



WEEKLY REPORT TO THE CITY COUNCIL

October 17, 2019

Members of the City Council
City of Tacoma, Washington

Dear Mayor and Council Members:

ITEMS OF INTEREST

1. **The October 23, 2019 Public Utility Board Agenda is attached for your information.** Please note the following items which will be on the November 5th City Council Agenda for your consideration:
 - U-11111 – Authorize execution of the proposed 2020-2021 Collective Bargaining Agreement negotiated between the City of Tacoma and The Tacoma Joint Labor Committee that provides for employee health and welfare benefits.
 - U-11112 – Authorize execution of the Letter of Agreement negotiated between the City of Tacoma and the International Brotherhood of Electrical Workers, Local 483, Customer and Field Services Unit.
2. On September 26th, the National Association of Telecommunications Officers and Advisors (NATOA) honored the winners of the 34th Annual Government Programming Awards (GPA) at the Tampa Marriott Water Street in Tampa, FL. The awards program honors excellence in broadcast, cable, multimedia and electronic programming produced by local government agencies. There were over 945 entries submitted by local governments across the country.

Entries in the categories cover a variety of programming including, among others, community events, documentary, public affairs and public service, interview/talk shows, performing arts, sports, election coverage and children's issues. Among the awards with special significance are the "Excellence in Programming" awards which are judged on the agency's variety of programming quality throughout the year.

TV Tacoma was presented the Award for "Overall Excellence in Programming" for those stations with an operating budget \$500,000 - \$1,000,000. This is the third time TV Tacoma has been honored with this award (1995, 2015, & 2019). TV Tacoma finished in second place for this award in 2002, 2003, 2004, 2005, & 2017, and finished in third place for this award in 1998, 2010, 2014, & 2018. For the past 25 years, TV Tacoma has consistently been recognized by our NATOA Peers as one of the leaders in producing excellent PEG (Public, Educational, and/or Government) Programming.

Additionally TV Tacoma received the “Award of Distinction” (Second Place) for “The State of the City 2018” for LIVE Community Event Coverage and “artTown: Episode 10” for Arts and Entertainment.

STUDY SESSION/WORK SESSION

3. The **Joint City Council/ Public Utility Board Study Session** of Tuesday, October 22, 2019, will be held in Room 16 of the Tacoma Municipal Building North, at Noon. Discussion items will include: (1) **Executive Session-Pending Litigation**; (2) **Click! Updates**; (3) **Cushman and Adams Substations Future Use Study and North 21st Street Tree Updates**; (4) **Classification and Compensation Study Updates and Draft Compensation Philosophy**; (5) **LEAP / SBE Workforce Development and Equity Contracting Recommendations**; (6) **Committee Reports**; and, (7) **Agenda Review and City Manager’s Weekly Report**.

We will begin the Joint Study Session with an Executive Session on Pending Litigation, followed by a briefing on the **proposed Surplus declaration and Click! Agreement**.

For the third Joint Study Session topic, Tacoma Public Utilities and Planning and Development Services staff will provide an **update on the planning effort for the Cushman and Adams Substations including the public engagement process** to determine options for the futures uses. Please see the attached joint staff memorandum for additional information. In addition, there will be an update on the North 21st Street Trees.

For the Fourth Joint Study Session topic, Human Resources staff will provide a **Classification and Compensation Study update** and share the proposed Compensation Philosophy. The **draft Compensation Philosophy** is attached for your review prior to the discussion and shows requested revisions from feedback received during prior discussions.

In addition for the last agenda topic at the Joint Study Session, the Community and Economic Development and City Attorney Office staff will share **recommended code revisions related to Equity in Contracting**. These revisions take into account recommendations from our Disparity Study and feedback from the Community Workforce Agreement Task Force. This round of code revisions is particular to Minority/Women-owned Business Enterprises (MWBE) and Small Business Enterprise (SBE) contracting. Please see the attached memorandum from Community and Economic Development Director Jeff Robinson for additional information related to the recommended code revisions.

4. The Updated **Tentative City Council Forecast** and **Consolidated Standing Committee Calendars** are attached for your information.

MARK YOUR CALENDARS

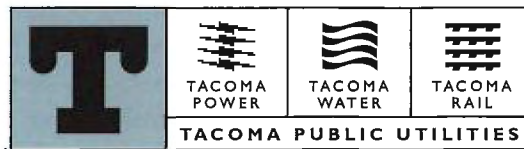
5. You have been invited to the following events:
- **Graduate Tacoma's 2019 Cradle to Career Luncheon on Thursday, October 24th, 11:00 a.m. to 1:00 p.m.**, at the Greater Tacoma Convention Center, located at 1500 Commerce Street.
 - **Tacoma Community House Grand Opening on Thursday, October 24th, 2:30 – 4:30 p.m.**, at 1314 South L Street.
 - **South Sound Military & Communities Partnership Elected Official Council Event on Thursday, November 14th, 7:00 to 9:30 a.m.**, at the Eagles Pride Golf Course located at 116 Interstate 5.
 - **Citizens for a Healthy Bay *Stand for Our Sound* Fall Fundraiser on Thursday, November 14th**, at the Pacific Seas Aquarium at the Point Defiance Zoo, located at 5400 North Pearl Street.

Sincerely,



Elizabeth A. Pauli
City Manager

EAP:crh
Attachments



City of Tacoma
Public Utility Board Meeting
October 23, 2019; 6:30 p.m.
Tacoma Public Utilities – Ground Floor Auditorium
3628 S 35th Street, Tacoma WA 98409

Call to Order

Roll Call

- A. Approve Minutes of Previous Meetings**
- B. Comments by the Public**

Public hearing by the Public Utility Board, pursuant to RCW 35.94.040, relating to Click!, on the surplus and potential use of the excess capacity of the Tacoma Power Commercial Network where the user pays for the capital and operating costs related to the excess capacity, while the City retains full ownership of the Network; and on the surplus and potential sale of related inventory, equipment, and vehicles; and on review of proposed agreements with Rainier Connect.

The Public Utility Board will take public comments but will not take action on October 23. The Board will take action at a later scheduled public meeting.

- C. Consent Agenda**
- D. Regular Agenda**

- D-1 Resolution U-11110 – Award contracts and approve purchases:**
 - 1. Award two-year contract to Moss Adams, LLP for external audit services (\$468,000, plus applicable taxes. Includes option to renew for three, one-year periods for a projected contract amount of \$1,230,000) [Leda Voigt, Sr. Financial Manager].
 - 2. Increase and extend citywide contract with Retail Lockbox, Inc., for retail lockbox services (\$75,000, plus applicable taxes. Cumulative contract total \$975,000, plus applicable taxes) [Patsy Best, Procurement and Payables Manager];
 - 3. Award five-year contract to Sensus, USA, Inc., for advanced metering software-as-a-service and managed services (\$3,388,000, plus applicable taxes) [Andre Peddeferri, Advanced Meter Program Manager];
 - 4. Award contract to Utilicast Corporation for Energy Imbalance Market integration services (\$3,500,000, plus applicable taxes) [Chris Juchau, Power Analyst];
 - 5. Award three-year contract to USIC Locating Services, LLC for underground utility locating services (\$1,302,405, plus applicable taxes with the option to renew for two, one-year periods for a projected contract total of \$2,221,080.52) [Joe Parris, T&D Contract Program Manager].
- D-2 Motion 19-07 – Pursuant to the City of Tacoma, Public Utility Board Rules for Order of Business, Rule 1(b), the Public Utility Board regular meetings and study sessions for November and December 2019 will be set for November 13, 2019 and December 4, 2019.**

- D-3 Resolution U-11111 – Authorize execution of the proposed 2020-2021 Collective Bargaining Agreement negotiated between the City of Tacoma and The Tacoma Joint Labor Committee that provides for employee health and welfare benefits. [Dylan Carlson, Labor Negotiator]. **(To Council November 5, 2019)**
- D-4 Resolution U-11112 – Authorize execution of the Letter of Agreement negotiated between the City of Tacoma and the International Brotherhood of Electrical Workers, Local 483, Customer and Field Services Unit. [Dylan Carlson, Labor Negotiator]. **(To Council November, 5, 2019)**

Tacoma Power

- D-5 Resolution U-11113 – Authorize the addition of a Department of Safety, Health, and Environmental to the City of Tacoma's organizational framework and authorize the creation of a Director of Safety, Health, and Environmental position that will report jointly to the City Manager and the Director of Utilities. [John Lawrence, Interim Safety Director].
- D-6 Resolution U-11114 – Authorize increase in funding of the cafeteria food services agreement with Jonz Catering & Food Concepts, Inc. [Terry Coggins, Assistant Power Section Manager].

Tacoma Water

- D-7 Resolution U-11115 – Authorize Tacoma Water to participate in the City of Tacoma, Department of Public Works Streets Initiative Package 26 to replace 129 concrete panels resulting from the lead gooseneck replacement plan. [Corey Bedient, Water Division Manager].

Tacoma Rail

- D-8 Motion 19-08 – Authorize Tacoma Rail to amend the 2019-2020 biennial budget to include an additional appropriation for \$7,713,160. [Dan McCabe, Rail Chief Financial/Information Officer].

H. Reports of the Director


- Update on Cushman Substation and North 21st Street Trees



The City of Tacoma does not discriminate on the basis of disability in any of its programs, activities, or services. To request this information in an alternative format or to request a reasonable accommodation, please contact the TPU Director's Office at 253-502-8201. TTY or speech to speech users please dial 711 to connect to Washington Relay services.



TO: Elizabeth A. Pauli, City Manager
Jackie Flowers, Tacoma Public Utilities Director

FROM: Peter Huffman, Planning and Development Services Director 
Elliott Barnett, Senior Planner, Planning and Development Services
Clark Mather, Community and Government Relations Manager, Tacoma Public Utilities

SUBJECT: Cushman and Adams Substations Future Use Study

DATE: October 15, 2019

At the October 22, 2019 City Council and Tacoma Public Utilities Board joint study session, Planning and Development Services (PDS) and Tacoma Public Utilities (TPU) staff will provide an update on the Cushman and Adams substations planning efforts. Over the past year, PDS and TPU staff have collaborated to initiate a broad, inclusive public engagement process to determine options for the future use of the substations. The study will integrate public input as well as considerations regarding feasibility, funding and implementation in order to inform future City Council and Public Utility Board decisions on the re-use of these sites. At the meeting, PDS and TPU staff and consultants will seek guidance on the proposed project approach and lay out the timeline for the upcoming public engagement opportunities. In addition, as requested, staff will provide an update on the North 21st Street median tree planting plan.

BACKGROUND:

The Cushman and Adams substations were built in the mid-1920s to bring electricity from the Cushman Hydroelectric project to Tacoma. For many years, the substations served as active parts of the electric system. The Adams substation was declared surplus to utility needs in 2009. The Cushman substation has not yet been declared surplus to TPU's needs.

In June 2017, the City Council placed the exteriors of both substations on the Tacoma Register of Historic Places and directed the City of Tacoma's General Government and TPU staff to work collaboratively and engage the community on future redevelopment of the properties. A Memorandum of Understanding (MOU) signed by General Government and TPU in July 2018 designates that the General Government will lead, with TPU support, an outreach effort to ensure broad community involvement and input regarding future re-use of the properties.

Community interest in the Cushman and Adams substations is high. Staff continue to meet periodically with interested stakeholders and have supported the North End Neighborhood Council with outreach efforts including the well-attended public event titled "Discover Cushman!" which took place in September 2018.

NEXT STEPS:

The City has selected a consultant team lead by Otak, Inc. to support this effort and are working together to prepare for a broad, inclusive community engagement effort to begin in early 2020. In preparation for the public launch, the project team will gather and analyze pertinent information and begin to make information available to the public. The process will be informed by the goals and policies of the One Tacoma Plan and the Tacoma 2025 Strategic Plan, community priorities, urban design considerations, site environmental characteristics, historic designations, the City's surplus property policies, and economic/fiscal feasibility. The outcomes of this process will be one or more publicly-vetted preferred future use options for the City Council and Public Utility Board's consideration and future action.

Meanwhile, TPU continues its work to identify alternatives for the equipment repair and storage currently taking place at Cushman substation. TPU has also been working to identify environmental clean-up needs. The facility replacement and clean-up initiatives are ongoing and will be executed according to the

terms of the MOU and informed by any future adaptive re-use plan(s) for the properties approved by the Public Utility Board and City Council.

ISSUE:

Future use of the Cushman and Adams substations represents a unique opportunity to adapt historic structures designed for the utility to meet new community needs.

RECOMMENDATION:

There are no recommendations for the use of the facilities at this time. The community engagement process is expected to proceed through 2020 to help inform future recommendations to the City Council and Tacoma Public Utility Board.

For more information, please contact:

Elliott Barnett, Senior Planner, (253) 591-5389, elliott.barnett@cityoftacoma.org

Clark Mather, TPU Community and Government Relations Manager, (253) 441-4159, cmather@cityoftacoma.org

Project webpage: www.cityoftacoma.org/cushman

ATTACHMENT:

Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

BETWEEN

CITY OF TACOMA

AND

TACOMA POWER

THIS MEMORANDUM OF UNDERSTANDING is memorialized this 24th day of July, 2018, by and between the City of Tacoma Department of Public Utilities, Light Division, (d.b.a. Tacoma Power), and the City of Tacoma's general government. Each of Power and the City of Tacoma's general government are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Tacoma City Council enacted Substitute Resolution 39741 on June 6, 2017, which added the exteriors of the following properties to the Tacoma Register of Historic Places: Cushman Substation, located at 3713 North 19th Street, and adjacent Adams Street Substation located at 1920 North Adams Street ("Properties"); and

WHEREAS, the Cushman substation property and transmission line were previously added to the National Register of Historic Places in 2016; and

WHEREAS the Properties are of primary historical significance to Tacoma, are significant for their association with the region's growth as a result of hydroelectric power production, and are an excellent example of monumental, neoclassical revival style architecture; and

WHEREAS the Cushman Substation is the subject of a 2017 Memorandum of Agreement (MOA) among the US Army Corps of Engineers, the Washington State Historic Preservation Officer, and Tacoma Power calling for the rehabilitation, restoration and preservation of certain historic features Cushman Substation as mitigation for the modernization of the Henderson Crossing portion of the historic Potlatch Transmission line; and

WHEREAS, Tacoma Power is undertaking the North 21st Street Transmission Line Project, which is planned to replace aging lattice towers originally part of the Potlatch Transmission Line with steel poles in the 2018 calendar year. At completion of that work plan, Cushman substation will no longer serve as an active substation; and

WHEREAS, at the completion of the North 21st Street Transmission Line Project, the Cushman Street Substation will continue for a time to serve a number of

other purposes for Tacoma Power's ratepayers, including housing a 50-ton capacity crane that is used for heavy equipment repair, large equipment storage, and other uses, and is not currently surplus to utility operations; and

WHEREAS, the adjacent Adams Street Substation was previously determined to be surplus to utility operations by Public Utility Board Resolution No. U-10270 and Tacoma City Council Resolution No. 37730 enacted on January 28, 2009, and February 10, 2009, respectively; and

WHEREAS, in addition, City Council Substitute Resolution No. 39741 directs the City's general government and Tacoma Power to work collaboratively to plan and provide for disposition of the Cushman Substation, including winding down of Tacoma Power operations on the site, environmental assessment and remediation, and contemplates a lead role for general government in the future redevelopment of the Cushman and Adams Street Substations; and

WHEREAS, under Resolution 39741 it is further contemplated that the City's general government and Tacoma Power will enter into a Memorandum of Understanding (MOU) addressing matters to include an orderly winding down of utility operations at Cushman Street Substation, a process for assessment and remediation of any environmental issues, consideration of a potential internal transfer of the Substation premises when determined to be surplus to the utility, and community outreach and input in planning future redevelopment of both the Cushman and Adams Street Substations, and

WHEREAS, the City's general government and Tacoma Power have established a joint staff task force which developed this MOU to meet the objectives of Resolution 39741, and which will continue to meet periodically as the contact group to ensure the Parties respective and collective obligations under this MOU are timely and reasonably fulfilled, and

NOW, THEREFORE, it is hereby agreed as follows:

1. Tacoma Power anticipates proceeding with its scheduled work plan on the replacement of the original North 21st Street Transmission Line Towers, including future de-energizing of the Cushman Street Substation from the Tacoma Power transmission and distribution system. The Cushman Street Substation is currently planned to be disconnected from the system by the end of calendar year 2018.
2. Tacoma Power is currently reviewing cost-effective options to replace the storage and crane capabilities that Cushman Substation currently provides to Tacoma Power's ratepayers, as well as reviewing the storage inventory for reduction in items that will need to be relocated. This work is underway, and Tacoma Power's goal is to have replacement facilities and capabilities in

operation by the end of calendar year 2021, rendering the Cushman Street Substation surplus to the utility.

3. Tacoma Power has initiated environmental studies to characterize legacy environmental issues at or below grade of the properties. Consistent with best practice, those studies will proceed in phases. Depending on the location and extent of contamination, some investigation may be delayed until the Cushman Street Substation is de-energized. Full environmental characterization may not be complete in calendar year 2018. Tacoma Power's goal is to complete the environmental assessment and characterization by the end of calendar year 2019. Once the environmental characterization is complete Tacoma Power will identify the scope and cost of available options to complete any necessary environmental remediation.
4. Prior to any transfer, Tacoma Power will maintain the interior and exterior of both properties to a standard that is consistent with its utility operations, and will fulfill its obligations under the 2017 Memorandum of Agreement (MOA) among the US Army Corps of Engineers, the Washington State Historic Preservation Officer, and Tacoma Power.
5. After the environmental condition of the property is fully characterized, and the cost of available remediation options is established, the Parties will work cooperatively and collaboratively to fully allocate financial and operational responsibility for any required clean up and to determine the fair market value of the Cushman and Adams properties, including an independent appraisal. The parties acknowledge that any potential future internal transfer is dependent on negotiation of an agreement setting the terms of transfer including consideration, as well as future decisions of the Public Utility Board and City Council.
6. The City of Tacoma's general government will be the lead for scoping, scheduling and conducting the community outreach process regarding the future redevelopment of the properties, as well as solicitation of redevelopment proposals. The community outreach process will serve as an initial phase of a master planning process and should ensure broad community involvement and identify community goals for redevelopment of the Properties, which will be reconciled with costs and market constraints that could include public amenities and private development. In order to generate data necessary to allow Tacoma Power to appropriately scope the level and extent of any necessary environmental cleanup of the properties, Tacoma Power will fund up to \$50,000.00 of outside consultant work for the public outreach, and general government will include necessary environmental cleanup levels as a deliverable within the scope of such consulting services. Community outreach may occur with or without a transfer of the properties from Tacoma Power to the City's general government as the Parties deem most efficacious. The

community outreach/initial master planning phase should begin in calendar year 2018.

7. The Parties agree that the intended completion dates for the tasks identified herein are subject to extension for unforeseeable or uncontrollable circumstances, but the Parties remain committed to accomplishing them in a timely and efficient manner.
8. The joint staff task force will periodically report through the Director of Utilities to the Public Utility Board, and through the City Manager to the Tacoma City Council regarding the status of the work undertaken by the Parties in this MOU.

APPROVED:

ACCEPTED AND AGREED:

City of Tacoma



City Manager

Tacoma Public Utilities



Interim Director of Utilities

Text highlighted in blue has been added to the draft based on feedback received over the past couple of months.



COMPENSATION PHILOSOPHY

VISION

The City of Tacoma's Compensation Philosophy guides the manner in which our dedicated workforce is recognized and rewarded as they support the organization's overarching goals. This Compensation Philosophy is informed by the City's Equity and Empowerment Framework.

We recognize that City employees have chosen to serve the public for a variety of reasons, both intrinsic and extrinsic, and believe that compensation should be viewed broadly and consider elements of reward and incentive, in addition to competitive total compensation, which is the combined value of an employee's compensation and benefits. Consideration of reward and incentive is not intended to be viewed as a "give and take" with, or in lieu of, total compensation. In working to create and strengthen a culture of transparency and trust, we have developed a competitive classification and compensation program that is equitable, accessible and flexible, motivates high performance, and reflects the strong value we place on our employee population.

The total rewards and incentives package the City offers is a foundational element of the rewarding employment experience we strive to cultivate. At the City, this experience is comprised of the following:

- Compensation
- Benefits
- Work-life Effectiveness
- Recognition
- Performance Management
- Talent Development

Our goal is to attract, retain and motivate committed, hard-working, creative and thoughtful employees who support the City's mission to meet and exceed expectations, and who reflect the diverse community we serve, not only in service delivery and responsible stewardship of public resources, but also in realizing our vision for Tacoma to be an inclusive and equitable place to live, work and play.

We strive to be a well-managed and fiscally sustainable municipal government that provides exceptional services. For our employees, that means we are committed to:

- Providing a competitive total rewards and incentives program that is internally and externally equitable
- Fostering rewarding opportunities for our employees to grow and develop professionally

NEW COMPENSATION PHILOSOPHY - PROPOSED

- Ensuring individual and collective accountability for performance, results and the highest standards of integrity in public service
- Communicating openly and transparently with our employees about our organizational goals, successes and failures, and opportunities for us to do things better

COMMITMENT TO EQUITY The City is committed to creating a truly diverse, inclusive and equitable organizational culture so that our workforce better reflects the community we serve. This Compensation Philosophy is one of the tools we utilize to ensure that our classification and compensation program is strategically aligned with the City's Equity and Empowerment Framework.

CLASSIFYING WORK

Job classification provides a system that defines the scope and complexity of the work required. The City of Tacoma's job classification system helps support equity across all jobs, in all City departments, while ensuring competitiveness of pay within the markets in which the City is competing for talent. To achieve this, the following objectives will be considered:

- That the City's broader needs are being met, while allowing for management flexibility and efficiency within departments tasked with addressing the community's evolving needs
- That meaningful and measurable differences in the level of work are defined within each occupational group, while an appropriate level of flexibility is maintained to allow for efficient management of employees as well as employee growth
- That the reclassification process will be administered by the Human Resources Department, with the Human Resources Director giving due consideration to the administrative officials concerned, in a manner that is responsive, efficient, cost effective and equitable
- Classifications for which there is no available market data, or are not used in the development of the salary structure, such as specialized jobs without peers in the marketplace, will be appropriately placed within the salary structure based upon their internal relationship with other classes within the most relevant occupational group.

MARKET DEFINITION

The City must define the external markets for which it competes for talent, and regularly assess market data to ensure it offers a total compensation package that is competitive and is sustainably aligned with this compensation philosophy.

Given the diversity and complexity of the duties and responsibilities for positions filled by the City, the market for any individual position or classification may vary.

For some positions, the City may study other public sector government agencies. For other positions, it may look at a mix of public sector and private sector employers.

Once the types of employers for positions are identified, other considerations when identifying comparable organizations may come into play when defining the market, including:

NEW COMPENSATION PHILOSOPHY - PROPOSED

- Geography: Other locations the City hires from and loses candidates to – locally, regionally and/or nationally
- Industry: Sector(s) where certain types of positions can most readily be found that the City loses candidates to
- Size of Organization: This is considered to ensure level of responsibility and complexity is reflective of the position

Market data may be adjusted to ensure accurate comparisons localized to the City's specific needs.

COMPETITIVENESS

The City strives to offer a total compensation program that is competitive and facilitates the attraction, retention and engagement of well-qualified employees. Although some employees may value less tangible elements intrinsically tied to various aspects of public service, all elements are considered by the City as it continually works to foster the most appealing and rewarding employment environment it can.

Total compensation is defined as the combined total value of an employee's base compensation (cash), variable compensation (cash), and benefits offered. The City will evaluate the following elements as it works to ensure the competitiveness of its program:

- Difficulty in recruiting the desired level of talent in certain jobs
- Retention issues, including succession and turnover
- Significant changes in the economy, marketplace or budget
- Internal anomalies, disparities or inconsistencies as it relates to overall organizational alignment

PAY ADMINISTRATION

The City's policies around pay administration for classified and non-classified employees serve to ensure that any decisions made surrounding employee compensation are fair, consistent and transparent. They also serve to ensure that departments have the flexibility they need in the areas of recruitment and retention, rewards and recognition, and that greater levels of accountability are established and maintained across the organization.

SUSTAINABILITY

The City believes that, in order to effectively attract, retain and motivate employees, the classification and compensation program must remain competitive over time and, therefore, will regularly assess classification and compensation for competitiveness in the market.



City of Tacoma

Community & Economic Development

Memorandum

TO: Elizabeth Pauli, City Manager

FROM: Jeff Robinson, Community and Economic Development (CED) Director

COPY: Tadd Wille, Deputy City Manager
Clifford Armstrong, Workforce Development Program Manager
Carol Wolfe, CED Division Manager

SUBJECT: Equity in Contracting Recommended Code Changes

DATE: October 17, 2019

SUMMARY:

The City of Tacoma seeks to implement contracting equity by creating Minority & Women Business Enterprise (MWBE) requirements on its contracts.

A disparity study completed in 2018 identified significant disparities in contracting work offered by the City of Tacoma for businesses owned by women and/or minorities. The study made recommendations to address these disparities, and a task force commissioned by the City Council affirmed the Disparity Study recommendations.

For City Council review, the attached proposed ordinance amends the existing Small Business Enterprise (SBE) Code to enact recommendations found in the disparity study.

City staff will present these recommended code changes at next week's Joint Study Session on October 22nd.

Chapter 1.07

~~SMALL BUSINESS~~
ENTERPRISE Equity In
Contracting

Sections:

1.07.010	Policy and purpose.
1.07.020	Definitions.
1.07.030	Discrimination prohibited.
1.07.040	Program administration.
1.07.050	Certification.
1.07.060	Program requirements.
1.07.070	Evaluation of submittals.
1.07.080	Contract compliance.
1.07.090	Program monitoring.
1.07.100	Enforcement.
1.07.110	Remedies.
1.07.120	Unlawful acts.
1.07.130	Severability.
1.07.140	Sunset and review of program.

1.07.010 Policy and purpose.

It is the policy of the City of Tacoma that citizens be afforded an opportunity for full participation in our free enterprise system and that historically underutilized business enterprises shall have an equitable opportunity to participate in the performance of City contracts. The City finds that in its contracting for supplies, services and public works there has been historical underutilization of small and minority owned businesses-located in certain geographically and economically disfavored locations and that this underutilization has had a deleterious impact on the economic well-being of the City. The purpose of this chapter is to remedy the effects of such underutilization through use of reasonably achievable goalsnarrowly tailored contracting requirements to increase opportunities for historically underutilized businesses to participate in City contracts. It is the goal of this chapter to facilitate a substantial procurement, education, and mentorship program designed to promote equitable participation by historically underutilized businesses in the provision of supplies, services, and public works to the City. It is not the purpose of this chapter to provide any person or entity with any right, privilege, or claim, not shared by the public, generally, and this chapter shall not be construed to do so. This chapter is adopted in accordance with Chapter 35.22 RCW and RCW 49.60.400.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.020 Definitions.

Terms used in this chapter shall have the following meanings unless defined elsewhere in the Tacoma Municipal Code ("TMC"), or unless the context in which they are used clearly indicates a different meaning.

~~A. "Affidavit of Small Business Enterprise Certification" means the fully completed, signed, and notarized affidavit that must be submitted with an application for SBE certification. Representations and certifications made by the applicant in this Affidavit are made under penalty of perjury and will be used and relied upon by City to verify SBE eligibility and compliance with SBE certification and documentation requirements.~~

~~B. "Base Bid" means a Bid for Public Works to be performed or Supplies or Services to be furnished under a City Contract, including additives, alternates, deductives, excluding force accounts, and taxes collected separately pursuant to Washington Administrative Code ("WAC") 458-20-171.~~

~~C.A.~~ "Bid" means an offer submitted by a Respondent to furnish Supplies, Services, and/or Public Works in conformity with the Specifications and any other written terms and conditions included in a City request for such offer.

~~D.B.~~ "Bidder" means an entity or individual who submits a Bid, Proposal or Quote. See also "Respondent."

~~E.C.~~ "City" means all Departments, Divisions and agencies of the City of Tacoma.

~~F.D.~~ "Contract" means any type of legally binding agreement regardless of form or title that governs the terms and conditions for procurement of Public Works and Improvements and/or Non-Public Works and Improvements Supplies and Services. Contracts include the terms and conditions found in Specifications, Bidder or Respondent Submittals, and purchase

orders issued by the City. A "Contract" as used in this chapter shall include an agreement between the City and a non-profit entity to perform construction-related services for Public Works. A "Contract" does not include: (1) awards made by the City with federal/state grant or City general funds monies to a non-profit entity where the City offers assistance, guidance, or supervision on a project or program, and the recipient of the grant awards uses the grant moneys to provide services to the community; (2) sales transactions where the City sells its personal or real property; (3) a loan transaction where the City is acting as a debtor or a creditor; (4) lease, franchise; (5) agreements to use City real property (such as Licenses, Permits and Easements) and, (6) banking and other financial or investment services.

~~G.E.~~ "Contractor" means any Person that presents a Submittal to the City, enters into a Contract with the City, and/or performs all or any part of a Contract awarded by the City, for the provision of Public Works, or Non-Public Works and Improvements, Supplies or Services.

~~"Evaluated Bid" means a Bid that factors each Respondent's Base Bid including any alternates, deductive and additives selected by the City that will result in a weighed reduction based on that Respondent's percentage of SBE participation, as defined by formula set forth in this chapter or in the SBE Regulations adopted pursuant to this chapter.~~

~~H.F.~~ "Goals" means the annual level of participation by MWBEs and SBEs in City Contracts as established in this chapter, the SBE RegulationsProgram Regulations, or as necessary to comply with applicable federal and state nondiscrimination laws and regulations. Goals for individual Contracts may be adjusted as provided for in this chapter and shall not be construed as a minimum for any particular Contract or for any particular geographical area.

~~G.~~ "MWBE Certified Business" (or "MWBEs") means a business that meets the criteria set forth in Section 1.07.050 of this chapter and has been certified as meeting that criteria by the Community and Economic Development Department-Program Manager.

~~J.H.~~ "SBE Certified Business" (or "SBEs") means a business that meets the criteria set forth in Section 1.07.050 of this chapter and has been certified as meeting that criteria by the Community and Economic Development Department-SBE Program ~~Coordinator~~Manager.

~~K.I.~~ "SBE-Program ~~Coordinator~~Manager" means the individual appointed, from time to time, by the City's Community and Economic Development Director to administer the SBE RegulationsProgram Regulations.

~~L.J.~~ "SBE RegulationsProgram Regulations" shall mean the written regulations and procedures adopted pursuant to this chapter for procurement of Supplies, Services and Public Works.

~~M.~~ "Lowest and Best Responsible Bidder" means the Bidder submitting the lowest Bid received that is within the range of acceptable bids, that also has the ability to timely perform the Contract bid upon considering such factors as financial resources, skills, quality of materials, past work record, and ability to comply with state, federal, and local requirements, including those set forth in the SBE Regulations.

~~N.K.~~ "Non-Public Works and Improvements" means all competitively solicited procurement of Supplies and/or Services by the City not solicited as Public Works.

~~O.L.~~ "Person" means individuals, companies, corporations, partnerships, associations, cooperatives, any other legally recognized business entity, legal representative, trustee, or receivers.

~~P.M.~~ "Proposal" means a written offer to furnish Supplies or Services in response to a Request for Proposals. This term may be further defined in the Purchasing Policy Manual and/or in competitive solicitations issued by the City.

~~Q.N.~~ "Public Works (or "Public Works and Improvements)" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the City, or that is by law a lien or charge on any property therein. This term includes all Supplies, materials, tools, and equipment to be furnished in accordance with the Contract for such work, construction, alteration, repair, or improvement.

~~R.O.~~ "Quote" means a competitively solicited written offer to furnish Supplies or Services by a method of procurement that is less formalized than a Bid or a Proposal. This term may be further defined in the Purchasing Policy Manual.

~~S.P.~~ "Respondent" means any entity or Person, other than a City employee, that provides a Submittal in response to a request for Bids, Request for Proposals, Request for Qualifications, request for quotes or other request for information, as such terms are defined in Section 1.06.251 TMC. This term includes any such entity or Person whether designated as a supplier, seller, vendor, proposer, Bidder, Contractor, consultant, merchant, or service provider that; (1) assumes a contractual responsibility to the City for provision of Supplies, Services, and/or Public Works; (2) is recognized by its industry as a provider of such Supplies, Services, and/or Public works; (3) has facilities similar to those commonly used by Persons engaged in the same or similar business; and/or (4) distributes, delivers, sells, or services a product or performs a Commercially Useful Function.

T.Q. “Services” means non-Public Works and Improvements services and includes professional services, personal services, and purchased services, as such terms are defined in Section 1.06.251 TMC and/or the City’s Purchasing Policy Manual.

U.R. “Submittal” means Bids, Proposals, Quotes, qualifications or other information submitted in response to requests for Bids, Requests for Proposals, Requests for Qualifications, requests for Quotations, or other City requests for information, as such terms are defined in Section 1.06.251 TMC.

V.S. “Supplies” means materials, Supplies, and other products that are procured by the City through a competitive process for either Public Works procurement or Non-Public Works and Improvements procurement unless an approved waiver has been granted by the appropriate authority.

T. “Tacoma Public Utilities Service Area” means any ZIP code in which Tacoma Public Utilities maintains infrastructure or provides retail services.

(Ord. 28274 Ex. A; passed Dec. 16, 2014; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.030 Discrimination prohibited.

A. No person that is engaged in the construction of public works for the City, engaged in the furnishing of laborers or craftspeople for public works of the City, or is engaged for compensation in the provision of non-public works and improvements supplies and/or services to the City, shall discriminate against any other person on the basis of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence of any sensory, mental or physical disability in employment. Such discrimination includes the unfair treatment or denial of normal privileges to a person as manifested in employment upgrades, demotions, transfers, layoffs, termination, rates of pay, recruitment of employees, or advertisement for employment.

B. The violation of the terms of RCW 49.60 or Chapter 1.29 TMC by any person that is engaged in the construction of public works for the City, is engaged in the furnishing of laborers or craftspeople for public works of the City, or is engaged for compensation in the provision of non-public works and improvements supplies and/or services shall result in the rebuttable presumption that the terms of this chapter have also been violated. Such violation may result in termination of any City contract the violator may have with the City and/or the violator’s ineligibility for further City Contracts.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.040 Program administration.

A. The Community and Economic Development Director, or ~~his or her~~their designated ~~SBE-Program~~ Coordinator/Manager, shall be responsible for administering this chapter and obtaining compliance with respect to contracts entered into by the City and/or its contractors. It shall be the duty of the Director to pursue the objectives of this chapter by conference, conciliation, persuasion, investigation, or enforcement action, as may be necessary under the circumstances. The Director is authorized to implement an administrative and compliance program to meet these responsibilities and objectives.

B. The Director is hereby authorized to adopt and to amend administrative rules and regulations known as the ~~SBE-Regulations~~ Program Regulations to properly implement and administer the provisions of this chapter. The ~~SBE-Regulations~~ Program Regulations shall be in conformance with City of Tacoma policies and state and federal laws and be designed to encourage achievement of the MWBE and SBE goals set forth herein. The ~~SBE-Regulations~~ Program Regulations shall become effective following public notice and an opportunity to comment by the public.

The ~~SBE-Regulations~~ Program Regulations adopted pursuant to this section are for the administrative and procedural guidance of the officers and employees of the City and are further expressions of the public policy of the City. The ~~SBE-Regulations~~ Program Regulations, when adopted, shall not confer an independent cause of action or claim for relief cognizable in the courts of the state of Washington or the United States of America to any third parties, and such provisions shall not be used as the basis for a lawsuit in any court of competent jurisdiction challenging the award of any contract by the City.

(Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 28110 Ex. B; passed Dec. 4, 2012; Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.050 Certification.

A. The ~~SBE-Program~~ Coordinator/Manager shall approve a person-business as a ~~SBE~~-Certified Business if all of the following criteria are satisfied:

1. ~~Each person with an ownership interest in the company has a personal net worth of less than \$1,320,000 excluding one personal residence and the net worth of the business. The business is certified as an Federal or Washington State SBE, MBE, WBE, or MWBE through the State of Washington’s Office of Minority & Women Business Enterprises; and~~

~~2. The company's total gross receipts for any consecutive three year period within the last six years is not more than \$36,500,000 for public works companies and not more than \$15,000,000 for non-public works and improvements companies;~~

~~3. The owner(s) of the company executes an Affidavit of Small Business Enterprise Certification and files it with the City which states that all information submitted on the SBE application is accurate, that the business has sought or intends to do business with the City and/or within the Pierce County area and has experienced or expects to experience difficulty competing for such business due to financial limitations that impair its ability to compete against larger firms; and~~

~~4.2. The company can demonstrate that it also meets at least one of the following additional requirements:~~

~~a. The company's business offices, or the personal residence of the owner, is located within at the City of Tacoma or Tacoma Public Utilities Service Area designated Renewal Community/Community Empowerment Zone, prior to designation as a SBE, or~~

~~b. The company's business offices, or the personal residence of the owner, is located within the City of Tacoma for at least six months prior to designation as a SBE; or~~

~~c. The company's business offices are located in a federally designated HUBZONE in Pierce County or any adjacent county for at least 12 months prior to designation as a SBE; or~~

~~b. The company's business offices are located in a federally designated HUBZONE in a County any county of the Tacoma Public Utilities Service Area or any county adjacent to Pierce County wherein the work will be performed, or an adjacent county, for at least 12 months prior to designation as a SBE.~~

~~0.1. When the work is performed outside of Pierce County, the company's business offices may be located in an adjacent county in which the work is performed.~~

~~The SBE Program Coordinator shall approve a person as a MWBE Certified Business if all of the following criteria are satisfied:~~

~~B. Application Process. The SBE Program Coordinator shall make the initial determination regarding certification or recertification. Each SBE applicant shall provide the following documents; as such documents are more fully described in the SBE Regulations, to the SBE Program Coordinator:~~

~~The business is certified as a:~~

~~Washington State MBE; or~~

~~1. A completed Statement of Personal Net Worth form;~~

~~The business is certified as a Washington State WBE; or~~

~~2. A completed, signed, and notarized Affidavit of Small Business Enterprise Certification that affirms compliance with the certification and documentation requirements of this section;~~

~~The business is certified as a Washington State MWBE; and~~

~~3. List of equipment and vehicles used by the SBE;~~

~~The company can demonstrate that it also meets at least one of the following additional requirements:~~

~~The personal residence of the owner is located within the City of Tacoma or Tacoma Public Utilities Service Area, or~~

~~4. Description of company structure and owners;~~

~~The company's business offices are located in any county of the Tacoma Public Utilities Service Area for at least 12 months prior to designation as a MWBE.~~

~~When the work is performed outside of Pierce County, the company's business offices may be located in an adjacent county in which the work is performed.~~

~~a.b. Such additional information as the SBE Program Coordinator/Manager or designee may require.~~

When another governmental entity has an equivalent SBE business classification process the City may enter into an interlocal cooperative agreement for mutual recognition of certifications.

~~a. Recertification. A SBE qualified business shall demonstrate annually to the satisfaction of the SBE Program Coordinator that the following SBE qualifications are still in effect for such business:~~

~~0. That the company still meets all of the criteria set forth in subsection 1.07.050.A. TMC, and~~

~~0. That the company has maintained all applicable and necessary licenses in the intervening period, and~~

~~0. That the company demonstrates that the owner and/or designated employees have completed the minimum annual continuing business education training requirements set forth in the SBE Regulations.~~

3. Appeals. The applicant may appeal any certification determination by the ~~SBE-Program~~ Coordinator/Manager under this chapter to the Director. The appeal must be made in writing and must set forth the specific reasons for the appeal. The Director shall make a decision on the appeal request within a reasonable time, which decision shall be final unless further appeal is made to the Hearing Examiner. In that event, the Hearing Examiner Rules of Procedure for Hearings, Chapter 1.23 TMC, shall be applicable to that appeal proceeding.

(Ord. 28274 Ex. A; passed Dec. 16, 2014: Ord. 28147 Ex. A; passed May 7, 2013: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.060 Program requirements.

A. The ~~SBE~~ program shall meet the following requirements:

1. Establishment of Annual ~~SBE~~ Goals. The ~~SBE Regulations~~ Program Regulations adopted pursuant to this chapter shall state reasonably achievable cumulative annual goals for utilization of MWBEs and SBEs in the provision of supplies, services, and public works procured by the City. Cumulative annual goals for the participation of MWBEs and SBEs in City contracts shall be based on the number of qualified MWBEs and SBEs operating within Pierce County or in a county that is adjacent to Pierce County or in a HUBZone ~~the Tacoma Public Utilities Service area in a county where the supplies, services and/or public works will be delivered or performed.~~ The dollar value of all contracts awarded by the City to MWBEs and SBEs in the procurement of supplies, services, and public works shall be counted toward the accomplishment of the applicable ~~SBE~~ goal. ~~The initial cumulative annual SBE goal for all public works, non-public works and improvements supplies and services procured by the City of Tacoma is 22 percent.~~

~~0. Revision of Annual SBE Goals. SBE utilization goals for supplies, services, and public works shall be reviewed annually to determine the total level of SBE participation reasonably attainable. If no certified SBEs are available to provide supplies, services, and/or public works, the dollar value of such supplies, services, or public works shall be exempt from the calculation of the cumulative annual goals set forth in the SBE Regulations. Proposed reduction of the cumulative annual SBE goals shall be in accordance with the SBE Regulations.~~

2. Application of ~~SBE Annual~~ Goals to Contracts. The ~~SBE-Program~~ Coordinator/Manager shall consult with City departments/divisions to establish ~~the department/division specific goals~~ SBE goal for competitively solicited contracts of ~~less than \$25,000 and above,~~ in accordance with this chapter and the ~~SBE Regulations~~ Program Regulations. ~~No SBE goal will be established if no certified SBEs are available to provide supplies, services and/or public works.~~

~~The MWBE program shall meet the following requirements:~~

~~Establishment of MWBE Goals. The MWBE Regulations adopted pursuant to this chapter shall state reasonably achievable goals, established by third-party evaluators, for utilization of MWBEs in the provision of supplies, services, and public works procured by the City. Goals for the participation of MWBEs in City contracts shall be based on the number of qualified MWBEs operating within the Tacoma Public Utilities Service area or any adjacent county. The dollar value of all contracts awarded by the City to MWBEs in the procurement of supplies, services, and public works shall be counted toward the accomplishment of the applicable MWBE goal.~~

~~0. Application of MWBE Goals to Contracts. The MWBE Program Coordinator shall consult with City departments/divisions to establish the MWBE goal for competitively solicited contracts of \$25,000 and above, in accordance with this chapter and the MWBE Regulations. No MWBE goal will be established if no certified MWBEs are available to provide supplies, services and/or public works.~~

E.B. Waivers. City departments/divisions or the ~~SBE-Program~~ Coordinator/Manager may request to waive one or more of the requirements of this chapter as they apply to a particular contract or contracts. Waivers may be granted in any one or more of the following circumstances:

1. Emergency: The supplies, services and/or public works must be provided with such immediacy that neither the City nor the contractor can comply with the requirements herein. Such emergency and waiver must be documented by the department/division awarding the contract.
2. Not Practicable: Compliance with the requirements of this chapter would impose an unwarranted economic burden or risk to the City after consideration of existing budgetary approvals.
3. Sole source: The supplies, services, and/or public works are available from only one source, and subcontracting possibilities do not reasonably exist as determined by the finance purchasing manager.

4. Government purchasing. The City is a party to or included in a federal, state or inter-local government purchasing agreement as approved by the finance purchasing manager.
5. Lack of ~~SBE~~certified contractors: An insufficient number of qualified ~~SBE~~ contractors exist to create ~~SBE~~-utilization opportunities.
6. Best interests of the City: Waiver of ~~SBE~~ goals is in the best interests of the City due to unforeseen circumstances, provided that said circumstances are set forth in writing by the requestor.

F.C. Review of Waivers. A waiver determination by the finance purchasing manager may be reviewed by the Board of Contracts and Awards (C&A Board). The C&A Board may also review a request to reduce or waive the ~~SBE~~-utilization goals requirements based on Not Practicable or Best Interests of the City circumstances. The C&A Board shall determine whether compliance with such goals requirements would impose unwarranted economic burden on, or risk to, the City of Tacoma as compared with the degree to which the purposes and policies of this chapter would be furthered by requiring compliance. If the determination of the C&A Board does not resolve the matter, a final determination shall be made by the City Council or Public Utility Board, as the case may be.

(Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.070 Evaluation of submittals.

A. All submittals for a supplies, services, or public works and improvements contracts valued at \$25,000 or more shall be evaluated for attainment of the MWBE and SBE goal requirements established for that contract in accordance with this chapter and the SBE Regulations~~Program Regulations~~.

B. The determination of MWBE and SBE usage and the calculation of MWBE and SBE goal requirements attainment per this section shall include the following considerations:

1. General. The dollar value of the contract awarded by the City to a MWBE or SBE in the procurement of supplies, services, or public works shall be counted toward achievement of the respective SBE goal.
2. Supplies. A public works and improvements contractor may receive credit toward attainment of the MWBE and/or SBE goal requirement(s) for expenditures for supplies obtained from an MWBE or SBE; provided such MWBE or SBE assumes the actual and contractual responsibility for delivering the supplies with its resources. The contractor may also receive credit toward attainment of the MWBE or SBE goal for the amount of the commission paid to a MWBE or SBE resulting from a supplies contract with the City; provided the MWBE or SBE performs a commercially useful function in the process.
3. Services and Public Works subcontracts. Any bid by a certified MWBE and/or SBE or a bidder that utilizes a certified MWBE and/or SBE shall receive credit toward ~~SBE goal requirement~~ attainment based on the percentage of MWBE and/or SBE usage demonstrated in the bid. A contractor that utilizes an MWBE and/or SBE-certified subcontractor to provide services or public works shall receive a credit toward the contractor's attainment of the respective SBE goal requirement based on the value of the subcontract with that SBE firm.
4. Brokers, Fronts, or Similar Pass-Through Arrangements. MWBEs and/or SBEs acting as brokers, fronts, or similar pass-through arrangements (as such terms are defined in the SBE Regulations~~Program Regulations~~) shall not count toward ~~SBE the goal requirement~~ attainment unless the activity reflects normal industry practices and the broker performs a commercially useful function.

C. Evaluation of competitively solicited submittals for public works and improvements and for services when a SBE utilization goal requirement has been established for the contract to be awarded shall be as follows:

1. When contract award is based on price. The lowest priced bid submitted by a responsive and responsible bidder will be reviewed to determine if it meets the SBE goal requirement. An MWBE and/or SBE firm may self-count utilization on such bids if they will perform the work for the scope the requirement is based upon. Such low bid shall be determined to meet the SBE goal if the bidder is a certified SBE.

a. If the low bidder meets the SBE goal requirements, the bid shall be presumed the lowest and best responsible bid for contract award.

a.b. Any bidder that does not meet the MWBE and/or SBE goal requirements shall be considered a non-responsible bidder by the SBE program unless the bidder receives a waiver from the SBE Program Coordinator~~Manager~~ or C&A Board.

b. If the lowest priced bid does not meet the SBE goal, but the bid of any other responsive and responsible bidder does, and such other bid(s) is or are priced within five percent of the lowest bid, then the following formula shall be applied to each such

other bid:

$$\begin{matrix} & \left[\begin{array}{l} \text{SBE Usage} \\ \text{Percentages} \\ \text{SBE Goal} \\ \text{Percentages} \end{array} \right] & \times (.05 \times \text{Low Base Bid}) & = \text{Evaluated Bid} \end{matrix}$$

c. The lowest evaluated bid after applying said evaluation formula shall be presumed the lowest and best responsible bid for contract award.

~~d. In no event shall a bidder's evaluated bid price be adjusted more than 5 percent from its base bid price for purposes of contract award.~~

2. When contract award is based on qualifications or other performance criteria in addition to price. Solicitations shall utilize a scoring system that promotes participation by certified [SBEs](#) ~~contractors~~. Submittals by respondents determined to be qualified ~~may be further evaluated based on price using the formula applicable to price-based contract awards above.~~ The [SBE Regulations Program Regulations](#) may establish further requirements and procedures for final selection and contract award, including:

- a. Evaluation of solicitations for Architectural and Engineering (A&E) services;
- b. Evaluation and selection of submittals in response to requests for proposals; and
- c. Selection of contractors from pre-qualified roster(s).

~~D. Evaluation of competitively solicited submittals for supplies when no SBE utilization goal has been established for the contract to be awarded shall encourage SBE participation as follows:~~

~~1. A submittal from a responsive certified SBE that is priced within five percent of the otherwise lowest responsive bid shall be recommended for award. Otherwise, the lowest responsive bidder shall be recommended for contract award.~~

~~E. The SBE Regulations may establish further SBE goal evaluation requirements and procedures for award of contracts between \$5,000 and \$25,000.00 and for non-competitively solicited contracts. City departments/divisions shall use due diligence to encourage and obtain SBE participation for supplies, services, and public works contracts under \$5,000.~~

(Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.080 Contract compliance.

A. The contractor awarded a contract based on [MWBE or](#) SBE participation shall, during the term of the contract, comply with the [SBE goal requirements](#) established in said contract. To ensure compliance with this requirement following contract award, the following provisions apply:

- 1. Any substitutions for or failure to utilize [MWBEs or](#) SBEs projected to be used must be approved in advance by the [SBE Program Coordinator/Manager](#). Substitution of one [MWBE or](#) SBE with another shall be allowed where there has been a refusal to execute necessary agreements by the original [MWBE or](#) SBE, a default on agreements previously made or other reasonable excuse; provided that the substitution does not increase the dollar amount of the bid.
- 2. Where it is shown that no other [MWBE or](#) SBE is available as a substitute and that failure to secure participation by the [MWBE or](#) SBE identified in the solicitation is not the fault of the respondent, substitution with a non-[MWBE or non-SBE](#) shall be allowed; provided, that, the substitution does not increase the dollar amount of the bid.
- 3. If the [SBE Program Coordinator/Manager](#) determines that the contractor has not reasonably and actively pursued the use of replacement [MWBEs or](#) SBE(s), such contractor shall be deemed to be in non-compliance.

~~The contractor awarded a contract based on MWBE participation shall, during the term of the contract, comply with the MWBE goal established in said contract. To ensure compliance with this requirement following contract award, the following provisions apply:~~

~~Any substitutions for or failure to utilize MWBEs projected to be used must be approved in advance by the MWBE Program Coordinator. Substitution of one MWBE with another shall be allowed where there has been a refusal to execute necessary agreements by the original MWBE, a default on agreements previously made or other reasonable excuse; provided that the substitution does not increase the dollar amount of the bid.~~

~~Where it is shown that no other MWBE is available as a substitute and that failure to secure participation by the MWBE identified in the solicitation is not the fault of the respondent, substitution with a non-MWBE shall be allowed; provided, that, the substitution does not increase the dollar amount of the bid.~~

~~If the MWBE Program Coordinator determines that the contractor has not reasonably and actively pursued the use of replacement MWBE(s), such contractor shall be deemed to be in non-compliance.~~

- B. Record Keeping. All contracts shall require contractors to maintain relevant records and information necessary to document compliance with this chapter and the contractor's utilization of [MWBEs or](#) SBEs ~~or MWBEs~~, and shall include the right of the

City to inspect such records.

(Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.090 Program monitoring.

A. ~~The An SBE Advisory Committee Program Coordinator~~ shall monitor compliance with all provisions of this chapter and ~~the SBE~~ the related Regulations. The ~~SBE Program Coordinator~~ Manager shall establish procedures to collect data and monitor the effect of the provisions of this chapter to assure, insofar as is practical, that the remedies set forth herein do not disproportionately favor one or more racial, gender, ethnic, or other protected groups, and that the remedies do not remain in effect beyond the point that they are required to eliminate the effects of ~~under-utilization~~ underutilization in City contracting unless such provisions are supported by a Disparity Study. The ~~SBE Program Coordinator~~ Manager shall have the authority to obtain from City departments/divisions, respondents, and contractors such relevant records, documents, and other information as is reasonably necessary to determine compliance.

B. The ~~SBE Program Coordinator~~ Manager shall submit an annual report to the Community and Economic Development Director, Director of Utilities, and the City Manager detailing performance of the program. The report shall document MWBE and SBE utilization levels, waivers, proposed modifications to the program, and such other matters as may be specified in the SBE Regulations ~~Program Regulations~~.

(Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 28110 Ex. B; passed Dec. 4, 2012; Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.100 Enforcement.

The Director, or his or her designee, may investigate the employment practices of contractors to determine whether or not the requirements of this chapter have been violated. Such investigation shall be conducted in accordance with the procedures established in the ~~SBE Regulations~~ Program Regulations.

(Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 28110 Ex. B; passed Dec. 4, 2012; Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.110 Remedies.

A. Upon receipt of a determination of contractor violation by the ~~SBE Program Coordinator~~ Manager, the City Manager or Director of Utilities, as appropriate, may take the following actions, singly or together, as appropriate:

1. Forfeit the contractor's bid bond and/or performance bond;
2. Publish notice of the contractor's noncompliance;
3. Cancel, terminate, or suspend the contractor's contract, or portion thereof;
4. Withhold funds due contractor until compliance is achieved; and/or
5. Recommend appropriate action including, but not limited to, disqualification of eligibility for future contract awards by the City (debarment) per Section 1.06.279 TMC;

B. Prior to exercise of any of the foregoing remedies, the City shall provide written notice to the contractor specifying the violation and the City's intent to exercise such remedy or remedies. The notice shall provide that each specified remedy becomes effective within ten business days of receipt unless the contractor appeals said action to the Hearing Examiner pursuant to Chapter 1.23 TMC.

C. When non-compliance with this chapter or the ~~SBE Regulations~~ Program Regulations has occurred, the ~~SBE Program Coordinator~~ Manager and the department/division responsible for enforcement of the contract may allow continuation of the contract upon the contractor's development of a plan for compliance acceptable to the Director.

(Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 28110 Ex. B; passed Dec. 4, 2012; Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.120 Unlawful acts.

It shall be unlawful for any Person to willfully prevent or attempt to prevent, by intimidation, threats, coercion, or otherwise, any Person from complying with the provisions of this chapter.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.130 Severability.

If any section of this chapter or its application to any Person or circumstance is held invalid by a court of competent jurisdiction, then the remaining sections of this chapter, or the application of the provisions to other Persons or circumstances,

shall not be affected.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

1.07.140 ~~Sunset and r~~Review of program.

This chapter shall be in effect through and until December 31, ~~2019~~2024, unless the City Council shall determine at an earlier date that the requirements of this chapter are no longer necessary. If this chapter has not been repealed by July 1, ~~2019~~2024, the City Council shall determine by the end of that year whether substantial effects or lack of opportunity of MWBEs and/or SBEs remain true in the relevant market and whether, and for how long, some or all of the requirements of this chapter should remain in effect.

(Ord. 28274 Ex. A; passed Dec. 16, 2014; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

**City of Tacoma 2019
City Council Forecast Schedule**

Date	Meeting	Subject	Department	Background
October 22, 2019	Joint Council/Public Utility Board Study Session (TMBN 16, Noon)	Joint Executive Session - Pending Litigation	CAO	
		Click! Updates	CAO	City Council will be briefed on the proposed Surplus Declaration and Click! agreement.
		Cushman and Adams Substations Future Use Study and North 21st Street Tree Updates.	TPU/PDS	Update on the planning effort for the Cushman and Adams Substations, including public engagement process to determine options for the futures uses. In addition, there will be an update on the North 21st Street Trees.
		Classification and Compensation Study Update and Review of Draft Compensation Philosophy	HR	Human Resources staff will provide a Classification and Compensation Study update and share the proposed Compensation Philosophy.
		LEAP/SBE Workforce Development & Equity Contracting Recommendations	CED	Code revision recommendations related to Equity in Contracting based on our Disparity Study and feedback from the Community Workforce Agreement Task Force. This round of code revisions is particular to MWBE and SBE contracting.
	City Council Meeting (TMB Council Chambers, 5:00 PM)	Environmental Services Proposed Commingled Recycling Surcharge Ordinance First Reading	ESD	

**City of Tacoma 2019
City Council Forecast Schedule**

Date	Meeting	Subject	Department	Background
October 29, 2019	City Council Study Session (TMB Council Chambers, Noon)	Department of Ecology's Tacoma Smelter Plume Update	WSDOE/PDS	WA Department of Ecology will be providing an update on the Tacoma Smelter Plume to include progress of soil samplings, yard cleanups and outreach efforts with TPC Health Dept.
		Ensuring Safe, Clean and Sanitary Downtown	ESD/TPD	Staff from SWM will present multiple strategies to address blight, litter, and unsecure garbage containers to improve Tacoma's downtown streetscape.
	City Council Meeting (TMB Council Chambers, 5:00 PM)	Public Hearing on the regarding proposed Click! Surplus Declaration	CAO	
		Final reading of the Environmental Services Proposed Surcharge for Commingled Recycling Ordinance and a Special Project Resolution	ESD	Resolution related to special project to provide education and outreach around waste reduction, recycling contamination issues, and how the residential recycling program is changing.

**City of Tacoma 2019
City Council Forecast Schedule**

Date	Meeting	Subject	Department	Background
November 5, 2019	City Council Study Session (TMB Council Chambers, Noon)	Mid-Biennium Budget Modification Recommendations	OMB	
	City Council Meeting (TMB Council Chambers, 5:00 PM)	Click! Resolutions - Declaring Surplus and Rainer Connect Agreement (tentative)	CAO	
November 12, 2019	City Council Study Session (TMBN 16, Noon)	Quarterly Affordable Housing Action Strategy Plan Update	CED/CMO	Quarterly update on implementation of the Affordable Housing Action Strategy (AHAS) and actions taken by each of the 12 tactical action teams.
		Tacoma Dome Link Extension Update	PDS	Staff from PDS and Sound Transit will provide an update, including recent Sound Transit Board action and the next steps as the projects moves into the environmental review phase.
		Other Items of Interest - Mayor's Youth Commission of Tacoma Update	Mayor Woodards	
	City Council Meeting (TMB Council Chambers, 5:00 PM)	*Final Reading of the Tideflats Interim Regulations Reauthorization Ordinance *Public hearings 2019-2020 Biennial Budget Mid-Biennium Modification & 2019-2020 Capital Budget	PDS	At the October 10th City Council Meeting, the final reading of this Ordinance was moved to the Nov 12th City Council agenda.
November 19, 2019	City Council City Council Study Session (TMBN 16, Noon)	Neighborhood Council Program Review	NCS	
		Emergency Declaration on Homelessness Extension	NCS	Request for Council authorization to extend the Emergency Declaration on Homelessness to December 31, 2020.
	City Council Meeting (TMB Council Chambers, 5:00 PM)			
November 26, 2019	CANCELLED			

**City of Tacoma 2019
City Council Forecast Schedule**

Date	Meeting	Subject	Department	Background
December 3, 2019	Joint City Council/Tacoma School Board Study Session (TMBN 16, Noon)	Tacoma School Board and City Council Updates on Items of Mutual Interest	TPS/Council	Updates from Tacoma Schools and the City will be discussed on various topics of mutual interest: SummerJobs253, Mayor's Youth Commission, etc.
	City Council Meeting (TMB Council Chambers, 5:00 PM)	Ordinance for the Neighborhood Council Program Review First Reading	NCS	
December 10, 2019	City Council Study Session (TMBN 16, Noon)			
	City Council Meeting (TMB Council Chambers, 5:00 PM)	*Resolution to establish the Mayor's Youth Commission of Tacoma *Ordinance for the Neighborhood Council Program Review Final Reading	CMO NCS	
December 17, 2019	Joint Utility Board Study Session (TMBN 16, Noon)			
	City Council Meeting (TMB Council Chambers, 5:00 PM)			
December 26, 2019	CANCELLED ** Please note there will not be a meeting on December 31, 2019. (Due to the holiday, this meeting will be moved to next business day, January 2, 2020 or cancelled)			

**** Please note there will not be a meeting on December 31, 2019 (Due to the holiday, this meeting will be moved to next business day, January 2, 2020, or cancelled.)**

Community Vitality and Safety			
Committee Members: Blocker (Chair), Beale, Thoms, Ushka, Alternate-Hunter Executive Liaison: Linda Stewart; Staff Support - Bucoda Warren		2nd and 4th Thursdays 4:30 p.m. Room 248	CBC Assignments: • Citizen Police Advisory Committee • Human Services Commission • Human Rights Commission • Housing Authority • Commission on Disabilities • Library Board • Tacoma Community Redevelopment Authority
October 24, 2019	Project Peace (Informational)	Ed Wade, Assitant Chief, Tacoma Police Department; and Korbett Mosesly, Management Analyst, OEHR	An update of the Project Peace youth outreach meetings and executive team retreat.
	Review of Policies Establishing Shelters for Homeless Individuals	Linda Stewart, Neighborhood and Community Services Director	A review of ordinance 28498 and Tacoma Municipal Code 13.06 to consider options for expanding the opportunity for nonprofit and religious organizations to establish homeless shelters on their property.
Future			
November 14, 2019	Citizen Police Advisory Committee Interviews	Doris Sorum, City Clerk	5 vacancies
	Chronic Nuisance Code Implementation (informational)	Danielle Larson, Tax & License Manager and Keith Echterling, Assistant City Attorney	
November 28, 2019	Canceled		

Economic Development Committee			
Committee Members: Thoms (Chair), Hunter, McCarthy, Ushka Alternate-Beale Executive Liaison: Tadd Wille; Staff Support - Lynda Foster		2nd, 4th, and 5th Tuesdays 10:00 a.m. Room 248	CBC Assignments: •Tacoma Arts Commission •Greater Tacoma Regional Convention Center Public Facilities District •Foss Waterway •City Events and Recognition Committee
October 22, 2019	Commercial Office Incentive	Gloria Fletcher, Business Development Manager, CED	This presentation will provide a summary of and recommendations for improving the sustainable business environment in Tacoma.
Future			
October 29, 2019	Green economy policy recommendations	Gloria Fletcher, Business Development Manager, CED	Third presentation on the Tacoma green job economy, with staff recommendations for policy updates
	TPU Economic Development Strategic Plan	Michael Catsi, TPU's Economic Development Manager	Continuing the conversation from the EDC meeting on Sept. 24 on the new TPU Economic Development Strategic Plan, outlining initiatives and priorities.
November 12, 2019	Tacoma Arts Commission Interviews	Clerks Office	5 vacancies

Government Performance and Finance Committee

Committee Members: Ibsen (Chair), Blocker, Hunter, Mello, Alternate-Thoms Executive Liaison: Andy Cherullo; Staff Support - Latasha Ware		1st and 3rd Tuesday 10 a.m. Room 248	CBC Assignments: •Public Utility Board •Board of Ethics •Audit Advisory Board •Civil Service Board
November 5, 2019	Title 6 in response to HB1403	Danielle Larson, Tax & License Manager	HB 1403 makes changes to the service apportionment tests, definitions and alternative apportionment process effective January 1, 2020. HB 1059 changes the due date for annual business & occupation tax filers to April 15 effective January 1, 2021
	Civil Service Board	Becky Summers	
Future			
November 19, 2019	Board of Ethics Interviews	Doris Sorum, City Clerk	2 vacancies
	Title 18 Employment Standards	Danielle Larson, Tax & License Manager	A follow-up discussion on repealing the City's Minimum Wage and Paid Sick Leave Ordinance. Labor & Industries will present on their investigation process and answer questions. Staff will provide follow-up on stakeholder outreach efforts.
December 3, 2019	CBC Review	Lisa Woods, Assistant to the City Manager	A review of current boards and commissions and how council assigns topics to them and creates/consolidates CBCs

Infrastructure, Planning and Sustainability Committee

Committee Members: Mello (Chair), Beale, Ibsen, McCarthy, Alternate-Hunter Executive Liaison: Kurtis Kingsolver; Staff Support - Rebecca Boydston		1st and 3rd Wednesdays 4:30 p.m. Room 248	CBC Assignments: •Sustainable Tacoma Commission •Planning Commission •Landmarks Preservation Commission •Board of Building Appeals •Transportation Commission
November 6, 2019	Sustainable Tacoma Commission Interviews	Doris Sorum, City Clerk	2 positions open
	Electric Vehicle Updates	Lisa Rennie, Senior Power Analyst, Tacoma Public Utilities	A presentation from Tacoma Public Utilities regarding recent State legislation and related programming for electric vehicle adoption.
	Code Updates for Electric Vehicle Adaptation	Kristi Lynett, Office of Environmental Policy and Sustainability	
Future			
November 20, 2019	Landmarks Preservation Commission Interviews	Doris Sorum, City Clerk	
	Scooter and Bike Share	Jennifer Kammerzell, Principal Engineer, Public Works	
	Urban Forestry Management Plan	Mike Carey, Office of Environmental Policy and Sustainability	Present Urban Policy recommendations that would be incorporated into a resolution for Council Consideration on December 3, 2019
December 4, 2019	Healthy Homes, Healthy Neighborhoods (tent.)	Kristi Lynett, Office of Environmental Policy and Sustainability	Program Update
	Sustainable Tacoma Commission Interviews (cont.)	Doris Sorum, City Clerk	2 positions open