

**EXHIBIT "A"**

**AN AGREEMENT AUTHORIZING A TRANSFER OF DEVELOPMENT RIGHTS  
PROGRAM BETWEEN PIERCE COUNTY AND CITY OF TACOMA**

**THIS INTERLOCAL AGREEMENT** is entered into this day by and between **PIERCE COUNTY**, a political subdivision of the State of Washington (herein referred to as "COUNTY") and the **CITY OF TACOMA**, a municipal corporation of the State of Washington (herein referred to as "CITY").

**RECITALS**

1. WHEREAS, the Washington State Growth Management Act (GMA), Chapter 36.70A Revised Code of Washington (RCW), directs development to urban areas, discourages inappropriate conversion of undeveloped rural land into sprawling, low-density development, and encourages the conservation of productive forest lands and productive agricultural lands and the protection of habitat lands; and

2. WHEREAS, the transfer of development rights (TDR) is one tool available to Washington communities to encourage the preservation of productive agricultural and forest lands and the protection of habitat lands while also promoting higher density, infill development within incorporated cities, consistent with the GMA and as provided in the Regional Transfer of Development Rights Program, Chapter 43.362 RCW; and

3. WHEREAS, the Washington State Legislature recognizes the importance of a regional transfer of development rights program; and

4. WHEREAS, the GMA requires the Central Puget Sound Region to adopt multi-county planning policies; and

5. WHEREAS, Vision 2040 was adopted in May 2008 as the Central Puget Sound Region guiding multi-county planning policies strategy; and

6. WHEREAS, Vision 2040 includes policies that encourage the use of transfer of development rights to focus growth within urban growth areas and to lessen pressure to convert rural and resource lands to more intense urban type development; and

7. WHEREAS, Countywide planning policies are required to be consistent with Vision 2040; and

8. WHEREAS, the GMA requires counties to adopt countywide planning policies in cooperation with cities; and

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1 9. WHEREAS, the Pierce County Countywide Planning Policies direct jurisdictions in Pierce  
2 County to implement programs and regulations to protect and maintain the rural character of  
3 rural, farm and forest lands, and to direct growth to cities and urban centers; and  
4  
5 10. WHEREAS, the County adopted a TDR program through Pierce County Code (PCC) Title  
6 18G -Conservation Programs; and  
7  
8 11. WHEREAS, the County TDR program requires the adoption of an interlocal agreement in  
9 order to authorize cities to receive development rights transferred from unincorporated rural and  
10 resource lands; and  
11  
12 12. WHEREAS, this Interlocal Agreement between the COUNTY and the CITY shall be  
13 consistent with all applicable adopted policies and regulations of PCC Title 18G - Conservation  
14 Programs; and  
15  
16 13. WHEREAS, this Interlocal Agreement provides for a framework that would allow for a  
17 transfer of development rights from rural and resource lands within unincorporated Pierce  
18 County to designated receiving areas in the CITY; and  
19  
20 14. WHEREAS, the COUNTY has a TDR bank that acquires development rights from high  
21 priority conservation lands for purchase within cities; and the TDR bank can play an important  
22 role to facilitate the City-County TDR market and is an integral part of the success of the Joint  
23 Program; and  
24  
25 15. WHEREAS, site specific transactions utilizing the COUNTY's TDR Bank shall require an  
26 additional Agreement signed by both parties; and  
27  
28 16. WHEREAS, the rural and resource lands in Pierce County are recognized as containing  
29 important citywide, countywide and regional public benefits such as forestry, open space,  
30 wildlife habitat, agricultural resources, and salmon habitat; and  
31  
32 17. WHEREAS, the CITY has identified rural and resource lands in Pierce County as one of its  
33 preservation priorities; and  
34  
35 18. WHEREAS, the CITY's development regulations identify certain areas within the Tacoma  
36 city limits to actively consider as potential receiving sites for development rights from Pierce  
37 County, as a means to achieve conservation and preservation of resource and rural lands and to  
38 direct growth to the CITY; and  
39  
40 19. WHEREAS, the CITY'S Downtown and Mixed-Use Centers call for density incentives for  
41 residential and commercial development, and seek to increase public amenities to improve the  
42 pedestrian, park and transit oriented development pattern in these areas; and  
43  
44 20. WHEREAS, the CITY and the COUNTY share an interest in creating an effective,  
45 cooperative development rights transfer system to achieve the goals of the GMA, the Pierce  
46 County Countywide Planning Policies, and the City of Tacoma and the Pierce County  
47 Comprehensive Plans; and

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21. WHEREAS, the COUNTY and the CITY are authorized, pursuant to Article XI of the Washington State Constitution, Chapter 39.34 RCW and RCW 43.362.050 to enter into a governmental cooperation agreement to accomplish these shared goals;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, it is mutually agreed by and between the COUNTY and CITY as follows:

#### **SECTION I. PURPOSE.**

The purpose of this Interlocal Agreement is to provide for the transfer of development rights from Pierce County to the City of Tacoma and to memorialize the agreement between the parties relating to a Joint Program (hereafter the "Joint Program") for the transfer of development rights from the Pierce County TDR Bank to the City; or from privately owned unincorporated Pierce County rural and resource lands.

#### **SECTION II. CITY OBLIGATIONS**

A. The CITY has adopted Ordinance No. 28087 to implement its Transfer of Development Rights Program. The City's TDR Program provides incentives to protect selected sending site properties while authorizing additional residential density, commercial square footage, and other uses at selected receiving sites inside the city limits. The TDR implementation program is codified in Chapter 1.37 Tacoma Municipal Code (TMP).

B. The CITY has identified the COUNTY rural and resource lands pursuant to the COUNTY's TDR Program, as codified in PCC Title 18G, as appropriate sending site areas and has identified the following COUNTY "Sending Sites" described below and as depicted in Exhibit A to this Agreement, as priorities for the transfer of development rights to the CITY:

Pierce County Farm Land: Farm land designated as Agricultural Resource Land (ARL) in unincorporated Pierce County situated in Pierce County's Alderton-McMillin and Mid County Community Planning areas.

Pierce County Forest Land: Forest Land designated as Forest Land (FL) situated in unincorporated Pierce County.

C. The CITY has designated Downtown and Neighborhood Mixed-Use Centers as receiving areas within which transferable development rights credits may be used, as depicted in Exhibit B to this Agreement.

D. The CITY has adopted a receiving area ratio or ratios as provided for in Chapter 1.37 Tacoma Municipal Code for the transferable development rights or development rights credits to be received. These ratios shall be established for sending areas situated in unincorporated Pierce County as follows: One development right allows for 5,000 square feet of bonus area. The TDR manager shall recommend adjustments of the receiving area ratio or ratios as market conditions change in significant manner.

E. The CITY shall continue to permit the use of development rights at receiving sites within the CITY limits during the term of this Interlocal Agreement from priority sending sites identified in

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1 Exhibit A unless other mutually agreeable sending sites are approved by the CITY and are  
2 consistent with PCC Title 18G.

3  
4 F. The CITY agrees that development rights can be transferred from the Pierce County TDR  
5 Bank to the CITY or from privately owned unincorporated Pierce County rural and resource  
6 lands. Transfers to the CITY shall come from priority sending areas as depicted on Exhibit A  
7 unless other mutually agreeable sending sites are approved by the CITY and are consistent with  
8 PCC Title 18G.

9  
10 G. The CITY shall notify the COUNTY in writing when it has approved the use of development  
11 rights that were purchased from private parties in a specific project. Upon approved use of  
12 COUNTY development rights on a specific receiving site within the CITY, the CITY shall  
13 ensure that the receiving site owner relinquishes the certificates to the COUNTY in conformance  
14 with PCC Title 18G.10 prior to issuing final building permits on the receiving site.

15  
16 H. If the CITY intends to amend its transferable development rights program, as codified in  
17 Chapter 1.37 TMC, it shall notify the COUNTY in writing at least 14 days before officially  
18 adopting the amendment(s).

19  
20 I. The CITY agrees to work in good faith with the COUNTY, private developers, and other  
21 receiving site landowners for the success of this Agreement.

22  
23 J. The COUNTY and CITY agree to work in good faith to pursue grant funding for a Landscape  
24 Conservation and Local Infrastructure Program feasibility study to understand the benefits of the  
25 program to fund infrastructure improvements and to support conservation of farm and forest  
26 lands.

27  
28 **SECTION III. COUNTY OBLIGATIONS**

29 A. The COUNTY adopted policies, regulations, and administrative procedures under PCC  
30 Chapter 18G.10 to implement the COUNTY Transfer and Purchase of Development Rights  
31 Program, which promotes and facilitates the purchase and sale of development rights. The  
32 COUNTY Program's adopted policies and regulations are also consistent with the Joint Program.

33  
34 B. The COUNTY will utilize PCC Title 18G to identify, qualify and certify sending sites for use  
35 by the CITY.

36  
37 C. The COUNTY acknowledges the provisions of the CITY'S TDR implementation Ordinance  
38 are consistent with the intent and purposes of the Joint Program and this Interlocal Agreement.

39  
40 D. If the COUNTY intends to amend its purchase of development rights and/or its transferable  
41 development rights program as codified in PCC Title 18G, it shall notify the CITY in writing at  
42 least 14 days before officially adopting the amendment(s).

43  
44 **SECTION IV. JOINT DEMONSTRATION PROJECT**

45 A. The COUNTY agrees to work in good faith with the CITY, private developers, and  
46 designated sending site landowners for the success of this Agreement.

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1 B. The COUNTY and CITY shall report back to their legislative bodies after the first transfer of  
2 development rights transaction is completed and annually thereafter during the duration of this  
3 Agreement.

4  
5 **SECTION V. DURATION**

6 A. Duration. This Agreement shall become effective on the date it is last signed by all parties  
7 and shall be reviewed once the CITY meets its conservation goals and has accepted 369 TDR  
8 credits.

9  
10 B. Extension. Pursuant to a mutual written agreement between the COUNTY Executive and  
11 CITY Mayor, this Agreement may be extended for a mutually agreed upon period from the  
12 effective date of the extension. To extend the Agreement, the CITY or the COUNTY shall make  
13 a written request to the other not less than sixty (60) days prior to the end of this Agreement. The  
14 request shall specify the proposed term of the extension. The parties must agree to the extension  
15 in writing by the termination date or the agreement will lapse.

16  
17 C. Either party can terminate this Agreement for convenience by providing the other party at  
18 least thirty days written notice of its intent to terminate.

19  
20 **SECTION VI. ADMINISTRATION OF THE AGREEMENT.**

21 This Agreement shall be administered for the CITY by the City Manager or his/her designee and  
22 for the COUNTY by the County Executive, or his/her designee.

23  
24 **SECTION VII. INDEMNIFICATION AND DEFENSE.**

25 A. The County shall defend, indemnify, and save harmless the CITY, its officers, employees,  
26 and agents from any and all costs, claims, judgments, or awards of damages, resulting from the  
27 acts or omissions of the COUNTY, its officers, employees, or agents associated with this  
28 Agreement. In executing this Agreement, the COUNTY does not assume liability or  
29 responsibility for or in any way release the CITY from any liability or responsibility which arises  
30 in whole or in part from the existence or effect of CITY ordinances, rules, regulations,  
31 resolutions, customs, policies, or practices. If any cause, claim, suit, action or administrative  
32 proceeding is commenced in which the enforceability and/or validity of any such CITY  
33 ordinance, rule, regulation, resolution, custom, policy or practice is at issue, the CITY shall  
34 defend the same at its sole expense, and if judgment is entered or damages are awarded against  
35 the CITY, the COUNTY, or both, the CITY shall satisfy the same, including all chargeable costs  
36 and attorney's service charges.

37  
38 B. The CITY shall defend, indemnify, and save harmless the COUNTY, its officers, employees  
39 and agents from any and all costs, claims, judgments, or awards of damages, resulting from the  
40 acts or omissions of the CITY, its officers, employees or agents associated with this Agreement.  
41 In executing this Agreement, the CITY does not assume liability or responsibility for or in any  
42 way release the COUNTY from any liability or responsibility which arises in whole or in part  
43 from the existence or effect of COUNTY ordinances, rules, regulations, resolutions, customs,  
44 policies, or practices. If any cause, claim, suit, action, or administrative proceeding is  
45 commenced in which the enforceability and/or validity of any such COUNTY ordinance, rule,  
46 regulation, resolution, custom, policy, or practice is at issue, the COUNTY shall defend the same  
47 at its sole expense, and if judgment is entered or damages are awarded against the COUNTY, the



1 CITY, or both, the COUNTY shall satisfy the same, including all chargeable costs and attorney's  
2 service charges.

3  
4 **SECTION VIII. ASSIGNMENT.** Neither the COUNTY nor the CITY shall have the right to  
5 transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without  
6 the prior written consent of the other party.

7  
8 **SECTION IX. INDEPENDENT CONTRACTOR.** Both the CITY and the COUNTY are, and  
9 shall at all times be deemed to be, an independent contractor. Nothing herein contained shall be  
10 construed as creating the relationship of employer and employee, or principal and agent, between  
11 the CITY and the COUNTY or any of the CITY and COUNTY's agents or employees. The  
12 CITY and the COUNTY shall each retain all its authority for rendition of services, standards of  
13 performance, control of personnel, and other matters incident to the performance of services  
14 pursuant to this Agreement.

15  
16 **SECTION X. NO THIRD PARTIES.** This Interlocal Agreement is made and entered into for  
17 the sole protection and benefit of the parties hereto. No other person or entity shall have any right  
18 of action or interest in this Agreement based upon any provision set forth herein.

19  
20 **SECTION XI. WAIVER.** No waiver by either party of any term or condition of this Interlocal  
21 Agreement shall be deemed or construed to constitute a waiver of any other term or condition or  
22 of any subsequent breach, whether of the same or a different provision of this Interlocal  
23 Agreement.

24  
25 **SECTION XII. ENTIRE AGREEMENT.** This Interlocal Agreement contains all of the  
26 Agreements of the Parties with respect to any matter covered or mentioned in this Interlocal  
27 Agreement and no prior agreements shall be effective for any purpose. It is the complete  
28 expression of the terms hereof and any oral representation or understanding not incorporated  
29 herein is excluded.

30  
31 **SECTION XIII. AMENDMENT.** Provisions within this Interlocal Agreement may be amended  
32 with the mutual consent of the parties hereto. No additions to, or alteration of, the terms of this  
33 Agreement shall be valid unless made in writing, formally approved, and executed by duly  
34 authorized agents of both parties.

35  
36 **SECTION XIV. NOTICES.** Any notice, approval or communication that either party is  
37 required to send under this Interlocal Agreement must be given in writing to the following  
38 addresses:

39  
40 To City of Tacoma:

41  
42  
43  
44 To Pierce County:

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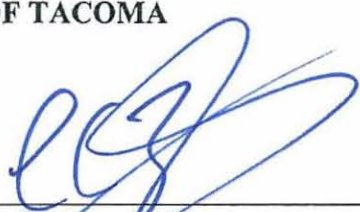
45  
46  
47 or to such other address as either party designates by written notice to the other.




1  
2 **SECTION XVI. SEVERABILITY.** If any of the provisions contained in this Interlocal  
3 Agreement are held illegal, invalid or unenforceable, the remaining provisions shall remain in  
4 full force and effect.


5  
6 IN WITNESS WHERE OF, the parties have caused this Interlocal Agreement to be  
7 executed on this 8<sup>th</sup> day of February, 2013.

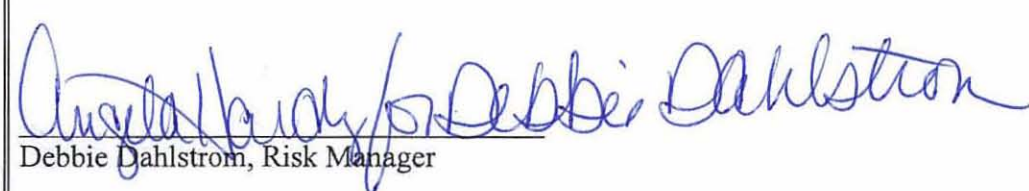
8  
9 **CITY OF TACOMA**

  
\_\_\_\_\_  
T.C. Broadnax  
City Manger

  
Doris Sorum, City Clerk

  
\_\_\_\_\_  
Ricardo Noguera  
Community and Economic Development  
Director

PH   
\_\_\_\_\_  
Steve Call, Interim Director  
Finance Department

  
\_\_\_\_\_  
Debbie Dahlstrom, Risk Manager

Approved as to form and legality:

  
\_\_\_\_\_  
Jeff Capell, Deputy City Attorney

10  
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PIERCE COUNTY

Dan Flynn 2/28/13  
PLANNING AND LAND SERVICES Date

M. Peter Phuley 01/15/2013  
DEP. PROSECUTING ATTORNEY Date  
(as to legal form only)

Sam Robinson 2/25/13  
BUDGET AND FINANCE Date

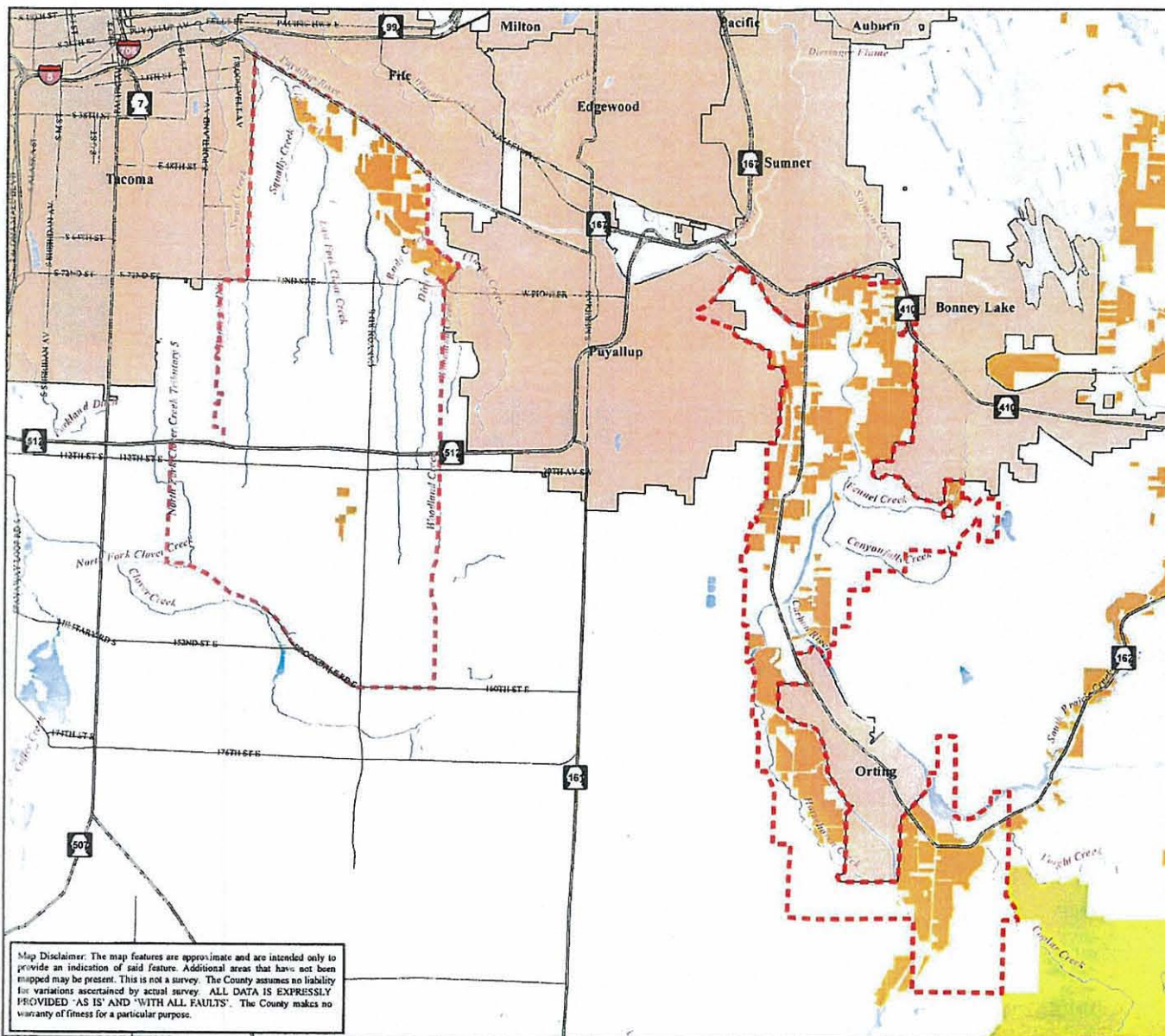
Paul Mahant 2/26/13  
RISK MANAGEMENT Date

Pat McElroy 3/4/13  
COUNTY EXECUTIVE Date

1  
2  
3  
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Pierce County, Washington

**Exhibit A**  
**Map 1 of 2 (Agricultural Resource Lands)**

Mid-County Community Plan  
 Alderton-McMillin Community Plan Area  
 Municipal Areas

**Zoning**

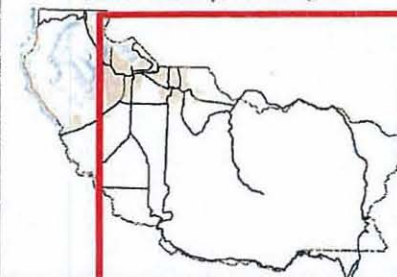
Agricultural Resource Land (ARL)  
 Designated Forest Land

**Map Depicts City of Tacoma  
 Priority Sending Site Areas**

Miles  
  
 Department of Planning and Land Services  
 Plot Date: 11/21/2012

**Pierce County  
 Sending Site Areas**

Map File: H:\mxd\Staff\_Requests\dmarcus\_jones\tacoma\_id\tacoma\_exhibit\_a\_arl\_11\_17.mxd

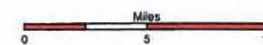


## Exhibit A

### Map 2 of 2 (Forest Resources)

- Pierce County Boundary
- Municipal Areas
- Zoning**
- Designated Forest Land

Map Depicts City of Tacoma  
Priority Sending Site Areas

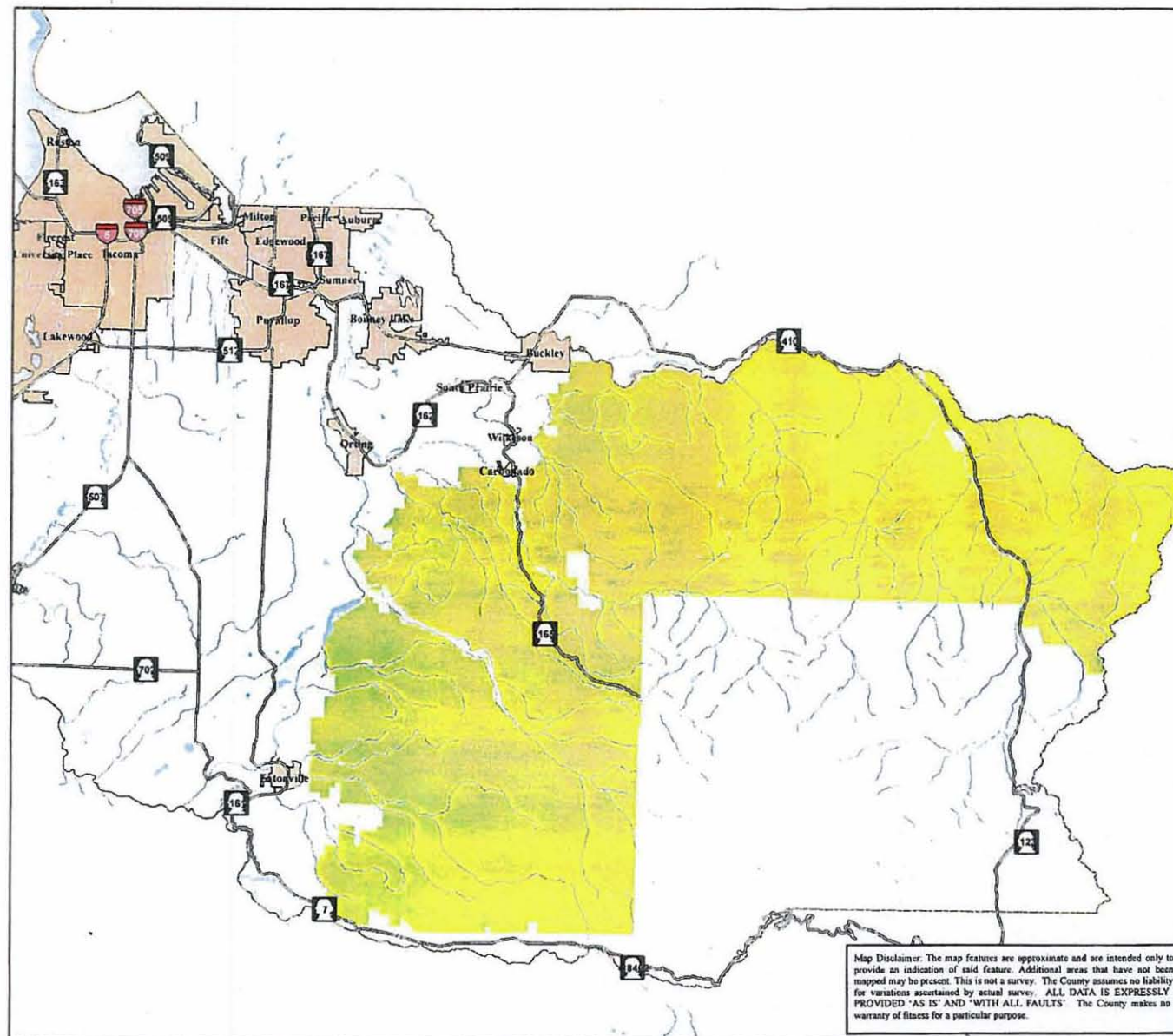


Department of Planning and Land Services

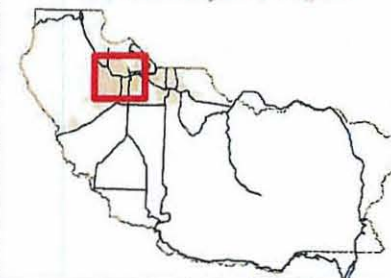
Plot Date: 11/21/2012

**Pierce County**  
**Sending Site Areas**

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Map Disclaimer: The map features are approximate and are intended only to provide an indication of land feature. Additional areas that have not been mapped may be present. This is not a survey. The County assumes no liability for variations ascertained by actual survey. ALL DATA IS EXPRESSLY PROVIDED 'AS IS' AND 'WITH ALL FAULTS'. The County makes no warranty of fitness for a particular purpose.



## Exhibit B

- Downtown Mixed-Use Center
- Neighborhood Center Mixed-Use Center\*

\*Included Neighborhood Centers:

- 6th Ave & Pine St
- 38th & G
- 56th & STW
- Martin Luther King
- McKinley
- Narrows
- Stadium

Map Depicts City of Tacoma  
Priority Receiving Site Areas



Department of Planning and Land Services  
Plot Date: 11/21/2012

## City of Tacoma Receiving Site Areas

Map File: H:\mxd\Staff\_Requests\omarcus\_jonestacoma\_id\tacoma\_exhibB\_p\_mixed\_use\_11\_17.mxd

