

TITLE 10

Public Works

TITLE 10

PUBLIC WORKS

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Chapter 10.02
GENERAL PROVISIONS

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10.02.010 Presentation of plans, estimate of costs.

Whenever any department of the City government shall plan for the execution of any new or extension work, not involving mere repairs or maintenance of existing works or ordinary service to consumers, the director having supervision of such department shall, before any expenditure is made upon such work, present to the Council a report, in writing, of the plan proposed together with blueprints, if practicable, with the estimated cost thereof and an estimate of the revenues, if any, to be expected from such work, and procure the assent of the Council thereto; and, without such assent, no such work shall be undertaken. (Ord. 6318 § 1; passed Jan. 9, 1916)

10.02.020 Estimate – Costs not to exceed.

Whenever any work of the kind described in Section 10.02.010 hereof shall be authorized, the department having the same in charge shall keep in convenient form an accurate detailed statement of all items of labor and material used in such work and the cost thereof, which shall not be permitted to exceed the estimate presented without the further assent of the Council thereto. (Ord. 6318 § 2; passed Jan. 9, 1916)

10.02.030 Claims – Statement of purpose.

Every claim and payroll connected with any work covered by the above sections shall have clearly indicated upon the face of it the purpose for which it was incurred and the date upon which the Council authorized it. (Ord. 6318 § 4; passed Jan. 9, 1916)

10.02.040 Audit of claims.

The Director of Finance shall not audit or allow any claim for work or materials in any case where the provisions of the above sections are being disregarded. (Ord. 6318 § 3; passed Jan. 9, 1916)

10.02.050 Contractor’s bond – Required.¹

Every person, firm or corporation contracting with the City of Tacoma for public work shall execute and file with the Director of Finance a good and sufficient bond, running to the City of Tacoma, with two or more sureties, or with a surety company licensed to do business in the State of Washington, as surety, in the amount of the consideration specified in said contract, conditioned that such person, firm or corporation shall faithfully perform all the provisions of and complete such contract, and pay all laborers, mechanics, subcontractors and materialmen, and all persons who shall supply such person, firm or corporation or subcontractors, with provisions and supplies for the carrying on of such work, and all just debts, dues and demands incurred in the performance of such work; provided, that the amount of the bond herein required to secure any contract where, by the terms of the contract, the consideration for the work or material furnished shall be payable in monthly installments, with the right vested in the City to withhold a portion of each installment until the completion and acceptance of the work, shall be a sum not less than 25 percent of such consideration; provided further, at the discretion of the City the amount of the performance bond may be reduced or eliminated as authorized by state law (Chapter 39.08 RCW). (Ord. 25328 § 1; passed Jun. 6, 1993; Ord. 4029; passed Mar. 3, 1910; Ord. 3750 § 1; passed Jun. 16, 1909)

10.02.060 Contractor’s bond – Right of action by laborers and materialmen.

All laborers, mechanics, subcontractors and materialmen, and all persons who shall supply such contractors or subcontractors with provisions and supplies for the carrying on of their work, and all persons to whom any debts, dues or demands have been incurred by such contractors or subcontractors, in the performance of such work, shall have a right of action in his, her or their own name or names on such bond, for the full amount of all debts against such contractors or subcontractors, or for work done

¹ See Chapter 39.08 RCW for statute.

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by such laborers or mechanics, or for materials furnished or provisions and goods supplied and furnished in the prosecution of such work. (Ord. 3750 § 2; passed Jun. 16, 1909)

10.02.070 Contractor’s bond – Limitation of action – Notice of claim.

No person shall have a right of action on such bond for any sum whatever, unless within 30 days from, and after the completion of, the contract and acceptance of the work by the Commissioner of Public Works, the laborer, mechanic, subcontractor or materialman, or person claiming to have supplied materials, provisions or goods for the prosecution of such work, shall present to and file with the City Clerk of said City a notice in writing, in substance as follows:

To the Honorable City Council of the City of Tacoma:

Notice is hereby given that the undersigned, _____ (insert name of claimant) has a claim in the sum of _____ Dollars (insert amount) against the bond taken from _____ (insert name of principal and surety or sureties upon such bond) for the work of _____ (insert brief mention or description of work).

Signed _____

(Ord. 3750 § 3; passed Jun. 16, 1909)

10.02.080 Conflict with charter.

This chapter shall not be construed so as to conflict with the provisions of the City Charter as to bonds required to be filed by contractors for furnishing materials or supplies to said City. (Ord. 3750 § 4; passed Jun. 16, 1909)

Chapter 10.04

LOCAL IMPROVEMENTS – INITIATION AND ASSESSMENTS

Sections:

- 10.04.010 Local improvements – Laws governing.
- 10.04.020 Petitions.
- 10.04.025 Notice to property owners.
- 10.04.026 Hearing Examiner.
- 10.04.030 Resolution ordering improvement – Publication.
- 10.04.040 Assessment roll – Notice.
- 10.04.050 Notice of resolution and assessment – Form.
- 10.04.060 Notice not jurisdictional.
- 10.04.065 Hearings on assessments.
- 10.04.070 Appeals.
- 10.04.080 Assessment roll to treasurer.
- 10.04.090 Delinquent assessments.
- 10.04.100 Issuance of certificate of delinquency.
- 10.04.110 Interest on delinquent assessments.
- 10.04.120 Sales to collect delinquent assessments.
- 10.04.130 Treasurer to collect assessments.
- 10.04.140 Certificate of delinquency – Sale and Transfer.
- 10.04.150 Record of daily transactions.
- 10.04.160 Estimate of costs – Items included.
- 10.04.180 Records to be kept.

10.04.010 Local improvements – Laws governing.

From and after the passage of this chapter, local improvements and local improvement assessments shall be made and levied in accordance with the provisions of this chapter, subject to and in accordance with the provisions of the laws of the State of Washington.² (Ord. 13290; passed Jan. 14, 1948; Ord. 4611 § 1; passed Jun. 14, 1911)

10.04.020 Petitions.

All petitions for local improvements in the City of Tacoma shall be presented to and filed with the Director of Public Works, excepting that such petitions as relate to either light or water service shall be filed with the Director of Public Utilities. The signatures to such petitions must be written in ink and any signature purporting to be written by an agent must be accompanied by evidence of the agent's authority to sign the principal's name to the petition. No signature can be withdrawn after the petition has been filed with the Director. (Ord. 13290; passed Jan. 14, 1948; Ord. 4611 § 2; passed Jun. 14, 1911)

10.04.025 Notice to property owners.

A petition requesting initiation of a local improvement district for any improvement except oil surface treatment, when signed by owners representing a majority of the frontage along said improvement, shall be honored according to LID procedure, except that an advisory opinion survey notice shall be mailed to the owner or reputed owner of all property which will be benefitted by the proposed improvement and subject to assessment, at the address shown on the tax rolls of the county treasurer for each item of property which may be subject to assessment. Said notice shall advise the property owners of the petition, the nature and extent of the proposed improvement, the estimated date of pending hearings, and ask for their opinion as to favoring, opposing or neutral position on the project. It shall also note a suspension date for any response. The advisory opinion survey notice shall be mailed at least 10 days prior to mailing of notice of a hearing to consider creation of the LID; provided, however, that the notice requirements herein set forth shall be deemed procedural only, and shall not deprive the City Council of jurisdiction to proceed in all matters relating to local improvement districts, in accordance with the laws of the State of Washington, and, in no event, shall failure to require such a notice invalidate any local improvement district proceeding, or in any manner impede or impair the levying and collection of any assessment duly authorized by law, and any such assessment duly approved and confirmed by the Council in the manner provided by the laws of the State of Washington shall be and constitute a valid assessment against said real property. (Ord. 21071 § 1; passed Jun. 14, 1977)

10.04.026 Hearing Examiner.

Pursuant to the laws of the State of Washington and the Official Code of the City of Tacoma, the hearing to consider creation of an LID (local improvement district) shall be held before a Hearing Examiner, who shall prepare findings of fact,

² See Chapters 35.43 through 35.54 RCW.

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conclusions of law, and make a recommendation to the City Council as to the formation of a local improvement district. The transcript, findings of fact, conclusions of law, recommendation, and the entire file shall be forwarded to the City Council for consideration. After reading the findings of fact, conclusions of law, and recommendation of the Hearing Examiner and the entire file, the City Council shall act upon the creation of the local improvement district. (Ord. 21974 § 8; passed Jan. 29, 1980)

10.04.030 Resolution ordering improvement – Publication.

A resolution of intention to order a local improvement shall be published by the City Clerk in at least two consecutive issues of the official newspaper of the City of Tacoma, the date of the first publication to be at least 15 days prior to the date fixed by such resolution for hearing before the City Council or Hearing Examiner, and proof of such publication shall be taken and filed by the Clerk with the original resolution. (Ord. 21974 § 9; passed Jan. 29, 1980; Ord. 13290; passed Jan. 14, 1948; Ord. 4611; passed Jun. 14, 1911)

10.04.040 Assessment roll – Notice.

Upon the filing of any assessment roll for a local improvement with the City Clerk, the Clerk shall forthwith report the same to the Council and take and give notice of its order for the hearing thereon and the time and place thereof before the Hearing Examiner.³ (Ord. 21974 § 10; passed Jan. 29, 1980; Ord. 4611 § 4; passed Jun. 14, 1911)

10.04.050 Notice of resolution and assessment - Form.

Whenever the Council of the City of Tacoma shall have adopted a resolution providing for any local improvement to be made chargeable in whole or in part upon real property to be benefitted thereby, it shall be the duty of the director of the department under whose control such improvement is to be made to give notice of the passage of such resolution and the time of hearing thereon to the several owners of real property to be charged with an assessment to pay the cost of such improvement, by mailing at least 15 days prior to such hearing to each such owner at his address, if known, or the agent of such owner, if known, a postal card with a printed notice substantially in the following form:

TAKE NOTICE - That a resolution for the creation of LOCAL IMPROVEMENT DISTRICT NO. _____ of the City of Tacoma was adopted by the City Council on _____, and _____ was fixed for the time of hearing protests against the proposed improvements which will consist of

To protest district, sign this card and return to City Clerk before 9:30 a.m. on _____

Your Property, which will be subject to assessment for the improvement: _____

LOT	BLOCK	ADDITION	AMT. ASSESSED

Estimated Cost of Improvement \$ _____
Hearing at 10:00 a.m. in Council Chamber.
Director of Public _____

(Ord. 14525; passed Jun. 25, 1952; Ord. 4845 § 1; passed Jan. 17, 1912)

10.04.060 Notice not jurisdictional.

Neither the passage of Section 10.04.050 nor the giving of the notice provided for, nor the failure to give such notice, nor the failure of any owner to receive such notice shall be taken to affect the jurisdiction of the Council of said City to make any improvement or levy any assessment to pay the cost thereof. (Ord. 4845 § 2; passed Jan. 17, 1912)

10.04.065 Hearings on assessments.

The Hearing Examiner shall hold a hearing to determine whether or not the City Council of the City of Tacoma shall adopt an ordinance assessing the property owners for benefits conferred under a local improvement previously created by the City Council. The Hearing Examiner, at the hearing, will consider all evidence orally presented as well as written evidence and

³ Property owner estopped to object to assessment on ground that it is not restricted to benefits received when, after notice of levy, he fails to urge objection at time of hearing and before confirmation of assessment by council. Annie Wright Seminary v Tacoma (1900) 23 W 109.

other matters in the file. He shall, within 10 days after the conclusion of the hearing, make findings of fact, conclusions of law, and recommendations to the City Council for action. The members of the City Council shall read the Hearing Examiner's findings of fact, conclusions of law, and recommendation, consider the transcript of the proceedings made at the hearing, and read the entire record before rendering their decision. (Ord. 21974 § 11; passed Jan. 29, 1980)

10.04.070 Appeals.

Upon receiving any notice of appeal from a local assessment, the City Clerk shall forthwith transmit the same with a statement of the time of its receipt to the City Attorney. (Ord. 4611 § 5; passed Jun. 14, 1911)

10.04.080 Assessment roll to treasurer.

Upon the confirmation of any local assessment roll, the City Clerk shall transmit the same, with a statement of the action taken of the Council thereon, to the City Treasurer. (Ord. 4611 § 6; passed Jun. 14, 1911)

10.04.090 Delinquent assessments.

Whenever any local assessment shall have been made payable in installments and, if on the first day of January in any year, two or more installments are delinquent, or if the final installment has been delinquent for more than one year, then the entire assessment shall be due and payable and the collection thereof shall be enforced in the manner prescribed by the laws of the State of Washington. Proceedings brought to foreclose such delinquent assessments shall be commenced on or before December 1st of that year, but not before the City Treasurer has notified by certified mail the persons whose names appear on the assessment roll as owners of the property charged with the assessments or installments which are delinquent, at the address last known to the Treasurer, a notice 30 days before the commencement of the proceedings.⁴ (Ord. 26054 § 1; passed Mar. 15, 1997; Ord. 4611 § 8; passed Jun. 14, 1911)

10.04.100 Issuance of certificate of delinquency.

The ordinance ordering that any local improvement be made by local improvement assessment may provide that, instead of a sale of property for delinquent assessments or installments thereof, certificates of delinquency may be issued by the Director of Finance for the assessments or installments thereof, as the case may be, and any interest or penalty thereon to the date of issuance; and such certificates of delinquency shall have the effect and be enforced in the manner provided by the laws of the State of Washington.⁵ (Ord. 4611 § 9; passed Jun. 14, 1911)

10.04.110 Interest on delinquent assessments.

Assessments or installments thereof, when delinquent, in addition to the interest provided for in the ordinance ordering the local improvement, shall bear a penalty of 12 percent on the assessment or installment and the interest thereon until sale of certificate of delinquency. (Ord. 22346 § 1; passed Mar. 17, 1981; Ord. 4611 § 10; passed Jun. 14, 1911)

10.04.120 Sales to collect delinquent assessments.

Unless otherwise provided in the ordinance ordering the improvement, all property described in any local assessment roll, after the assessment or any installment thereof shall have become delinquent, and where the proceedings were commenced after said Act of 1911 took effect, shall be sold for the amount of such delinquent assessment or installment, together with penalty and interest accruing to date of sale, and, for the costs of such sale and a certificate of sale, shall be executed and delivered to the purchaser; and an assessment deed shall be executed and delivered to the person entitled thereto in the manner and after the proceedings set forth in said Act. (Ord. 4611 § 7; passed Jun. 14, 1911)

10.04.130 Treasurer to collect assessments.

All local assessments, either current or delinquent, shall be collected by the Treasurer, who shall execute and sign all receipts for the same, which receipts shall be countersigned by the Director of Finance, and no receipts shall be valid unless same bears the signature of the Treasurer and Director of Finance. (Ord. 5204 § 1; passed Jan. 23, 1913)

10.04.140 Certificate of delinquency – Sale and Transfer.

All certificates of delinquency for local improvement assessments, sold to any person at public sale, shall be executed and signed by the Treasurer and countersigned by the Director of Finance; and all certificates of delinquency struck off to the City of Tacoma, when transferred to any person, shall be signed by the Director of Finance and countersigned by the Treasurer. (Ord. 5204 § 2; passed Jan. 23, 1913)

⁴ See Chapter 35.49 RCW.

⁵ See Chapter 35.50 RCW.

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10.04.150 Record of daily transactions.

The Treasurer shall keep a complete set of books in which there shall be recorded in detail the daily transactions relating to the payment of the principal and interest of every local improvement district; and the Director of Finance shall keep a controlling account of the aggregate daily sums received by the Treasurer. At the end of the month, or whenever requested by the Director of Finance, the Treasurer shall file a statement with the Director of Finance showing the amount of money on hand in each local improvement district at the beginning of the previous month, the amount of the principal and interest received during the month, and the disbursements made therefrom, together with the balance on hand at the close of the month, and all transfers. (Ord. 5204 § 3; passed Jan. 23, 1913)

10.04.160 Estimate of costs – Items included.

In making an estimate of the cost and expense in connection with local improvements in the City of Tacoma, where a local improvement district is created and the cost and expense of such improvement or any part thereof is to be assessed against the property specially benefitted by such improvement, the City Engineer or engineer of the department having charge of such improvement shall include in such cost and expense (a) the estimated cost and expense of the engineering and surveying necessary for such improvement, (b) the cost of ascertaining the ownership of the lots, tracts and parcels of land and other property included in the assessment district, (c) the cost of advertising, mailing and publishing all notices required or directed to be advertised, mailed or published, and (d) a charge covering the cost of accounting and clerical labor books and blanks, expended or used and to be expended or used by the Director of Finance and the City Treasurer in connection with said improvement and the collection of the assessments levied therefor, which charge shall be fixed and determined as follows:

In the case of assessments payable in two annual installments, \$27.00 per property description.

In the case of assessments payable in three annual installments, \$33.00 per property description.

In the case of assessments payable in five annual installments, \$45.00 per property description.

In the case of assessments payable in seven annual installments, \$57.00 per property description.

In the case of assessments payable in 10 annual installments, \$75.00 per property description.

In the case of assessments payable in 15 annual installments, \$105.00 per property description.

In the case of assessments payable in 20 annual installments, \$135.00 per property description.

In the event the local improvement district assessment is paid in full during the 30-day interest-free period and no annual installments are due, the fee will be only \$15.00 per property description. (Ord. 24293 § 1; passed Jan. 31, 1989; Ord. 23028 § 1; passed Oct. 11, 1983; Ord. 22250 § 1; passed Nov. 25, 1980; Ord. 16185; passed Sept. 29, 1958; Ord. 9460 § 1)

10.04.180 Records to be kept.

Whenever the City Council shall by ordinance order any local improvement to be made and shall have established in connection therewith a local improvement district for the purpose of paying in whole or in part the cost of said improvement by the levying of special assessments against the real property in said district, it shall be the duty of the City Clerk, upon the passage of said ordinance, to forthwith transmit to the City Treasurer a copy of the ordinance so ordering such improvement and creating such district, together with a copy of the diagram or print hereinafter referred to and by the terms of this section required to be submitted and filed with the City Clerk as herein provided; it shall also be the duty of the department having charge of the construction of any such local improvement to file with the City Clerk a duplicate copy of the diagram or print, required by State law to be filed at or prior to the ordering of any such improvement, showing the lots, tracts or parcels of land and other property which will be specially benefitted thereby, and the estimated amount of the cost or expense of such improvement to be borne by each lot, tract or parcel of land or other property so that the same may be transmitted by the City Clerk to the City Treasurer as hereinabove provided. The City Treasurer shall maintain and keep in his office each ordinance and diagram or print, so transmitted to him, available and open for public inspection from the time of the receipt thereof until the assessment roll for any such district shall have been regularly filed in his office and, upon the filing of any such assessment roll or the abandonment of any such improvement, the City Treasurer may destroy or otherwise dispose of the related diagram and copy of ordinance filed with him as hereinabove provided. (Ord. 14450 § 1; passed Mar. 9, 1952)

Chapter 10.06

LOCAL IMPROVEMENTS – BOND

Sections:

- 10.06.010 Form prescribed.
- 10.06.020 Execution.

10.06.010 Form prescribed.⁶

Whenever the City of Tacoma shall hereafter order or cause to be made any local improvement in said City, and shall provide by ordinance that payment of the cost and expense of such local improvement or any part thereof shall be made by bonds of the district, including the property liable to assessment for the payment of such cost and expense or benefitted by such local improvement, the bonds shall be substantially in the following form:

Local Improvement Bond, District Number _____, of the City of Tacoma, State of Washington.

N. B. – This bond is issued by virtue of the provisions of an act of the Legislature of the State of Washington, entitled: “An act authorizing the issuance and sale of bonds by cities, to pay for local improvements, providing for the payment thereof, and declaring an emergency,” approved March 14, 1899, Section 9 of which act reads as follows, to-wit:

No. _____ \$ _____

Section 9. Neither the holder nor owner of any bond issued under the authority of this act shall have any claim therefor against the City by which the same is issued, except from the special assessment, made for the improvement for which such bond was issued, but his remedy in case of non-payment shall be confined to the enforcement of such assessments. A copy of this section shall be plainly written, printed or engraved on each bond so issued.

The City of Tacoma, a municipal corporation of the State of Washington, hereby promises to pay to _____, or bearer, _____ Dollars, lawful money of the United States, with interest thereon at the rate of _____ percent per annum, payable _____ annually, out of the fund established by Ordinance No. _____ of said City and known as “Local Improvement Fund, District No. _____ of Tacoma,” and not otherwise, both principal and interest payable at the office of the Treasurer of said City.

A coupon is hereto attached for each installment of interest to accrue hereon, and said interest shall be paid only on presentation and surrender of such coupon to the City Treasurer; but, in case this bond is called for payment before its maturity, each and every coupon representing interest not accrued at the time this bond is payable under such call shall be void. This bond is payable on or before the _____ day of 19____, and is subject to call by the City Treasurer of said City whenever there shall be sufficient money in said local improvement fund to pay the same and all unpaid bonds of the series of which this bond is one which are prior to this bond in numerical order over and above sufficient for the payment of interest on all unpaid bonds of said series. The City Council of said City, as the agent of said “Local Improvement District No. _____,” established by said Ordinance No. _____, has caused this bond to be issued in the name of said City as the bond of said local improvement district, the bond or the proceeds thereof to be applied in part payment of so much of the cost and expense of the improvement of _____ under said Ordinance No. _____ as is levied and assessed against the property included in said local improvement district and benefitted by said improvement, and the said “Local Improvement Fund, District No. _____ of Tacoma,” has been established by ordinance for said purpose; and the holder or holders of this bond shall look only to said fund for the payment of either the principal or interest of this bond.

The call for payment of this bond or of any bond of the series of which this is one, shall be made by the City Treasurer by publishing the same in the official newspaper of said City; and when such call is made for the payment of this bond, it will be paid on the day the next interest coupon thereon shall become due after said call, and upon said day interest upon this bond shall cease.

This bond is one of a series of _____ bonds, aggregating in all the principal sum of _____ dollars, issued for said local improvement district, all of which bonds are subject to the same terms and conditions as herein expressed.

⁶ See RCW 35.45.030 and 35.45.070 for statutory provisions.

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In witness whereof, the City of Tacoma has caused these presents to be signed by its Mayor, countersigned by its Director of Finance, and attested by its Clerk, and sealed with its corporate seal, this ___ day of ___, in the year of our Lord one thousand ___.

CITY OF TACOMA,

(SEAL)

(Mayor)

Countersigned by

Director of Finance
City Clerk

There shall be attached to each bond such number of coupons, not exceeding twenty, as shall be required to represent the interest thereon, payable _____ annually, for the term of said bonds, which coupons shall be substantially in the following form:

Number _____ \$ _____

On the ___ day of ___, the City of Tacoma, Washington, promises to pay the bearer, at the office of its City Treasurer _____ dollars, being _____ months' interest due that day on bond No. ___ of the bonds of "Local Improvement Fund, District No. _____, of Tacoma," and not otherwise; provided that this coupon is subject to all the terms and conditions contained in the bond to which it is annexed. And, if said bond be called for payment before maturity hereof, then this coupon shall be void.

Mayor of the City of Tacoma

Countersigned and attested by

Director of Finance of the City of Tacoma

(Ord. 2620 § 1; passed May 10, 1906)

10.06.020 Execution.

Each and every bond issued for any such improvement shall be signed by the Mayor, countersigned by the Director of Finance, and attested by the City Clerk, who shall affix the corporate seal of the City thereto; and each of such coupons shall be signed by the Mayor and countersigned and attested by the Director of Finance; provided, that said coupons may, in lieu of being so signed, have printed thereon the facsimile of the signatures of said officers. The bonds issued for each local improvement district shall be in the aggregate for such an amount as authorized by ordinance; and each issue of such bonds shall be numbered consecutively, beginning with number one. The Director of Finance shall keep in his office a register of all such bonds, in which he shall enter the local improvement district for which the same are issued, and the date, amount and number of each bond and the term of payment. (Ord. 2620 § 2; passed May 10, 1906)

Chapter 10.08

LOCAL IMPROVEMENTS – GUARANTY FUND

Sections:

- 10.08.010 Election of State law.
- 10.08.020 Bonds subsequent to Ordinance 7567.
- 10.08.030 Fund created.
- 10.08.040 Maintenance of fund.
- 10.08.050 Transfer of funds.
- 10.08.060 Guarantee of prior issues.
- 10.08.070 Levy of tax – Subrogation of City.
- 10.08.080 Warrants.
- 10.08.090 Holders of bonds – Remedies.

10.08.010 Election of State law.

In accordance with Chapter 141, Laws of 1923, of the State of Washington, the City of Tacoma hereby elects to operate the local improvement guarantee fund created by Ordinance No. 7567 of the City of Tacoma under the provisions of Chapter 141, Laws of 1923 of the State of Washington, instead of under the provisions of Chapter 138, Laws of 1917 of the State of Washington.⁷ (Ord. 8414 § 1; passed Mar. 18, 1925)

10.08.020 Bonds subsequent to Ordinance 7567.

In accordance with Chapter 141, Laws of 1923 of the State of Washington, the City of Tacoma hereby elects to establish and create a fund for the purpose of guaranteeing to the extent of such fund bonds issued against local improvement districts in the City of Tacoma subsequent to the passage of Ordinance No. 7567 of the City of Tacoma. (Ord. 8414 § 2; passed Mar. 18, 1925)

10.08.030 Fund created.

There is hereby created in the Treasury of the City of Tacoma a fund which shall be known and designated as “Local Improvement Guaranty Fund.” (Ord. 8414 § 3; passed Mar. 18, 1925)

10.08.040 Maintenance of fund.

Said Local Improvement Guaranty Fund shall be maintained from time to time by the levy, as hereinafter provided, of such sums as are necessary to meet the financial requirements thereof; provided that any sums levied in any year shall not be more than sufficient to pay the outstanding warrants on said fund and to establish therein a balance, which combined levy in any one year shall not exceed five percent of the outstanding obligations thereby guaranteed. (Ord. 13678; passed Aug., 1949; Ord. 8414 § 4; passed Mar. 18, 1925)

10.08.050 Transfer of funds.

All moneys in and assets of the “Local Improvement Guaranty Fund” created by Ordinance No. 7567, be and the same are hereby transferred to the “Local Improvement Guaranty Fund” created hereunder. (Ord. 8414 § 5; passed Mar. 18, 1925)

10.08.060 Guarantee of prior issues.

All bonds guaranteed under the “Local Improvement Guaranty Fund” created by Ordinance No. 7567 shall be held and deemed to be guaranteed under the provisions of this chapter. (Ord. 8414 § 6; passed Mar. 18, 1925)

10.08.070 Levy of tax – Subrogation of City.

After the passage of this chapter, there shall be levied from time to time, as other taxes are levied, such sums as may be needed to meet the financial requirements of the Local Improvement Guaranty Fund hereunder created; and, whenever the City of Tacoma shall have paid out of said Guaranty Fund any sum on account of principal and interest on a local improvement bond hereunder guaranteed, the City of Tacoma, as Trustee for said fund, shall be subrogated to all the rights of the holders of the bond or interest coupon so paid, and the proceeds therefor shall become a part of said fund. There shall also be paid into said fund interest received from bank deposits thereof, and from all moneys collected from local assessments the bonds against which are guaranteed by said fund. (Ord. 8414 § 7; passed Mar. 18, 1925)

⁷ See RCW 35.54.010.

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10.08.080 Warrants.

Warrants drawing interest at a rate not to exceed six percent shall be issued against said Guaranty Fund to meet any liabilities accruing against it, and, at the time of making the annual budget and tax levy of the City, the City shall provide for the levying of a sum sufficient, with the other resources of the fund, to pay warrants so issued during the preceding fiscal year; provided, however, that such warrants shall at no time exceed five percent of the outstanding bond obligations guaranteed by said fund. (Ord. 8414 § 8; passed Mar. 18, 1925)

10.08.090 Holders of bonds – Remedies.

Neither the owner nor holder of any bond issued after the passage of this chapter shall have any claim therefor against the City of Tacoma, except for payment from the special assessments made for the improvement for which said bond was issued, and except as against the said Local Improvement Guaranty Fund created by this chapter.

The remedy of the holder or owner of such bond in case of nonpayment shall be confined to the enforcement of such assessment and to the said Guaranty Fund. A copy of this section shall be plainly written, printed or engraved on each bond issued and guaranteed hereunder; and the writing, printing or engraving of this section upon any such bond shall be deemed sufficient compliance with the requirements of RCW 35.45.070. (Ord. 8414 § 9; passed Mar. 18, 1925)

Chapter 10.09

INACTIVE LOCAL IMPROVEMENT DISTRICTS

Sections:

- 10.09.010 Director of Finance authorized to write off assessments.
- 10.09.020 Director of Finance authorized to cancel certain LID bonds or obligations.
- 10.09.030 Director of Finance authorized to transfer to the guaranty fund cash in local improvement districts.

10.09.010 Director of finance authorized to write off assessments.

The Director of Finance of the City of Tacoma is hereby authorized to write off from the records of the City all assessments of inactive local improvement districts, the collection of which has been barred by the statute of limitations as set forth and provided in RCW 35.50.050; provided, however, that, in the event any collections are made or moneys received for or on said assessments so canceled, all such moneys so received shall be deposited in the local improvement guaranty fund. (Ord. 17898 § 1; passed Aug. 24, 1965)

10.09.020 Director of Finance authorized to cancel certain LID bonds or obligations.

The Director of Finance of the City of Tacoma is hereby authorized to cancel on the records of the City of Tacoma all local improvement district bonds or other evidence of liabilities of any such inactive local improvement districts that have been purchased or paid for by the local improvement guaranty fund, and to thereupon terminate all bookkeeping and accounting in respect thereto; provided, however, that nothing herein contained shall impair or affect the rights of any other bondholder or creditor of any such local improvement district as such holder may have. (Ord. 17898 § 1; passed Aug. 24, 1965)

10.09.030 Director of Finance authorized to transfer to the guaranty fund cash in local improvement districts.

The Director of Finance of the City of Tacoma is hereby authorized to transfer to the local improvement guaranty fund of the City of Tacoma all cash remaining in any local improvement districts whose bonds or other liabilities have been paid for by the local improvement guaranty fund. (Ord. 17898 § 1; passed Aug. 24, 1965)

Chapter 10.10

PAYMENT OF CONTRACTOR – RETAINED PERCENTAGE

Sections:

- 10.10.010 Percentage to be retained.
 10.10.020 Issuance of warrants.
 10.10.030 Payment of warrants.

10.10.010 Percentage to be retained.⁸

Except as otherwise provided in State law, in letting all contracts for public works and improvements, the contracting department or division shall provide therein that there shall be reserved from the moneys earned by the contractor on estimates during the progress of the improvement work a sum not to exceed 5 percent as a trust fund for the protection and payment of any person or persons, mechanics, subcontractors or material men who shall perform any labor upon said contract for the doing of said work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and for the State with respect to taxes imposed pursuant to Titles 50, 51, and 82 RCW, which may be due from such contractor. Said fund shall be retained for a period of 45 days following the final acceptance of said improvement or work as completed, and every person performing labor and furnishing provisions and supplies toward the completion of said improvement or work shall have a lien upon said funds so reserved; provided that, notice of the lien of such claimant shall be given in the manner and within the time provided by law. No improvement or work shall be deemed accepted as completed until the City Manager, or his or her designee, for the General Government or the Director of Utilities, or his or her designee, for the Department of Public Utilities shall have signed and filed with the City Clerk a statement declaring the same to be completed.

During the time allowed in the contract for the completion thereof, the engineer or other officer of the department/division having said improvement or work in his or her charge, may, on a monthly basis, issue an estimate of the amount of work completed during the preceding month by the contractor, and after the expiration of the time allowed by the contract for the completion thereof, no estimate other than the final estimate shall be issued. To the extent chargeable against the contractor, all costs incurred or expenditures made by the City for abstract, advertising, accounting collection, as well as engineering or other necessary expenses, shall be computed or estimated by the department/division having the completion of the contract in its charge, and the same shall be deducted from the final payment due a contractor on any public improvement. Said computation or estimate shall be subject to review and audit by the Director of Finance and, upon his or her request, shall be filed with the Finance Department. All expenses incurred by the City after time allowed by the contract for the completion thereof shall be borne by the contractor as penalty for failure to complete the contract within the time specified. (Ord. 27847 Ex. A; passed Nov. 17, 2009; Ord. 20015 § 1; passed Dec. 18, 1973; Ord. 17413 § 1; passed Aug. 13, 1963; Ord. 15041; passed Jun. 21, 1954; Ord. 10918 § 1; passed Mar. 13, 1933)

10.10.020 Issuance of warrants.

The Director of Finance shall, on or about the first day of the month following the issuance of the estimate, prepare and issue warrants in an amount equal to such estimate, less the percentage to be retained therefrom as herein provided and less any costs or expenses due the City. Said warrants may be sold by the City in the manner provided by law and such estimate shall be paid from the proceeds of such sale or said progress warrants shall be delivered to the contractor in payment of such estimate. After the expiration of 30 days following the final acceptance of the improvement or work and the expiration of the time for filing of lien claims as provided by law, said reserve, or all amounts thereof in excess of a sufficient sum to meet and discharge the claims filed against the same, together with a sum sufficient to defray the costs of action thereon and to pay attorneys fees, shall be paid to said contractor.

Such warrants shall be drawn against the local improvement district fund under which the improvement or work is being done and shall bear interest from the date of issuance until redeemed, but such warrants shall not bear interest beyond a date 120 days after the time fixed in the contract for the completion thereof. Such warrants shall bear interest at the same rate of interest as the ordinance creating the local improvement district shall specify as the rate of interest to be borne by the bonds to be issued against such district unless a different rate of interest be specified by ordinance, but, in no event, shall such warrants bear interest in excess of eight percent per annum.

If, by reason of the failure of the contractor to complete the work within the time specified, no funds are available for the redemption of said warrants on the date on which interest thereon ceases, the contractor, his successors or assigns, or the holder of such warrants, shall have no claim for further interest; provided, however, that if, prior to the filing of the assessment roll, additional time is granted by the City Council for the completion of the contract by reason of delay caused by the City,

⁸ See RCW 60.28.010 for statute.

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the holder of said warrants shall be allowed a sum of money without interest, representing interest at the specified rate on outstanding warrants from the date when the interest on such warrants ceased to the date when funds are available for redemption thereof, but such amount shall not exceed a sum equivalent to interest on such outstanding warrants for the period for which such extension of time was granted. (Ord. 13767 § 1; passed Dec. 14, 1949; Ord. 10918 § 2; passed Mar. 13, 1933)

10.10.030 Payment of warrants.

The Director of Finance shall, immediately upon receipt from the director of the department having said improvement or work in charge, of the final estimate for any local improvement, file with such department and with the City Clerk a certificate setting forth the total amount of such final estimate, together with interest accrued, interest on warrants issued, or to be issued, to the contractor.

All warrants issued shall be redeemed within 120 days after the completion and acceptance of the contract, in order of priority, in cash so far as payment into the local improvement district fund shall permit. The amount of such warrants not redeemed in cash shall be redeemed in the order of their priority in local improvement district bonds of the local improvement district under which the improvement or work is being done. (Ord. 10918 § 3; passed Mar. 13, 1933)

Chapter 10.12
CONDEMNATION

Sections:

- 10.12.010 Assessment roll.
- 10.12.020 Payment of judgment.
- 10.12.030 Report of insufficient collections.
- 10.12.040 Issuance of warrants.
- 10.12.050 Director of Finance to draw warrants.
- 10.12.060 Notice of payments made to Clerk of Superior Court.
- 10.12.070 Offset of judgment against assessments.
- 10.12.080 Offset – Satisfaction on execution docket.
- 10.12.090 Offset – Cancellation of assessment.

10.12.010 Assessment roll.

Whenever, under any proceedings taken by the City of Tacoma for the condemnation of lands or property under the provisions of Chapter 153 of the Acts of the Legislature of the State of Washington for the year 1907,⁹ the Clerk of the Superior Court in which such proceedings are had shall certify a copy of the assessment roll prepared by the Eminent Domain Commissioners and of the judgment confirming the same, together with the order of the court approving the accounts of the Eminent Domain Commissioners, to the Treasurer of said City. The Treasurer shall proceed with the collection of the assessments levied by said roll as in said Act provided. (Ord. 4213 § 1; passed Jun. 20, 1910)

10.12.020 Payment of judgment.

If the assessments levied by said roll are paid without delinquency, the Treasurer shall, out of the special fund derived from said assessments and within five days after the last of such payments is made, pay to the Clerk of the Superior Court the amount of the judgment or judgments for damages and costs awarded to property owners for the lands or property taken or damaged, and take his receipt therefor. (Ord. 4213 § 2; passed Jun. 20, 1910)

10.12.030 Report of insufficient collections.

Upon the conclusion of any sale of property for such assessments unpaid and delinquent, and within five days thereafter, the Treasurer shall pay to the Clerk of the Superior Court the amount of the said judgment or judgments and take his receipt therefor; provided, that if there be not in such special fund sufficient money collected from said assessments to pay such judgment or judgments in full, the Treasurer shall forthwith report to the City Council and the City Attorney the fact of such delinquency and the amount thereof, and await the passage of an ordinance providing for the advancement of the amount of such deficiency from the general fund of said City before making such payment to said clerk. (Ord. 4213 § 3; passed Jun. 20, 1910)

10.12.040 Issuance of warrants.

Upon receipt by the Treasurer of the assessment roll certified by the clerk of said court, together with a copy of the approved accounts of the Eminent Domain Commissioners, the proper officers shall issue warrants to said Eminent Domain Commissioners in the amount approved by the judge of said court, upon the special fund created to pay the awards and costs of such proceeding. (Ord. 4213 § 4; passed Jun. 20, 1910)

10.12.050 Director of Finance to draw warrants.

The Director of Finance shall draw all warrants necessary to carry into effect the provisions of sections 10.12.010 through 10.12.040. (Ord. 4213 § 5; passed Jun. 20, 1910)

10.12.060 Notice of payments made to Clerk of Superior Court.

The Treasurer shall forthwith notify the City Attorney of any payments made by him to the Clerk of the Superior Court. (Ord. 4213 § 5; passed Jun. 20, 1910.)

10.12.070 Offset of judgment against assessments.

Whenever, in condemnation proceedings prosecuted by the City of Tacoma, compensation or damages, or both, are awarded to the owners thereof and to other persons interested in any real property taken or damaged, and an assessment upon property benefited is made to pay the whole or any part of the compensation or damages, or both, awarded in such proceedings, and

⁹ Chapter 8.12 RCW.

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any person or persons to whom such compensation or damages or both is made also owns real property which is assessed in the same proceeding to pay the compensation and damages awarded in said proceeding, such person or persons may offset pro tanto the amount of the compensation or damages, or both, awarded to such person or persons, against the assessment levied upon real property owned by such person or persons, in the manner herein provided. (Ord. 3420 § 1; passed Sept. 2, 1908)

10.12.080 Offset – Satisfaction on execution docket.

Any person or persons wishing to offset an award of compensation or damages, or both, against any assessment, as provided in Section 10.12.070, shall receipt upon the execution docket of the court in which such award is made, and make satisfaction, on said execution docket, of the amount so sought to be made an offset; and shall procure from the Clerk of said Court and present to the City Treasurer a certificate under the seal of the Court specifying the amount of which satisfaction has been made on the execution docket, the date of such satisfaction, the number and a brief title of the proceeding, including the number of the ordinance under which said proceeding was prosecuted. (Ord. 3420 § 2; passed Sept. 2, 1908)

10.12.090 Offset – Cancellation of assessment.

The City Treasurer, upon receipt by him of the certificate provided for in Section 10.12.080, shall be and he is hereby authorized and directed to cancel such assessment upon the assessment roll, to the amount specified in said certificate, making suitable notation thereof upon the assessment roll. (Ord. 3420 § 3; passed Sept. 2, 1908)

Chapter 10.14

DRIVEWAYS

Sections:

- 10.14.010 Purpose.
- 10.14.020 Definitions.
- 10.14.030 Permit required.
- 10.14.040 Specifications and inspection.
- 10.14.050 Rules and regulations for driveways.
- 10.14.060 Planting strips.
- 10.14.070 Conduit for ornamental street lights.
- 10.14.080 Drainage of surface water.
- 10.14.090 Barriers required between sidewalk and vehicle parking areas on private property.
- 10.14.100 Maintenance of improvements.
- 10.14.110 Application to local improvement districts.
- 10.14.120 Penalty.

10.14.010 Purpose.

The purpose of this chapter is to standardize and regulate the location, size and construction of driveways from the standpoint of proper design and safe and efficient entries to and exit from roadways, and the safety of pedestrian traffic from the sidewalk area. This chapter is enacted under and pursuant to the police power of the City of Tacoma for the purpose of preserving the public health, safety and general welfare of its citizens. (Ord. 20966 § 1; passed Jan. 18, 1977)

10.14.020 Definitions.

A. The word “street” as hereinafter used is intended to include any street, court, alley, or other public passage way within the City of Tacoma.

B. The word “roadway” shall mean the paved, improved or proper driving portion of a street, designed or ordinarily used for vehicular travel.

C. The term “sidewalk area” shall mean that portion of the space lying between the street roadway or curb line and the property line which is reserved for sidewalks, either existing or proposed.

D. The term “change of use” shall mean any change of purpose, service rendered or change in merchandise dispensed for which any land, building or structure is occupied, maintained, arranged, designed or intended.

E. The term “planting strip” shall mean the space between the street roadway or curb line and the property line, with exception of the sidewalk area.

F. The word “driveway” shall mean any area, construction or facility between the roadway of a street and private property to provide access for vehicles from the roadway of a street to private property.

G. The term “established grade” shall mean the profile and cross sections established and approved by the City Engineer. (Ord. 20966 § 1; passed Jan. 18, 1977)

10.14.030 Permit required.

A. No person, firm or corporation shall commence work or permit any other person, firm, or corporation to commence work on the construction, alteration, repair or removal of any driveway or the paving of any planting strip on any street, alley or other public place in the City of Tacoma without a written permit first having been obtained from the Director of Public Works as provided for by Chapter 10.22 and amendments thereto.

B. Any party requesting such permits shall file a written application therefor with the Director of Public Works. Such application shall be made on a City form provided for that purpose, and shall include:

1. The name and address of the applicant.
2. The name and address of the owner of the property abutting the street where the work is proposed.
3. The exact location of the proposed work, giving the street address or legal description of the property involved.
4. A detailed plan accurately showing the dimensions of the abutting property and the dimensions and locations of all existing or proposed driveways and other pertinent features such as bus stops located adjacent to or within 150 feet of the proposed driveway, utility poles, hydrants, street light standards, and trees within the limits of the frontage of said property.

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5. The plan shall also show the location of buildings, loading platforms and off-street parking facilities being served or to be served by such driveways.

6. The Director of Public Works may require, at his discretion, the filing of any other information when, in his opinion, such information is necessary to properly enforce the provisions of this chapter.

7. The Director of Public Works shall forward applications for exceptions to the City's standards for driveways within 150 feet of a Pierce Transit bus stop or located on a transit street, designated pursuant to Section 11.05.492, to Pierce Transit for review and comment. Pierce Transit shall have up to 10 days to submit comments to the Director of Public Works, after which he may take action on the application for the permit.

C. No plan shall be approved nor a permit issued where it appears that the proposed work, or any part thereof, conflicts with the provisions of this chapter or any other ordinance of the City of Tacoma; nor shall issuance of a permit be construed as a waiver of the Zoning Ordinance or other ordinance requirements concerning the plan.

D. No permit shall be issued where it appears that the applicant for such permit has not complied with the provisions of this chapter in the performance of other work covered by this chapter unless and until the applicant has paid to the City of Tacoma as a penalty permit fee the sum of \$200.00 or 10 times the permit fee required for such work, whichever amount is the lesser; such charge to be in addition to the permit fee usually applicable to the work for which the present application is made. (Ord. 25893 § 1; passed Jun. 4, 1996; Ord. 20966 § 1; passed Jan. 18, 1977)

10.14.040 Specifications and inspection.

All construction outlined in this chapter shall be performed in accordance with the Standard Specifications for Municipal Public Works Construction as prepared by the Washington State Chapter of the American Public Works Association, and the City of Tacoma Supplement thereto, as adopted by resolution of the City Council, the City of Tacoma's Department of Public Works Standard Specifications for Street and Sewer Construction, and subsequent amendments to these specifications which are in effect at the time the permit is issued, and shall be performed to the satisfaction of the Director of Public Works or his duly authorized representative. (Ord. 20966 § 1; passed Jan. 18, 1977)

10.14.050 Rules and regulations for driveways.

Every driveway hereafter constructed or altered in street right-of-way shall conform to the following regulations:

A. Location.

1. No driveway shall be so located as to create a hazard to pedestrians, Pierce Transit bus operations, light rail operations, or motorists, or invite or compel illegal or unsafe traffic movements.

2. Every driveway must provide access to an off-street parking area located on private property. Every vehicle entering the driveway must be able to park, stand, or load entirely off the street right-of-way.

3. No driveway shall be allowed to a public or private parking area in conjunction with industrial, commercial, multiple-family dwelling, church, or any like use that requires a vehicle to back out on to any street.

4. Unless otherwise approved by the Director of Public Works, all driveways, including the returns, shall be confined within lines perpendicular to the curb line and passing through the property corners.

5. No driveway shall be constructed in such a manner as to be a hazard to any existing street-lighting standard, utility pole, traffic-regulating device, fire hydrant, or other public facility. The cost of relocating any such public facility, when necessary to do so, shall be borne by the applicant. Said relocation of any public facility shall be performed only through the agency holding authority for the particular structure involved.

6. No construction, alteration or repair shall be permitted for any driveway which can be used only as a parking space on street right-of-way or which provides access only to the areas between the street roadway and private property.

B. Size and Number.

1. The Director of Public Works may limit the size and location of new driveways along transit streets, designated pursuant to Section 11.05.492, after taking into account Pierce Transit's existing and planned service levels and bus stop locations, existing and projected traffic volumes, and alternative access available for new development from cross-streets and streets and alleys serving the rear of the development site.

2. Except as otherwise provided herein, the width of any driveway shall not exceed 30 feet exclusive of the radii of the returns, the measurement being made parallel to the center line of the street, unless special authorization is given by the Director of Public Works. Where driveways are to enter on courts or alleys having a right-of-way width of 40 feet or less, the width of the driveways may exceed 30 feet and the limitation of the percentage of property frontage in driveways may be waived when

required for safety reasons, provided the overall plan of the location of such driveways shall meet the approval of the Director of Public Works.

3. The width of any driveway shall not be less than 10 feet, exclusive of the radii of the returns, the measurement being made parallel to the center line of the street.
4. All driveways for other than single-family residences and duplexes shall be a minimum of 20 feet in width, exclusive of the radii of the returns, the measurement being made parallel to the center line of the street. The radius of all driveway returns shall be a minimum of 10 feet, except on nonarterial streets for single-family residences or duplexes, which shall have a minimum radius of five feet.
5. The total width of all driveways on a street for any one ownership shall not exceed 50 percent of the frontage of that ownership along the street, and shall not be more than two in number except as allowed under subsection 6.e. Any driveway which has become abandoned or unused through a change of the conditions for which it was originally intended, or which, for any reason, has become unnecessary, shall be closed and the owner shall replace any such driveway with a standard curb and sidewalk to be constructed in accordance with the specifications of the City of Tacoma in force at the time of replacement.
6. Wherever, in a single ownership, the total width of existing driveways on a street is over 50 percent of the frontage of the ownership on that street, or any driveways are wider than 30 feet, such existing driveways shall be made to conform to the provisions of this chapter in the event of any of the following:
 - a. Any alteration, widening, relocation, or repair of existing driveways in the ownership.
 - b. Any construction of additional driveways in the ownership.
 - c. Any change of use as defined in Section 10.14.020 of this chapter.
 - d. Upon the alteration or repair of any one or more of the driveways as aforesaid, the Director of Public Works may require such changes in any or all the driveways of that ownership as he may deem necessary for the better movement of traffic or to provide better protection to pedestrians.
 - e. Where a single ownership is developed into more than one unit of operation, each sufficient in itself to meet the requirements of off-street parking and/or loading as required by the Zoning Ordinance, and where the Director of Public Works determines that the safety of pedestrians or vehicular traffic is not endangered, and where there is necessity for separate access to the street, then, and in those events, the requirements outlined above may be construed to apply to each separate unit of operation rather than to the entire ownership.
7. The angle between any driveway and the street roadway or curb line shall not be less than 45 degrees.
8. The two side borders of each driveway shall be parallel.

C. Provisions Based on Existing Conditions.

1. Where standard curbs and gutters of Portland cement concrete are existing or to be constructed in conjunction with driveways, the following provisions shall apply to the driveway construction:
 - a. When Portland cement concrete sidewalks are existing, driveways shall be placed from the curb line to the existing sidewalk line, and shall be constructed of Portland cement concrete. When that section of sidewalk in line with the proposed driveway is in poor condition and determined by the Director of Public Works to be unsafe, the driveway section shall be constructed of Portland cement concrete through the sidewalk to that edge of the sidewalk which faces the property line. Any portion of the remaining sidewalk abutting the ownership for which the driveway is being constructed which is in poor condition shall be repaired or replaced. In either case, driveways may also be extended to the property line with either Portland cement concrete or asphaltic concrete. All commercial driveways shall have a minimum of six inches in thickness through the back of the sidewalk.
 - b. Whenever any driveway is constructed to cross an existing sidewalk which has been determined by the Director of Public Works to differ in grade from the established grade, the driveway shall nevertheless be placed at the established grade, and shall be constructed of Portland cement concrete through the sidewalk to that edge of the sidewalk which faces the property line. Such driveways may also be extended to the property line either with Portland cement concrete or asphaltic concrete. If the existing sidewalk abutting the driveway is below the established grade, an approved temporary patch shall be applied over the sidewalk to meet the driveway, and such patch shall be feathered out to a smooth and even edge. If the sidewalk abutting the driveway is above the established grade, a suitable amount of sidewalk shall be removed and replaced, as directed by the Director of Public Works, to meet the driveway at the proper elevation. Such changes of sidewalk grade shall be confined to the limits of the frontage of the property involved, unless written agreements from the adjoining property owners are presented to the Director of Public Works. Warps, dips, or other conditions existing in the sidewalk which would cause an uneven joint

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between such sidewalk and a driveway shall be repaired, or the sidewalk replaced, as directed by the Director of Public Works.

c. Where Portland cement sidewalks do not exist, the driveways shall be constructed of Portland cement concrete from the curb line to that edge of the proposed sidewalk which faces the property line. Such driveways may also be extended to the property line with either asphaltic concrete or Portland cement concrete.

2. Where Portland cement concrete curb and gutter are neither existing nor being constructed in conjunction with driveways, temporary driveways of asphaltic concrete may be constructed from the line of the street roadway to the property line. If the sidewalk section has been graded to an established grade, the asphaltic concrete temporary driveway must meet that grade and conform to that grade through the future sidewalk area. If the sidewalk section has not been graded to an established grade, the asphaltic concrete temporary driveway shall be constructed as near the future sidewalk grade as it is possible to determine. Such driveways shall be considered temporary and subject to removal and replacement at the expense of the owner of the abutting property, at such time as standard curbs and gutters or sidewalks are constructed. Portland cement concrete driveways shall not be permitted unless standard curbs and gutters are constructed.

D. Driveways for Nonresidential Use. When driveways are constructed to serve property developed for other than residential use, the following improvements shall be required in connection with such driveway construction:

1. Where the existing roadway is at the established grade line, or if it is practical to establish the curb grade, and where adequate storm water drainage is provided, the construction of standard curbs and gutters of Portland cement concrete along the ultimate edge of the pavement, as determined by the Director of Public Works, shall be continuous between any two driveways for one ownership. Standard curbs and gutters of Portland cement concrete shall also be continuous between the driveways and lines extended from the property corners perpendicular to the curb line. Where single ownership is developed into more than one unit of operation, each sufficient in itself to meet the requirements of off-street parking and/or loading as required by the Zoning Ordinance, the requirements for curbs and gutters as outlined above shall be construed to apply to each separate unit of operation rather than to the entire ownership. Construction of the driveways shall be as outlined in this chapter.

2. Concrete curb and gutters and sidewalks, if not already existing, shall be constructed on all streets abutting a new, remodeled, or change of use in a property to be used for commercial purposes unless waived by the Director of Public Works. Such waiver will only be granted when the City has not determined the street width or grade or other valid reasons which make the present construction of such improvements inadvisable at the time. A condition of this waiver shall be that the owner will agree to construct the necessary curb and gutter and sidewalks when the City shall so direct. The owner shall post a bond or make a cash deposit with the City Treasurer, to be held in trust until such curb and gutter and sidewalks shall be constructed. The amount of the bond or of the cash deposit shall equal the amount estimated by the City to be the cost of the necessary work. This bond or cash deposit is toward the cost of this work and is no assurance that the work can be constructed within the amount of the bond or deposit.

3. If concrete curb and gutter and/or sidewalks to exist on all streets abutting a new, remodeled, or change of use in a property are to be used for commercial purposes, all broken or off-grade curb and gutter and/or sidewalks shall be replaced by the owner. Also, all driveways not conforming to this chapter shall be remodeled or replaced as directed by the Director of Public Works. The provisions of this section may be waived for the same reasons, and under the same terms, as in the immediately preceding subsection.

4. The installation of curb and gutter, and/or a driveway or driveways, on streets which are not paved with Portland cement concrete or asphaltic concrete, or where the alignment of the new gutter line is different from that previously existing, the existing pavement shall be connected to the new gutter line, using such materials and such design as shall be specified by the City Engineer.

5. Where construction of driveways and curb and gutter are waived in accordance with Section 10.14.050D.2, driveways shall be properly delineated by the permit holder by spot posts or other means as directed by the City Engineer. The driveways shall be of asphaltic cement concrete from the existing roadway surface to the property line. Such driveways shall be considered temporary and subject to removal and replacement at the expense of the owner of the abutting property at such time as standard curbs and gutters or sidewalks are constructed. Natural drainage along the edge of the roadway shall be provided for, either with a pipe culvert or a valley gutter, as determined by the Director of Public Works, so that no drainage water is impounded because of the temporary driveway. Where pipe culvert is used, a suitable warning marker shall be used on each end of the culvert. (Ord. 25893 § 2; passed Jun. 4, 1996; Ord. 20966 § 1; passed Jan. 18, 1977)

10.14.060 Planting strips.

A. Any paving of outer planting strips shall be by special permission of the Director of Public Works. Any paving of outer planting strips, when permitted, shall be a minimum depth of two inches of asphaltic cement concrete with one-inch minimum crushed rock base, or of three and one-half inches of Portland cement concrete. The subgrade and edges shall be well treated

with an approved sterilant. "Outer planting strip," as referred to in this subsection, shall mean that area lying between the curb and the sidewalk and not normally used as a walkway. Nothing herein provided shall be construed as permitting the parking of vehicles on such strips.

B. The paving of planting strips shall not be permitted in any location where Portland cement concrete sidewalks and Portland cement concrete curbs do not exist, except in industrial-zoned areas where the requirement for sidewalks has previously been waived.

C. No outer planting strip of a width greater than four feet may be paved without provision for the prevention of parking, by the use of trees, shrubs, or posts, or other approved devices. (Ord. 20966 § 1; passed Jan. 18, 1977)

10.14.070 Conduit for ornamental street lights.

Whenever driveways or planting strips are to be paved with Portland cement concrete, there shall first be placed an approved conduit for ornamental street lights, if none already exists. Conduit shall be placed one foot toward the street from the edge of the sidewalk, unless otherwise directed by the Director of Public Works. Locations of conduits shall be identified by scribing a two-inch diameter circle at each edge of the slab when it is poured. The use of conduit in any particular area may be waived by the City Light Division, Street Lighting Engineer, in writing to the contractor or by verbal request to the Public Works Engineering Division, in time to be specified on the special permit. (Ord. 20966 § 1; passed Jan. 18, 1977)

10.14.080 Drainage of surface water.

A. Paved or Hard Surface Areas.

1. Whenever any area is to be paved or hard surfaced, a plot plan of the entire area to be improved shall be submitted to the Director of Public Works. In addition to the information required under Section 10.14.030B for application for a driveway permit, the plot plan shall show the details of grading, drainage and surfacing, including the surfacing material to be used. Developers of parking areas shall also meet the requirements of the Zoning Ordinance.

2. All such paved or hard-surfaced areas shall be provided with approved catch basins or drainage to dispose of all the water that may fall upon such areas. Under no circumstances shall water be allowed to run across a sidewalk area. All drainage provisions shall be of such design as to carry surface water to the nearest practical storm sewer or other means of disposal approved by the Director of Public Works.

3. No person shall construct or alter any such storm drainage structure without having first obtained a written authorization therefor from the Director of Public Works.

4. No permit shall be issued until the proposal has been approved by the Director of Public Works and, where necessary, by the Planning Commission.

B. Driveways. Where any driveway is to be constructed across an existing drainage ditch, a suitable culvert or other drainage structure, as determined by the Director of Public Works, shall be provided at the expense of the owner of the abutting property. (Ord. 20966 § 1; passed Jan. 18, 1977)

10.14.090 Barriers required between sidewalk and vehicle parking areas on private property.

Whenever any area on private property is used for the purpose of parking automobiles, trucks or other vehicles, whether for the sale of such vehicles, public parking, or for other reasons, adequate barriers shall be provided to prevent the parking of vehicles in such a manner that they overhang the sidewalk. Such barriers shall be constructed as directed by the Director of Public Works. (Ord. 20966 § 1; passed Jan. 18, 1977)

10.14.100 Maintenance of improvements.

All driveway paving, planting strip paving, drainage structures, or any other improvements within the space between the property line and the roadway shall be maintained in a safe and usable condition at the expense of the owner of the abutting property. (Ord. 20966 § 1; passed Jan. 18, 1977)

10.14.110 Application to local improvement districts.

The provisions of this chapter shall apply with equal force and effect to similar construction in connection with local improvement districts. (Ord. 20966 § 1; passed Jan. 18, 1977)

10.14.120 Penalty.

Any person who shall violate or fail to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$300.00 or by imprisonment in the County Jail for a term not exceeding 90 days, or by both such fine and imprisonment. (Ord. 20966 § 1; passed Jan. 18, 1977)

Chapter 10.16

LABOR ON PUBLIC WORKS¹⁰

Sections:

- 10.16.010 Eight-hour day.
- 10.16.020 Emergencies – Exceptions.
- 10.16.030 Contract provisions.
- 10.16.040 Duties of City officials.
- 10.16.050 Violations – Penalties.

10.16.010 Eight-hour day.¹¹

Hereafter, all work done for the City of Tacoma, either by contract or day labor, shall be performed in work days of not more than eight hours each. (Ord. 5162 § 1; passed Dec. 11, 1912)

10.16.020 Emergencies – Exceptions.

All work done by contract or subcontract on any building or improvement, or work on roads, bridges, streets, alleys or buildings, for the City of Tacoma, shall be done under the provisions of this chapter; provided, that the hours for work may be extended in cases of extraordinary emergency where life and property are in danger; but no case of extraordinary emergency shall be construed to exist in any case where other labor can be found to take the place of labor which has already been employed for eight hours in any calendar day. In cases of extraordinary emergency, the rate of pay for time employed in excess of eight hours shall be one and one-half times the rate of pay allowed for the same amount of time during eight hours' service. (Ord. 5162 § 2; passed Dec. 11, 1912)

10.16.030 Contract provisions.

All contracts for work for the City of Tacoma shall provide that they may be canceled by the officers or agents authorized to contract for, or supervise the execution of, such work, in case such work is not performed in accordance with the provisions of this chapter. (Ord. 5162 § 3; passed Dec. 11, 1912)

10.16.040 Duties of City officials.

It is made the duty of all officers and agents authorized to contract for work to be done in behalf of the City of Tacoma to stipulate in all contracts as provided for in this chapter; and all such officers and agents entrusted with the supervision of work performed under such contracts are authorized, and it is made their duty, to declare any contract canceled, the execution of which is not in accordance with the provisions of this chapter. (Ord. 5162 § 4; passed Dec. 11, 1912)

10.16.050 Violations – Penalties.

Any contractor, subcontractor, or agent of contractor or subcontractor, superintendent, foreman or employer, manager or other officer of any corporation which may be a contractor on any public work, who shall violate the provisions of this chapter either by requiring or permitting any employee to work in excess of eight hours in any calendar day, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in a sum not less than \$25.00 nor more than \$100.00, or with imprisonment in the County Jail for a period of not less than 10 days nor more than 30 days, or both such fine and imprisonment at the discretion of the court. (Ord. 5162 § 5; passed Dec. 11, 1912)

¹⁰ For statutory provisions concerning wages, see Chapter 39.12 RCW.

¹¹ For statutory provisions on the eight-hour day, see RCW 49.28.010 through 49.28.060.

Chapter 10.18

SIDEWALKS – CONSTRUCTION, RECONSTRUCTION AND REPAIR

Sections:

- 10.18.010 Materials.
- 10.18.020 Duty to construct or reconstruct sidewalks.
- 10.18.030 Notice – Construction – Payment.
- 10.18.040 Authority granted by Chapter 35.69 RCW.
- 10.18.050 Exceptions to payment.

10.18.010 Materials.

All new sidewalks or sidewalks built to replace existing sidewalks in public street rights-of-way shall be constructed of cement concrete, or other equally durable material as may be approved by the City Engineer. Nothing in this chapter shall prohibit the construction and maintenance of wooden sidewalks or walkways on bridges and viaducts within the City, or the construction of temporary wooden walks in conjunction with construction sites. (Ord. 24052 § 1; passed Mar. 5, 1988)

10.18.020 Duty to construct or reconstruct sidewalks.

Whenever a portion, not longer than one block in length, of any street (the word “street” as used herein includes any boulevard, avenue, street, alley, way, lane, square, or place) is not improved by the construction of a sidewalk thereon (the word “sidewalk” as used herein includes any and all structures or forms of street improvement included in the space between the street margin and the roadway), or the sidewalk thereon has become unfit or unsafe for purposes of public travel, and such street adjacent to both ends of said portion is so improved and in good repair, and the City Council, by resolution, finds that the improvement of such portion by the construction or reconstruction of a sidewalk thereon is necessary for the public safety and convenience, the duty, burden, and expense of constructing or reconstructing such sidewalk shall devolve upon the property directly abutting upon such portion (the terms “property directly abutting” or “abutting property,” as used herein, shall be deemed to be all property having a frontage upon the sides or margins of any such portion); provided that such abutting property shall not be charged with any costs of construction or reconstruction under this chapter in excess of 50 percent of the valuation of such abutting property, exclusive of improvements thereon, according to the valuation last placed upon it for purpose of general taxation. (Ord. 24052 § 1; passed Mar. 5, 1988)

10.18.030 Notice – Construction – Payment.

Whenever the City Council has adopted such resolution, it shall cause a notice to be served upon the owner of the property directly abutting on such portion of such street, instructing said owner to construct or reconstruct a sidewalk on such portion in accordance with plans and specifications which shall be attached to such notice. Such notice shall be served by delivering it in person to the owner or leaving it at his/her home with a person of suitable age and discretion then resident therein, or with an agent of such owner, authorized to collect rentals on such property, or, if such owner is a nonresident of the State of Washington, by mailing a copy to his/her last known address, or, if such owner is unknown or if his/her address is unknown, by posting a copy in a conspicuous place on such portion of said street where such improvement is to be made. Such notice shall specify a reasonable time within which such construction or reconstruction shall be made, and shall state that, in case the owner fails to make the same within such time, the City will proceed to make the same through its Department of Public Works and, at a subsequent date to be definitely stated in said notice, said department will report to the City Council an assessment roll showing the lot or parcel of land directly abutting on such portion of such street so improved, the cost of such improvement, the name of the owner, if known, and that the City Council, at the time stated in the notice, or at the time or times to which the same may be adjourned, will hear any and all protests against the proposed assessment. Upon the expiration of the time fixed within which the owner is required to construct or reconstruct such sidewalk, if the owner has failed to perform such work, the City may proceed to perform such work and shall, within the time fixed in said notice, report to the City Council an assessment roll showing the lot or parcel of land directly abutting on such portion of such street so improved, the cost of such work, and the name of the owner, if known. The City Council shall, at the time in such notice designated, or at an adjourned time or times, assess the cost of such improvement against said property, and shall fix the time and manner for payment thereof, which said assessment shall become a lien upon said property and shall be collected in the manner provided by law for collection of local improvement assessments under Title 35 RCW. (Ord. 24052 § 1; passed Mar. 5, 1988)

10.18.040 Authority granted by Chapter 35.69 RCW.

The ordinance enacting this Chapter 10.18 was passed in order to enable the City of Tacoma to exercise the powers and authority granted by Chapter 35.69 RCW and to provide for the application and enforcement of said Act in this City. (Ord. 24052 § 1; passed Mar. 5, 1988)

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10.18.050 Exceptions to payment.

An abutting property shall not be charged with the costs of reconstruction if the reconstruction is required to correct deterioration or damage to the sidewalk that is the direct result of actions by the City or its agents, or to correct deterioration of, or damage to, the sidewalk that is the direct result of the failure of the City to enforce its ordinances. This section shall not be effective until June 5, 1996. (Ord. 25912 § 1; passed Jun. 2, 1996)

Chapter 10.20

SIDEWALKS – REPAIRS PURSUANT TO AGREEMENT

Sections:

- 10.20.010 Hazardous conditions defined.
- 10.20.020 Mutual agreements authorized.
- 10.20.030 Approval of agreement by City.
- 10.20.040 Extent of City participation.
- 10.20.050 Extent of property owner participation.
- 10.20.055 Inclusion in local improvement districts.
- 10.20.060 Notice to property owner.

10.20.010 Hazardous conditions defined.

A hazard, as referred to herein, constitutes any existing defect which is dangerous to the public safety in the normal use of the facility. Facilities which have a poor appearance but are otherwise physically sound shall not be considered hazardous. The Department of Public Works shall determine those walks and curbs which would be hazardous to reasonably prudent users thereof who exercise reasonable precautions for their own safety. (Ord. 14972 § 1; passed Jan. 8, 1954)

10.20.020 Mutual agreements authorized.

The Director of Public Works is authorized to enter into agreements with owners of abutting property for the repair of any sidewalk or curb determined defective or hazardous as herein defined. The agreements shall define the extent of costs involved and the amount, if any, to be contributed by the City and the property owner. (Ord. 17349 § 1; passed May 28, 1963; prior Ord. 14972 § 2; passed Jan. 8, 1954)

10.20.030 Approval of agreement by City.

Prior to any agreements made by the City to participate in the cost of sidewalk repair or replacement, the approval of the Director of Public Works shall be required. (Ord. 24825 § 1; passed Jan. 22, 1991; Ord. 17149 § 1; passed Aug. 14, 1962; prior Ord. 14972 § 3; passed Jan. 8, 1954)

10.20.040 Extent of City participation.

The City may participate in sidewalk and curb repair, if there are available budgeted funds, only where there is no indication of negligence or misuse by the property owner, past or present, causing the defect. The participation of the City may be in such amounts as the City Council, in its discretion, may determine. The City may participate in the cost of engineering, when required, removal of vegetation, placing topsoil, bankrun gravel, drains, or other materials. In the case of corner lots, the City may pay the full cost of the sidewalk aprons and the curb around the radius from back of walk to back of walk. The City may also pay the full cost of replacing defective alley crossings. (Ord. 24825 § 2; passed Jan. 22, 1991; Ord. 17349 § 2; passed May 28, 1963; Ord. 16041; passed Jan. 3, 1958; Ord. 14972 § 4; passed Jan. 8, 1954)

10.20.050 Extent of property owner participation.

The property owner shall be concerned only with the improvements abutting his property. (Ord. 16041; passed Jan. 3, 1958; Ord. 14972 § 5; passed Jan. 8, 1954)

10.20.055 Inclusion in local improvement districts.

The repair or replacement of sidewalks or curbs through mutual agreements may, upon authorization within an ordinance creating a local improvement district, be included in such local improvement district for other improvements involving the same real property. The amount of City participation in the cost of such sidewalk or curb or replacement shall be paid from the right-of-way enhancement fund. (Ord. 24825 § 3, passed Jan. 22, 1991; Ord. 17054 § 1; passed May 8, 1962)

10.20.060 Notice to property owner.

The Director of Public Works shall notify each property owner of the hazardous or defective sidewalk or curb. Nothing herein contained shall prohibit the City from proceeding with repairs pursuant to authority of Chapter 10.18. (Ord. 14972 § 6; passed Jan. 8, 1954)

Chapter 10.22¹²**RIGHTS-OF-WAY**

Sections:

- 10.22.010 Purpose – Objectives.
- 10.22.020 Definitions.
- 10.22.030 Administration and enforcement.
- 10.22.040 Police powers.
- 10.22.050 Permit required.
- 10.22.060 Permit application and contents.
- 10.22.070 Provisions for Permit.
- 10.22.080 Billable Work Order.
- 10.22.090 Insurance and indemnification.
- 10.22.100 Notice to Fire Department.
- 10.22.110 Inspection by the City.
- 10.22.120 Public safety.
- 10.22.130 Time of completion.
- 10.22.140 Traffic control.
- 10.22.150 General Rights-of-Way use and construction.
- 10.22.160 Joint planning and construction; coordination of Excavations.
- 10.22.170 Minimizing the impacts of Work in the Rights-of-Way.
- 10.22.180 Relocation of Facilities.
- 10.22.190 Abandonment and removal of Facilities.
- 10.22.200 Emergency procedures.
- 10.22.210 Application of the Utilities Department and Contractors working for the City.
- 10.22.220 Revocation of Permits and stop Work orders.
- 10.22.230 Maps/Record Drawings.
- 10.22.240 Responsibility for costs.
- 10.22.250 Local Improvement District (LID) – Aerial to underground cost estimates and participation.
- 10.22.260 Appeals procedure.
- 10.22.270 Violation – Penalty.
- 10.22.280 Severability.

10.22.010 Purpose – Objectives.

A. Purpose. This chapter provides principles, procedures, and associated funding for the placement of Structures and Facilities, construction Excavation encroachments and Work activities within or upon the public Rights-of-Way, and to protect the integrity of the road system. To achieve these purposes, it is necessary to require Permits of users of the public Rights-of-Way and to establish Permit procedures.

B. Objectives. Public and private uses of Rights-of-Way for location of Facilities employed in the provision of public services should, in the interests of the general welfare, be accommodated; however, the City must ensure that the primary purpose of the Rights-of-Way and passage of pedestrian and vehicular traffic is maintained to the greatest extent possible. The use of the Rights-of-Way will not unreasonably limit or encroach upon the public's right to travel on said Rights-of-Way or the ancillary right to occupy said Rights-of-Way for utility purposes. In addition, the value of other public and private installations, roadways, Facilities, and properties should be protected; competing uses must be reconciled; and the public safety preserved. The use of the Rights-of-Way corridors by private users is secondary to these public objectives and the movement of traffic. This chapter is intended to strike a balance between the public need for efficient, safe transportation routes and the use of Rights-of-Way for location of Facilities by public and private entities. It, thus, has several objectives:

1. To ensure that public safety is maintained and that public inconvenience is minimized;
2. To protect the City's Infrastructure investment by establishing repair standards for the pavement, Facilities, and property in the Rights-of-Way, when Work is accomplished;
3. To facilitate Work within the Rights-of-Way through the standardization of regulations, by establishing clear and nondiscriminatory local guidelines, standards, and time frames for the exercise of local authority with respect to the regulation of the use of Rights-of-Way, and permit and manage reasonable access to the Rights-of-Way on a competitively neutral basis;

¹²Chapter 10.22 repealed and reenacted by Ord. 27834 Ex. A; passed Sept. 22, 2009.

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4. To maintain an efficient Permit process and assure that the City's current and ongoing costs of granting and regulating private access to and use of the Rights-of-Way are fully paid by the Persons seeking such access and causing such costs;
5. To conserve the limited physical capacity of the Rights-of-Way held in public trust by the City;
6. To establish a public policy for enabling the City to discharge its public trust consistent with the evolving federal and state regulatory policies, industry competition, and technological development;
7. To promote cooperation among the Permittees and the City in the occupation of the Rights-of-Way, and Work therein, in order to (a) eliminate duplication that is wasteful, unnecessary, or unsightly; (b) lower the Permittee's and the City's costs of providing services to the public; and (c) minimize street cuts; and
8. To assure that the City can continue to fairly and responsibly protect the public health, safety, and welfare. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.020 Definitions.

For the purpose of this chapter the following words shall have the following meanings:

- A. "Annual Permit" means the Permit described in subsection 10.22.050.I of this chapter. The cost of the Annual Permit will be in accordance with subsection 10.22.080.B of this chapter.
- B. "Applicable Law" means any Local Law or federal or state statute, law, regulation, or other legal authority governing any of the matters addressed in this chapter.
- C. "Billable Work Order" means funding to be provided by a Permittee for Work for which a Permit is required under Section 10.22.080 to cover the City's actual costs, including, but not limited to, design review and approval, administration, and inspection of the privately designed plans for the construction of City-owned Infrastructure in the public Rights-of-Way.
- D. "City" means the City of Tacoma, Washington. General references to "City" are not intended to refer to the City's Utilities Department, which is to be governed as any other Permittee or Owner under this chapter, unless the context of a specific provision otherwise provides.
- E. "Contractor" means a Person, partnership, corporation, or other legal entity who undertakes to construct, install, alter, move, remove, trim, demolish, repair, replace, Excavate, or add to any improvements covered by this chapter, that requires Work, workers, and/or equipment to be in the Rights-of-Way in the process of performing the above-named operations.
- F. "Developer" means the Person, partnership, corporation, or other legal entity who is improving a parcel of land within the City and who is legally responsible to the City for the construction of improvements within a subdivision or as a condition of a building Permit.
- G. "Director" means the Director of Public Works of the City or his or her authorized representative.
- H. "Emergency" means any event which may threaten public health or safety, or that results in an interruption in the provision of services, including, but not limited to, damaged or leaking water or gas conduit systems; damaged, plugged, or leaking sewer or storm drain conduit systems; damaged electrical and communications Facilities, and advanced notice of needed repairs is impracticable under the circumstances.
- I. "Excavate" or "Excavation" means to dig into or in any way remove or penetrate any part of the Rights-of-Way.
- J. "Facility" or "Facilities" means, including, without limitation, any pipes, conduits, wires, cables, amplifiers, transformers, fiber-optic lines, antennae, poles, street lights, ducts, fixtures and appurtenances, and other like equipment used in connection with transmitting, receiving, distributing, offering, and providing utility and other services.
- K. "Infrastructure" means any public Facility, system, or improvement including, without limitation, water and sewer mains and appurtenances, storm drains and Structures, streets, alleys, traffic signal poles and appurtenances, conduits, power poles, signs, landscape improvements, sidewalks, and public safety equipment.
- L. "Landscaping" means materials, including, without limitation, grass, ground cover, shrubs, vines, hedges, or trees and nonliving natural materials commonly used in landscape development, as well as attendant irrigation systems.
- M. "Local Law" means any Tacoma City Charter provisions, ordinances, regulations, rules, standards, or other legal authority adopted by the City governing any of the matters addressed in this chapter.
- N. "Owner" means the lawful owner of Facilities subject to provisions of this chapter.
- O. "Permit" means any authorization for use of the Rights-of-Way granted in accordance with the terms of this chapter and Local Law.

P. "Permittee" means the holder of a valid Permit issued pursuant to this chapter.

Q. "Person" means any Person; firm; partnership; special, metropolitan, or general district; association; corporation; company; or organization of any kind, except as otherwise provided herein.

R. "Rights-of-Way" means the public streets and easements which, under Applicable Law, the City has regulatory authority, and any license, or Permit granting any right to or use thereof, excluding railroad rights-of-way, airport, and harbor areas. Rights-of-Way, for the purpose of this chapter, do not include buildings, parks, poles, or similar facilities or property owned by or leased to the City, including, by way of example and not limitation, Structures in the Rights-of-Way such as utility poles and light poles.

S. "Specifications" means regulations, policies, and standards adopted by the City.

T. "Structure" means anything constructed or erected with a fixed location below, on, or above grade, including, without limitation, foundations, fences, retaining walls, awnings, balconies, and canopies.

U. "Work" means any labor performed in connection with construction, maintenance or repair of Facilities impacting the Rights-of-Way and all related appurtenances, fixtures, improvements, sidewalks, driveway openings, bus shelters, bus-loading pads, streetlights, and traffic signal devices. It shall also mean construction, maintenance, and repair of all underground Structures such as pipes, conduits, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar Structure located below surface, and installation of overhead poles used for any purpose. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.030 Administration and enforcement.

The Director, or his or her duly authorized agent, is hereby authorized and directed, and it shall be his or her duty, to enforce all the provisions of this chapter. Such duty shall include, but not be limited to, the approval of plans and Specifications for any construction, barricade, or Excavation; issuance of Permits; establishment and collection of engineering inspection charges, repairs of cuts, and reconditioning of streets; inspection of constructing sidewalk, curb, gutter, grading, paving, storm and sanitary sewers, retaining walls, driveways, or any other construction, barricade, or Excavation in any street or alley; keeping of necessary records; and gathering of evidence for the assistance in apprehending and prosecuting violators. The Director shall have the authority to render interpretations of this chapter and may adopt reasonable rules and administrative procedures, including the City of Tacoma Right-of-Way-Restoration Policy (hereinafter "Policy"), to enforce the provisions of this chapter. Such interpretations, rules, and administrative procedures shall be in conformity with the intent and purposes of this chapter. The Director is authorized to amend and update, as necessary, such rules and administrative procedures. All restoration activities within the Rights-of-Way shall conform to the Policy. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.040 Police powers.

A Permittee's rights hereunder are subject to the police powers of the City, which include the power to adopt and enforce Local Law, including amendments to this chapter, necessary to protect the safety, health, and welfare of the public. A Permittee shall comply with all Local Law enacted, or hereafter enacted, by the City. The City reserves the right to exercise its police powers, notwithstanding anything in this chapter and any Permit to the contrary. Any conflict between the provisions of the chapter or a Permit and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.050 Permit required.

A. No Person shall grade, pave, level, alter, construct, repair, remove or Excavate any pavement, sidewalk, crosswalk, curb, driveway, gutter, public sewer, water main, conduit, fuel tank, vault, or any other Structure or improvement located over, under, or upon any street, alley, or other public place, or place any Structure, building materials, earth, gravel, rock, garbage, debris, or any other material or thing tending to obstruct, damage, disturb, or interfere with the free use thereof or any improvement situate therein, or cause a dangerous condition thereon, without first obtaining a Permit in writing from the Director.

B. No Permittee shall perform Work in an area larger, at a location different, or for a longer period of time than that specified in the Permit or Permit application. If, after Work is commenced under an approved Permit, it becomes necessary to perform Work in a larger or different area than originally requested under the application or for a longer period of time, the Permittee shall notify the Director immediately and, within 24 hours, shall file a supplementary application for the additional Work if required by the Director.

C. The applicant may subcontract the Work to be performed under a Permit, provided that the Permittee shall be and remain responsible for the performance of the Work under the Permit and all insurance and financial security as required.

D. In the City, the physical construction of public Infrastructure in new developments is the responsibility of the Developer of the land. Ownership of that Infrastructure remains with the Developer of the land until acceptance by the City. Any

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Developer of land where Work is undertaken on Infrastructure that is within the Rights-of-Way, but prior to acceptance by the City, shall obtain a Permit from the City. The City will not accept public Infrastructure improvements where Work performed is not in accordance with applicable City Specifications and applicable provisions of this chapter.

E. Any Person or utility found to be conducting any Excavation activity within the Rights-of-Way, without having first obtained the required Permit(s), shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a Permit before Work may be restarted.

F. No Permit shall be assignable and no Person shall allow his or her name to be used to obtain a Permit or Permits for any other Person; provided, however that a Contractor may obtain a Permit on behalf of an Owner, in which case both the Contractor's and the Owner's name shall appear on the Permit.

G. All applications for such Permit shall be signed by the Person, or his duly authorized agent, who desires to do the Work designated in said application. Said Permit will become void 30 days after the date of issue, unless otherwise provided in the Permit or unless extended or revoked by the Director.

H. No Permit shall be issued where it appears that the Work to be done, or any part thereof, conflicts with the provisions of this chapter.

I. Notwithstanding anything in this Section 10.22.050 to the contrary, for entities that undertake regular, routine maintenance or other limited Work that physically impacts the Rights-of-Way or disrupts traffic in the Rights-of-Way not lasting more than one day, the Director may grant Annual Permits to allow for such Work without the need for obtaining individual Permits on each occasion. The Director may, in his reasonable discretion, consistent with the needs of public safety and welfare, limit the kinds of Work that will be subject to Annual Permits and may attach conditions to the granting of any Annual Permits. Permittees shall notify the Director 24 hours in advance of performing routine maintenance or other limited Work if the Work will impact traffic for more than one day or if lane closures are required during peak traffic hours. Permits issued for Work accomplished under an Annual Permit in arterial streets shall require an approved traffic control plan in accordance with Section 10.22.140 of this code. Permits issued for Work accomplished under an Annual Permit in all other streets shall utilize traffic control in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) and the City's Traffic Control Manual and are not required to submit site specific traffic control plans for such Work. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.060 Permit application and contents.

A. An applicant for a Permit to allow Work in the Rights-of-Way under this chapter shall:

1. File a written application, on forms furnished by the City, which include the following: (a) the date of application; (b) the name and address of the applicant; (c) the name and address of the Developer, Contractor, or Subcontractor licensed to perform Work in the Rights-of-Way; (d) the exact location of the proposed Work activity; (e) the type of existing public Infrastructure (street pavement, curb and gutter, sidewalks, or utilities) impacted by the Work; (f) the purpose of the proposed Work; (g) the dates for beginning and ending the proposed Work; (h) proposed hours of Work; and (i) type of Work proposed;
2. Include an affirmative statement that the applicant or its Contractor is not delinquent in payments due the City's Department of Public Works on prior Work;
3. Attach copies of all Permits or licenses (including City of Tacoma business license and required insurance, deposits, bonding, and warranties) required to do the proposed Work, and to Work in the Rights-of-Way, if licenses or Permits are required under the laws of the United States, the state of Washington, or Local Law; provided, however, that for any Permittee holding an Annual Permit under subsection 10.22.050.I, the Permittee may certify, in a sworn statement upon a form approved by the City, that its required licenses and Permits are current, correctly filed, and will remain so during the entire term of the Annual Permit. If relevant Permits or licenses have been applied for, but not yet received, provide a written statement so indicating. Copies of any such Permits or licenses shall be provided to the City within 48 hours after receipt;
4. At the discretion of the Director, provide a satisfactory plan of Work, acceptable to the Director, showing protection of the subject property and adjacent properties;
5. At the discretion of the Director, provide a satisfactory plan for the protection of existing Landscaping, acceptable to the Director, when the Department of Public Works determines that damage may occur;
6. Include a signed statement verifying that all orders issued by the Department of Public Works to the applicant, requiring the applicant to correct deficiencies under previous Permits issued under this chapter, have been satisfied. This verification shall not apply to outstanding claims which are honestly and reasonably disputed by the applicant if the applicant and the Department of Public Works are negotiating in good faith to resolve the dispute;
7. At the discretion of the Director, include, with the application, engineering construction drawings or site plans for the proposed Work;

8. Include with the application a satisfactory traffic control and erosion protection plan for the proposed Work and any required National Pollutant Discharge Elimination System (NPDES) discharge permit; and

9. Pay the fees prescribed by the Tacoma Municipal Code.

B. Applicants shall update any new information on Permit applications within ten days after any material change occurs.

C. Joint Applications. Applicants may apply jointly for Permits to Work in the Rights-of-Way at the same time and place. Applicants who apply jointly for Permits may share in the payment of the Permit fee. Applicants must agree, among themselves, as to the portion each shall pay. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.070 Provisions for Permit.

Every Permit shall require that the Person performing the work shall:

A. Unless a City entity, be a state of Washington licensed and bonded contractor. Contractors working on behalf of the City shall also be a state of Washington licensed and bonded contractor;

B. Give the Director 24 hours' notice prior to and upon completion of such Work. Should the schedule of Work to be performed under an Annual Permit be revised, the Permittee shall notify the Director as soon as practicable;

C. Carry on such Work in conformance with the City's general Specifications in effect at the time of issuance of said Permit;

D. Diligently prosecute the same to completion;

E. Comply with such additional conditions and provisions as may be prescribed by the Director;

F. Except for City departments or Contractors working for City departments, deliver to the City, prior to the issuance of a Billable Work Order permit, a bond in the sum equal to the value of the Work to be performed, but, in any event, not less than \$15,000, in a form to be approved by the City Attorney and with surety approved by the Director of Finance. Such bond shall be conditioned on the faithful conformance with the provisions of this chapter, and shall be further conditioned that the Permit applicant shall carry out and complete such Work within the specified time and according to the terms of such Permit furnished by the Director and according to the City's general Specifications. Such bond shall be continuously in effect from the date of issue and may be further conditioned to cover all Permits issued to the applicant; provided, that such bond by its terms provides that the same shall not be canceled unless and until the Director is given a written notice of such intention to cancel a minimum of ten days before the effective date of said cancellation. Such bond shall further provide that it shall remain in full force and effect until the completion of any and all Work which has been commenced, or is to be commenced, pursuant to any Permits issued prior to the effective date of cancellation. The bond shall remain in force and effect for a minimum of one year after completion and acceptance of any street cut or Excavation.

Except for Billable Work Order permits, deliver to the City prior to issuance of a Permit, a bond in the sum amount of \$15,000, in a form to be approved by the City Attorney and with surety approved by the Director of Finance. Such bond shall be conditioned on the faithful conformance with the provisions of this chapter and shall be further conditioned that the Permit applicant shall carry out and complete such Work within the specified time and according to the terms of such Permit furnished by the Director, and according to the City's general Specifications. Such bond shall be continuously in effect from the date of issue and may be further conditioned to cover all Permits issued to the applicant; provided, that such bond by its terms provides that the same shall not be canceled unless and until the Director is given a written notice of such intention to cancel a minimum of ten days before the effective date of said cancellation. Such bond shall further provide that it shall remain in full force and effect until the completion of any and all Work which has been commenced, or is to be commenced, pursuant to any Permits issued prior to the effective date of cancellation. The bond shall remain in force and effect for a minimum of one year after completion and acceptance of any street cut or Excavation.

Exceptions: (1) Persons or corporations with a valid City sign erector's license shall not be required to post a bond or other surety to be issued Permits to work in public Rights-of-Way; (2) the Director may waive or reduce the bond obligation for an applicant who requests a Permit to replace a sidewalk or other project located in City Rights-of-Way and is immediately abutting the applicant's property and where the value of the Work to be performed is less than \$15,000; (3) for entities that undertake regular, periodic Work in the Rights-of-Way and receiving an Annual Permit, as described in subsection 10.22.050.I TMC, the Director may accept a single bond in an amount to be determined in the Director's reasonable discretion, in lieu of the requirement to obtain individual bonds on each occasion; and (4) the Director shall have the discretion to reduce the bond obligation down to 30 percent of the original bond amount for building developers undertaking substantial road construction where the amount of the reduced bond is deemed sufficient to protect the City; and

G. Except in the case of a City department, or a Contractor working for a City department, deposit with the Director a sum, to be computed based upon the itemized estimated cost of the Work as determined by the Director, for repair of cuts and reconditioning by reason of sewer, water pipe, conduit, gas pipe, cable, or other Excavation to be done by the City at the

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expense of the Permittee. If the said Work by the City exceeds the initial deposit, the Director will, upon determining the actual size of the repair or cut, bill the Permittee the balance of the charge. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.080 Billable Work Order.

A. A Permittee is required to obtain a Billable Work Order Permit to cover the City's actual costs, including, but not limited to, design review and approval, administration, and inspection of the privately designed plans for the construction of City-owned Infrastructure in the public Rights-of-Way. City-owned Infrastructure may include, but is not limited to, the construction of sanitary sewers, storm drainage, permanent alley paving, permanent street paving and associated appurtenances, street lighting, and traffic signalization.

B. Every Person that undertakes regular, routine maintenance, or other limited Work in the Rights-of-Way shall, by January 31 of each year, deposit with the City Treasurer an amount calculated by the Director to cover the cost of Work likely to be performed by the City under that Billable Work Order during the succeeding 12 months. The City may draw upon that deposit to cover its costs. In the event excess funds remain in the operator's Billable Work Order account at the end of the year, such excess shall be refunded or credited to the next year's Billable Work Order. The Director, at any time, may require a Permittee to replenish the amount deposited if it appears that the initial deposit or subsequent deposits will be exhausted during the course of the year. No Permit issued shall be valid or of any force or effect if an operator fails to make the required deposits. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.090 Insurance and indemnification.

Except for City departments and unless otherwise specified in a franchise agreement between the Permittee and the City, prior to the granting of any Permit, the Permittee shall provide to the City the insurance coverages and shall indemnify the City in the same amounts and in the same manner as required for street occupancy permits in Chapter 9.08 TMC. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.100 Notice to Fire Department.

At least three days prior to working in any portion of a street commonly used as a thoroughfare requiring closure to vehicular traffic, the Permittee shall give written notice thereof to the Chief of the Fire Department and shall give written notice upon completion of said Work. If access to a fire station will be obstructed at any time during construction, the Permittee shall submit a plan of action to be approved by the Chief of the Fire Department at least 30 days prior to any activities that result in such obstruction. At least five days prior to obstructing access to the fire station, the Permittee shall give written notice to the Chief of the Fire Department confirming the date that the obstruction will commence. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.110 Inspection by the City.

If, in the judgment of the Director, the nature of the Work shall be such, under the provisions of this chapter, as to require inspection, engineering, and/or design review on behalf of the City, either during the progress of the same or after the completion thereof, or both, the City may inspect and/or design, perform design review or survey the same, and charge the Permittee for actual costs, including administrative overhead performed on a time and materials basis. If the provisions of this chapter are not performed to the satisfaction of the Director, then said Director may cause the necessary Work to be done to comply with the provisions of this chapter at the expense of the Person doing such Work. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.120 Public safety.

A Permittee shall maintain a safe Work area, free of safety hazards. The City may make any repair necessary to eliminate any safety hazards not performed as directed. Any such Work performed by the City shall be completed and billed to the Permittee at the City's actual cost. The Permittee shall pay all such charges within 30 days of the statement date. The City shall not issue any further Permits of any kind to said Permittee until all outstanding charges (except those outstanding charges that are honestly and reasonably disputed by the Permittee and being negotiated in good faith with the City) have been paid in full. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.130 Time of completion.

All Work covered by the Permit shall be completed by the date stated on the application. Permits shall be void if Work has not commenced 30 days after issuance, unless an extension has been granted by the Director. Bonds provided pursuant to the Tacoma Municipal Code for individual Permits will be returned after voiding of the Permit, with administrative and any other City costs deducted. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.140 Traffic control.

A. When it is necessary to obstruct or impact vehicular or pedestrian traffic, and unless otherwise allowed by this code or in the discretion of the Director, a traffic control plan in accordance with the MUTCD shall be submitted to the City prior to starting construction. The traffic control plan shall include provisions to provide temporary pedestrian accessibility in accordance with Americans with Disabilities Act Accessibility Guidelines (ADAAG), the Draft Public Rights-of-Way Accessibility Guidelines (PROWAG) and the MUTCD. No Permit will be issued until the plan is approved by the City. No Permittee shall block access to and from private property; block emergency vehicles; or block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing Structures, or any other vital equipment, unless the Permittee provides the City with written verification that it has provided written notice to the Owner or occupier of the facility, equipment, or property at least a minimum of three days in advance. If a street closing is desired, the applicant will request the assistance and obtain the approval of the Director. It shall be the responsibility of the Permittee to notify and coordinate all Work in the public Rights-of-Way with police, fire, ambulance, transit organizations, and other entities, as determined in the Director's reasonable discretion. An approved traffic control plan shall be located on the construction site.

B. When necessary for public safety, the Permittee shall employ flag persons, whose duties shall be to control traffic around or through the construction site. The use of flag persons will be governed by the provisions of the MUTCD and may be required in other cases at the discretion of the Director.

C. Unless approved by the Director, the Permittee shall not impede rush hour traffic on arterial or collector streets during the morning or evening rush hours. No traffic lane shall be closed to traffic during the hours of 7:00 a.m. to 9:00 a.m. or 3:30 p.m. to 6:00 p.m. without the approval of the Director. In addition, no construction shall be performed nor shall any traffic lane be closed to traffic between Thanksgiving day and New Year's day within the downtown core and outlying business districts unless otherwise approved by the Director.

D. Traffic control devices, as defined in Part VI of the MUTCD, must be used whenever it is necessary to close a traffic lane or sidewalk. Traffic control devices are to be supplied by the Permittee. If used at night, they must be reflectorized and must be illuminated or have barricade warning lights.

E. Unless necessary for protection of the workplace, nighttime Work area flood lighting shall not be allowed to spill out of the construction area in such a way as to disturb, annoy, or endanger the comfort, health, or peace of others.

F. The most current version of the MUTCD, or any successor publication thereto, shall be used as a guide for all maintenance and construction signing. The Permittee shall illustrate on the Permit the warning and control devices proposed for use. At the direction of the Director, such warning and control devices shall be modified.

G. Maintenance and construction signing. The Permittee shall be responsible for maintaining all Work area signing and barricading during construction operations, as well as any signs and barricades that are needed to protect roadway users and pedestrians during nonwork hours. During nonwork hours, all construction Work area signs that are not appropriate shall be removed or covered. Any deficiencies noted by the City shall be corrected immediately by the Permittee. If Permittee is not available or cannot be found, the City may make such corrections and the Permittee shall pay the actual costs plus a penalty of 50 percent of the amount thereof. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.150 General Rights-of-Way use and construction.

A. Rights-of-Way meetings. Permittee will make reasonable efforts to attend and participate in meetings of the City, of which the Permittee is made aware, regarding Rights-of-Way issues that may impact its Facilities, including planning meetings to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Permittee shall work with other similarly situated providers, licensees, Permittees, and franchisees so as to reduce, so far as possible, the number of Rights-of-Way cuts within the City and the amount of pedestrian and vehicular traffic that is obstructed or impeded.

B. Minimal interference. Work in the Rights-of-Way, on or near other public or private property, shall be done in a manner that minimizes interference with the rights and reasonable convenience of property owners and residents. Permittee's Facilities shall be constructed and maintained in such a manner as not to interfere with sewers, water pipes, or any other property of the City, or with any other pipes, wires, conduits, pedestals, Structures, or other Facilities that may have been laid in the Rights-of-Way by, or under, the City's authority. The Permittee's Facilities shall be located, erected, and maintained so as not to endanger or interfere with the lives of Persons or to interfere with new improvements the City may deem proper to make or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property.

C. Underground construction and use of poles.

1. The construction, operation, and repair of Facilities in the Rights-of-Way are subject to the supervision of all of the authorities of the City that have jurisdiction in such matters and shall be performed in compliance with all Local Law affecting such Facilities. By way of example, and not limitation, this includes zoning codes, safety codes, and City construction

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standards, including the most current version of the Standard Specifications for Road, Bridge and Municipal Construction, as prepared by the Washington State Department of Transportation (WSDOT) and the Washington State Chapter of American Public Works Association (APWA), the most current version of the City of Tacoma Amendments to the WSDOT and APWA Standard Specifications, City of Tacoma Standard Plans, and the City's Right-of-Way Restoration Policy, as amended. Permittees engaged in the construction, operation, or repair of Facilities in the Rights-of-Way shall exercise reasonable care in the performance of all their activities and shall use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public or to property.

2. Construction, operation, or repair of Facilities in the Rights-of-Way shall not commence until all required Permits have been properly filed for and obtained from the proper City officials and all required Permits and associated fees paid. In any Permit so issued, the City may impose, as a condition of the granting of the Permit, such conditions and regulations as may be necessary to the management of the Rights-of-Way, including, by way of example and not limitation, for the purpose of protecting any Structures in the Rights-of-Way, for the proper restoration of such public Rights-of-Way and Structures, for the protection of the City and the public, and for the continuity of pedestrian and vehicular traffic.

3. Permittees of any Facilities in the Rights-of-Way must follow City-established requirements for placement of such Facilities, including the specific location of Facilities in the Rights-of-Way, and must, in any event, install Facilities in a manner that minimizes interference with the use of the Rights-of-Way by others, including others that may be installing similar Facilities. The Director may require that Facilities be installed at a particular time, at a specific line and grade, or in a particular manner as a condition of access to particular Rights-of-Way; may deny access if an operator is not willing to comply with the City's requirements; and may remove, or require removal of, any Facility that is not installed in compliance with the requirements established by the City, or which is installed without prior City approval of the time, line and grade, or manner of installation and charge the operator of the Facility for all the costs associated with removal.

4. When required by Applicable Law, a Permittee's Facilities shall be placed underground at no cost to the City. Placing Facilities underground does not preclude the use of ground-mounted appurtenances.

5. Where all Facilities are installed underground at the time of Permittee's construction, or when all such Facilities are subsequently placed underground, all Permittee Facilities, including Facilities such as drops, which cross private property shall also be placed underground at no expense to the City. With respect to private property, the undergrounding shall be based upon mutual agreement with the private property owner or pursuant to RCW 35.96, as applicable. Whenever the Owners of poles locates or relocates underground within an area of the City, every Permittee with Facilities on the same poles shall concurrently relocate its Facilities underground at its expense. Related equipment, such as pedestals, must be placed in accordance with Local Law. In areas where existing Facilities are aerial, the Permittee may install aerial Facilities.

6. For above-ground Facilities, the Permittee shall utilize existing poles and conduit wherever possible.

7. The Director may, for good cause shown, exempt a particular Facility or group of Facilities from the obligation to locate or relocate Facilities underground, where relocation is impractical, or where the interest in protecting against visual blight can be protected in another manner. Nothing in the paragraph prevents the City from ordering Facilities to be located or relocated underground under other provisions of the Tacoma Municipal Code.

8. Tree trimming must be performed in strict accordance with the Tacoma Municipal Code.

9. To minimize disruption of public passage or Infrastructure, to forestall or relieve exhaustion of Rights-of-Way capacity, or to protect environmentally sensitive areas, the City may require, as a condition of issuing any Rights-of-Way Permit for placement of underground conduit in trenches or bores, that the holder of the Permit place empty conduits in excess of its own present and reasonably foreseeable requirements for the purpose of accommodating the City's use, in accordance with Applicable Law. The Owner shall cooperate with the City in any such construction, provided that the City has first notified the Owner in some manner that it is interested in sharing the trenches or bores in the area where the Owner's construction is occurring. The Owner shall allow the City to place its Infrastructure in the Owner's trenches and bores as requested by the City, provided that the City incurs a proportionate share of the costs of trenching, boring, and placing the conduit/infrastructure.

The City shall be responsible for maintaining its respective Infrastructure buried in the Owner's trenches and bores or otherwise placed in the Rights-of-Way under this section. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.160 Joint planning and construction; coordination of Excavations.

A. Excavations in the Rights-of-Way disrupt and interfere with the public use of City streets and damage the pavement and Landscaping. The purpose of this section is to reduce this disruption, interference, and damage by promoting better coordination among Permittees making Excavations in the Rights-of-Way and between these Permittees and the City. Better coordination will assist in minimizing the number of Excavations being made, wherever feasible, and will ensure the

Excavations in the Rights-of-Way are, to the maximum extent possible, performed before, rather than after, the resurfacing of the streets by the City.

B. The Public Works Department may develop a capital projects layer on its GIS mapping system, entitled “Capital Improvement Projects,” where it will identify its capital improvement projects. Once established, all public and private utilities and operators of any communications or cable system shall identify and update their capital projects on the Capital Improvement Projects map, in accordance with Local Law. The Public Works Department, all utilities, and all communications or cable system operators are responsible for updating their capital improvement projects on no less than a calendar quarterly basis. The Director will hold semi-annual meetings to discuss capital project schedules with the intent to coordinate construction schedules to the extent practical.

C. Prior to applying for a Permit, any Person planning to Excavate in the Rights-of-Way shall review the Capital Improvement Projects map to coordinate, to the extent practicable, with the utility and street Work shown on such plans to minimize damage to and avoid undue disruption and interference with the public use of such Rights-of-Way. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.170 Minimizing the impacts of Work in the Rights-of-Way.

A. Protection of Utilities. Before beginning Excavation in any Rights-of-Way, a Permittee shall contact the regional notification center for subsurface installations (One-Number Locator Service) and, to the extent required by RCW 19.122, make inquiries of all ditch companies, utility companies, districts, local government departments, and all other agencies that might have Facilities in the area of Work to determine possible conflicts.

B. The Permittee shall contact the One-Number Locator Service and request field locations of all Facilities in the area, pursuant to its requirements. Field locations shall be marked prior to commencing Work. The Permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus, which may be affected by the Work from damage during construction or settlement of trenches subsequent to construction.

C. Unless exempt under state law, each Owner that places Facilities underground shall be a member of the One-Number Locator Service and shall field mark the locations of its underground Facilities upon request. The Permittee shall locate its Facilities for the City at no charge.

D. In order to minimize inconvenience and disruption to the public, the publication of Work may be used to notify the public, as well as operators of other Facilities in the Rights-of-Way, of the impending Work. Except for emergencies and routine maintenance Work, and unless otherwise directed by the Director, a Permittee shall, at a minimum, provide notice of the Work to all adjacent property owners and tenants a minimum of five working days prior to start of construction. The notice shall be by letter, flyer, reader boards, door hangers, or comparable method, as approved by the Director, and shall advise of the construction schedule and include the Contractor’s name, a contact person, and telephone number.

E. Noise, dust, debris. Each Permittee shall conduct Work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the Work, the Permittee shall comply with the provisions of Chapter 8.122 TMC, and take appropriate measures to reduce dust and unsightly debris.

F. Hours of Work. Permittee’s Work hours shall be limited to those hours identified in Section 8.122.090 TMC.

G. Trash and construction materials. Each Permittee shall maintain the Work site so that:

1. Trash and construction materials are contained so that they are not blown off of the construction site;
2. Trash is removed from a construction site often enough so that it does not become a health, fire, or safety hazard; and
3. Trash dumpsters and storage or construction trailers are not placed in the Rights-of-Way without specific approval of the Director.

H. Deposit of dirt and material on roadways. Each Permittee shall utilize their best efforts to eliminate the tracking of mud or debris upon any street or sidewalk. Streets and sidewalks shall be cleaned of mud and debris at the end of each day. All equipment and trucks tracking mud and debris into the Rights-of-Way shall be cleaned of mud and debris at the end of each day or as directed by the Director.

I. Unless otherwise approved by the Director, a Permittee shall not stockpile in any Rights-of-Way any Structure, building materials, earth, gravel, rock, garbage, debris, or any other material or thing tending to obstruct, damage, disturb, or interfere with the free use thereof or any improvement therein.

J. Protection of trees and Landscaping. Each Permittee shall protect trees, Landscape, and Landscape features, as required by the City. All protective measures shall be provided at the expense of the Permittee.

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K. Protection of paved surfaces from equipment damage. Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles that will damage pavement surfaces are not permitted on paved surface unless specific precautions are taken to protect the surface. The Permittee will be responsible for any damage caused to the pavement by the operation of such equipment and shall repair such surfaces. Failure to do so will result in the use of the applicant's performance/warranty guarantee by the City to repair any damage and, possibly, the requirement of additional warranty(s).

L. Protection of property. Each Permittee shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The Permittee shall, at its own expense, shore up and protect all buildings, walls, fences, or other property likely to be damaged during the Work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out Work in the public way.

M. Cleanup. As the Work progresses, all Rights-of-Way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All cleanup operations shall be done at the expense of the Permittee.

N. Preservation of monuments. A Permittee shall not disturb any surface monuments, property marks or survey hubs, and points found on the line of Work, unless approval is obtained from the Director. Any monuments, hubs, and points disturbed will be replaced by a Washington Registered Land Surveyor, at the Permittee's expense in accordance with Applicable Law.

O. Each Permittee shall make provisions for employee and construction vehicle parking, so that neighborhood parking adjacent to a Work site is not impacted.

P. Each Permittee shall provide necessary sanitary facilities for workers. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.180 Relocation of Facilities.

A. If relocation of Facilities is required as a result of any public project, the Director shall provide at least 90 days' notice to any Permittee and/or Owner of Facilities. Unless otherwise provided by Applicable Law, the Permittee and/or Owner shall thereupon, at no cost to the City, accomplish the necessary relocation within a reasonable time from the date of the notification, but, in no event, no later than seven working days prior to the date the City has notified the Permittee and/or Owner that it intends to commence its Work, or immediately in the case of emergencies. Upon the Permittee's and/or Owner's failure to accomplish such Work, the City or other public agencies may perform such Work at the Permittee's and/or Owner's expense and the Permittee and/or Owner shall reimburse the City or other agency within 30 days after receipt of a written invoice. Following relocation, all affected property shall be restored to, at a minimum, the condition which existed prior to construction by Permittee and/or Owner at Permittee's and/or Owner's expense. Notwithstanding the requirements of this section, a Permittee and/or Owner may request additional time to complete a relocation project. The Director shall grant a reasonable extension if, in his sole discretion, the extension will not adversely affect the public project.

B. In the event of an Emergency, or where any Facility in the Rights-of-Way creates or is contributing to an imminent danger to health, safety, or property, the City may protect, support, temporarily disconnect, remove, or relocate any or all parts of such Facility without prior notice, and charge the Permittee and/or Owner for costs incurred.

C. If any Permittee or Owner who is authorized to place Facilities in the Rights-of-Way requests another Person to protect, support, temporarily disconnect, remove, or relocate such Facilities to accommodate the construction, operation, or repair of the Facilities of such Permittee or Owner, the Person shall, after 30 days' advance written notice, take action to effect the necessary changes requested. Unless the matter is governed by a valid contract or Applicable Law or unless the Facility that is being requested to move was not properly installed, the reasonable cost of the same shall be borne by the Permittee or Owner requesting the protection, support, temporary disconnection, removal, or relocation and at no charge to the City.

D. A Permittee or Owner of Facilities in the Rights-of-Way shall, on the request of any Person holding a valid Permit issued by a governmental authority, temporarily raise or lower its wires to permit the moving of buildings or other objects. The expense of such temporary removal or raising or lowering of wires shall be paid by the Person requesting the same. A Permittee or Owner shall be given not less than 30 days' advance notice to arrange for such temporary wire changes. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.190 Abandonment and removal of Facilities.

A. Notification of abandoned Facilities. Any Permittee or Owner that intends to permanently discontinue use of any Facilities within the Rights-of-Way shall notify the Director in writing of the intent to discontinue use. Such notice shall describe the Facilities for which the use is to be discontinued, a date of discontinuance of use, which date shall not be less than 30 days from the date such notice is submitted to the Director. With respect to City departments, notification to the Department of Public Works of plans that include information on abandoned Facilities shall constitute notice to the Director under this section. Upon notification, the Director will identify the following options available to the Permittee or Owner:

1. Abandon the Facility in place and the Permittee or Owner shall further convey full title and ownership of such abandoned Facilities to the City. The Permittee and Owner are responsible for all obligations of the Facilities, or other liabilities associated therewith, until the conveyance to the City is completed. At the discretion of the Director, the Permittee or Owner may be required to fill the abandoned underground Facility with controlled density fill.

2. Abandon the Facility in place and the Facility remains the property of the Permittee or Owner. The Permittee or Owner shall retain the responsibility for all obligations as Owner of the Facilities or other liabilities associated therewith. At the discretion of the Director, the Permittee or Owner may be required to fill the abandoned underground Facility with controlled density fill.

3. Facility shall be removed and the Permittee or Owner shall be liable for removing its abandoned Facilities at its own cost. This obligation to remove Facilities applies as well upon termination of any franchise agreement, unless alternative arrangements have been agreed to in writing. Permittee or Owner shall be obligated to restore affected property to the same or better condition as existed, in accordance with the City's Rights of Way Restoration Policy, just prior to such removal, subject to any rights to abandon Facilities in place, as set forth in this section. If a Permittee or Owner fails to remove Facilities that the City requires it to remove, the City may perform the work and collect the cost thereof from Permittee or Owner.

B. The Director shall use reasonable discretion to determine a time period to remove Facilities based upon the size of the Facilities and scope of deployment throughout the City and based on whether such Facilities is above ground or underground. In no case shall a Permittee or Owner with Facilities deployed City-wide be provided less than 12 months to remove its Facilities, measured from the date the Permittee or Owner is ordered to remove its Facilities.

C. A Permittee or Owner shall file a written removal plan with the City not later than 30 calendar days following the date of the receipt of any orders directing removal, or any consent to removal, describing the Work that will be performed, the manner in which it will be performed, and a schedule for removal by location. The removal plan shall be subject to approval and regulation by the City. The affected property shall be restored to as good or better condition than existed immediately prior to removal. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.200 Emergency procedures.

A. Any Person maintaining Facilities in the Rights-of-Way may proceed with repairs upon existing Facilities, without a Permit, when Emergency circumstances demand that the Work be done immediately. The Person doing the Work shall apply to the City for a Permit on or before the third working day after such Work has commenced. All Emergency Work will require prior telephone notification to the Tacoma Police Department and Tacoma Fire Department.

B. Notifications. If any damage occurs to an underground Facility or its protective covering, the Permittee, or his or her agent, shall notify the Facility's operator promptly. When the Facility's operator receives a damage notice, the Facility's operator shall promptly dispatch personnel to the damage area to investigate. If the damage results in the escape of any flammable, toxic, or corrosive gas or liquid, or endangers life, health, or property, the Permittee, or his or her agent, responsible shall immediately notify the Facility's operator and 911 and take immediate action to protect the public and nearby properties. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.210 Application of the Public Utilities Department and Contractors working for the City.

This chapter shall apply with equal force and effect to the Public Utilities Department in all cases where the Utilities Department makes, or seeks to make, any cuts, openings, or Excavations in, through, or under any Rights-of-Way or public place; provided, however, that the Public Utilities Department or Contractors working for it or for the City shall not be required to give any deposit or bond, as provided in this chapter. Notwithstanding the foregoing, Contractors working for the Public Utilities Department or for the City shall be licensed and bonded as required by Section 10.22.060.A.1 of this chapter. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.220 Revocation of Permits and stop Work orders.

Any Permit may be revoked or suspended by the Building Official or City Engineer or the designee of either one of them, pursuant to Section 2.02.130 TMC. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.230 Maps/Record Drawings.

Each Facilities Permittee and/or Owner shall maintain maps or record drawings and improvement plans which show the location and approximate size of ground level and underground Facilities. Maps or record drawings shall be based upon post-construction inspection to verify location. Upon written request, the City may review a Permittee and/or Owner's Facility maps or record drawings during normal business hours. To the extent that any maps or record drawings that may be provided to the City are proprietary under RCW 42.56.270(11) or any other provision of Applicable Law and noted as such in writing by the Permittee and/or Owner, or are otherwise protected from disclosure by any other provision of Applicable Law,

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the City shall protect the information from public disclosure, subject to Applicable Law. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.240 Responsibility for costs.

Except as expressly provided otherwise, any act that a Permittee, its Contractors, or subcontractors is required to perform under this chapter shall be performed at their cost. If a Permittee fails to perform Work that it is required to perform within the time provided for performance, the City may perform the Work and bill the Permittee therefor. The Permittee shall pay the amounts billed within 30 days. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.250 Local Improvement District (LID) – Aerial to underground cost estimates and participation.

A. Utilities, whose Infrastructure is overhead, shall participate (if needing to remain in that particular Rights-of-Way), upon request, in LID conversions of said overhead utilities to underground. Private utilities shall provide estimates to the City at no cost. Should an LID be adopted by the City Council, utilities affected by the conversion shall participate and be reimbursed for the cost of the undergrounding.

B. Unless otherwise specified by the Director, each utility shall provide the preliminary cost estimate, Facility-conversion designs, and final cost estimates to the LID program representative within 60 days of request. At the request of the LID program representative, the utility shall perform underground construction and movement of customer connections underground (overhead reclaim) in coordination with the undergrounding services provided by the other LID utility participants.

C. If federal or state funds are made available to the City for conversion to underground LIDs, the property Owner(s) shall be permitted to share in such funds to the extent legally permissible. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.260 Appeals procedure.

Any decision rendered by the Director, pursuant to this chapter, may be appealed pursuant to Section 2.02.130 TMC. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.270 Violation – Penalty.

Violations of this chapter shall be addressed in accordance with Section 2.02.130 TMC. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

10.22.280 Severability.

All sections, subsections, provisions, and portions of this chapter shall be severable; and if any section, subsection, provision, or portion of this chapter is declared or ruled invalid or otherwise invalidated by any court or agency of valid jurisdiction, such declaration or ruling shall not affect the validity of any other section, subsection, provision, or portion of this chapter, and all other sections, subsections, provisions, and portions of this chapter shall remain in full force and effect. (Ord. 27834 Ex. A; passed Sept. 22, 2009)

Chapter 10.24

STREETS – INSTALLATION OF UTILITIES¹³

Sections:

- 10.24.010 Duty to leave street in good repair.
- 10.24.020 Cost of relocation when street improved.
- 10.24.030 Cost of relocation when grade changed.
- 10.24.040 Submission of plans before improvement started.
- 10.24.050 Water mains to be laid to grade.
- 10.24.060 Establishment of grade.
- 10.24.070 Administration

10.24.010 Duty to leave street in good repair.

Whenever any utility owned and operated by the City of Tacoma shall do any construction or maintenance work in or upon any part of any street or alley, or shall in any way damage or obstruct any street or alley, said utility shall, upon the completion of its work, leave such street or alley in as good and safe condition as it was before the commencement of said work or act. No such utility shall maintain any improvements or works on any part of any street or alley which, in the opinion of the City Engineer, creates an unsafe or hazardous condition. (Ord. 14258 § 1; passed Aug. 8, 1951)

10.24.020 Cost of relocation when street improved.

Whenever any improvement or works of such utility is located in any street or alley by such utility without regard to the established grade, alignment or improved width of such street or alley, or where such grade, alignment or width has not been established, such utility shall, unless otherwise provided in the ordinance ordering the street improvement, pay all costs as necessary for relocating, removing, rearranging or readjusting its improvements or works to permit such street or alley to be graded, paved, drained or otherwise improved to an established grade, alignment and width. (Ord. 14258 § 2; passed Aug. 8, 1951)

10.24.030 Cost of relocation when grade changed.

Whenever any improvement or works of such utility is located in any street or alley in conformance with and in such manner as not to interfere with the established grade, alignment, or improved width thereof, and it is deemed desirable by the City to improve said street or alley or change the grade, alignment or width thereof, such utility shall, unless otherwise provided in the ordinance ordering the street improvement, pay the cost of all materials necessary for the relocation, replacement or rearrangement of its improvements or works, and the fund charged with the street improvement shall pay all other costs required therefor, except that, whenever any improvement or work of a utilities is damaged by the negligence of the department or its agents making the street improvement, the entire cost of the repair or replacement of such damaged improvement or works shall be the obligation of the department or its agent making the street improvement. (Ord. 14258 § 3; passed Aug. 8, 1951)

10.24.040 Submission of plans before improvement started.

No improvements shall be ordered for any street or alley until plans therefor shall have first been submitted by the Department of Public Works to the Department of Public Utilities in order that costs for relocation, replacement or rearrangement of any utility improvements or works may be estimated and charged in accordance with the provisions of this chapter. No improvements or works shall be located in any street or alley by the Department of Public Utilities until plans therefor shall have first been submitted to the Department of Public Works for recommendations and suggestions, if any. Any charges for relocation, replacement or rearrangement of any utilities, when the same is done for the convenience of the Department of Public Works or the contractor engaged in making the street improvement, and where such relocation, removal, rearrangement or readjustment is not necessary to such street improvement, shall be borne by the Department of Public Works or the contractor making the street improvement. (Ord. 14258 § 4; passed Aug. 8, 1951)

10.24.050 Water mains to be laid to grade.

All three-inch water mains, or larger, hereafter laid in the streets and alleys of the City of Tacoma, shall be laid to grade, which grade shall be the grade fixed and established as the permanent grade of such street or alley. (Ord. 9453 § 1; passed Nov. 16, 1927)

¹³ See § 4.23 of Charter.

Tacoma Municipal Code

10.24.060 Establishment of grade.

Upon demand by the Department of Public Utilities, Water Division, the City Engineer shall certify to said Department said permanent grade, and the cost thereof, including the establishment of such grade, in case the same has not theretofore been established, shall be paid by said Department of Public Utilities to the Department of Public Works and included by the Department of Public Utilities, Water Division, as a part of the cost of the improvement in the laying of such water main. (Ord. 9453 § 2; passed Nov. 16, 1927)

10.22.070 Administration.

The Director of Public Works (“Director”) is hereby authorized and directed to enforce all provisions of this chapter. The Director shall have the authority to render interpretations of this chapter and may adopt reasonable rules and administrative procedures, including the City of Tacoma Right-of-Way-Restoration Policy (hereinafter “Policy”), to enforce the provisions of this chapter. Such interpretations, rules, and administrative procedures shall be in conformity with the intent and purposes of this chapter. The Director is authorized to amend and update, as necessary, such rules and administrative procedures. All restoration activities within the right-of-way shall conform to the Policy. (Ord. 27803 Ex. A; passed Jun. 2, 2009)

Chapter 10.26
PUBLIC WORKS CONTRACTS

(Repealed by Ord. 27867)

(Repealed by Ord. 27867 § 1; passed Dec. 15, 2009; Repealed and reenacted by Ord. 27369 § 1;
passed Jun. 21, 2005)

Chapter 10.27

SMALL PUBLIC WORKS CONTRACTS

Sections:

- 10.27.010 Purpose and Goal.
- 10.27.020 Definitions.
- 10.27.030 Applicability and Procedure.
- 10.27.040 Types of Projects.
- 10.27.050 Rules and regulations.
- 10.27.060 Application of rules and regulations.
- 10.27.070 Severability.
- 10.27.080 Review of program.

10.27.010 Purpose and goal.

It is the policy of the City of Tacoma that all citizens be afforded the opportunity for full participation in our free enterprise system, consistent with the City's policy goal and objective that an opportunity for small firms to participate in the provision of construction services, and related goods and/or services, to the City. The objectives of the Small Works Roster Program are increased opportunity to bid for the City of Tacoma's public works projects or improvements where the cost is \$200,000¹⁴ or less, to provide an orderly and efficient method of awarding work and to equitably distribute work among qualified contractors and to comply with the provisions of Washington State law for establishing small works rosters. This chapter is adopted in accordance with RCW Chapter 35.22.620 and RCW 39.04.155. (Ord. 26727 § 1; passed Nov. 7, 2000)

10.27.020 Definitions.

Terms used in this chapter shall have the meaning given to them in this chapter except where otherwise defined, and unless, where used, the context thereof clearly indicates to the contrary.

Words and phrases used herein in the past, present, or future tense include the past, present, and future tenses. Words and phrases used herein in the masculine, feminine, or neuter gender shall include the masculine, feminine, or neuter genders. Words and phrases used herein in the singular or plural shall include both the singular and plural, unless the context thereof indicates to the contrary. As used herein, the following terms shall have the following meaning:

- A. "City" shall mean the City of Tacoma and all affiliated agencies.
- B. "Prevailing Rate of Wage" shall have the same meaning as that contained in RCW 39.12.010 and WAC 296-127-410(3) as said sections now exist or may hereafter be amended.
- C "Public Work or Improvement" shall have the same meaning as provided in RCW 39.04.010, as that section now exists or may hereafter be amended.
- D. "Small Works Roster" (SWR) shall mean the list of contractors maintained pursuant to the City of Tacoma's Small Works Roster Program, as described in this chapter.
- E. "Bid" shall mean a quotation, proposal, solicitation or offer by a bidder or contractor to perform work for a single job under the Small Works Roster Program.
- F "Bidder" shall mean any business or contractor, properly registered for the Small Works Roster Program, that submits a bid or proposal to perform work under the Small Works Roster Program.
- G. "Contract" shall mean an agreement between the City of Tacoma and a contractor to perform work for a single job under the Small Works Roster Program.
- H. "Contractor" means any person(s), firm, partnership, corporation, or combination thereof, who submits a Small Works Roster Application and qualifies to participate in the program. (Ord. 26727 § 1; passed Nov. 7, 2000)

10.27.030 Applicability and procedure.

A small works roster and award of contract process for public works contracts of \$200,000 or less¹⁵ 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.

¹⁴ Code reviser's note: changed from \$25,000 to \$200,000 per City Attorney's office 9/16/2010.

¹⁵ Code reviser's note: changed from "...of up to \$200,000" to "...of \$200,000 or less" per City Attorney's office 9/16/2010.

Tacoma Municipal Code

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. (Repealed and reenacted by Ord. 27868 Ex. A; passed Dec. 15, 2009; Ord. 26727 § 1; passed Nov. 7, 2000)

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. (Repealed and reenacted by Ord. 27868 Ex. A; passed Dec. 15, 2009; Ord. 26727 § 1; passed Nov. 7, 2000)

10.27.050 Rules and regulations authorized.

The Director of Finance is hereby authorized to propose administrative rules and regulations to be approved by the City Manager and Director of Utilities to properly implement and administer the provisions of this chapter. The Director of Finance shall propose to the Public Utility Board and City Council additional categories of work for inclusion in the small works roster procedures following the initial implementation of the program. (Ord. 26727 § 1; passed Nov. 7, 2000)

10.27.060 Application of rules and regulations.

A. Any administrative rules and regulations adopted pursuant to Section 10.27.050 are for the administrative and procedural guidance of the officers and employees of the City of Tacoma, and are further expressions of the public policy of the City of Tacoma. Such rules and 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 these 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 of Tacoma.

B. This chapter is enacted for the benefit of the general public. Any rules and regulations adopted pursuant to this chapter and the actions by City of Tacoma officials and employees in implementing this chapter are performed for the benefit of the general public. Any person, party, corporation, or partnership which contends that an officer or employee of the City of Tacoma has acted improperly or negligently in performing his or her duties under this chapter or the rules and regulations adopted pursuant to this chapter may have standing to request review of said contention by the Board of Contracts and Awards and, thereafter, by the City Council or Public Utility Board, as appropriate. The decision of the City Council or the Public Utility Board, as appropriate, is final and conclusive. (Ord. 26727 § 1; passed Nov. 7, 2000)

10.27.070 Severability.

If any section of this chapter, or its application to any person or circumstance, is held invalid by a court of competent jurisdiction, then the remaining sections of this chapter, or the application of the provisions to other persons or circumstances, shall not be affected. (Ord. 26727 § 1; passed Nov. 7, 2000)

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. (Repealed and reenacted by Ord. 27868 Ex. A; passed Dec. 15, 2009; Ord. 27678 Ex A; passed Dec. 18, 2007; Ord. 26727 § 1; passed Nov. 7, 2000)

Chapter 10.30
RELOCATION ASSISTANCE¹

(Expired)

(Ord. 22239 § 1; passed Nov. 12, 1980)

¹Code reviser's note: Ord. 22239 was effective from 1980 through 1983 only.

