



## Legislation Passed December 15, 2009

The Tacoma City Council, at its regular City Council meeting of December 15, 2009, adopted the following resolutions and/or ordinances. The summary of the contents of said resolutions and/or ordinances are shown below. To view the full text of the document, click on the bookmark at the left of the page.

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### **Resolution No. 37949**

Reappointing Barbara Mead and appointing Larry Anderson and Joseph Zawacki to serve on the Foss Waterway Development Authority Board of Directors for terms through September 23, 2012.

### **Resolution No. 37950**

Approving the Retirement Board's appointment of Monica Butler to the position of Retirement System Director, beginning January 5, 2010.

### **Purchase Resolution No. 37951**

Awarding contracts to:

1. Milliman, Inc., in the amount of \$423,840.00, sales tax not applicable, budgeted from the Tacoma Retirement Operations and Administration Fund, for actuarial consulting and audit services, for an initial three-year period beginning January 1, 2010 through December 31, 2012, plus the option to extend for two additional one year periods, for a projected contract total of \$691,000.00 – Specification No. RE09 0384F; and
2. Northwest Cascade, Inc., in the amount of \$20,000.00, plus sales tax, for a cumulative total of \$1,264,035.50, budgeted from the Wastewater Fund, to increase the contract for additional work on the extension and/or replacement of existing sanitary sewer and water mains on Adams Street from South 23rd to South 19th Streets; and on North 1st Street between Yakima and Tacoma Avenues – Specification No. PW07-0008F.

### **Resolution No. 37952**

Authorizing the execution of a three-year lease agreement with Global Locomotive LLC, in the amount of \$234,225, with options for three additional one-year extensions, for the existing vacant locomotive and rail car repair facility located on the Western Junction property, at 5915 Waldrick Road Southeast, Tenino, Thurston County.

### **Resolution No. 37953**

Authorizing the execution of an agreement with the Tacoma-Pierce County Humane Society, in the amount of \$526,000, budgeted from the General Fund, for animal shelter services for the year 2010.

### **Resolution No. 37954**

Authorizing the execution of Special Valuation Tax Agreements for the rehabilitation of the historic properties located at 702 North I Street and 1910 1912 South G Street.

**Resolution No. 37955**

Designating the Highlands Golf Course as open space under the City's and Pierce County's Open Space Current Use Assessment Program for property tax purposes and recommending that it be granted a 60 percent open space property tax discount as recommended by the Planning Commission; and appointing Council Members Fey, Manthou, and Walker to serve on a Joint Determining Authority with three Pierce County Council Members.

**Amended Resolution No. 37956**

Repealing Resolution No. 32989 and Substitute Resolution No. 35757; and amending the Local Improvement District Policy.

**Resolution No. 37957**

Authorizing the execution of an interagency agreement with the Washington State Patrol (WSP), in the amount of \$150,000, budgeted from the General Fund, to fund the modifications necessary for the City's use of the WSP communications tower and equipment building, and, in exchange, allowing the WSP to utilize one of the City's radio sites, including building and tower.

**Resolution No. 37958**

Approving the Administrative Procedures of the Board of Ethics.

**Amended Resolution No. 37959**

Authorizing the execution of the third amendment to the Development, Sale Back, and Lease Agreement for South Park Plaza Public Parking Garage with Pacific Plaza Development, LLC, to provide for the use of approximately 14,000 square feet for nonretail purposes, for a lease with the Washington State Office of the Attorney General.

**Resolution No. 37960**

Appointing City Council Members to various national, state, regional and local committees, boards and commissions, including the Council's standing committees, for the year 2010.

**Ordinance No. 27859**

Extending the final due date for the Limited Tax General Obligation Line of Credit Note, 2005 Pantages Theater, in the principal amount of \$2,500,000, from December 26, 2009 to December 26, 2011.

**Ordinance No. 27860**

Authorizing the execution of a Water Wheeling Agreement between Tacoma Water, Rainier View Water Company Inc., and Lakewood Water District, to deliver up to two million gallons of water per day from the Lakewood Water system to the Rainier View system.

**Ordinance No. 27862**

Amending Chapter 6A.30 of the Municipal Code, relating to the business and occupation tax, to change the requirements for paying back the tax credit received for prior periods due to a recognized general recession or a declared natural disaster.

**Ordinance No. 27863**

Amending Chapter 6B.220 of the Municipal Code, relating to taxicab regulations, to require taxicab drivers to submit a medical certification, attend a training program, and pass a written exam prior to license approval; and setting penalties for classes of violations and standards for the denial of taxicab licenses.

**Ordinance No. 27864**

Amending the Capital Facilities Element of the Comprehensive Plan, and adopting the 2010-2015 Capital Facilities Program.

**Ordinance No. 27865**

Adopting the Six-Year Comprehensive Transportation Program for amended year 2009 and 2010-2015.

**Ordinance No. 27866**

Accepting a federal American Recovery and Reinvestment Act of 2009 Department of Energy, Energy Efficiency and Conservation Block Grant, in the amount of \$1,947,300; creating a new special fund to be known and designated as the CMO Special Revenue Fund; depositing in and appropriating said sum from the newly created fund to implement the Climate Action Plan.

**Ordinance No. 27867**

Amending Title 10 of the Municipal Code, entitled "Public Works," by repealing Chapter 10.26 in its entirety, and amending Title 1 of the Municipal Code, entitled "Administration and Personnel," by creating a new Chapter 1.07 to be known as "Historically Underutilized Businesses."

**Ordinance No. 27868**

Amending Chapter 10.27 of the Municipal Code, relating to small public works contracts, by repealing and reenacting Sections 10.27.030, 10.27.040, and 10.27.080, and directing the City Manager to review the implementation of said chapter on a continuing basis and to report on the impact of this program on a quarterly basis.

## RESOLUTION NO. 37949

BY REQUEST OF MAYOR BAARSMA AND COUNCIL MEMBERS FEY,  
LONERGAN, AND MANTHOU

A RESOLUTION relating to committees, boards, and commissions; appointing  
and reappointing citizens to the Foss Waterway Development Authority  
Board of Directors.

WHEREAS there exists in the City of Tacoma a number of committees,  
boards, and commissions, and

WHEREAS vacancies presently exist on certain committees, boards, and  
commissions, and

WHEREAS, pursuant to the City Charter and the Rules, Regulations, and  
Procedures of the City Council, the persons named on Exhibit "A" have been  
nominated to serve on the committees, boards, and commissions listed; Now,  
Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That those nominees to the committees, boards, and commissions, listed on  
Exhibit "A" are hereby confirmed and appointed or reappointed as members of such  
committees, boards, and commissions, for such terms as are set forth on Exhibit "A."

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

**EXHIBIT "A"**

**Foss Waterway Development Authority Board of Directors**

Reappointing **Barbara Mead** for a term to expire September 23, 2012.

Appointing **Lawrence Anderson** for a term to expire September 23, 2012.

Appointing **Joseph Zawacki** for a term to expire September 23, 2012.

## **RESOLUTION NO. 37950**

A RESOLUTION relating to the Tacoma Retirement System Board of Administration; authorizing the approval of the Retirement Board's appointment of Monica Butler as the Tacoma Retirement System Director, per Section 1.30.400 of the Tacoma Municipal Code.

WHEREAS, since May 29, 2009, the Retirement Director position has been vacant due to leave taken and subsequent retirement of the former Retirement Director, currently being filled by Jodie Trueblood as the Interim Retirement Director, and

WHEREAS the Tacoma Employees' Retirement Board conducted a nationwide recruitment for the Retirement Director, and

WHEREAS the Retirement Board fulfilled its due diligence duty under its fiduciary responsibility to the Employees' Retirement Fund in its evaluation and assessment of the top candidates, and

WHEREAS Monica Butler has extensive experience in the area of institutional investment consulting, including asset allocation, manager selection and monitoring, performance evaluation, and risk management, and

WHEREAS Section 1.30.400 of the Tacoma Municipal Code provides that the appointment of the Retirement System Director shall be made by the Retirement Board subject to the approval of the City Council, and

WHEREAS the Tacoma Retirement System Board of Administration, at its December 10, 2009, meeting has appointed Monica Butler to fill the Retirement System Director position; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the City Council approves the Retirement Board's appointment of Monica Butler to the position of Tacoma Retirement System Director, per Section 1.30.400 of the Tacoma Municipal Code.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney



## RESOLUTION NO. 37951

1 A RESOLUTION related to the purchase of materials, supplies or equipment,  
2 and the furnishing of services; authorizing the appropriate City officials to  
3 enter into contracts and, where specified, waiving competitive bidding  
4 requirements, authorizing sales of surplus property, or increasing or  
5 extending existing agreements.

6 WHEREAS the City has complied with all applicable laws governing the  
7 acquisition of those supplies, and/or the procurement of those services,  
8 inclusive of public works, set forth in the attached Exhibit "A," which Exhibit is  
9 incorporated herein as though fully set forth, and

10 WHEREAS the Board of Contracts and Awards has reviewed the  
11 proposals and bids received by the City, and the Board has made its  
12 recommendation as set forth in Exhibit "A," and

13 WHEREAS the Board of Contracts and Awards has also made its  
14 recommendations as to entering into purchasing agreements with those  
15 governmental entities identified in Exhibit "A"; Now, Therefore,

16 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

17 That the Council of the City of Tacoma does hereby concur in the  
18 findings and recommendations of the Board of Contracts and Awards set forth  
19 in the attached Exhibit "A," and does hereby approve and authorize the:

20 (X) A. Procurement of those supplies, services, and public works  
21 recommended for acceptance in the attached Exhibit "A";

22 ( ) B. Rejection of those bids and/or proposals that are recommended  
23 for rejection in the attached Exhibit "A";  
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( ) C. Entry into the proposed purchasing agreement with those governmental entities identified in the attached Exhibit "A," which proposed agreement is on file in the office of the City Clerk;

( ) D. Waiver of competitive bidding procedures in those instances, as set forth in Exhibit "A," in which it is impracticable to obtain supplies or public works improvements by competitive bid, or in those instances in which supplies and/or public works are available from a single source.

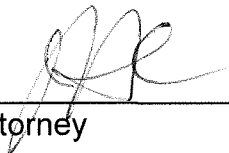
Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

  
\_\_\_\_\_  
City Attorney



City of Tacoma  
Tacoma Employees' Retirement System

3628 S 35<sup>th</sup> St, Tacoma WA 98409 ■ P O Box 11007, Tacoma WA 98411-007 ■ (253)502-8200, Fax (253)502-8660

EXHIBIT "A"

RESOLUTION NO.: 37951

ITEM NO.: 1

MEETING DATE: December 15, 2009

**DATE:** November 19, 2009

**TO:** Board of Contracts and Awards

**SUBJECT:** Actuarial and Audit Services for the Tacoma Employee's Retirement System (TERS) Budgeted from TERS Operating and Administration Request for Proposals Specification No. RE09-0384F

**RECOMMENDATION:** Tacoma Employees' Retirement System recommends a contract be awarded to **Milliman Inc., Seattle WA.**, for actuarial consulting and audit services. The recommendation is for an initial Three year period January 1, 2010 through December 31, 2012 in the amount of \$423,840 (which includes actuarial services for \$186,040, estimated audit services at \$47,800 & estimated project costs of \$190,000), sales tax not applicable, with the option for two additional one year extensions upon mutual written agreement of actuarial services for \$132,250, estimated audit services at \$34,910 & estimated project costs of \$100,000 for an aggregate total of \$691,000, sales tax not applicable.

**EXPLANATION:** Actuarial Consulting and Audit Services for the Tacoma Employees' Retirement System.

**COMPETITIVE SOLICITATION:** Request for Proposals Specification No. RE09-0384F was opened September 15, 2009. Three companies were invited to bid in addition to normal advertising of the project. Five of submittals were received.

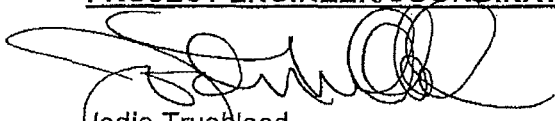
<u>Respondent</u>	<u>Location (city and state)</u>	<u>Select Rank or Score</u>
Milliman, Inc.	Seattle, WA	225
Aon Consulting, Inc.	Portland, OR	152.5
Deloitte Consulting, LLP	Minneapolis, MN	147.5
Gabriel, Roeder, Smith & Company	Fort Lauderdale, FL	132.5
EFI Actuaries	Washington, DC	130

**CONTRACT HISTORY:** New contract.

**FUNDING:** Funds for this contract are available in the Tacoma Retirement Operations & Administration. Funding beyond the current biennium is subject to future availability of funds.

**HUB/LEAP COMPLIANCE:** Not applicable.

**PROJECT ENGINEER/COORDINATOR:** Jodie Trueblood, Interim Retirement Director.

  
Jodie Trueblood  
Interim Retirement Director

cc: Jim Wilkerson, Purchasing  
Percy Jones, HUB



City of Tacoma  
Public Works Department

EXHIBIT "A"

RESOLUTION NO.: 37951

ITEM NO.: 2

MEETING DATE: December 15, 2009

**DATE:** December 3, 2009  
**TO:** Board of Contracts and Awards  
**SUBJECT:** PW07-0008F Sanitary Sewer Extension - Adams Street (LID), Sanitary Sewer Replacement - N. 1<sup>st</sup> Street  
Budgeted from PW Wastewater Fund 4300  
Request for Bids PW07-0008F  
Contract No. 4600004269

**RECOMMENDATION:** Public Works Construction Division requests approval to increase Contract 4600004269 to **Northwest Cascade, Inc., Puyallup, WA**, by \$20,000.00, plus sales tax, for additional project work. This increase will bring the contract to a cumulative total of \$1,264,035.50, plus sales tax.

**EXPLANATION:** This amount is requested due to the necessary and unforeseen removal and disposal of contaminated trench material, additional side sewers, and changed trench patch restoration on North 1<sup>st</sup> Street.

**COMPETITIVE BIDDING:** This contract was originally awarded to Northwest Cascade, Inc. as a result of Request for Bids Specification No. PW07-0008F in September 2007. The contractor has agreed to extend the contract at the same prices, terms, and conditions as the original contract.

**CONTRACT HISTORY:** The original contract for \$1,244,035.50, plus sales tax, was approved by City Council Resolution 37273 on September 11, 2007. This increase will bring the contract to a cumulative total of \$1,264,035.50, plus sales tax. This is the first amendment to the contract.

**FUNDING:** Funds for this are available in the Public Works Wastewater Fund 4300.

**PROJECT ENGINEER/COORDINATOR:** Michael Hale, Public Works Construction Division, 253-591-5766.

Richard E. McKinley  
Public Works Director

cc: Chuck Blankenship, Finance/Purchasing  
Percy Jones, HUB  
Peter Guzman, LEAP  
Leigh Starr, Public Works Construction Division  
Rae Bailey, Public Works Construction Division  
Mike Slade, Public Works Construction Division  
Christa Lee, Public Works Engineering Division

## **RESOLUTION NO. 37952**

A RESOLUTION relating to City-leased property; authorizing the execution of a three-year lease agreement with Global Locomotive LLC, in the amount of \$234,225, with options for three additional one-year extensions, for the existing vacant locomotive and rail car repair facility located on the Western Junction property in Thurston County.

WHEREAS the City owns certain property comprising of approximately 90 acres, including improvements, located in Thurston County, and known as the Western Junction property ("Property"), and

WHEREAS Global Locomotive LLC wishes to enter into a three-year lease agreement, with options for three additional one-year extensions, to lease a portion of the Property and improvements, to wit, the machine shop and approximately 3,300 feet of usable track for refurbishing, repairs, and service of rail cars, locomotives, and related activities; Now, Therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:**

That the proper officers of the City are hereby authorized to execute a three-year lease agreement with Global Locomotive LLC, in the amount of \$234,225, with options for three additional one-year extensions, for the existing vacant locomotive and rail car repair facility located on the Western Junction

property in Thurston County, said document to be substantially in the form of the proposed Lease Agreement on file in the office of the City Clerk.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Chief Deputy City Attorney

## **RESOLUTION NO. 37953**

A RESOLUTION relating to animal control; authorizing the execution of an agreement with the Tacoma-Pierce County Humane Society, in the amount of \$526,000, to be budgeted from the General Fund, for animal shelter services to the City for the year 2010.

WHEREAS, from 1992 through 2005, the City contracted with the Tacoma-Pierce County Humane Society (“Humane Society”) for animal shelter and animal control services, and

WHEREAS, beginning in 2006, the City assumed responsibility for animal control services, and

WHEREAS, pursuant to Resolution No. 36753, adopted January 17, 2006, the City entered into an agreement with the Humane Society for animal shelter and related services for 2006, and

WHEREAS, pursuant to Resolution No. 37094, adopted January 30, 2007, the City entered into an agreement with the Humane Society for animal shelter and related services for 2007, and

WHEREAS, pursuant to Resolution No. 37349, adopted December 18, 2007, the City entered into an agreement with the Humane Society for animal shelter and related services for 2008, and

WHEREAS, pursuant to Resolution No. 37698, adopted January 6, 2009, the City entered into an agreement with the Humane Society for animal shelter and related services for 2009, and

WHEREAS the Humane Society is willing to continue providing animal shelter and related services to the City for the year 2010; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the proper officers of the City are hereby authorized to execute an agreement with the Tacoma-Pierce County Humane Society, in the amount of \$526,000, to be budgeted from the General Fund, for animal shelter and related services for the year 2010, said document to be substantially in the form of the proposed agreement on file in the office of the City Clerk.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney

## **RESOLUTION NO. 37954**

A RESOLUTION relating to Special Valuation rehabilitation incentive; authorizing the approval of Special Valuation Tax Agreements for the rehabilitation of various properties.

WHEREAS the properties located at 702 North "I" Street and 1910-1912 South "G" Street are designated on the Tacoma Register of Historic Places, and

WHEREAS the owners of the above-listed properties have completed substantial rehabilitation during the two-year period preceding the date of application and have applied to the Pierce County Assessor for special valuation, pursuant to chapter 84.26 RCW and Substitute Ordinance No. 23499, and

WHEREAS, pursuant to Section 13.07.085 of the Tacoma Municipal Code, a special valuation agreement is subject to approval by the City Council, and

WHEREAS the Landmarks Preservation Commission has recommended the approval of the Historic Preservation Special Valuation Agreements regarding the above properties; Now, Therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:**

That the proper officers of the City are hereby authorized to execute the Historic Preservation Special Valuation Agreements, substantially in the form of the documents on file in the office of the City Clerk, which agreements shall assure

the preservation and maintenance of the properties located at 702 North "I" Street and 1910-1912 South "G" Street in exchange for the tax assessment on the properties to be reduced proportionately to the eligible expenses invested in their rehabilitation.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney

## **RESOLUTION NO. 37955**

A RESOLUTION relating to the City's open space assessment procedures; designating the Highlands Golf Course as open space under the City's and Pierce County's Open Space Current Use Assessment program for property tax purposes and recommending that it be granted a 60 percent open space property tax discount, as recommended by the Planning Commission; and appointing City Council Members Fey, Manthou, and Walker to serve on a Joint Determining Authority with three Pierce County Council Members.

WHEREAS Highlands Twenty LLC ("Highlands") submitted an application concerning an Open Space Current Use Assessment for the approximately 20-acre Highlands Golf Course, consisting of five parcels located in west Tacoma, and

WHEREAS the proposed designation as open space would not affect the City's planning or regulatory classifications for the property but could reduce the property taxes assessed to the golf course on an ongoing basis, contingent upon its continued use as an open space and recreation area, and

WHEREAS Washington State law provides for such classifications in cases where the conservation of land as open space constitutes a benefit to the general public, and

WHEREAS, pursuant to chapter 84.34 RCW, the City Council and the Pierce County Council jointly review Open Space Current Use Assessment applications, and

WHEREAS the final action on the application will be by separate concurring recommendations from both the City and Pierce County or by a

decision from a Joint Determining Authority composed of three members of each council in the event of differing recommendations, and

WHEREAS, on October 14, 2009, in accordance with Chapter 13.08 of the Tacoma Municipal Code, the Planning Commission (“Commission”) held a public hearing recommending that four of the five parcels be classified as open space and consequently receive a 60 percent property tax reduction, and

WHEREAS the Commission determined that this reduction was proportional to the public benefits derived from the golf course, which contains three wetlands and provides open space and recreational opportunities to the community; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

Section 1. That the Highlands Golf Course is designated as open space under the City’s and Pierce County’s Open Space Current Use Assessment program for property tax purposes, and it is recommended that it be granted a 60 percent open space property tax discount, as recommended by the Planning Commission.

Section 2. That City Council Members Fey, Manthou, and Walker are appointed to serve on a Joint Determining Authority with three Pierce County

Council Members to make a final decision on the application concerning an Open Space Current Use Assessment should the City and the County differ in their respective recommendations.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney

## **RESOLUTION NO. 37956**

A RESOLUTION relating to the formation of Local Improvement Districts ("LIDs"); repealing Resolution No. 32989 and Substitute Resolution No. 35757; and amending the Tacoma City Council Local Improvement District Policy.

WHEREAS, since fall 2007, a cross-functional team with representatives from the City's Water and Power divisions; Community and Economic Development, Legal, and Public Works departments; and the City Manager's Office has reviewed the current Tacoma City Council Local Improvement District Policy ("Policy") with the purpose of drafting an updated Policy, and

WHEREAS City staff identified the following six Policy issues that need to be clarified or addressed in the proposed updated Policy: (1) Level of neighborhood support necessary to conduct formation hearings, (2) Formation method and remonstrance level, (3) Funding level participation of the City and property owners, (4) Contractor bid proposals resulting in increased property owner assessments, (5) Project prioritization process, and (6) Process for formation of LIDs outside City limits, and

WHEREAS the Environment and Public Works Committee reviewed these proposed changes at its September 10, 2008, October 14, 2009, and November 19, 2009, meetings and issued a "do pass" recommendation; Now, Therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:**

Section 1. That Resolution No. 32989 and Substitute Resolution No. 35757 are repealed in their entirety.

Section 2. That the Tacoma City Council Local Improvement District Policy (“Policy”) is amended, as set forth in the attached Exhibit “A,” said document to be substantially in the form of the proposed Policy on file in the office of the City Clerk.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney

## EXHIBIT “A”

### Tacoma City Council Local Improvement District Policy

#### A. References:

Revised Code of Washington (RCW) Chapter 35.43  
Tacoma Municipal Code (TMC) Chapter 10.04  
Resolution No. 32989, adopted April 25, 1995 (LID Policy)  
Resolution No. 35757, adopted February 18, 2003 (Residential Fixed Rates)  
Resolution No. 30947

#### B. Background and Purpose:

Since the 1890s, Local Improvement District(s) (LIDs) have been successfully utilized by the City of Tacoma to finance the construction of public infrastructure.

The purpose of this policy is to establish a framework under which proposed LIDs will be considered for formation by the City Council. The adoption of this policy replaces Resolution No. 32989.

#### C. Definitions:

1) “Special benefit” is defined as the increase in value of real property derived from the construction of an LID. At times, it may be necessary to ascertain special benefits by a professional appraiser.

2) “Complete streets” are defined as roadways designed, constructed and operated in order provide safe, attractive, and comfortable access and travel for all users, including pedestrians, bicyclists, motorists, and public transportation. Complete streets create a sense of place and improve social interaction, while generally improving property adjacent land values. The City will include complete streets concepts in our designs of LIDs where practicable.

3) “Formation hearing” is a hearing conducted by the Hearing Examiner set by the City Council for the purpose of providing notice to property owners responsible for the cost of the proposed LID, taking testimony from the affected property owners, establishing the LID boundaries, and to determine the level of Remonstrance against the proposed project prior to LID formation by the City Council.

4) "LID" is an acronym for Local Improvement District, and both shall refer to those taxing districts formed pursuant to the authority granted by state law.

5) "LID Assistance Program" is the program established by the City Council, funded by federal Community Development Block Grants, for the purpose of assisting low-income homeowners to offset all or a portion of their LID assessments.

6) "Neighborhood Advisory Survey" is a nonbinding document provided by the City to a property owner(s) or citizen(s) who are interested in having a public improvement constructed through an LID.

7) "Opinion Survey" is a City-sponsored direct mailing sent to property owners within a defined area to determine if there is sufficient support for a proposed improvement that the City is interested in constructing. The results of the survey may then be used by the City Council as a guide to determine if there is enough public support to proceed to an LID formation hearing.

8) "Property owner" is the owner or reputed owner of record of real property as listed on the tax rolls of the Pierce County Assessor-Treasurer.

9) "Remonstrance" is the action of property owners who file timely written protests with the City Clerks Office against the formation of an LID.

10) "Level of support" is determined by the sum total of the estimated assessments indicating interest and dividing that sum total by the sum total of the assessments for the requested improvement and is generally shown, but is not limited to, by property owners signing and returning a Neighborhood Advisory Survey or an Opinion Survey to the City.

11) "Total cost of the improvement" is the sum total of all costs related, but not limited, to engineering, construction management, financing, administration and construction of the LID.

12) "Total assessment" is the sum total of those costs that will be borne directly by the property owners.

#### **D. Staff Recommendations for Preformation:**

City staff will assess the level of support of the property owners for the improvement prior to recommending a formation hearing to the City Council consistent with the intent of this policy. Staff recognizes that support for the improvement is subject to change during the formation process due to changes such things as ownership, duration of formation process, and the economy.

Staff will evaluate and consider opportunities to coordinate construction of the improvement with other public infrastructure projects or if other funding sources exist for the improvement, such as grants.

Staff will work closely with property owners to review design standards, including Complete Street elements, and discuss the financial impacts of the project to the property owners.

Staff will notify the City Council prior to the preformation process if the LID is any one of the following: (1) A comprehensive/streetscape project, (2) located in a mixed-use center, (3) located in an economically distressed area, or (4) where the City has identified that significant development will occur as a result of the LID. If the City Council determines that the project serves the best interest of the City, the City Council may provide additional funding for the project by adopting a resolution declaring its intent.

#### **E. LID Formation:**

The preferred method of LID formation in the City of Tacoma is by resolution. State law (RCW 35.43) outlines requirements for the resolution method.

The City Council may form an LID under emergency circumstances, such as when the Health Officer of a city, town, county or state files a report with the appropriate legislative authority, showing the necessity for sanitary sewer mains or water mains to be constructed, citing health and/or safety issues; OR when the Chief of the Fire Department files a report showing the necessity for fire hydrants to be installed.

In order for the City Council to form an LID under an emergency, the ordinance must be passed by unanimous vote of the City Council.

The formation of an LID is a legislative act by the City Council. Except for LIDs determined by the City Council, prior to remonstrance, to be in the best interest of the City, the City Council shall not pass an LID formation ordinance when property owners representing 50 percent or more of the total assessment file remonstrance with the City Clerk's office. For LIDs that have been determined by the City Council to be in the best interest of the City, in accordance with section D of this policy, the City Council may revise the remonstrance level requirement up to the limit allowed under RCW 35.43.180, which divests the City Council of authority to form an LID by resolution when property owners representing 60 percent or more of the total assessment file remonstrance with the City Clerk's office. Regardless of the level of support, the City Council reserves the right to not form a proposed LID if it determines that the project is not in the best interest of the City.

**F. Funding:**

Property owners, unless otherwise identified in Table 1, shall be responsible for all costs of the improvements as deemed appropriate. The total assessment of the property owners will be determined by the total cost of the improvement and will vary depending upon the proximity of the property to the improvement and on the amount of special benefit the improvement(s) adds to the property.

Provided that City funding is available, the City may participate financially in the types of LIDs at the percentage rates identified in Table 1.

The City's participation shall generally be made available only to residential (single-family dwellings) street and alley paving projects that are in established neighborhoods where a majority of either the lineal footage of property or the total assessments for the proposed district predominantly consists of single-family dwellings and they will incorporate some aspects of complete streets. The City may also provide financial assistance to property owners who qualify for the LID Assistance Program.

The City may participate financially in other types of LIDs that are not identified in Table 1 if they receive grants, there are other sources of funding, or it is deemed to be in the best interest of the City. The City Council reserves the right to allocate LID funding to these types of improvements.

**TABLE 1  
Percentage of Cost Participation**

Description	Property Owner Assessments	City Participation
Residential alley paving (single-family dwellings) <sup>(1)</sup>	85%	15%
Residential street paving (single-family dwellings) incorporating concepts of complete streets <sup>(1)</sup>	60%	40%
Sanitary Sewers <sup>(2)</sup>	Variable	Variable
Water Mains <sup>(3)</sup>	Variable	Variable
Undergrounding Overhead Primary Electrical Distribution Systems <sup>(4)</sup>	70%	30%
Projects identified by City Council resolution to be in the City's best interest	Variable	Variable

Note: The adoption of this policy replaces Resolution No. 35757; the existing City participation policy for fixed rate LIDs

- (1) Per Public Works Policy-Storm Sewer costs are 100 percent City funded
- (2) Per TMC 12.08 and Public Works Policies
- (3) Per Tacoma Water Customer Service Policies
- (4) Per Tacoma Power Customer Service Policies

If the cost of the improvement and property owner assessments increases after LID formation and the increased costs do not exceed the special benefit of the improvement, City staff will notify the property owners of the increase to their preliminary assessment increase and will construct the improvement.

If the cost of the improvement exceeds the special benefit of the improvement, City staff will notify the property owners and will ask the City Council to dissolve the LID in a separate ordinance. If the City Council determines that the construction of the improvements serves a public interest, it may elect to construct the improvements and the costs in excess of the special benefit will be the responsibility of the City as determined by the City Manager and Tacoma Public Utilities Director, as appropriate.

LID projects, other than emergency LIDs, will be formed on a first-come, first-served basis. The City, subject to the availability of City resources, will form LID projects in the chronological order in which the Neighborhood Advisory Surveys or Opinion Surveys are returned to the City.

Once an LID is formed by ordinance and if it subsequently fails to move forward to construction, the LID remains established until it is dissolved by City Council in a separate ordinance.

#### **G. Formation of LIDs outside the City Limits:**

The City Council, for the purpose of extending or upgrading public utility services or undergrounding overhead utility lines outside the corporate boundaries of the City and within unincorporated Pierce County, may pass LID formation ordinances provided the requirements of Resolution No. 30947 are met. A copy of Resolution No. 30947 is attached as Exhibit "A" for reference.

The City Council may pass LID formation ordinances within the Tacoma Public Utility Service areas and in the boundaries of another municipality where it has been determined to be in the best interests of both parties. An interlocal agreement may be executed between the jurisdictions describing the nature of the intended improvement, as well as identifying the responsibilities of the respective staff of the municipalities.

## **RESOLUTION NO. 37957**

A RESOLUTION relating to communications equipment; authorizing the execution of an Interagency Agreement with the Washington State Patrol (“WSP”), to pay WSP the amount of \$150,000, budgeted from the General Fund, to fund the modifications necessary for the City’s use of WSP’s communications tower and equipment building and, in exchange, allowing WSP to utilize one of the City’s General Government radio sites, including the City’s building and tower.

WHEREAS the Washington State Patrol’s (“WSP”) District One communications building and tower is ideally suited for installing existing City of Tacoma 800 MHz radio network equipment, and

WHEREAS the location provides additional radio coverage in southeast Tacoma and throughout a large portion of the Central Pierce Fire and Rescue (CPFR”) operations area, and

WHEREAS the WSP radio network’s use of a Tacoma building and tower will provide desirable, additional radio coverage to WSP, and

WHEREAS both Tacoma and WSP prefer to enter into a long-term agreement to share each other’s existing equivalent infrastructure on a no-fee basis, and

WHEREAS, at the WSP location, an existing microwave network must be reconfigured, including lowering a large microwave dish approximately 30 feet from its current height on the tower and reconfiguring portions of the WSP microwave network located elsewhere, and

WHEREAS, to facilitate the WSP microwave network modification, the City will pay WSP \$150,000, and

WHEREAS, to cover the City's payment, CPFR will pay the Tacoma Fire Department ("TFD") that same amount under a separate agreement, and

WHEREAS, under the WSP Interagency Agreement, each party pays for the cost of installing its own equipment, including structural, frequency, electrical, and permitting work, and

WHEREAS, on December 10, 2009, the Interagency Agreement received a "do pass" from the Public Safety, Human Services, and Education Committee; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the proper officers of the City are hereby authorized to execute an Interagency Agreement with the Washington State Patrol ("WSP"), to pay WSP the amount of \$150,000, budgeted from the General Fund, to fund the modifications necessary for the City's use of WSP's communications tower and equipment building and, in exchange, allowing WSP to utilize one of the City's General Government radio sites, including the City's building and tower, said document to be substantially in the form of the proposed Interagency Agreement on file in the office of the City Clerk.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:  
\_\_\_\_\_

Deputy City Attorney

## **RESOLUTION NO. 37958**

A RESOLUTION relating to the Board of Ethics; approving the Administrative Procedures of the Board of Ethics.

WHEREAS Section 1.46.045 of the Tacoma Municipal Code (“TMC”) created a Board of Ethics (“Board”) and proscribed the Board’s duties and powers, and

WHEREAS Section 1.46.045 TMC also provides that the Board may adopt written rules governing its procedures, which rules are subject to the approval of the City Council, and

WHEREAS the Board, at its meeting of July 13, 2009, adopted the Administrative Procedures and recommends their approval; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the Administrative Procedures of the Board of Ethics (“Board”), as adopted by the Board at its meeting of July 13, 2009, and attached hereto as Exhibit “A,” are hereby approved.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney

## EXHIBIT "A"

### Tacoma Board of Ethics Administrative Procedures as adopted July 13, 2009

#### I. GENERAL RULES AND PROCEDURE

##### 1.1 Description of Organization

The Tacoma Board of Ethics ("Board") is a five member board established pursuant to Tacoma Municipal Code 1.46.045. Members of the Board are appointed by the City Council.

##### 1.2 Meetings

1. Regular meetings of the Board shall be held on the second Monday of each quarter beginning July 9, 2007. Such meetings shall be held at 747 Market Street or at such other place as may be designated by the Chair of the Board.
2. Special meetings of the Board may be called by the Chair or any three members of the Board with 24 hours prior written notice, mailed, hand-delivered, faxed or e-mailed to all Board members and to each local newspaper of general circulation and each local radio and television station that has on file with the Board a written request for notice of such meetings and to individuals who have requested notice of such meetings. The notice shall include the time and place of the meeting and each item of business to be transacted. Any Board member may waive the requirement that he or she receive such notice by so notifying the Board by e-mail, telephone, or fax, or by being present when the special meeting convenes. See RCW 42.30.080.
3. All meetings of the Board shall be open meetings in accordance with the State Open Meetings Act, RCW 42.30.110.
4. Action minutes shall be produced for all meetings, and all meetings and hearings shall be electronically recorded, except all closed sessions.

##### 1.3 Telephonic Meetings

1. The Board may hold meetings in which, for some or all of the meeting, any or all members are present and voting by telephone conference call. Such meetings shall be designated "telephonic meetings" on the meeting agenda.
2. A telephonic meeting shall be deemed to take place in the meeting place designated on the agenda, where at least one member of the Board staff shall be present and where there shall be a telephone device on which can be heard the voices of all Board members on the telephone line by everyone present in the meeting room and by all other Board members on the telephone line. Each

Board member who is on the telephone line shall identify himself or herself before speaking, and shall notify the others if he or she is about to disconnect from the call. A Board member who is connected remotely to the telephone line in the meeting place shall be considered to be actually present at that meeting for the period of time he or she is so connected, and that presence shall count toward a quorum of the Board for all purposes, unless subsection (1) of this rule 1.3 provides otherwise.

#### **1.4 Quorum and Voting**

1. Three members of the Board are required for a quorum.
2. Any matter coming before the Board may be decided by majority vote of those members present and voting, provided that the quorum requirements are met.
3. Voting by Board members at all meetings and all votes shall be by voice vote, unless any Board member asks for a roll call vote.

#### **1.5 Membership of the Board**

1. The Board shall annually elect a Chairperson and a Vice Chairperson to take office on January 1 of the following year.
2. The Vice-Chairperson shall act as Chairperson in the absence of the Chairperson or in the event of a vacancy in that position.
3. In the event any member of the Board has three consecutive unexcused absences, the Board shall report such fact to the Mayor and City Council with the request that removal proceedings be initiated.

#### **1.6 Public Records Available; Public Records Officer**

All records of the Board are deemed to be available for public inspection except as specifically exempted by these rules or Chapter 42.56 RCW, or other applicable law. The Board's public records shall be in the charge of the City Clerk's Office.

#### **1.7 Index**

The Board has indexed by subject matter the advisory opinions of the Board. The index is maintained in the City Clerk's Office and shall be publicly available. The volume of correspondence managed by the office is such that it would be unduly burdensome to formulate and maintain an index of all correspondence. In lieu of an index, the following filing system will be utilized:

1. Complaints received by the Board are indexed and filed in chronological order, by type of complaint, and by year.

2. Requests for advisory opinions received by the Board are indexed and filed in chronological order, by type of request, and by year received.

## **II. INVESTIGATIONS**

### **2.1 Computation of Time**

Computation of any period of time prescribed or allowed by these rules shall begin with the first day following that on which the act or event initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or a national, state, or city holiday, the period shall run until the end of the next following business day.

### **2.2 Form of Complaint**

1. A complaint alleging violation of Tacoma Municipal Code Chapter 1.46 by the City Manager, Director of Public Utilities, member of the Public Utility Board, or City-elected official ("Covered Official") may be brought to the attention of the Board by any person. Complaints shall be made to the Board. A complaint should be in writing.
2. A complaint shall state the basic facts surrounding the alleged violation including nature of the alleged violation(s), date, time, and place, of the alleged violation(s), name of the person or persons responsible, and any documentation or other evidence the complainant can produce regarding the alleged violation, including the name, address, telephone number of each person having knowledge of the violation alleged.
3. All complaints filed with the Board shall be considered part of the Board's investigative record and shall be subject to public disclosure unless subject to exemption pursuant to state law.
4. When the Board receives a request to disclose a complaint, the Board shall notify the complainant of the request so that the complainant may take necessary action to protect his or her "right to privacy," as that term is defined in RCW 42.56.060050.

### **2.3 Initiation of Investigation**

Upon receipt of a complaint, the Board shall take the following actions:

1. Send written confirmation of receipt of the complaint to the person from whom it was received;
2. Send a copy of the complaint to the person against whom the complaint was filed. The name and any other information that could identify the complainant shall be redacted;

3. Meet within 10 business days of receipt of the complaint to review the complaint;
4. If the board deems it necessary, designate an individual to conduct an independent investigation of the complaint.

#### **2.4 Conduct of Investigation**

1. If a person is designated to conduct an investigation, that person shall do so in accordance with TMC 1.46.045(D) (4), and may seek authority to hire technical experts in support of the investigation.
2. If a person is not designated to conduct an investigation, and the Board has sufficient information to render a determination, the Chair shall designate one or more Board members to draft findings, conclusions and a recommended disposition. The Board member designated shall have up to 60 days from date of receipt to prepare the draft.

#### **2.5 Content of Determination**

A determination shall include a statement of the following:

1. The nature and background of the proceeding;
2. Findings of fact including both ultimate facts and basic or underlying facts supporting the findings. The findings shall be based exclusively on the evidence presented in the hearing, if held, or in the complaint if no hearing is held, including the Board's report of investigation. The findings shall consist of a concise statement of each material fact found upon each contested issue.
3. A determination of whether the ordinance has been violated, the acts or omissions to act which constituted a violation, and the specific section or sections of the ordinance which those acts or omissions violated;
4. Any recommendation for disposition.

The Board shall apply the preponderance of evidence standard.

#### **2.6 Board Review of Determination**

1. The Board shall meet within 10 business days of receipt of either the investigator's determination or, if an investigator was not appointed, of the draft determination by the designated Board member.
2. The Board shall review the determination and take action in accordance with TMC 1.46.045(D) (5).

### **III. CONDUCT OF HEARINGS**

### **3.1 General**

1. The format for an investigative hearing will be of an informal nature yet designed so that the evidence and facts relevant to a particular proceeding will become most readily and efficiently available to the Board. An investigative hearing shall include, but not be limited to, the following elements:
  - a. A brief introductory statement by the Chair;
  - b. Presentation of the complaint and supporting evidence;
  - c. Response to the charges by the respondent.

For good cause, the order of presentation of evidence may be altered.

2. Hearings shall be conducted in accordance with the Hearing Examiner procedures as set forth in Chapter 1.23 of the Tacoma Municipal Code and the Board's rules and regulations.
3. All investigative hearings shall be open to the public.

### **3.2 Oath**

All testimony before the Board shall be taken under oath or affirmation, administered by the presiding official.

### **3.3 Presiding Officials**

1. The Chair shall preside over all hearings. If the Chair is absent or disqualified, the Vice-Chair shall preside as the Chair. If both the Chair and Vice-Chair are absent or disqualified, the remaining members shall elect a presiding officer for the hearing.
2. The Board has the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of the proceedings, and to maintain order. The Chair or his or her designate shall have all powers necessary to that end, including the following:
  - a. Administering oaths and affirmations;
  - b. Ruling on offers of proof and receiving evidence;
  - c. Regulating the course of hearings and the conduct of parties and their agents;
  - d. Considering and ruling on all procedural and other motions appropriate to the proceedings;
  - e. Making and issuing written determinations.
3. Any Board member may, on his or her own initiative, recuse himself or herself in the event of a conflict of interest, bias or prejudice, or the appearance thereof.
4. A complainant or respondent may file a request that a Board member recuse himself or herself, by stating that a fair and impartial hearing cannot be had by

reason of the conflict of interest, bias, or prejudice of a Board member. The request must set forth facts and reasons for the belief that the conflict of interest, bias, or prejudice exists. The request shall be filed not less than 24 hours before the hearing, unless good cause is shown, and in any case before the commencement of the hearing. The Chair shall rule on the request prior to making any other ruling and prior to the hearing.

#### **3.4 Time Limit on Oral Testimony**

1. The Chair may impose time limitations on oral testimony as necessary to expedite proceedings and avoid continuation of a hearing. The Chair will provide as much advance notice as is practicable when time limits are imposed.
2. If the parties are unable to present their arguments and testimony within the allotted time, they may request of the Chair an opportunity to submit written materials after the close of the hearing.

#### **3.5 Rights of Parties**

Every party shall have the right of due notice, presentation of evidence, objection, motion, argument, and all other rights essential to a fair hearing. Cross-examination shall be permitted as is necessary for a full disclosure of the facts.

#### **3.6 Role of Complainant**

1. When a complaint has been filed with the Board, neither the complainant nor any other person shall have special standing to participate or intervene in the investigation or consideration of the complaint by the Board.
2. The complainant or any other person may submit documentary evidence and/or written factual or legal statements to the Board prior to the hearing to be used at the hearing in the discretion of the Board. The complainant or any other person wishing to be heard in a hearing may request permission of the Board in advance of such hearing, and the Board may grant such person a reasonable opportunity to be heard on factual or legal issues before the Board.

#### **3.7 Ex Parte Communications**

1. "Ex Parte Communications" for purposes of this section means a communication with the complainant, respondent, a witness, or any other person regarding a pending complaint when that communication takes place outside of a scheduled hearing.
2. Unless required for the disposition of administrative matters or unless necessary to procedural aspects of maintaining an orderly process, a Board member shall not engage in ex parte communications.
3. A Board member who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written

communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the Board member received an ex parte communication.

4. If necessary to eliminate the effect of an ex parte communication received in violation of this section, a Board member who receives the communication may be disqualified, and the portions of the record pertaining to the communication may be sealed by protective order.

#### **IV. ADVISORY OPINIONS**

##### **4.1 Advisory Opinions**

1. The Board is authorized to issue informal and formal opinions in accordance with TMC 1.46. The administrative process for these opinions are the same.
2. If the Board receives a request from a Covered Officer for an opinion it shall meet within 10 business days to decide whether to respond to the request.
3. If the Board chooses to respond to a request from a Covered Official for an opinion, the Chair shall designate one or more members to draft the opinion.
4. Draft opinions shall be presented to the Board at the next regularly scheduled meeting, or at a special meeting called by the Board. The full Board may adopt or modify the draft, or may ask the drafter to revise the draft to answer specific concerns.
5. If the City Attorney declines to provide an informal opinion, as provided by TMC 1.46.045,C,3,c., the Covered Official may still request that the Board issue an informal or formal opinion.

ADOPTED BY A MAJORITY VOTE OF THE CITY OF TACOMA BOARD OF ETHICS

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chair

## **RESOLUTION NO. 37959**

A RESOLUTION relating to City-leased property; authorizing the execution of the third amendment to the Development, Sale Back, and Lease Agreement for South Park Plaza Public Parking Garage by and between the City and Pacific Plaza Development, LLC, to provide for the use of approximately 14,000 square feet of Pacific Avenue space for nonretail purposes, specifically a lease with the Washington State Office of the Attorney General.

WHEREAS, on April 3, 2007, the City Council adopted Resolution No. 37147, authorizing the execution of a Development, Sale Back, and Lease Agreement (“Agreement”) with Pacific Plaza Development, LLC (“Developer”), to rehabilitate the South Park Plaza garage, and

WHEREAS, at the time of the Agreement, the City and the Developer agreed that the Foundation Property leased from the City would be used solely for commercial retail activity, and

WHEREAS the Agreement provides for periodic review of the terms, and

WHEREAS, due to changes in market conditions, the Developer has requested an amendment to the Agreement that would allow for leasing approximately 14,000 square feet for use as office space to the Washington State Office of the Attorney General and providing additional consideration to the City for the amendment; Now, Therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:**

That the proper officers of the City are hereby authorized to execute the third amendment to the Development, Sale Back, and Lease Agreement for South Park Plaza Public Parking Garage by and between the City and Pacific Plaza Development, LLC, to provide for the use of approximately 14,000 square feet of

the Foundation Property for nonretail purposes, specifically a lease with the Washington State Office of the Attorney General, said document to be substantially in the form of the proposed third amendment on file in the office of the City Clerk.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney

**RESOLUTION NO. 37960**

BY REQUEST OF MAYOR BAARSMA

A RESOLUTION related to committees, boards, and commissions; and appointing City Council members to various national, state, regional, and local committees, boards, and commissions, including the City Council's five standing committees, for the year 2010.

WHEREAS the Mayor and City Council members are called upon to serve on a number of local, regional, state, and national committees, boards, and commissions, and

WHEREAS certain vacancies presently exist on certain committees, boards, and commissions, and

WHEREAS, pursuant to the Charter of the City of Tacoma and the rules, regulations, and procedures of the City Council, the Council Members named on Exhibit "A" have been nominated to serve on said committees, boards, and commissions listed, effective January 1, 2010; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That those nominees to the committees, boards, and commissions listed on Exhibit "A," are hereby confirmed and the City Council Members designated thereon shall be appointed as members of such committees, boards, and commissions for such terms as are set forth on said Exhibit "A," said terms to become effective January 1, 2010.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney

EXHIBIT "A"

2010 CITY COUNCIL APPOINTMENTS

- 1. Appointments Committee – ~~Manthou, Fey, Strickland, Walker, Campbell~~ (alternate) Deleted: Anderson, Baarsma, Lonergan,
- 2. Association of Washington Cities Board – ~~Fey, Strickland~~ (alternate) Deleted: Baarsma,
- 3. Association of Washington Cities Legislative Committee – ~~Fey, Walker~~ (alternate) Deleted: Baarsma,
- 4. Association of Washington Cities Resolution Committee – ~~Fey, Strickland~~ (alternate) Deleted: Baarsma,
- 5. Baseball Park Advisory Committee – ~~Lonergan~~ Deleted: Baarsma
- 6. City Council Liaison to ASARCO Project – Manthou
- 7. City Manager Performance Review Committee – ~~Fey, Manthou, Strickland, Walker~~ (alternate) Deleted: Baarsma, Lonergan,
- 8. Community Council Liaison – \_\_\_\_\_ Deleted: Baarsma, Fey
- 9. Cross District Association of Tacoma – Fey, Deleted: , Anderson (alternate) ¶
- 10. Crystal Judson Family Justice Center – ~~Campbell, Woodards~~ Deleted: Ladenburg, Talbert
- 11. Economic Development Board Executive Committee – ~~Strickland, Walker (alternate)~~ Deleted: Baarsma
- 12. Economic Development Committee – ~~Fey, Manthou, Strickland, Walker, Campbell~~(alternate) Deleted: Anderson, Ladenburg, Deleted: Talbert, Baarsma
- 13. Environment and Public Works Committee – \_\_\_\_\_, Fey, Walker, Strickland (alternate) Deleted: Baarsma, Ladenburg,
- 14. Firemen’s Pension Fund Board of Trustees – ~~Strickland~~ Deleted: Baarsma, Lonergan (alternate)
- 15. ForeverGreen Pierce County – Fey
- 16. Government Performance and Finance – ~~Campbell, Lonergan~~, Strickland, Fey (alternate) Deleted: Anderson, Baarsma, Deleted: Lonergan
- 17. Hotel-Motel Tax Advisory Committee – ~~Woodards~~ Deleted: Anderson

- |     |  |   |
|-----|--|---|
| 18. | Investment and Finance Committee – <del>Strickland</del>   | Deleted: Baarsma                                |
| 19. | Joint Municipal Action Committee – <del>Campbell, Walker</del>   | Deleted: Fey, Ladenburg, Strickland (alternate) |
| 20. | Law and Justice Council – <del>Woodards</del>  | Deleted: Ladenburg, Lonergan (alternate)        |
| 21. | Law and Justice Community Oversight Subcommittee -- <del>Woodards</del>  | Deleted: Ladenburg                              |
| 22. | Law Enforcement Support Agency – <del>Lonergan, Strickland,</del>  | Deleted: Baarsma, Ladenburg (alternate),        |
| 23. | National League of Cities – <del>Fey, Walker, Woodards</del> (alternate)   | Deleted: Lonergan                               |
| 24. | Neighborhoods and Housing Committee – <del>Fey, Lonergan, Manthou, Walker,</del>   | Deleted: (alternate)                            |
| 25. | Pierce County Commission Against Domestic Violence – <del>Woodards, Fey</del> (alternate)  | Deleted: Ladenburg, Talbert, Anderson           |
| 26. | Pierce County Puyallup River Flood Control Task Force – <del>_____</del>   | Deleted: Baarsma,                               |
| 27. | Pierce County Regional Council – <del>Campbell, Lonergan, Walker,</del>  | Deleted: , Strickland (alternate)               |
| 28. | Pierce Transit Board – <del>Fey, Manthou, Strickland, Walker</del> (alternate)   | Deleted: Ladenburg, Talbert                     |
| 29. | Police Disability and Pension Fund Board – <del>Strickland</del>   | Deleted: Lonergan                               |
| 30. | Public Safety, Human Services, and Education Committee – <del>Campbell, Lonergan, Strickland, Woodards,</del>                          | Deleted: Baarsma                                |
| 31. | Puget Sound Clean Air Agency Board/Board of Directors – Fey, Walker (alternate)  | Deleted: Lonergan                               |
| 32. | Puget Sound Regional Council/Executive Board – <del>Lonergan, Walker, Woodards</del> (alternate)                                       | Deleted: Strickland,                            |
| 33. | Puget Sound Regional Council/Economic Development District Board – <del>Fey, Campbell</del> (alternate)                                | Deleted: (alternate)                            |
| 34. | Puget Sound Regional Council/Growth Management Policy Board – <del>Walker, Lonergan,</del> (alternate)                                 | Deleted: Baarsma, Lonergan (alternate)          |
| 35. | Puget Sound Regional Council/Transportation Policy Board – Fey, <del>Strickland</del> (alternate), <del>Campbell (2nd alternate)</del> | Deleted: Ladenburg,                             |
| 36. | Puyallup Tribe Community Contribution Committee [2%] – <del>Strickland, Campbell,</del> (alternate)                                    | Deleted: Lonergan                               |
|     |  | Deleted: Talbert, Walker (alternate)            |
|     |  | Deleted: Lonergan                               |
|     |  | Deleted: Walker, Anderson                       |
|     |  | Deleted: Lonergan                               |
|     |  | Deleted: , Ladenburg                            |
|     |  | Deleted: Walker                                 |
|     |  | Deleted: Baarsma,                               |
|     |  | Deleted: Talbert                                |

- |                |  |   |
|----------------|--|---|
| 37.            | Regional Access Mobility Partnership – <del>Fey</del> , <u>Walker</u> (alternate)                | Deleted: Anderson,  |
| 38.            | Safe Streets Board – <u>Loneragan</u>  | Deleted: Strickland   |
| 39.            | Tacoma 360 – <del>Strickland</del> , <u>Woodards, Campbell</u> (alternate)                       | Deleted: Ladenburg,   |
| 40.            | Tacoma Arts Commission – <del>Walker</del> , <u>Campbell</u> (alternate)                         | Deleted: Anderson,  |
| 41.            | Tacoma Council of PTA/City Government Liaison – <u>Woodards</u>                                  | Deleted: Anderson   |
| 42.            | Tacoma Employees' Retirement System Board of Administration - <u>Strickland</u>                  | Deleted: Baarsma  |
| 43.            | Tacoma-Pierce County Board of Health – <del>Fey, Strickland, Woodards</del> (alternate)          | Deleted: Baarsma, Talbert, Ladenburg  |
| <del>44.</del> | <del>Tacoma Youth Symphony Advisory Board – <u>Strickland</u></del>                              | Deleted: 44. Tacoma-Pierce County Employment and Training Consortium/Executive Board – Baarsma, Loneragan |
| <del>45.</del> | <del>Trade Development Alliance of Greater Seattle – <u>Strickland, Walker</u> (alternate)</del> | Deleted: 5  |
| <del>46.</del> | <del>Urban Waters Board of Directors – <del>Fey</del>, <u>Walker</u> (alternate)</del>           | Deleted: Baarsma  |
| <del>47.</del> | <del>U.S. Conference of Mayors – <u>Strickland</u></del>   | Deleted: 6  |
| <del>48.</del> | <del><u>WorkForce Central – Manthou, Strickland</u></del>  | Deleted: Baarsma, Ladenburg   |
| 49.            | Zoo Trek Authority – Manthou, Fey  | Deleted: 7  |
|                |  | Deleted: Ladenburg,   |
|                |  | Deleted: 8  |
|                |  | Deleted: Baarsma  |

## **ORDINANCE NO. 27859**

AN ORDINANCE of the City of Tacoma, Washington, relating to the financing for the construction of improvements to the Pantages Theater; extending the final due date for the Limited Tax General Obligation Line of Credit Note, 2005 (Pantages Theater), in the principal amount of \$2,500,000, from December 26, 2009, to December 26, 2011.

WHEREAS, on December 13, 2005, the City Council adopted Substitute Ordinance No. 27446, providing for the issuance of a Limited Tax General Obligation ("LTGO") Line of Credit Note, 2005 (Pantages Theater), in the amount of \$2,500,000, for interim bridge financing for the construction of improvements to the Pantages Theater, and

WHEREAS, to date, the Broadway Center of Performing Arts has paid the amount of \$2,037,330, including interest, toward the \$2,500,000 LTGO Note, leaving a current balance of \$602,978, and

WHEREAS the BCPA anticipates collecting the remaining balance over the next two years, but the exact amounts and timing cannot be accurately estimated as the sources are from pledges and potential federal agencies, and

WHEREAS the balance is anticipated to be repaid by the extended due date of December 26, 2011; Now, Therefore,

**BE IT ORDAINED BY THE CITY OF TACOMA:**

That the proper officers of the City are hereby authorized to extend the final due date for the Limited Tax General Obligation Line of Credit Note, 2005

(Pantages Theater), in the principal amount of \$2,500,000, from December 26, 2009, to December 26, 2011.

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Assistant City Attorney

## **ORDINANCE NO. 27860**

AN ORDINANCE relating to Tacoma Water; authorizing the approval of a Water Wheeling Agreement between Tacoma Water, Rainier View Water Company, Inc., and Lakewood Water District.

WHEREAS the Department of Public Utilities, Water Division (d.b.a. "Tacoma Water"), requests approval to enter into a Water Wheeling Agreement with Rainier View Water Company, Inc. ("Rainier"), and Lakewood Water District ("Lakewood") to deliver up to two million gallons of water per day from Lakewood's system to the Rainier system, and

WHEREAS Rainier has entered into a wholesale water agreement with Lakewood to purchase Lakewood's surplus water, and

WHEREAS Rainier's system and Lakewood's system are not adjacent and they have requested that Tacoma Water wheel water between them, and

WHEREAS Rainier will pay Tacoma Water \$0.189 per unit of water wheeled through Tacoma Water's system plus a monthly administrative charge indexed to the four-inch meter ready-to-serve charge for use of Tacoma Water's facilities, and

WHEREAS Lakewood will construct, at its expense, a pump station, treatment plant, and transmission main to deliver its surplus water to Tacoma Water's Pipeline #2 at a new intertie to likewise be constructed by Lakewood at its sole expense, and

WHEREAS Rainier is an existing wholesale customer of Tacoma Water, and the existing intertie between the respective Rainier and Tacoma Water systems will be used to deliver Lakewood's surplus water to Rainier, and

WHEREAS the Water Wheeling Agreement requires Rainier to take wholesale water from Tacoma Water per its existing wholesale water sales agreement as a prerequisite of Tacoma Water's water wheeling obligations with Lakewood, and

WHEREAS Tacoma City Charter § 4.11 requires that all matters relating to the fixing of rates and charges for utility services under the jurisdiction of the Public Utility Board ("Board") shall be initiated by the Board, subject to approval by the City Council; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the Water Wheeling Agreement between the Department of Public Utilities, Water Division (d.b.a. "Tacoma Water"), Lakewood Water District ("Lakewood"), and Rainier View Water Company, Inc. ("Rainier"), is approved.

Section 2. That Tacoma Water is authorized to deliver up to two million gallons per day from Lakewood's system to the Rainier system.

Section 3. That the water wheeling rate of \$0.189 per unit of water wheeled through Tacoma Water's system per the Water Wheeling Agreement is approved.

Section 4. That application of the monthly administrative charge indexed to the four-inch meter ready-to-serve charge as per the Water Rate Ordinance is approved for the subject water wheeling transaction.

Section 5. That the proper officers of the City are authorized to execute the Water Wheeling Agreement, said document to be substantially in the form of the proposed agreement on file in the office of the City Clerk.

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Deputy City Attorney

**ORDINANCE NO. 27862**

AN ORDINANCE relating to the City's business and occupation tax; amending Section 6A.30.065 of the Tacoma Municipal Code to change the requirements of paying back the job credits received for prior periods if certain conditions exist.

WHEREAS, pursuant to Section 6A.30.065 of the Tacoma Municipal Code, the job credits allows an employer to take a credit, in certain circumstances, against the business and occupation tax owed to the City, and

WHEREAS, in the past, if an employer lost eligibility for the job credits, it had to pay the tax credit back, and

WHEREAS this ordinance would remove the requirement of paying back the tax credit received for any prior periods if an employer loses eligibility for the tax credit due to a recognized general economic recession or a declared natural disaster; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

That Section 6A.30.065 of the Tacoma Municipal Code is amended, as set forth in the attached Exhibit "A."

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Deputy City Attorney

## EXHIBIT "A"

### 6A.30.065 Job credits.

A. It is the intent of the City Council to encourage growth and attract new businesses to the City. To that end, the City Council finds that an incentive measured by a business's growth in jobs is a meaningful method of attracting and retaining such businesses. Therefore, the incentive in this section is specifically targeted at new full-time positions.

A basic credit is made available to all businesses located in the City, while an additional credit is made available to Tacoma businesses eligible for the job credit allowed by the State Department of Revenue under RCW 82.04.44525, relating to new employment for international services activity in eligible areas.

B. Subject to the limits in this section, an eligible person is allowed a credit against the tax due under this chapter. The credit is based on a qualified employment position located within the City.

1. The basic credit shall be \$500 for each qualified employment position within the City, and an additional \$250 for each qualified employment position within the City eligible for a credit under RCW 82.04.44525, which positions were created after the effective date of this section. A credit is earned for the calendar year in which the employee is hired to fill the position, plus an additional 4 subsequent consecutive years, if the position, along with the company's increased workforce of eligible persons, is maintained during the entire period.

Deleted: the

a. Credit may not be taken for hiring persons into positions existing on the effective date of this section. Credit is authorized for new employees hired for new positions created after the effective date of this section, which result in an increase in the total work force of the business located in the City. New positions filled by existing employees are eligible for the credit under this section only if the position vacated by the existing employee is filled by a new hire.

b. The qualified employment position credit must be taken within 365 consecutive days after the position is filled to be eligible for the credit as defined in this section 6A.30.065.

c. If filled before July 1, a newly created position is eligible for a full yearly credit. If filled after June 30, the position is eligible for only a half credit for the first calendar year.

d. Credit may not be accrued and carried forward or back. No refunds may be granted for unused portion of credits under this section. If the position is filled during the calendar year, after the filing of a quarterly tax period, an amended 1st or 3rd quarter tax return will be allowed, if appropriate, to qualify all the credit to which the employer is entitled for that year.

2. For the purposes of this section:

a. "Eligible person" means a person or company who resides in the City and is engaging in a business activity within the City; and

b. "Qualified employment position" means a permanent, full-time position with compensation of at least a "family wage" within 12 months after the date of hire (allowing for training time and a probation period).

If an employee is either voluntarily or involuntarily separated from employment, the employment position is considered filled on a full-time basis during a period not to exceed three months if the employer is actively recruiting a replacement employee.

c. "Family wage," beginning January 1, 1999, is \$12.70 an hour. This is the annual average wage in Pierce County for 1997, developed by the Washington State Employment Security Department, Labor Market and Economic Development Division ("ES202"). This amount will be adjusted annually beginning on January 1, 2000, by an amount equal to the increase in the Consumer Price Index ("CPI") for Urban wage earners, Tacoma-Seattle area, of the prior year. If the CPI increase is more than 5 percent, a 5 percent increase will be used in computing the basis.

d. The purchase of an existing business does not create an allowance of the credit for existing positions.

3. No application is necessary for the tax credit; however, information must be submitted for each new employee position for which credit is requested, and included with the first tax return in which the credit is claimed. The person must keep records necessary for the City to verify eligibility under this section. This information includes:

- a. Employment records, including Washington State and federal tax returns, for the current year and previous five years; and
  - b. Information relating to description of business activity engaged in at the eligible location by the employee.
4. If at any time the Director finds that an employer is not eligible or has lost eligibility for a tax credit under this section, the total amount of taxes for which a credit has been claimed for current and prior periods shall be immediately due, provided that if, after the effective date of this section, there exists or existed a recognized general economic recession or a declared emergency requiring an employer to lose eligibility for the tax credit under this section, then an employer is not required to pay back the tax credit received for any prior periods under this section. If an employer claims that such conditions exist and, as a result, has lost eligibility under this section, the employer must certify such facts to the City on a form approved by the Director.
- However, if an employer moves its principle place of business outside the City then, regardless of any conditions, the total amount of taxes for which a credit has been claimed for current and all prior periods shall immediately become due. The Director shall assess interest on the recapture of the credit for which the person is not eligible or has lost eligibility. The interest shall be assessed as provided in Section 6A.10.090, shall be assessed retroactively to the beginning of the reporting period in which the tax credit was allowed, and shall accrue until the taxes for which a credit has been used are repaid. The Director may also assess applicable penalties.

## **ORDINANCE NO. 27863**

AN ORDINANCE relating to taxicab regulations; amending Chapter 6B.220 of the Tacoma Municipal Code to require taxicab drivers to submit a medical certification, attend a training program, pass a written exam prior to license approval, set penalties for classes of violations, and set standards for denial of taxicab licenses.

WHEREAS taxicab service is a vital part of the City's transportation system, providing services to City residents, tourists, and out-of-state business people, and

WHEREAS ensuring the safety of taxicab drivers and citizens is necessary, as is providing for the efficient operation of taxicabs, and

WHEREAS the additional taxicab driver requirements, such as medical certification, training, and passing a written exam, will provide for more efficient operation of taxicabs, and

WHEREAS, in order to ensure vehicle and driver safety standards are being followed, the proposed changes will add penalties for certain classes of violations, in addition bringing the minimum amounts of insurance coverage up to industry standards, adding license denial reasons that specifically relate to an applicant's ability to operate a taxicab, and ensuring that both the taxicab and taxicab driver sections of the Tacoma Municipal Code have the same standards for a license denial, and

WHEREAS the taxicab industry and the tourism industry support the creation and enforcement of a regulatory framework that provides for the safe, fair, and efficient operation of taxicabs; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

That Chapter 6A.20 of the Tacoma Municipal Code is amended, as set forth in the attached Exhibit "A."

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

EXHIBIT "A"

Chapter 6B.220

TAXICAB REGULATIONS

(REPEALED AND REENACTED BY ORD. 26701 EX. A, PASSED APR. 3, 2007)

Sections:

- 6B.220.100 Scope, authority and purpose.
- 6B.220.105 License required – Taxicab vehicle and taxicab driver.
- 6B.220.110 License inspection.
- 6B.220.115 Definitions.
- 6B.220.120 ~~Fees – License and inspection.~~
- 6B.220.125 Financial and operating data.
- 6B.220.130 Reports to the Director.
- 6B.220.200 Taxicab – Vehicle license application.
- 6B.220.205 Taxicab and owners – Criminal background check and fingerprints.
- 6B.220.210 Taxicab vehicle license – Standards for license denial.
- 6B.220.215 Taxicab vehicle license – Fees, expiration and renewal.
- 6B.220.220 Transfer of taxicab vehicle license.
- 6B.220.225 Taxicab – Owner surrender of taxicab vehicle license.
- 6B.220.300 Taxicab driver license application.
- 6B.220.305 Criminal background check/Fingerprints/Photograph.
- 6B.220.310 Taxicab driver – ~~Requirements.~~
- ~~6B.220.312 Taxicab driver – Medical certification requirement.~~
- ~~6B.220.313 Taxicab driver – Training program.~~
- ~~6B.220.314 Taxicab driver – Written and oral examination.~~
- 6B.220.315 Form of taxicab driver's license.
- 6B.220.320 Taxicab driver – Standards for license denial.
- 6B.220.325 Taxicab driver license expiration and renewal.
- 6B.220.330 Taxicab driver temporary license.
- 6B.220.335 Taxicab driver's license – Application & renewal fee.
- 6B.220.400 Taxicab owner – Operating responsibilities.
- 6B.220.405 Refusal of service.
- 6B.220.410 Taxicab owner – Approval of color scheme and uniform.
- 6B.220.415 Identification of taxicab.
- 6B.220.420 Complaints.
- 6B.220.425 Taxicab – Vehicle operating requirements.
- 6B.220.430 Destruction, replacement, retirement or inactivity of a taxicab.
- 6B.220.435 Taxicab owner responsibilities.
- 6B.220.500 Taxicab driver operating standards.
- 6B.220.505 Conduct of drivers.
- 6B.220.510 Items lost and found.
- 6B.220.515 Taxicab driver-passenger relations standards.
- 6B.220.520 Taxicab driver soliciting and cruising standards.
- 6B.220.600 Taxicab driver taxicab meter/Rates standards.
- 6B.220.605 Establishment of taxicab stands.
- 6B.220.610 Taxicab driver taxi stand standards.
- 6B.220.615 Taxicab stand licenses.
- 6B.220.620 Parking.
- 6B.220.700 Rates.
- 6B.220.800 License suspension & revocation – Taxicab owner, taxicab vehicle, and taxicab driver.
- ~~6B.220.805 License violations and penalties – Taxicab owner, taxicab vehicle, and taxicab driver.~~

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**6B.220.105 License required – Taxicab vehicle and taxicab driver.**

- A. Except as provided in Subsections B and C below, it shall be unlawful for any person, firm or corporation to hold out, advertise, solicit, operate, drive or use any vehicle as a taxicab in the City of Tacoma without having first obtained the licenses required pursuant to the provisions of this chapter.
- B. All taxicab driver’s licenses issued prior to the effective date of this ordinance shall become temporary licenses upon the effective date of this ordinance and shall expire 180 days thereafter unless an extension is granted by the Director for good cause shown. Taxicab drivers may continue to operate taxicabs in the City of Tacoma under authority of such unexpired temporary licenses unless such license is suspended or revoked by the Director for good cause shown.
- C. All taxicabs, in order to continue operating in conformance with this chapter, shall be in compliance with and licensed pursuant to the provisions of this chapter within 180 days after the effective date of this ordinance, unless an extension is granted by the Director for good cause shown. Such extension may apply to all or any part of this chapter as determined by the Director.

\* \* \*

**6B.220.115 Definitions.**

For the purposes of this chapter 6B.220 of the Tacoma Municipal Code, the following terms, phrases, words, and their derivations shall have the meaning given herein; words not defined herein which are defined in Title 6, shall have the same meaning or be interpreted as provided in Title 6 and if not defined there shall have their ordinary and common meaning; when not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and the use of any gender shall be applicable to all genders whenever the sense requires; the words “shall” and “will” are mandatory and the word “may” is permissive; a reference to this chapter shall mean this Chapter 6B.220 of the official code of the City as amended from time to time; if specific provisions of law referred to herein are renumbered, then the reference shall be read to refer to the renumbered provision:

- A. "Affiliated taxicab" means a taxicab licensed or associated to a particular taxicab owner by using their approved color scheme and trade name.
- B. "Approved Mechanic" means a mechanic who 1) has met the automotive requirements of the National Institute for Automotive Service Excellence, 2) does not own, lease or drive a taxicab, and 3) has no financial interest, including any employment interest, in any taxicab or in any owner that owns or leases taxicabs.
- C. "Certificate of Safety" means a prescribed document provided by the City completed by an approved mechanic certifying that a particular vehicle meets all vehicle safety standards set forth in this chapter and in regulations adopted pursuant to this chapter.
- D. "Classic car" means an automobile that was high priced when new, is currently of superior appearance, is a fine or distinctive automobile, that has been restored or maintained to current maximum professional standards of quality in every area, with components operating and appearing as new, and showing very minimal wear.
- E. "Committed a violation" or any derivation thereof means that a licensee has been issued a Notice of Violation and either has not contested the violation or did contest the violation and did not prevail.
- F. "Contract rate" means the rate specified in a written contract signed by both parties before the dispatch of a taxicab for the services identified in the contract. Contracts for package delivery may be made on an oral basis.
- G. "Director" means the Director of the Finance Department of the City, or any officer, agent, or employee of the City designated to act on the Director's behalf.
- H. "Driver" and "Operator" shall mean the person physically engaged in driving a taxicab, whether or not said person is the owner of or has any financial interest in the ownership of said taxicab.

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**H** "Handicapped Person" means any person who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable without special facilities or special planning or design to use mass transportation facilities and services as efficiently as persons who are not so affected. Handicapped persons include ambulatory persons whose capacities are hindered by sensory disabilities such as blindness or deafness, such mental disabilities as mental retardation or emotional illness, and physical disabilities that still permit the person to walk comfortably, or a combination of these disabilities. It also includes a semi-ambulatory person who requires such special aids to travel as canes, crutches, walkers, respirators, or human assistance, and a non-ambulatory person who must use wheelchairs or wheelchair-like equipment to travel. Deleted: H

**I** "Licensee" means any person or entity licensed under this chapter. Deleted: I

**J** "Operating a taxicab" means having a passenger in a taxicab, the taxicab is parked in a taxi zone, the taximeter is engaged, the office dispatch records show the vehicle has been dispatched, the taxicab top light is illuminated, the trip sheet shows that the vehicle has started a shift and there is no entry for ending a shift or the taxicab driver has offered transportation services to a passenger. Deleted: J

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**I** "Operating in the City of Tacoma" means owning, leasing, advertising, driving, occupying and/or otherwise operating a taxicab that at any time transports any passenger or item for compensation from a point within the geographical confines of the City of Tacoma. The taxicab is considered to be operating during the administering of inspections at a City inspection facility. The term does not include being in control of a taxicab that is physically inoperable. Deleted: using a taxicab to conduct a business, receiving money from the use of a taxicab, or causing or allowing another person to do the same.

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**M** "Taxicab owner" means a person who owns and operates a taxicab(s) using an approved color scheme, trade name and dispatch services or a person who allows other people to affiliate a taxicab to the taxicab owner's color scheme, trade name and dispatch services. Deleted: the person whose lawful right of possession of a taxicab has most recently been recorded with the Washington state Department of Licensing. ¶ Deleted: M

**N** "Taxicab" shall mean every motor vehicle held out to the public for hire as a common carrier, that carries signs or indicia of a taxicab, including the words "taxi," "taxicab," or "cab"; for transportation of individuals or articles, subject to call by the public generally, where the route traveled or destination is controlled by the customer, the fare is calculated on the basis of an amount recorded and indicated on a taximeter, or by a special contract rate permitted under this chapter, or based on an initial fee, distance traveled, waiting time, or any combination thereof as permitted under this chapter, and which is duly licensed by the City of Tacoma under the terms of this chapter; provided that, taxicab shall not mean:

1. School buses operating exclusively under a contract to a school district;
2. Ride-sharing vehicles under chapter 46.74 RCW;
3. Limousine carriers licensed under chapter 46.72A RCW;
4. Vehicles used by nonprofit transportation providers solely for elderly or handicapped persons and their attendants under chapter 81.66 RCW;
5. Vehicles used by auto transportation companies licensed under chapter 81.68 RCW;
6. Vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, and rental offices; and,
7. Vehicles licensed under, and used to provide "charter party carrier" and "excursion service carrier" services as defined in, and required by, Chapter 81.70 RCW.

**N** Deleted: N

**O** "Taxicab driver" means any person operating taxicabs as a driver for any owner and who is duly authorized by the City of Tacoma as a taxicab driver under the terms of this chapter. Deleted: O

**P** "Taxicab Plate" means a numbered metal identification plate, issued by the City, permanently affixed to and prominently displayed on the rear of a taxicab. Deleted: P

**P** "Taxicab Stand" shall mean that portion of any street set aside and designated as parking or standing space to be occupied by taxicabs; Deleted: P

**Q** "Taximeter" means any mechanical or electronic device or instrument which, based upon a predetermined rate or rates, automatically calculates and displays, by means of figures, a fare based on distance traveled, time elapsed, or any combination thereof. Deleted: Q

**R** "Waiting Time" means time during which the taxicab is under the direction of a passenger and the taxicab is not moving. Deleted: R

**S** "Wheelchair accessible taxicab" means a taxicab designed or modified to transport passengers in wheelchairs or other mobility devices where passengers can board the taxicab via a ramp or lift. Deleted: S

**6B.220.120 Fees – License and inspection.**

The fees are hereby fixed as follows:

Description	Fees
For-hire taxi driver license	\$ 50
For-hire driver replacement license	\$ 5
Taxi stand	\$175
Taxicab	\$175
Taxicab vehicle transfer fee	\$ 50
Replace taxicab plate fee	\$ 25
Inspection rescheduling fee	\$ 25
Vehicle re-inspection fee	\$ 25
Wheelchair accessible taxicab annual license fee	Waived

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**6B.220.130 Reports to the Director.**

A. Every taxicab owner shall immediately notify the Director upon the taxicab owner having knowledge of any of the following occurrences:

1. Any arrest, conviction, bail forfeiture or other final adverse finding of or by the taxicab driver of the owner's affiliated taxicab, for any criminal offense that occurs during, or arises out of, the driver's operation of such taxicab;
2. Any arrest, conviction, bail forfeiture or other final adverse finding of or by the taxicab driver of the owner's affiliated taxicab for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, moral turpitude, or any related offense;
3. Any vehicle accident required to be reported to the State of Washington involving any taxicab operated by the taxicab driver of the owner's affiliated taxicab; or,
4. Any restriction, suspension or revocation of such taxicab driver's motor vehicle driver's license.

B. Every taxicab driver shall immediately report to the Director and the taxicab owner, the occurrence of the following:

1. Any arrest, charge, or conviction of the taxicab driver for any criminal offense, or commitment of a violation, that occurs during, or arises out of, the taxicab driver's operation of a taxicab;
2. Any arrest, charge or conviction of the taxicab driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, moral turpitude, or any related offense;
3. Any vehicle accident required to be reported to the State of Washington involving any taxicab operated by the taxicab driver; or,
4. Any restriction, suspension or revocation of the taxicab driver's motor vehicle driver's license.

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5. Any changes in health or medical condition of a taxicab driver that might render the driver to be unfit for the safe operation of any taxicab vehicle.

**6B.220.200 Taxicab – Vehicle license application.**

A. The taxicab owner is responsible for filing with the City a taxicab vehicle license application, on forms approved by the Director, for each affiliated taxicab that is operated in Tacoma. The taxicab owner must sign and swear to the application, which shall include the information specified in subsection B of this section.

B. The taxicab vehicle license application shall include the following information:

- 1 Ownership type:

- a. If the owner is an individual, the owner's full name, home address, home and business telephone number and date of birth (which shall be at least eighteen years prior to the date of application), or
  - b. If the owner is a corporation, partnership or other legal entity, the names, home addresses, telephone numbers and date of birth (which must be at least eighteen years before the date of application) for the corporation's or entity's officers, directors, general and managing partners, registered agents, and each person vested with authority to manage or direct the affairs of the legal entity or to bind the legal entity in dealings with third parties; the corporation's, partnership's or entity's true legal name, state of incorporation or partnership registration (if any), business address and telephone and facsimile numbers and State of Washington business license number, and any other information that the Director may reasonably require.
  2. Vehicle information, including the taxicab vehicle number assigned by any regulatory agency, the make, model, year, vehicle identification number, Washington State vehicle license plate number, and any other vehicle information required by rule or regulation promulgated under this chapter;
  3. Information as requested by the Director pertaining to any driver's, for-hire vehicle or taxicab license suspension, denial, non-renewable or revocation, imposed in connection with a taxicab or for-hire vehicle owned or leased by the owner within the last three (3) years;
  4. Criminal history, as requested by the Department, of the owner, or if the owner is a business entity, of the persons specified in subsection 6B.220.200.B.1.b above;
  5. ~~An insurance policy or~~ proving compliance with this chapter and chapter 46.72 RCW, as now or hereafter amended, for each taxicab vehicle for which a license is sought. The ~~insurance policy~~ shall:
    - a. Be issued by an ~~admitted carrier~~ in the State of Washington with an ~~A.M. Best's Rating of not less than A-~~ and not be less than ~~A.M. Best's Financial Size Category VII~~; provided however, that the Director may temporarily suspend any or all of these requirements if no other viable insurance options are available to the industry.
    - b. Name the City of Tacoma as an ~~additional insured~~, and
    - c. Provide that the insurer will notify the Director, in writing, of any cancellation at least thirty (30) days before that cancellation takes effect;
  6. ~~An insurance policy~~ of underinsured motorist coverage indicating a minimum coverage of ~~one hundred thousand dollars (\$100,000)~~, per person, and ~~three hundred thousand dollars (\$300,000)~~ per accident, or a certificate of self-insurance issued pursuant to RCW 46.29.630;
  7. State of Washington vehicle registration;
  8. Certificate of safety as required pursuant to Subsection 6B.220.425 D;
  9. The color scheme the applicant taxicab owner proposes to require for each affiliated taxicab, and two (2) 2" X 2" sample color chips;
  10. A detailed description of the uniform the applicant taxicab owner proposes to require for drivers of affiliated taxicabs, including the style, fabric and color;
  11. ~~Copy of State of Washington For-hire vehicle certificate.~~
  12. ~~Any other documents required by regulations promulgated under this chapter.~~
  13. ~~The above application and information must also be completed and supplied during any annual license renewal.~~
- C. The taxicab owner applicant must inform the Director in writing within seven (7) days if any of the information provided pursuant to subsection (B) changes, ceases to be true or is superseded in any way by new information.

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**6B.220.205 Taxicab and owners – Criminal background check and fingerprints**

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All applicants for a taxicab vehicle license must consent to be fingerprinted for a criminal background check. In the event that the applicant owner is a company, then Chief Executive Officer of the applicant owner company and any other officers of the applicant as the Director may by rule require, must consent to be fingerprinted for a criminal background check. (Ord. 27601 Exhibit A; passed Apr. 3, 2007)

**6B.220.210 Taxicab vehicle license – Standards for license denial.**

A. The Director shall deny any taxicab vehicle license application if the Director determines that such license should not be issued pursuant to the provisions of 6B.10 of the Tacoma Municipal Code, and further if the Director determines that:

- (1) The applicant has failed to submit a complete, satisfactory application pursuant to TMC 6B.220.200;
- (2) The applicant has made any material misstatement or omission in the application for a license;
- (3) The applicant fails to meet one or more of the applicant or vehicle requirements of a taxicab licensee pursuant to this chapter; and/or
- (4) Within three (3) years of the date of application, the applicant, or if the applicant is a business entity any officer, director, general partner, managing partner or principal of the applicant, has had a conviction, bail forfeiture or other final adverse finding for offenses pertaining to hit-and-run, reckless driving, attempting to elude a police officer, vehicular assault, vehicular homicide, driving under the influence of alcohol or controlled substances or related offense as in RCW 46.61.502, RCW 46.61.503 RCW 46.61.504, or has been a Habitual Traffic Offender as found by the Washington State Department of Licensing, criminal fraud, larceny, theft, prostitution, extortion, racketeering, robbery, violation of the Uniform Controlled Substances Act, or an offense involving moral turpitude, where such crime involved the use of a taxicab.

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B. The Director may deny any taxicab vehicle license application if the Director determines that:

- (1) Within ten (10) years of the date of application, the applicant or, if the applicant is a business entity, any officer, director, general partner, managing partner or principal of the applicant, has had a conviction, bail forfeiture, or other final adverse finding involving crimes including but not limited to offenses pertaining to prostitution, gambling, physical violence, or other offenses directly related to the applicant's honesty, integrity, or moral turpitude including but not limited to fraud, larceny, burglary, extortion, income tax evasion, delivery, possession with intent, or manufacture of controlled substances or any attempt, conspiracy, or solicitation to commit such offenses and/or reasonably related to the applicant's ability to operate a taxicab, including but not limited to hit-and-run, reckless driving, attempting to elude a police officer, vehicular assault, vehicular homicide, driving under the influence of alcohol or controlled substances or related offense as in RCW 46.61.502, RCW 46.61.503 RCW 46.61.504, or has been a Habitual Traffic Offender as found by the Washington State Department of Licensing, (2) Within two (2) years of the date of application, the applicant, or if the applicant is a business entity any officer, director, general partner, managing partner or principal of the applicant, has been found, either through a criminal conviction, bail forfeiture or other final adverse finding (including in a civil suit or administrative proceeding), or it has been proven by a preponderance of the evidence regardless of whether the same act was charged as a civil infraction or a crime, to have exhibited past conduct in driving or operating a taxicab or operating a taxicab business which would lead the Director to reasonably conclude that the applicant will not comply with the provisions of the chapter related to vehicle requirements and the safe operation of the vehicle;
- (3) Within two (2) years of the date of application, the applicant, or if the applicant is a business entity any officer, director, general partner, managing partner or principal of the applicant, has engaged in the business of operating any taxicab within the City of Tacoma without a current valid license from the City of Tacoma;
- (4) Within twelve (12) months of the date of application, the applicant has violated and/or caused or knowingly permitted a driver to violate, any Pierce County or City of Tacoma ordinance or regulation pertaining to the operation of taxicabs while in that jurisdiction, if such violation would constitute grounds for license revocation or denial if occurring within the City; and/or
- (5) Within twelve (12) months of the date of application, the applicant has had its City of Tacoma taxicab license revoked.

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Deleted: or an offense involving moral turpitude, gambling, fraud, larceny, extortion, income tax evasion;¶

C. Denial of an annual taxicab vehicle license is subject to appeal pursuant to Chapter 6B.10 of the Tacoma Municipal Code.

\* \* \*

**6B.220.300 Taxicab driver license application.**

A. A taxicab driver must complete, sign, swear to and file with the Director a taxicab driver license application on forms provided by the Director to include the following information:

1. Name, aliases, residence and business addresses, residence and business telephone numbers,
  2. Place and date of birth, height, weight, color of hair and eyes,
  3. Social security number and Washington State driver's license number.
  4. The applicant's criminal history for the last ten (10) years;
  5. Information indicating whether or not the applicant has ever had a taxicab driver's, for-hire or driver's license suspended, revoked, or denied and for what cause;
  6. A signed statement authorizing the Director to obtain a current copy of the applicant's driving record from the Washington State Department of Licensing;
  7. Such other information as may be reasonably required by regulation promulgated under this chapter.
- B. All applications for taxicab driver's licenses become void if the applicant, for any reason other than delay caused by the City, fails or neglects to complete the application process or obtain a license within sixty (60) days of submitting an application.

\* \* \*

**6B.220.310 Taxicab driver – Requirements.**

- A. Must be twenty-one years of age or over at the time the application is filed with the Director;
- B. Must have a valid Washington State Drivers License and social security number;
- C. Must submit a physician's certification certifying his fitness as a taxicab driver upon initial application and every three years thereafter;
- D. Must submit a letter from the taxicab owner which indicates which taxicabs the applicant is authorized to operate;
- E. Must have completed a training program offered or approved by the Director;
- F. Must successfully complete an exam as further defined in this chapter; and
- G. Must submit proof that the applicant is a United States citizen or has documentation, as required by the United States Department of Justice Immigration and Naturalization Service, that the applicant is authorized to work in the United States.

**6B.220.312 Taxicab driver – Medical certification requirement.**

- All taxicab drivers' licenses issued prior to the effective date of this ordinance will be required to submit a medical certification with their first application for renewal of their taxicab driver's license after the effective date of this ordinance.
- No taxicab driver shall be issued a taxicab driver's license who is not of sound physique and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind which might render him unfit for the safe operation of any taxicab.
- A. A medical examination and certification shall be required upon initial application, and every three (3) years thereafter, on the anniversary date of the license; provided, however, the Director may at any time require any taxicab driver licensee or applicant to be reexamined if it appears that the licensee has become physically or mentally unfit to be a taxicab driver.
  - B. An examination shall be performed by a physician licensed to practice in Washington State under Chapter 18.71 RCW and the required medical certification shall be completed following that physician's physical examination of the applicant.
  - C. The scope of the certificate form and the examination shall be prescribed by the Director.
  - D. A Washington State Department of Transportation medical certification meets the requirements of this section, as long as it was signed no more than three (3) months prior to the date of initial application, or in case of the three (3) year renewal certification no more than three (3) months prior to the date of renewal.

**Deleted:** The applicant must present his/her Washington State driver's license at time of renewal;¶  
4. Proof that the applicant is a United States citizen or has documentation, as required by the United States Department of Justice Immigration and Naturalization Service, that the applicant is authorized to work in the United States;

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**6B.220.313 Taxicab driver – Training program.**

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All taxicab driver's licenses issued prior to the effective date of this ordinance will be required to complete the training program approved by the Director within 60 days of submitting their first application for renewal of their taxicab driver's license after the effective date of this ordinance.

A. All for-hire driver applicants are required to complete a training program providing information about the history and geography of the Puget Sound area, defensive driving, use of emergency procedures and equipment for the driver's personal safety, and enhancement of driver-passenger relations, appearance and communication skills.

B. The training shall be required upon initial application. Every three years thereafter, the applicant may be required to complete a refresher course.

C. The Director shall assure that this training is offered by the City or offered by another public or private entity, or offered by both. If training offered by a non-city entity, certification for purposes of obtaining or renewing a license pursuant to this chapter is contingent upon the Director's approval that contents and training staff capability are equivalent to what would be provided through the City.

**6B.220.314 Taxicab driver – Written and oral examination.**

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All taxicab drivers' licenses issued prior to the effective date of this ordinance will be required to pass the written and oral examination within 60 days of submitting their first application for renewal of their taxicab driver's license after the effective date of this ordinance.

A. An applicant for an initial taxicab driver's license shall be required to successfully pass a written and oral examination.

B. The written examination shall test the applicant's knowledge of the chapter requirements dealing with fare determination, driver-passenger relations, and conduct including the applicant's ability to understand oral and written directions in the English language, vehicle safety requirements and driver regulations, risk factors for crimes against for-hire drivers, emergency procedures and taxicab equipment for driver's personal safety. The written examination shall also test the applicant's geographical knowledge of the City of Tacoma and surrounding areas and local public and tourist destinations and attractions. The Director shall prescribe the content of the examination.

C. The oral examination shall test the applicant's ability to speak and understand English sufficiently to perform the responsibilities of a taxicab driver.

D. The written or oral examination is not required for the renewal of a taxicab driver's license unless the applicant's license has remained expired for more than one year.

\* \* \*

**6B.220.320 Taxicab driver – Standards for license denial.**

A. The Director shall deny any taxicab driver’s license application if the Director determines that such license should not be issued pursuant to the provisions of 6B.10 of the Tacoma Municipal Code or further determines that the applicant:

- 1. Has made any material misstatement or omission in the application for a license;
- 2. Fails to meet any of the requirements of a taxicab driver contained in Subsections 6B.220.300, 6B.220.310, 6B.220.312, 6B.220.313 or 6B.220.314;
- 3. Has had a bail forfeiture, conviction, or other final adverse finding for offenses pertaining to hit-and-run, reckless driving, attempting to elude a police officer, vehicular assault, vehicular homicide, driving under the influence of alcohol or controlled substances, or related offense as in RCW 46.61.502, RCW 46.61.503 RCW 46.61.504 or anyone found to be a Habitual Traffic Offender by the Washington State Department of Licensing, within three (3) years of the date of application;
- 4. Has been convicted of a “Sex offense” or “Kidnapping offense” against a minor pursuant to RCW Title 9 or 9A;
- 5. Is required to register as a sex offender pursuant to RCW 9A.44.130.

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B. The Director may deny any taxicab driver license application if the Director determines that the applicant:

- 1. Has had a bail forfeiture, conviction or other final adverse finding involving offenses pertaining to prostitution, gambling, physical violence, or other offenses directly related to the applicant's honesty, integrity, or moral turpitude including but not limited fraud, larceny, burglary, extortion, delivery, possession with intent, or manufacture of controlled substances or any attempt, conspiracy, or solicitation to commit such offenses, and/or any other offense directly related to the driver's ability to operate a taxicab, including without limitation to driving under the influence of alcohol or controlled substances or related offense as in RCW 46.61.502, RCW 46.61.503 or RCW 46.61.504, hit-and-run, reckless driving, attempting to elude a police officer, vehicular assault, vehicular homicide, anyone found to be a Habitual Traffic Offender by the Washington State Department of Licensing, provided that such bail forfeiture or conviction was within ten (10) years of the date of application; or
- 2. Has been found, either through a criminal conviction, bail forfeiture, or other final adverse finding (including in a civil suit or administrative proceeding), or it has been proven by a preponderance of the evidence regardless of whether the same act was charged as a civil infraction or a crime, to have exhibited past conduct in driving or operating a taxicab that causes the Director reasonably to conclude that the applicant will not comply with the provisions of the chapter related to driver/operator conduct and the safe operation of the vehicle.

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C. Denial of issuance of a taxicab driver license is subject to appeal pursuant to 6B.10 of the Tacoma Municipal Code.

**6B.220.325 Taxicab driver license expiration and renewal.**

A. All taxicab driver's licenses issued pursuant to the provisions of this subtitle shall be effective as of the first day of the month of issuance regardless of the actual date of issue and shall expire one (1) year from the date of issuance.

B. Each taxicab driver must renew the taxicab driver's license every year. No taxicab driver's license may be renewed unless all outstanding penalties against the taxicab driver are paid in full to the Director and the taxicab driver has, within thirty days prior to or after expiration of the taxicab driver’s license, filed a renewal application with the Director and paid the renewal fee. All taxicab drivers’ licenses may be renewed annually by the Director after initial issuance by the City for four successive years, with new photographs supplied yearly. On expiration of the license and four successive renewals authorized herein, a new license shall be required which shall be issued only on application, with new photographs supplied, and new criminal background check. Whenever the license furnished by the City shall become worn out, damaged, faded or otherwise unfit for use, the City may require that such license be destroyed and the licensee shall furnish three additional sets of recent photographs as required by this chapter and purchase a new license.

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- C. The Director shall deny any renewal application if grounds exist for the Director to deny a license pursuant to 6B.220.320. If no such grounds exist, the Director shall examine all Department records on the taxicab driver and may deny the renewal if grounds exist that would justify denial under 6B.10.
- D. Denial of renewal of a taxicab driver license is subject to appeal pursuant to Chapter 6B.10 of the Tacoma Municipal Code.

**6B.220.330 Taxicab driver temporary license.**

A. In the event that the Director has not issued or taken final action upon a taxicab driver's license application within fifteen days of the date such completed taxicab driver's license application is filed, the Director, upon request of the applicant, may issue a temporary taxicab driver license to an applicant who has filed a complete license application and meets the requirements of 6B.220.310. The temporary license is valid for a period not to exceed sixty (60) days from the date of the application and shall not be extended or renewed. Only one temporary license may be issued to the same person within any two (2) year time period.

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B. The temporary license shall not be transferable or assignable and shall be valid only for operating the taxicab(s) specified by the Director on the license.

C. The temporary license shall become void immediately upon (1) suspension, revocation or expiration of the applicant's Washington State driver's license, (2) issuance of the taxicab driver's license, or (3) the Director's denial of the taxicab driver's license application, regardless whether the applicant appeals that denial.

\* \* \*

**6B.220.500 Taxicab driver operating standards.**

A. A taxicab driver shall not operate a taxicab without first obtaining and maintaining a valid taxicab driver's license.

B. No taxicab driver whose license has been revoked by the Director shall apply for a new license for one (1) year from the effective date of such revocation.

C. A taxicab driver shall complete daily vehicle safety checklists, in a form and content approved by the Director. Daily vehicle checklists shall include a list of vehicle equipment to be checked before starting each shift, including but not limited to, the lights, brakes, tires, steering, seat belts, taximeter seal, and other vehicle equipment to see that they are working properly.

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D. A taxicab driver, before starting each shift, shall ensure that the taxicab plate, taxicab vehicle license, vehicle registration and proof of insurance card are in the taxicab.

E. A taxicab driver shall not operate a taxicab unless the interior and the exterior of the taxicab are clean and in good repair.

F. A taxicab driver shall not transport more passengers than the number of seat belts available nor more luggage than the taxicab capacity will safely and legally allow.

G. A taxicab driver shall allow the Director to inspect the taxicab without notice at any reasonable time or place.

H. A taxicab driver shall pay all penalties imposed by the Department that are either not contested or are ultimately upheld.

\* \* \*

**6B.220.515 Taxicab driver-passenger relations standards.**

A. A taxicab driver shall wear the uniform adopted by the taxicab owner and approved by the Director;

B. A taxicab driver's clothes shall be neat and clean at all times that the driver is on the driver's shift. The term "neat and clean" as it relates to clothes shall mean that all clothing is un-wrinkled, clean, free from soil, grease and dirt and without un-repaired rips or tears;

C. A taxicab driver shall be clean and well groomed at all times while on duty. "Clean" means that state of personal hygiene, body, hair and scalp cleanliness and absence of offensive body odor normally associated

with frequent clothes laundering and bathing or showering. "Well groomed" means beards and mustaches are groomed and neatly trimmed, and scalp and facial hair is neatly trimmed, and combed or brushed;

D. A taxicab driver shall provide customers with professional and courteous service at all times;

E. A taxicab driver shall not engage in threatening or disruptive conduct, or use loud, profane, abusive or obscene language offensive to the passenger, while operating a taxicab;

F. A taxicab driver shall not smoke in a Taxicab. "Smoke" or "smoking" means the carrying or smoking of any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment;

G. A taxicab driver shall not refuse a request for service because of the driver's position in line at a taxicab stand; a passenger may select any taxicab in line.

H. A taxicab driver shall not refuse to issue a receipt for a fare paid if one is requested;

I. A taxicab driver shall not drive a passenger to his destination by any other than the most direct and safe route, unless requested to do so by the passenger;

J. A taxicab driver shall at all times assist a passenger by placing luggage or packages (under fifty (50) pounds) in and out of the taxicab;

K. A taxicab driver shall not refuse to transport in the taxicab any passenger's wheelchair which can be folded and placed in either the passenger, driver, or trunk compartment of the taxicab, an assist dog or guide dog to assist disabled or handicapped persons, groceries, packages or luggage when accompanied by a passenger;

L. A taxicab driver shall effective December 31, 2010, upon request, provide each passenger a receipt upon payment of the fare. The receipt shall accurately show the date and time, place of pickup and delivery, the amount of the fare, the taxicab name, number and association, and the printed name and taxicab driver's license number of the taxicab driver;

M. A taxicab driver shall not permit any person or pet to ride in the taxicab unless that person or pet accompanies, or is in the vehicle at the request of, a fare-paying individual. This requirement shall not apply to uniformed driver trainees;

N. It shall be unlawful for any person to engage in any work or employment for more than 12 hours in any 24-hour period of time during any part of which he is engaged in the occupation of driver for a taxicab;

O. A taxicab driver shall not refuse to transport any person except when:

1. The taxicab driver has already been dispatched on another call;
2. The passenger is acting in a suspicious, disorderly or threatening manner, or otherwise causes the taxicab driver to reasonably believe that the taxicab driver's health or safety, or that of others, may be endangered;
3. The passenger cannot, upon request, show ability to pay the fare;
4. The passenger refuses to state a specific destination upon entering the taxicab.

P. A taxicab driver shall be able to provide a reasonable amount of change, and if correct change is not available, no additional charge will be made to the passenger in attempting to secure the change;

Q. A taxicab driver shall not charge a fare higher than that authorized by this chapter for passenger transportation or defraud a passenger; and

R. A taxicab driver shall not in any way make any discriminatory charges to any person, or make any rebate or in any manner reduce the charge to any person unless such is in conformity with the discounts or surcharges contained in the filed rates.

\* \* \*

#### **6B.220.600 Taxicab driver taxicab meter/Rates standards.**

A. A taxicab driver shall not operate any taxicab that is not equipped with a taximeter. Every such taximeter shall be sealed and in good working order and accurate operating condition and shall at all times comply with the specifications, tolerances, and other technical requirements as adopted by the National Conference on Weights and Measures and set forth at Section 5.54 of the National Institute of Standards and Technology Handbook 44 of Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, 2003. Every taximeter shall be inspected, sealed and certified at installation, at change in rate, and within 1 year of the last inspection. A certificate of inspection certifying compliance with this chapter shall be issued by the Director upon each required taximeter inspection and

the taximeter shall upon each such inspection be sealed by the Director. Such certificate of inspection shall include:

1. The identifying number of the taximeter;
  2. The make, model and license number of the taxicab in which the taximeter is installed;
  3. The name of the taxicab owner;
  4. The date of inspection;
  5. A certification that the taximeter has been inspected and approved as operating within the limits of accuracy as specified by this Section and on the basis of rates on file with the Director under this chapter;
  6. The signature of the individual making the certification; and
  7. A copy of the certificate shall be kept on file in the office of the taxicab owner.
- B. No taxicab shall be operated with a taximeter which does not operate within the tolerances as adopted by the National Conference on Weights and Measures and set forth at Subsection T of Section 5.54 of the National Institute of Standards and Technology Handbook 44 of Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, 2003. A certificate of inspection may be examined or a taximeter re-inspected by any police officer or the Director at any time during normal business hours. No taximeter shall be used unless the same carries thereon an unbroken seal affixed thereto by the qualified taximeter repair service or the Director.
- C. For the purpose of checking the accuracy of said taximeter, the taxicab to which the same is fixed shall be made available to the City of Tacoma at such times as the Chief of Police or Director may direct.
- D. No license shall be issued for a taxicab until the taximeter attached thereto shall have been inspected and found to be accurate and sealed, and the annual inspection fee paid. By no later than December 31, 2010 the taxicab shall be equipped with a properly sealed, working, and accurate receipt-issuing taximeter or receipt-issuing mobile data terminal.
- E. A taxicab driver must activate the taximeter at the beginning of each trip and deactivate the taximeter upon completion of the trip. Beginning of a trip means the point where the passenger is seated and the forward motion of the vehicle begins. It shall be the duty of the driver to call the attention of passengers to the amount registered and the taxicab flag shall be placed in a non-recording position until the fare is paid. It shall be unlawful for any person owning, operating or driving a taxicab to operate or drive such taxicab unless such taximeter is used in determining the fare to be charged, and no other or different fare shall be charged to the passenger than is recorded on the reading face of said taximeter for the trip.
- F. No driver of a taxicab, while carrying passengers or otherwise in service, shall display the signal affixed to the taximeter in such a position as to denote such vehicle is not in service, or in such position as to denote that it is in service at a rate of fare different from that to which the driver is entitled under the provisions of this chapter.
- G. A taxicab driver shall assure that the meter reading is visible from a normal passenger position at all times.
- H. A taxicab driver shall not operate a taxicab that does not have the rate posted as required by the chapter.
- I. A taxicab driver shall not ask, demand or collect any rate or fare other than as specified on the meter, or pursuant to special rates or contract rates on file with the Director.
- J. A taxicab driver shall complete daily trip sheets, in a form and content approved by the Director, and shall show all trips in an accurate and legible manner as each trip occurs. Daily trip sheets shall include the following information:
1. Driver's name and for-hire license number;
  2. Owner's name and vehicle name and number;
  3. Vehicle for-hire license number;
  4. Beginning and ending odometer reading;
  5. Beginning and ending time of each shift worked;
  6. Date, time, place or origin, and dismissal of each trip;
  7. Fare collected;
  8. Number of passengers;
  9. "No shows"; and
  10. Contract rates or special rates.
- K. A taxicab driver shall allow the Director to inspect the daily trip sheet at any time, without notice.

L. A taxicab driver shall turn in completed trip sheets to the taxicab owner at least weekly.

\* \* \*

**6B.220.615 Taxicab stand licenses.**

A. No person shall stop or park in a taxicab stand without having paid the current annual taxicab vehicle license fee pursuant to this chapter.

B. Any taxicab owner desiring to allow its affiliated taxicabs to stop or park at a taxicab stand shall, on or before January 31 of that year submit an application and pay the required fees or its application for a taxicab stand license shall be denied.

**Deleted:** C. On or before January 1 of each year, the Director shall inform each applicant for a taxicab stand license of the total permit fees to be paid. Each applicant shall pay the required fees on or before January 31 of that year, or its application for a taxicab stand license shall be denied

\* \* \*

**6B.220.800 License suspension & revocation – Taxicab owner, taxicab vehicle, and taxicab driver.**

A. If three (3) or more Class ‘A’ violations are found and a subsequent penalty issued to a taxicab owner or its affiliated taxicabs or taxicab drivers within any 365 day period, the taxicab vehicle licenses associated with that taxicab owner may be temporarily suspended for up to a five (5) day period.

B. Any license issued under this chapter including a taxicab vehicle license or taxicab driver license may be revoked or suspended by the Director pursuant to Section 6B.10.140 or 6B.10.145 of the Tacoma Municipal Code or as otherwise provided pursuant to this chapter. In addition, any license revocation or suspension may be appealed pursuant to Section 6B.140 or 6B.10.145 as appropriate.

**Deleted:** December 1 of each year, file an application with the Director.

**6B.220.805 License violations and penalties – Taxicab owner, taxicab vehicle, and taxicab driver.**

A. Any person found with violations as provided in 6B.220.805 shall be subject to a civil penalty as described below. It is the responsibility of the taxicab owner to contact appropriate city staff to request inspection for compliance with this code.

B. Class ‘A’ violations include but are not limited to:

- a. Driving without a valid taxicab driver’s license;
- b. Driving without a valid taxicab vehicle license plate;
- c. Driving without valid insurance as required in 6B.220.200;
- d. Operating a taxicab with a revoked or suspended taxicab vehicle or and/or driver’s license.

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Class ‘B’ violations are related to vehicle safety standards that include not having one or more of the following:

- 1. The vehicle equipment found not to be up to safety standards including, but not limited to, windshield, tires, spare tire/jack, headlights, four-ways, blinkers, brake light, tail/back up lights, horn, windshield wipers, glass/window operate, door handle, seat belts, brake, accelerator emergency brake, mirrors, speedometer, taxi meter;
- 2. Failure to appear for inspection scheduled by the Director;
- 3. Allowing vehicle insurance to lapse; or
- 4. Any other vehicle safety standard identified on the Vehicle Safety Checklist.

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Class ‘C’ violations are vehicle and driver standards that include not having one or more of the following:

- 1. Taxicab drivers license displayed, exterior phone number on cab, cab number on both sides of vehicle, exterior rates posted on cab, interior rates posted, consumer complaint form, map of Tacoma (not older than 2 years), trip sheets, vehicle safety checklist, upholstery, mats, carpet, driver in uniform, dirt, stains or litter in vehicle, trunk clean with liner, body defects, interior lights.

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C. Penalties for violations shall be as follows;

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<u>Violation</u>	<u>Penalty</u>
<u>A</u>	<u>\$500</u>
<u>B</u>	<u>\$75</u>
<u>C</u>	<u>\$25</u>

D. Any penalty issued under this subsection may be appealed pursuant to the process in Section 6B.10.265.

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## **ORDINANCE NO. 27864**

AN ORDINANCE relating to the Comprehensive Plan, amending the Capital Facilities Element of the Comprehensive Plan, and adopting the 2010-2015 Capital Facilities Program.

WHEREAS the purpose of the Capital Facilities Program is to provide Tacoma with a comprehensive capital facilities overview and to guide policy decisions for capital improvements and services, and

WHEREAS, each year, the Capital Facilities Program is updated with new information on capital projects for the next six-year cycle, and

WHEREAS the City Council desires to adopt the 2010-2015 Capital Facilities Program concurrently with the adoption of the 2009-2010 Biennial Budget Modification, and

WHEREAS each year the Planning Commission reviews and recommends to the City Council the adoption of the Capital Facilities Program, and

WHEREAS a public hearing on the 2009 update was held by the Planning Commission on October 7, 2009, and by the City Council on November 10, 2009, and

WHEREAS the 2010-2015 Capital Facilities Program amends the Capital Facilities Element of the Comprehensive Plan and replaces the 2009-2014 Capital Facilities Program, and

WHEREAS the City Council finds it to be in the best interests of the City to amend the Capital Facilities Element of the Comprehensive Plan and to replace the 2009-2014 Capital Facilities Program with the 2010-2015 Capital Facilities Program; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

That the Capital Facilities Element of the Comprehensive Plan is hereby amended and the 2009-2014 Capital Facilities Program is replaced with the 2010-2015 Capital Facilities Program.

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

## **ORDINANCE NO. 27865**

AN ORDINANCE relating to the adoption of the Six-Year Comprehensive Transportation Program for amended year 2009 and 2010-2015.

WHEREAS RCW 35.77.010 provides that the legislative body of each city and town shall prepare and adopt a comprehensive transportation program of the ensuing six calendar years and annually thereafter, pursuant to one or more public hearings thereon, prepare and adopt a revised and extended comprehensive transportation program, and each one-year extension and revision thereof shall be filed with the Secretary of Transportation of the State of Washington, and

WHEREAS RCW 35.77.010 further provides that each city shall include in its comprehensive transportation program how it intends to expend the revenues for non-motorized transportation purposes; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

That the Six-Year Comprehensive Transportation Program for amended year 2009 and 2010-2015 is hereby adopted.

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

## **ORDINANCE NO. 27866**

AN ORDINANCE relating to grant funds; authorizing the creation of a new special fund in the City of Tacoma to be known as the CMO Special Revenue Fund; and authorizing the acceptance of a federal American Recovery and Reinvestment Act of 2009 Department of Energy, Energy Efficiency and Conservation Block Grant, in the amount of \$1,947,300, for deposit into and appropriation from the CMO Special Revenue Fund to implement the Climate Action Plan.

WHEREAS the City has been awarded a federal American Recovery and Reinvestment Act of 2009 (“ARRA”) Department of Energy, Energy Efficiency and Conservation Block Grant, in the amount of \$1,947,300, to help implement the Climate Action Plan, and

WHEREAS it is necessary to create a new fund in the Treasury of the City of Tacoma to be known and designated as the CMO Special Revenue Fund, to record the financial transactions of this grant, and

WHEREAS it is in the best interest of the City to accept grant funding for the implementation of the Climate Action Plan; Now, Therefore,

**BE IT ORDAINED BY THE CITY OF TACOMA:**

Section 1. That there be and is hereby created in the Treasury of the City of Tacoma a new fund to be known and designated as the CMO Special Revenue Fund to record the financial transactions of the Climate Action Plan; and further, that the Treasurer of the City of Tacoma be and he or she is hereby designated as the custodian of said funds and disbursement of all moneys therefrom shall be made in the manner provided by law.

Section 2. That the proper officers of the City are authorized to accept federal American Recovery and Reinvestment Act of 2009 Department of

Energy, Energy Efficiency and Conservation Block Grant, in the amount of \$1,947,300, or so much thereof as may be made available, for deposit into and appropriation from the CMO Special Revenue Fund, said funds to be used to implement the Climate Action Plan.

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Deputy City Attorney

## **ORDINANCE NO. 27867**

AN ORDINANCE relating to the City's Historically Underutilized Business Program; amending Title 10 of the Tacoma Municipal Code by repealing Chapter 10.26 in its entirety; and amending Title 1 of the Tacoma Municipal Code by creating a new Chapter 1.07 to be known as "Historically Underutilized Businesses."

WHEREAS the City has, as one of its primary goals for the creation of a positive business environment, encouraging economic growth and diversification, and

WHEREAS the City has previously participated in several studies of discrimination against minority and women business enterprises in the local community and has devised programs intended to remedy the effects of prior discrimination found to have existed in the local economy, and

WHEREAS the City codified these programs in Chapter 10.26 of the Tacoma Municipal Code ("TMC") with Ordinance No. 24662, passed on June 26, 1990, and later modernized and updated these programs in Ordinance No. 26162, passed on September 16, 1997, in accordance with applicable state and federal law, and

WHEREAS the adoption of Initiative 200 ("I-200") in Washington State required additional changes to the City's programs for greater participation and economic diversity to comply with its mandates, and

WHEREAS, after further study and public participation, the City revised its program in Substitute Ordinance No. 26726, passed by the City Council on November 7, 2000, which ordinance replaced the prior programs with the newly designated Historically Underutilized Business ("HUB") program, designed to

continue achieving basic program goals without violating the strictures of I-200 and to continue equality of opportunity and prevention of discrimination in municipal public works contracting, and

WHEREAS the City enacted further revisions of the HUB program in Ordinance No. 27369, passed by the City Council on June 21, 2005, to improve efficiency and fairness in the program, continue the equality of opportunity in public contracting, encourage small business development, simplify City-bidding procedures, and continue use of provisions in City contracts prohibiting discrimination, and

WHEREAS the HUB goods and services expansion subcommittee has reviewed the HUB program, as applied to public works and improvements, and has investigated ways to expand the program to all goods and services procured by the City consistent with the City's policy that citizens be afforded an opportunity for full participation in our free enterprise system and that historically underutilized business enterprises have an equitable opportunity to participate in the performance of City contracts, and

WHEREAS the HUB goods and services expansion subcommittee recommends that Chapter 10.26 TMC, HUB Program, be repealed in its entirety and a new Chapter 1.07 TMC, entitled "Historically Underutilized Businesses," be created to: (1) retain the HUB program's application to public works and improvement contracts; (2) expand the program to include supplies, services, and

professional services contracts of \$25,000 or more; and (3) empower the Finance Department Director to adopt and amend regulations, as necessary, to implement the expanded program, and

WHEREAS it is determined to be in the best interest of the public to repeal Chapter 10.26 TMC, in its entirety, and create a new Chapter 1.07 TMC to be known as “Historically Underutilized Businesses”; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Title 10 of the Tacoma Municipal Code is amended by repealing Chapter 10.26 in its entirety.

Section 2. That Title 1 of the Tacoma Municipal Code is amended by creating a new Chapter 1.07 to be known as “Historically Underutilized Businesses,” as set forth in the attached Exhibit “A.”

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Deputy City Attorney

Requested by Public Utility Board  
Resolution No. U-10341

## EXHIBIT “A”

### Chapter 1.07

#### HISTORICALLY UNDERUTILIZED BUSINESSES

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##### **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 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 goals 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.

##### **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. “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.

- B. “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.
- C. “Bidder” means an entity or individual who submits a Bid, Proposal or Quote. See also “Respondent.”
- D. “City” means all Departments, Divisions and agencies of the City of Tacoma.
- E. “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.
- F. “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.
- G. “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 HUB participation, as defined by formula set forth in this chapter or in the HUB Regulations adopted pursuant to this chapter.
- H. “Goals” means the annual level of participation by HUBs in City Contracts as established in this chapter, the HUB 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.
- I. “HUB Certified Business” (or “HUBs”) 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 Finance Department-HUB Program Coordinator.
- J. “HUB Program Coordinator” means the individual appointed, from time to time, by the City’s Finance Director to administer the HUB Regulations.
- K. “HUB Regulations” shall mean the written regulations and procedures adopted pursuant to this chapter for procurement of Supplies, Services and Public Works.
- L. “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 HUB Regulations.
- M. “Non-Public Works and Improvements” means all competitively solicited procurement of Supplies and/or Services by the City not solicited as Public Works.
- N. “Person” means individuals, companies, corporations, partnerships, associations, cooperatives, any other legally recognized business entity, legal representative, trustee, or receivers.

- O. “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.
- P. “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.
- Q. “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.
- R. “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.
- S. “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.
- T. “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.
- U. “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.

**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.

**1.07.040 Program administration.**

- A. The Finance Director, or his or her designated HUB Program Coordinator, 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 Finance Director to pursue the objectives of this chapter by conference, conciliation, persuasion, investigation, or enforcement action, as may be necessary under the circumstances. The Finance Director is authorized to implement an administrative and compliance program to meet these responsibilities and objectives.
- B. The Finance Director is hereby authorized to adopt and to amend administrative rules and regulations known as the HUB Regulations to properly implement and administer the provisions of this chapter. The HUB Regulations shall be in conformance with City of Tacoma policies and state and federal laws and be designed to encourage achievement of the HUB goals set forth herein. The HUB Regulations shall become effective following public notice and an opportunity to comment by the public.
- C. The HUB 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 HUB 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.

**1.07.050 Certification.**

- A. The HUB Program Coordinator shall approve a person as a HUB 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 \$375,000, excluding one personal residence and the net worth of the business;
  - 2. The company's total gross receipts for any consecutive three year period within the last six years is not more than \$8,000,000 for public works companies and not more than \$4,000,000 for non-public works and improvements companies;
  - 3. The owner(s) of the company executes an affidavit and files it with the City's Finance Department, HUB Program, which states that all information submitted on the HUB 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. 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 a City of Tacoma designated Renewal Community/Community Empowerment Zone, prior to designation as a HUB, 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 HUB; 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 HUB; or
    - d. The company's business offices are located in a federally designated HUBZONE in a County wherein the work will be performed, or an adjacent county, for at least 12 months prior to designation as a HUB.

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

1. A completed Statement of Personal Net Worth form;
2. A completed Declaration of HUB Status Affidavit form;
3. Tax returns for the business for six (6) years prior to the date of application for HUB certification, or from the date of inception of the business if the business has been in existence less than six (6) years;
4. List of equipment and vehicles used by the HUB;
5. Description of company structure and owners;
6. Such additional information as the HUB Program Coordinator or designee may require.

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

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

1. That the company still meets all of the criteria set forth in subsection 1.07.050.A. TMC, and
2. That the company has maintained all applicable and necessary licenses in the intervening period, and
3. 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 HUB Regulations.

D. Appeals. The applicant may appeal any certification determination by the HUB Program Coordinator under this chapter to the purchasing manager appointed by the Director of Finance (“finance purchasing manager”) for the City’s Finance Department. The appeal must be made in writing and must set forth the specific reasons for the appeal. Any decision by the finance purchasing manager may be appealed to the City’s Finance Director provided it is in writing and submitted within ten business days of notice of the finance purchasing manager’s decision. The Finance 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.

#### **1.07.060 Program requirements.**

A. Establishment of Annual HUB Goals. The HUB Regulations adopted pursuant to this chapter shall state reasonably achievable cumulative annual goals for utilization of HUBs in the provision of supplies, services, and public works procured by the City. Cumulative annual goals for the participation of HUBs in City contracts shall be based on the number of qualified HUBs operating within Pierce County or in a county that is adjacent to Pierce County or in a HUB Zone 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 HUBs in the procurement of supplies, services, and public works shall be counted toward the accomplishment of the applicable HUB goal. The initial cumulative annual HUB goal for all public works, non-public works and improvements supplies and services procured by the City of Tacoma is 22 percent.

B. Revision of Annual HUB Goals. HUB utilization goals for supplies, services, and public works shall be reviewed annually to determine the total level of HUB participation reasonably attainable. If no certified HUBs 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 HUB Regulations. Proposed reduction of the cumulative annual HUB goals shall be in accordance with the HUB Regulations.

- C. Application of HUB Goals to Contracts. The HUB Program Coordinator shall consult with City departments/divisions to establish the HUB goal for competitively solicited contracts of \$25,000 and above, in accordance with this chapter and the HUB Regulations. No HUB goal will be established if no certified HUBs are available to provide supplies, services and/or public works.
- D. Waivers. City departments/divisions or the HUB Program Coordinator 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 HUBs: An insufficient number of qualified HUB contractors exist to create HUB utilization opportunities.
  - 6. Best interests of the City: Waiver of HUB 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.
- E. 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 HUB utilization goals based on Not Practicable or Best Interests of the City circumstances. The C&A Board shall determine whether compliance with such goals 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.

**1.07.070 Evaluation of submittals.**

- A. All submittals for a supplies, services, or public works and improvements contract valued at \$25,000 or more shall be evaluated for attainment of the HUB goal established for that contract in accordance with this chapter and the HUB Regulations.
- B. The determination of HUB usage and the calculation of HUB goal attainment per this section shall include the following considerations:
  - 1. General. The dollar value of the contract awarded by the City to a HUB in the procurement of supplies, services, or public works shall be counted toward achievement of the HUB goal.
  - 2. Supplies. A public works and improvements contractor may receive credit toward attainment of the HUB goal for expenditures for supplies obtained from a HUB; provided such HUB assumes the actual and contractual responsibility for delivering the supplies with its resources. The

contractor may also receive credit toward attainment of the HUB goal for the amount of the commission paid to a HUB resulting from a supplies contract with the City; provided the HUB performs a commercially useful function in the process.

3. Services and subcontracts. A contractor that utilizes a HUB-certified subcontractor to provide services or public works shall receive a credit toward the contractor's attainment of the HUB goal based on the value of the subcontract with that HUB.
  4. Brokers, Fronts, or Similar Pass-Through Arrangements. HUBs acting as brokers, fronts, or similar pass-through arrangements (as such terms are defined in the HUB Regulations) shall not count toward HUB goal 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 HUB utilization goal 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 HUB goal and, if so, that bid shall be presumed the lowest and best responsible bid for contract award. If the lowest priced bid does not meet the HUB goal, but the bid of a responsive and responsible certified HUB bidder is priced within five percent thereof, the lowest evaluated bid resulting from the following formula shall be presumed the lowest and best responsible bid for contract award:

$$(\text{Base Bid}) - \left[ \frac{\text{HUB Usage}}{\text{HUB Goal}} \times (.05 \times \text{Low Base Bid}) \right] = \text{Evaluated Bid}$$

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 HUBs. 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 HUB 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).

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

1. A submittal from a responsive certified HUB 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.
- D. The HUB Regulations may establish further HUB 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 HUB participation for supplies, services, and public works contracts under \$5,000.

**1.07.080 Contract compliance.**

- A. The contractor awarded a contract based on HUB participation shall, during the term of the contract, comply with the HUB goal 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 HUBs projected to be used must be approved in advance by the HUB Program Coordinator. Substitution of one HUB with another shall be allowed where there has been a refusal to execute necessary agreements by the original HUB, 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 HUB is available as a substitute and that failure to secure participation by the HUB identified in the solicitation is not the fault of the respondent, substitution with a non-HUB shall be allowed; provided, that, the substitution does not increase the dollar amount of the bid.
  - 3. If the HUB Program Coordinator determines that the contractor has not reasonably and actively pursued the use of replacement HUB(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 HUBs, and shall include the right of the City to inspect such records.

**1.07.090 Program monitoring.**

- A. The Finance Department's HUB Program Coordinator shall monitor compliance with all provisions of this chapter and the HUB Regulations. The HUB Program Coordinator 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 in City contracting. The HUB Program Coordinator 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 HUB Program Coordinator shall submit an annual report to the Finance Director, Director of Utilities, and the City Manager detailing performance of the program. The report shall document HUB utilization levels, waivers, proposed modifications to the program, and such other matters as may be specified in the HUB Regulations.

**1.07.100 Enforcement.**

The Finance 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 HUB Regulations.

**1.07.110 Remedies.**

- A. Upon receipt of a determination of contractor violation by the HUB Program Coordinator, 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 by the City's Finance Department 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 HUB Regulations has occurred, the HUB Program Coordinator 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 Finance Department.

**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.

**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.

**1.07.140 Sunset and review of program.**

This chapter shall be in effect through and until December 31, 2014, 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, 2014, the City Council shall determine by the end of that year whether substantial effects or lack of opportunity of HUBs 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.

## **ORDINANCE NO. 27868**

AN ORDINANCE relating to small public works contracts; amending Chapter 10.27 of the Tacoma Municipal Code (“TMC”) by repealing and reenacting Sections 10.27.030, 10.27.040, and 10.27.080 thereof; and directing the City Manager to review the implementation of Chapter 10.27 TMC on a continuing basis and to report on the impact of this program on a quarterly basis.

WHEREAS the Washington State Legislature adopted RCW 39.04.155 and RCW 35.22.620, which provide for the creation of small works rosters by cities to be used in cases where the estimated cost of work is \$300,000 or less, and

WHEREAS, on November 7, 2000, the City Council passed Ordinance No. 26727, amending Title 10 of the Tacoma Municipal Code by enacting a new Chapter 10.27, approving the “City of Tacoma Small Works Roster Program,” and directing the City Manager to review the implementation of said chapter within one year and report back to the City Council, and

WHEREAS the City has determined that those certain revisions contained herein are in the City’s best interests in order to achieve maximum flexibility and fairness in administering the small works roster; Now, Therefore,

**BE IT ORDAINED BY THE CITY OF TACOMA:**

Section 1. That Chapter 10.27 of the Tacoma Municipal Code (“TMC”) is amended, as set forth in the attached Exhibit “A.”

Section 2. That any content from Chapter 10.27 TMC not specifically set forth and modified above shall remain in full force and effect as presently enacted.

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Deputy City Attorney

Requested by Public Utility Board  
Resolution No. U-10342

## EXHIBIT "A"

### **10.27.030 Applicability and procedure.**

A small works roster and award of contract process for public works contracts of up to \$200,000 is hereby authorized.

A. The Director of Finance, or his or her designee, shall create and maintain a small works roster for designated categories of public works projects, which roster shall be comprised of all contractors who complete the required application and are, where required by law, properly licensed or registered to perform such work in Washington State.

B. Whenever work is done by contract, the estimated cost of which is \$200,000 or less, and the small works roster process is used, bids may be invited from all appropriate contractors on the roster, provided that no fewer than five contractors, if such number is available, shall be invited to submit bids on any one contract, and provided, further, whenever possible, a proposal shall be invited from one Historically Underutilized Business ("HUB"), one minority business enterprise ("MBE") and/or one woman business enterprise ("WBE"), if available from the roster, and if otherwise qualified to perform the work being solicited. The procedures for selecting firms shall ensure that the opportunity to submit bids is equitably distributed among the listed firms while also ensuring that at least one certified HUB and one certified MBE and one certified WBE is included in each group of five bidders whenever possible.

C. Invitations for small works roster bids shall include a scope of work to be performed and materials and equipment to be furnished.

D. When awarding such a contract for work, the estimated cost of which is \$200,000 or less, the City shall award the contract to the contractor submitting the lowest and best responsible bid.

E. The City shall endeavor to distribute bidding opportunities to as many small works roster contractors as possible and shall track solicitations to contractors on the roster. After a small works roster contractor has been invited to submit a bid for any given solicitation/project, the City shall endeavor to provide opportunities to other appropriately qualified contractors on the roster prior to making a repeat solicitation to any contractor.

F. In accordance with RCW 39.04.155, when awarding a contract of \$100,000 or less, the performance bond and retainage requirements may be waived on a case-by-case basis for firms whose annual revenues are below \$1,000,000.

G. Contractors with annual revenues below \$250,000 who are awarded contracts of \$100,000 or less shall be paid within ten business days, less 5 percent retainage, upon receipt by the City of fully completed closeout documentation.

**10.27.040 Types of projects.**

The designated categories of work authorized for development of a Small Works Roster shall be based on the needs of the City.

**10.27.080 Review of program.**

A. The City Manager and the Director of Public Utilities shall review the implementation of Chapter 10.27 (as revised) on a continuing basis and report on the impact of this program on a quarterly basis, to insure that the program is meeting the policy goals upon which this program has been enacted, namely, the promotion of a healthy business environment, increased competition, reduced unemployment, business development, and ensuring equal opportunity in contracting with the City.