resident, the Contractor for project C will not be eligible to count the hours worked by said individual as hours worked by a CEZ resident.~~

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.

U. ~~“Resident of Tacoma Power Hydro Project Areas” shall mean any person who continues to occupy a dwelling within the boundaries of the Cowlitz, Cushman, Wynoochee, and Nisqually Hydroelectric projects which are located in Lewis, Mason, Grays Harbor, Pierce, and Thurston counties; has a present intent to continue residency within the boundaries of the Tacoma Power Hydro Project Areas; and who demonstrates the genuineness of that intent by producing evidence that the person’s presence is more than merely transitory in nature.~~

V. ~~“Seattle’s (City of) Duwamish and White Center Community Empowerment Zone” (“CEZ”) shall mean that portion of those census tracts which are situated within the City of Seattle and designated by the state of Washington as entitled to receive tax incentives because of the high levels of poverty and unemployment. See Figure 1.~~

W. “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 to be performed primarily for the Electrical Utility.

~~XV.~~ “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 water utility for a Public Work or Improvement to be performed primarily for the ~~Water~~ Utility.

~~YW.~~ “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.”

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~~ZX. “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 by a Contractor.~~

~~Y. “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.~~

~~AA. “Tacoma Apprentice” shall mean any person 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 of Tacoma, who demonstrates the genuineness of that intent by producing evidence that the person’s presence is more than merely transitory in nature, and who is 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.~~

~~BB. “Tacoma Power Hydro Project Areas” shall mean those areas within the boundaries of the Cowlitz, Cushman, Wynoochee, and Nisqually Hydroelectric projects, which are located in Lewis, Mason, Grays Harbor, Pierce, and Thurston counties.~~

~~CC. “Tacoma Veteran” shall mean any person, not defined as a Resident of the Community Empowerment Zone or Tacoma Youth, who served for any length of time in any military service branch and 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.~~

~~DD. “Tacoma Water’s Green River Headworks and Watershed Area” shall mean that area in King County that is served with retail sales by the water utility of the City of Tacoma at the time a bid is published by the water utility for a public work or improvement to be performed primarily for the water utility.” See Figure 2.~~

~~EE. “Tacoma Youth Resident” shall mean any person, not defined as a Resident of the Community Empowerment Zone, between the ages of 18-24 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.~~

~~Z. Washington State Labor and Industry Prevailing Wage shall mean the hourly wage, usual 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 are reflective of local wage conditions.~~

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

(Ord. 28147 Ex. B; passed May 7, 2013; Ord. 28110 Ex. C; passed Dec. 4, 2012; Ord. 27815 Ex. A; passed Jun. 30, 2009; Ord. 27368 § 1; passed Jun. 21, 2005; Ord. 26698 § 1; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.040 LEAP goals.

A. Utilization Goals.

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 ~~the lesser of~~ at least 15 percent of the total Labor Hours actually worked on the Project, ~~or 15 percent of the Estimated Labor Hours,~~ 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, ~~or by Apprentices who are residents of Pierce County, unless as adjusted per subsection B below.~~

a. The thresholds for this section shall be \$250,000.00 for Civil Projects and \$750,000.00 for Building Projects.

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2. ~~Twenty five percent (25%) of the Labor Hours or Estimated Labor Hours identified as the LEAP Utilization Goal above shall have work performed by a CEZ Resident; provided, however, that the Utilization Goal Estimated Labor Hours are subject to adjustment as provided in subsection B below.~~

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. ~~If the Project is located within the Tacoma Power Hydro Project Areas, then 25 percent of the Labor Hours or Estimated Labor Hours identified as the LEAP Utilization Goal above in subsection A.1 or A.2 may be work performed by a Resident of the Tacoma Power Hydro Project Areas in which the Building Project, Civil Project, or Service Contract is located; provided however, that the Utilization Goal Estimated Labor Hours are subject to adjustment as provided in this section.~~

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. ~~If the Project is within the Tacoma Water Green River Headworks and Watershed Area, then the 25 percent requirement of the Labor Hours or Estimated Labor Hours identified in subsection A.1 or A.2 above as the LEAP Utilization Goal may be work performed by Apprentices who reside in King County or by a Resident of the Duwamish and White Center CEZ or of Tacoma Water Green River Headworks and Watershed Area in which the Building Project, Civil Project, or Service Contract is located; provided however, that the Utilization Goal Estimated Labor Hours are subject to adjustment as provided in this section.~~

5. 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. Adjustments.

Contractors and Service Providers may achieve compliance with their LEAP Utilization Goal obligation through any combination of the following:

1. ~~The number of hours worked by a Resident of the CEZ or Seattle's Duwamish and White Center CEZ shall be multiplied by two;~~

2. ~~The number of hours worked by a Tacoma Youth, Tacoma Veteran or Tacoma Apprentice shall be multiplied by 1.5;~~

3. ~~The number of hours worked by a Resident of Tacoma, Pierce County Youth, Pierce County Veteran or a Pierce or King County Apprentice shall be multiplied by 1;~~

4. ~~The number of hours worked by a Tacoma Power Hydro Project Areas Resident shall be multiplied by 1.~~

5. ~~Should the Contractor or Service Provider be unable to satisfy the sub-utilization goal requirement that 25 percent of the utilization goal hours be worked by CEZ Residents, the Contractor or Service Provider shall cure such deficiency by achieving a 2 for 1 ratio of hours worked by a Pierce County Apprentice, Pierce County Youth, Pierce County Veteran, Tacoma Power Hydro Project Areas Resident, or Resident of Tacoma for every unmet CEZ~~

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~~Resident labor hour until the CEZ deficiency is met. For example, if a Contractor has a total LEAP utilization goal of 20 hours, but is only able to achieve 4 of the 5 sub-goal labor hours, then the Contractor must achieve a total of 17 non-CEZ Resident labor hours to satisfy the deficiency (15 non-sub-goal hours plus 2 labor hours for the 1 missed sub-goal hour).~~

~~6. For projects in the Tacoma Water Green River Headworks and Watershed Area, should the Contractor or Service Provider be unable to satisfy the subutilization goal requirement that 25 percent of the utilization goal hours be worked by CEZ Residents, the Contractor or Service Provider shall cure such deficiency by achieving a 2 for 1 ratio of hours worked by a King County Apprentice or Duwamish and White Center CEZ resident for every unmet CEZ Resident labor hour until the deficiency is met.~~

~~C.~~ Failure to Meet Utilization Goal.

1. Contracts for the construction of Building projects or Civil ~~p~~Projects and Service Contracts shall provide that Contractors or Service Providers failing to meet the LEAP utilization goals 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 goal. The amount per hour that shall be assessed shall be as follows:

Percent of Goal Met	Assessment per unmet hour
100%	\$ 0.00
90% - 99%	\$ 2.00
75% to 89%	\$ 3.50
50% to 74%	\$ 5.00
1% to 49%	\$ 7.50
0%	\$10.00

When determining the percent of goal that 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. 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).

~~D~~C. LEAP Reports. Notwithstanding the provisions of TMC 1.90.100, the Director shall, not less than annually, publish a LEAP report setting forth Contractor compliance with this chapter. Said report shall include information on all contracts and all Contractors to which this chapter applies, and shall detail the level and nature of LEAP participation by contract and by Contractor. The 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 Director's LEAP reports may be considered by the Board of Contracts and Awards in its determinations as to bidder responsibility.

~~E~~D. LEAP Goal Adjustments.

1. LEAP utilization 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.

a. If LEAP utilization goals are adjusted prior to bid opening, they shall be set forth in the bid or Request For Proposal advertisement and specification documents or in an addendum timely provided to prospective bidders, provided that such adjustment shall be based upon a finding by the Project Engineer that the reasonable and necessary requirements of the contract render LEAP utilization unfeasible at the required levels. The Director shall

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concur with the Project Engineer's finding, provided that should the Project Engineer and the Director fail to reach agreement on the Project Engineer's finding, then in that circumstance the matter shall be referred to the City Manager or the Director of Utilities, as appropriate, for ultimate resolution. Notwithstanding any other provision of this chapter to the contrary, the decision of the City Manager or the Director of Utilities with regard to LEAP goal adjustment may not be appealed.

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

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

3. LEAP utilization goals shall not apply to those portions of a project that are funded by sources other than (a) City funds, or (b) funds which the City expends or administers in accordance with the terms of a grant to the City, provided that the Project Engineer shall notify the 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.

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

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

G. Utilization –Projects Outside Tacoma Public Utilities Service Area. Civil Projects or Building Projects that are constructed primarily for the benefit or use by Tacoma Public 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 this chapter. Projects wholly situated outside the Tacoma Public Utilities Service Area, and for which the estimated cost is more than \$1,000,000.00, shall be exempt from 15% utilization goal specified in subsection A1. of this section. The 15% utilization goal specified in subsection A2. of this section may be met if project work is performed by Apprentices who are enrolled in a course of training specific to a particular construction trade or craft, provided such training has been approved by the Washington State Apprenticeship and Training Council in accordance with Chapter 49.04, RCW.

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

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

(Ord. 28147 Ex. B; passed May 7, 2013: Ord. 27815 Ex. A; passed Jun. 30, 2009: Ord. 27368 § 2; passed Jun. 21, 2005: Ord. 26992 § 1; passed Oct. 15, 2002: Ord. 26698 § 2; passed Sept. 12, 2000: Ord. 26301 § 1; passed Oct. 6, 1998)

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(Ord. 27368 § 3; passed Jun. 21, 2005; Ord. 26698 § 3; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.060 Effect of program on prime contractor/service provider - subcontractor relationship.

The LEAP Program shall not be construed so as to modify or interfere with any relationship between any Contractor or Service Provider and Subcontractor. The LEAP Program shall not grant the City any authority to control the manner or method of accomplishing any construction work that is additional to any authority retained by the City in a Public Works contract.

(Ord. 26698 § 4; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.070 Apprentice utilization requirements – Bidding and contractual documents.

All packages of bid documents for every Building Project and every Civil Project shall incorporate provisions satisfactory to the City Attorney so as to allow enforcement of the provisions contained in this Chapter. Such contractual provisions may include liquidated damages, calculated to reimburse the City for the Contractor's breach of these performance requirements, which shall be published with the City's call for bids.

(Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.080 Enforcement.

A. The Director shall review the Contractor's or Service Provider's and all Subcontractor's employment practices during the performance of the work for compliance with LEAP Program requirements. On-site visits may be conducted as necessary to verify compliance with the requirements of the LEAP Program. The Contractor, Service Provider, or Subcontractors shall not deny to the City the right to interview its employees, provided that the Director shall make 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 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 Board of Contracts and Awards may be appealed to the City Council or Public Utility Board, as appropriate, and thereafter if desired, to the Superior Court of Pierce County, Washington, within fifteen (15) days of the previous decision.

(Ord. 26698 § 5; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.090 Compliance with applicable law.

Nothing in this Chapter shall excuse a Prime Contractor, Service Provider, or Subcontractor from complying with all relevant federal, state, and local laws.

(Ord. 26698 § 6; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.100 Review and reporting.

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

(Ord. 26301 § 1; passed Oct. 6, 1998)

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1.90.105 Authority.

The City Manager and the Director of Utilities shall have authority to jointly adopt policies and regulations consistent with this chapter to implement the LEAP program.

(Ord. 26698 § 7; passed Sept. 12, 2000: Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.110 Interpretation.

This Chapter shall not be interpreted or construed so as to conflict with any state or federal law, nor shall this Chapter be enforced such that enforcement results in the violation of any applicable judicial order.

(Ord. 26301 § 1; passed Oct. 6, 1998)

Appendix I: Proposed Changes (Clean w/Underline)

Chapter 1.90

LOCAL EMPLOYMENT AND APPRENTICESHIP TRAINING PROGRAM

Sections:

- 1.90.010 Purpose.
- 1.90.020 Scope.
- 1.90.030 Definitions.
- 1.90.040 LEAP 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.

(Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.020 Scope.

The provisions of this Chapter shall apply to all 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.

(Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.030 Definitions.

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

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.

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).

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 a contract with the City to construct a Public Work or Improvement.

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

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 thresholds of:

Appendix I: Proposed Changes (Clean w/Underline)

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)

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, 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.

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, 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 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.

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

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

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

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.

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.

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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 to be performed primarily for the Electrical Utility.

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 water utility for a Public Work or Improvement to be performed primarily for the Water Utility.

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.”

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 by a Contractor.

Y. “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.

Z. Washington State Labor and Industry Prevailing Wage shall mean the hourly wage, usual 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 are reflective of local wage conditions.

AA. “Tacoma Public Utilities” means the City of Tacoma, Department of Public Utilities.

(Ord. 28147 Ex. B; passed May 7, 2013; Ord. 28110 Ex. C; passed Dec. 4, 2012; Ord. 27815 Ex. A; passed Jun. 30, 2009; Ord. 27368 § 1; passed Jun. 21, 2005; Ord. 26698 § 1; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.040 LEAP goals.

A. Utilization Goals.

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 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

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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 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 goals 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 goal. The amount per hour that shall be assessed shall be as follows:

Percent of Goal Met	Assessment per unmet hour
100%	\$ 0.00
90% - 99%	\$ 2.00
75% to 89%	\$ 3.50
50% to 74%	\$ 5.00
1% to 49%	\$ 7.50
0%	\$10.00

When determining the percent of goal that 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. 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. Notwithstanding the provisions of TMC 1.90.100, the Director shall, not less than annually, publish a LEAP report setting forth Contractor compliance with this chapter. Said report shall include information on all contracts and all Contractors to which this chapter applies, and shall detail the level and nature of LEAP participation by contract and by Contractor. The 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 Director's LEAP reports may be considered by the Board of Contracts and Awards in its determinations as to bidder responsibility.

D. LEAP Goal Adjustments.

1. LEAP utilization 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.

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

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

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

3. LEAP utilization goals shall not apply to those portions of a project that are funded by sources other than (a) City funds, or (b) funds which the City expends or administers in accordance with the terms of a grant to the City, provided that the Project Engineer shall notify the 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. Civil Projects or Building Projects that are constructed primarily for the benefit or use by the City's Electrical Utility, which are wholly situated outside the Electrical Service Area, and for which the 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. Civil Projects or Building Projects that are constructed primarily for the benefit or use by the City's Water Utility, which are wholly situated outside the Water Service Area, and for which the estimated cost is less than \$1,000,000.00 are exempt from the requirements of this chapter.

G. Utilization –Projects Outside Tacoma Public Utilities Service Area. Civil Projects or Building Projects that are constructed primarily for the benefit or use by Tacoma Public 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 this chapter. Projects wholly situated outside the Tacoma Public Utilities Service Area, and for which the estimated cost is more than \$1,000,000.00, shall be exempt from 15% utilization goal specified in subsection A1. of this section. The 15% utilization goal specified in subsection A2. of this section may be met if project work is performed by Apprentices who are enrolled in a course of training specific to a particular construction trade or craft, provided such training has been approved by the Washington State Apprenticeship and Training Council in accordance with Chapter 49.04, RCW.

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

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

(Ord. 28147 Ex. B; passed May 7, 2013: Ord. 27815 Ex. A; passed Jun. 30, 2009: Ord. 27368 § 2; passed Jun. 21, 2005: Ord. 26992 § 1; passed Oct. 15, 2002: Ord. 26698 § 2; passed Sept. 12, 2000: Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.050 Good faith efforts. *Repealed by Ord. 27368.*

(Ord. 27368 § 3; passed Jun. 21, 2005: Ord. 26698 § 3; passed Sept. 12, 2000: Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.060 Effect of program on prime contractor/service provider - subcontractor relationship.

The LEAP Program shall not be construed so as to modify or interfere with any relationship between any Contractor or Service Provider and Subcontractor. The LEAP Program shall not grant the City any authority to control the

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manner or method of accomplishing any construction work that is additional to any authority retained by the City in a Public Works contract.

(Ord. 26698 § 4; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.070 Apprentice utilization requirements – Bidding and contractual documents.

All packages of bid documents for every Building Project and every Civil Project shall incorporate provisions satisfactory to the City Attorney so as to allow enforcement of the provisions contained in this Chapter. Such contractual provisions may include liquidated damages, calculated to reimburse the City for the Contractor's breach of these performance requirements, which shall be published with the City's call for bids.

(Ord. 26301 § 1; passed Oct. 6, 1998)

1.90.080 Enforcement.

A. The Director shall review the Contractor's or Service Provider's and all Subcontractor's employment practices during the performance of the work for compliance with LEAP Program requirements. On-site visits may be conducted as necessary to verify compliance with the requirements of the LEAP Program. The Contractor, Service Provider, or Subcontractors shall not deny to the City the right to interview its employees, provided that the Director shall make 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 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 Board of Contracts and Awards may be appealed to the City Council or Public Utility Board, as appropriate, and thereafter if desired, to the Superior Court of Pierce County, Washington, within fifteen (15) days of the previous decision.

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Nothing in this Chapter shall excuse a Prime Contractor, Service Provider, or Subcontractor from complying with all relevant federal, state, and local laws.

(Ord. 26698 § 6; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

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

(Ord. 26301 § 1; passed Oct. 6, 1998)

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The City Manager and the Director of Utilities shall have authority to jointly adopt policies and regulations consistent with this chapter to implement the LEAP program.

(Ord. 26698 § 7; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

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1.90.110 Interpretation.

This Chapter shall not be interpreted or construed so as to conflict with any state or federal law, nor shall this Chapter be enforced such that enforcement results in the violation of any applicable judicial order.

(Ord. 26301 § 1; passed Oct. 6, 1998)

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