



INFORMATIONAL MEMORANDUM

TO: Public Safety Committee

FROM: Bob Giberson, Public Works Director

CC: Mayor Ekberg

DATE: May 10, 2017

**SUBJECT: Public Safety Plan
Local hiring and disadvantaged business enterprises (DBE) participation
Pilot Policy Proposals**

ISSUE

The Administration and Council share a goal of inclusive hiring as a part of implementing the City's Public Safety Plan.

BACKGROUND

Local hiring and disadvantaged business enterprise participation goals were discussed at the March 20th Public Safety Committee and the March 27th Community Development & Neighborhoods Committee. The overarching theme from both committees was support for tools to encourage local hiring/apprenticeships and DBE participation without compromising affordability and timeliness. Formal labor agreements are very cumbersome and time consuming even for large agencies on large projects. Staff analysis has shown that implementing a formal agreement would require dedicated City staff to oversee, monitor and audit such a program. There is no funding in the Public Safety Plan or the City's General Fund for such a position.

Staff has developed several pilot policy proposals that will achieve the same goal by requiring construction contractors to incorporate a set percentage of local hiring and DBEs into their work. The burden of tracking and reporting of local hires and DBEs will rest with the construction contractor and construction management team. No additional city staff will be required for these proposals.

RECOMMENDATION

Staff would like to include pilot specifications in our upcoming Public Safety Plan construction contracts, based on the attached pilot policy proposals. These specifications will require the Public Safety Plan construction contractors to give priority preference to local area hiring and DBE subcontractors and achieve a set percentage goal based on good faith efforts. These proposals would apply to the construction contracts for Fire Stations 51, 52, 54, the Justice Center and the new Public Works Shops.

The Committee is being asked to provide feedback on the attached proposed pilot policies, which will be forwarded to the May 22, 2017 Committee of the Whole for consensus.

Attachments: Local Hiring Proposed Pilot Policy
DBE Proposed Pilot Policy

Proposed Pilot Policy

Local Hiring for City of Tukwila Public Safety Plan Construction Projects

Section 1 - Purpose.

The purpose of this policy is to create a framework that encourages contractors who receive City public works contracts to hire residents of the Tukwila Area. As a pilot project, all Public Safety Plan construction contracts shall contain provisions pursuant to which the contractor promises to make a good faith effort to hire qualified individuals who are residents of the Tukwila Area in sufficient numbers so that no less than 15% of the contractor's total construction work force, including any subcontractor work force, measured in labor work hours, is comprised of Tukwila Area residents. If the GCCM delivery method is chosen instead of traditional bidding, the good faith effort certification will be adjusted to reflect corresponding milestones. Any GCCM selection process will include local hiring.

Section 2 - Definitions

Unless the context otherwise requires, the following definitions shall govern the construction of this article:

- (a) Contractor. Any person or entity, which, pursuant to a written agreement or purchase order, provides labor or materials on public works projects for the City.
- (b) Days. Calendar days unless otherwise specified.
- (c) Qualified Individual. A person who is specially trained, skilled, and experienced in the work, trade, or craft specified in the portion of the public work of improvement to be performed or who is enrolled in a certified state or federally approved apprenticeship program in the applicable trade or who is a journey person in his or her applicable trade.
- (d) Tukwila Area. Zip code areas within the City of Tukwila limits and zip code areas within 10 miles of the center of Tukwila (I-405/I-5 Interchange) as shown on Attachment A "Tukwila Area Zip Codes".
- (e) Construction Project. A City of Tukwila Public Safety Plan construction project valued at over \$1,000,000, awarded by contract.
- (f) Resident of the Tukwila Area. An individual who is domiciled within the boundaries of the Tukwila Area immediately preceding the date of the bid advertisement by the City and who can verify his or her domicile upon request of the contractor or City by producing documentation such as rent/lease agreement, telephone and utility bills or payment bills, a valid Washington State driver's license or identification card, and/or any other similar, reliable evidence that verifies that the individual is domiciled within the Tukwila Area.

(g) Subcontractor. Any person or entity, which, pursuant to an agreement or purchase order with a City contractor or another subcontractor, participates in the provision of labor or materials for construction projects for the City.

Section 3. Exceptions

The provisions of this article shall not apply under the following circumstances:

- (a) Whenever a state or federal law or regulation applicable to a particular contract prohibits the provision of a local hire requirement; or
- (b) Whenever the City, in accordance with the requirements of this Code or state law, determines that the contract is necessary to respond to an emergency which endangers the public health, safety, or welfare.
- (c) Whenever the City determines that a suitable pool of persons providing specialized skills does not exist locally for a specific public works project.

Whenever an exception is imposed, the basis of the exception shall be included in the staff report to the City Council.

Section 4. Requirements for Contractors Submitting Bids

(a) A contractor who is submitting a formal bid to the City for a construction project must promise to make a good-faith effort to hire qualified individuals who are residents of the Tukwila Area in sufficient numbers so that no less than fifteen percent (15%) of the contractor's total construction work force, including any subcontractor work force, measured in labor work hours, is comprised of Tukwila Area residents.

(b) A "good-faith" effort means the contractor will take the following or similar actions to recruit and maintain Tukwila Area residents as part of the construction workforce:

1. Contact local recruitment sources to identify qualified individuals who are Tukwila Area residents;
2. Advertise for qualified Tukwila Area residents in trade papers and newspapers of general circulation in the Area, unless time limits imposed by City do not permit such advertising;
3. If portions of the work are to be performed by subcontractors, identify qualified subcontractors whose workforce includes Tukwila Area residents;
4. Host a job fair for prospective local applicants;
5. Outreach to the Tukwila and Highline School Districts with informational flyers to go home with students advertising open positions and job fairs; and
5. Develop a written plan to recruit Tukwila Area residents as part of the construction workforce.

(c) Every bidder must complete and sign under penalty of perjury a Certification of Good-faith Effort to Hire Tukwila Area Residents, on the form provided in the City's bid package, and submit said Certification with the sealed bid no later than the date and time of the bid opening. Bidder shall attach to the Certificate documentary evidence supporting bidder's promise to meet or make a good-faith effort to meet the local hiring goal.

(d) Contractor shall include in every subcontract relating to the project the requirement that the subcontractor promises to make a good faith effort to hire qualified individuals who are residents of the Tukwila Area. Contractor shall be responsible for subcontractor's compliance under this article.

(e) Prior to submitting bids, bidders shall ensure that all subcontractors listed in their bids are not disqualified or debarred.

(f) Contractors who have been disqualified or debarred may not submit bids during the period of disqualification. Any bid received from a bidder who is currently disqualified will be returned to the bidder unopened.

Section 5. Requirements for Prospective Subcontractors

(a) Any subcontractor for work, laborers or materialmen relating to a project subject to this article will be required, in his or her contract with the prime contractor, to make a good-faith effort to hire qualified individuals who are residents of the Tukwila Area.

(b) A "good-faith effort" means the subcontractor will take actions such as those required of contractors to recruit and maintain Tukwila Area residents as part of subcontractor's workforce. Subcontractor shall maintain documentary evidence of such actions.

(c) Subcontractors who have been disqualified or debarred may not be listed in a prime contractor's bid for a City public works project and may not submit bids during the period of disqualification.

Section 6. Non-responsive Bids

The City may declare a bid to be non-responsive under the provisions of this article for good cause including, but not limited to, the following circumstances:

(a) If a bidder fails to complete and sign under penalty of perjury the Certification of Good-Faith Effort to Hire Tukwila Area residents and to submit said Certification with his or her sealed bid no later than the date and time of the bid opening; or

(b) If a bidder fails to comply with the good-faith effort requirements set forth in; or

(c) If a bidder or a subcontractor listed by the bidder has been disqualified or debarred pursuant to herein or any other disqualification action.

Section 7. Required Documentation

During the performance of the contract, the contractor shall keep an accurate record on a standardized form showing the name, place of residence, trade classification, hours employed, proof of qualified individual status, per diem wages and benefits of each person employed by the contractor on the specific public works project, including full-time, part-time, permanent and temporary employees. Contractor shall require all subcontractors on the project to maintain records of the same information for subcontractor's work force on the project and shall require subcontractor to provide a copy of those records to contractor

upon contractor's request. Contractor shall make contractor's and subcontractor's records available to the City, upon request, within five working days.

Section 8. Forms Submitted Under Penalty of Perjury.

All forms required under this article shall be attested to as true as to the information set forth therein and shall be submitted under penalty of perjury.

Section 9. Disqualification.

If the City finds that a contractor to whom a City contract for public works has been awarded, or a subcontractor listed by contractor on a public works project, has failed to comply with the good-faith hiring provisions of Section 4(b) during the performance of the contract, the City may disqualify the contractor and/or subcontractor from bidding or being listed in any bid on any City contract for public works for a period of one (1) year from the date of the City's disqualification for a period of three (3) years. The City of Tukwila will keep a current list of all disqualified contractors and subcontractors on file.

Proposed Pilot Policy

Disadvantaged Business Enterprise in City of Tukwila Construction Projects

Section 1. Purpose

The purpose of this policy is to ensure nondiscrimination in the award and administration of City of Tukwila construction contracts and to create a level playing field on which firms owned and controlled by individuals who are determined to be socially and economically disadvantaged can fairly compete. All City of Tukwila Public Safety Plan construction contracts subject to formal bidding requirements shall contain specifications pursuant to which the contractor certifies that they will make a good faith effort to achieve the contractual DBE goal. If the GCCM delivery method is chosen instead of traditional bidding, the good faith effort certification will be adjusted to reflect corresponding milestones. Any GCCM selection process will include DBE participation.

Section 2. Definitions.

a. Construction Contract. A City of Tukwila Public Safety Plan construction project valued at over \$1,000,000, awarded by contract.

b. "Disadvantaged Business Enterprise" or "DBE" as defined and certified by the Washington State Office of Minority and Women's and Business Enterprises.

c. "DBE Joint Venture" means an association of a DBE firm and 1 or more other firm(s) to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

d. "Good Faith Effort" means efforts to achieve a DBE goal or other requirement of this policy which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement. Detailed examples of good faith efforts will be included in contract provisions.

Section 3. Process

a. The Contractor will solicit Disadvantaged Business Enterprise (DBE) participation through reasonable and available means, meet the specified contract DBE goal, and show a good faith effort to obtain DBE participation.

b. The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of any contract.

c. The requirements of this policy shall be physically included in contract and subcontract documents.

d. By signing a contract proposal, the Bidder will be certifying that the DBE goal as stated in the bid documents proposal will be met by obtaining commitments from eligible DBEs or that the Bidder will provide acceptable evidence of good faith effort to meet the commitment.

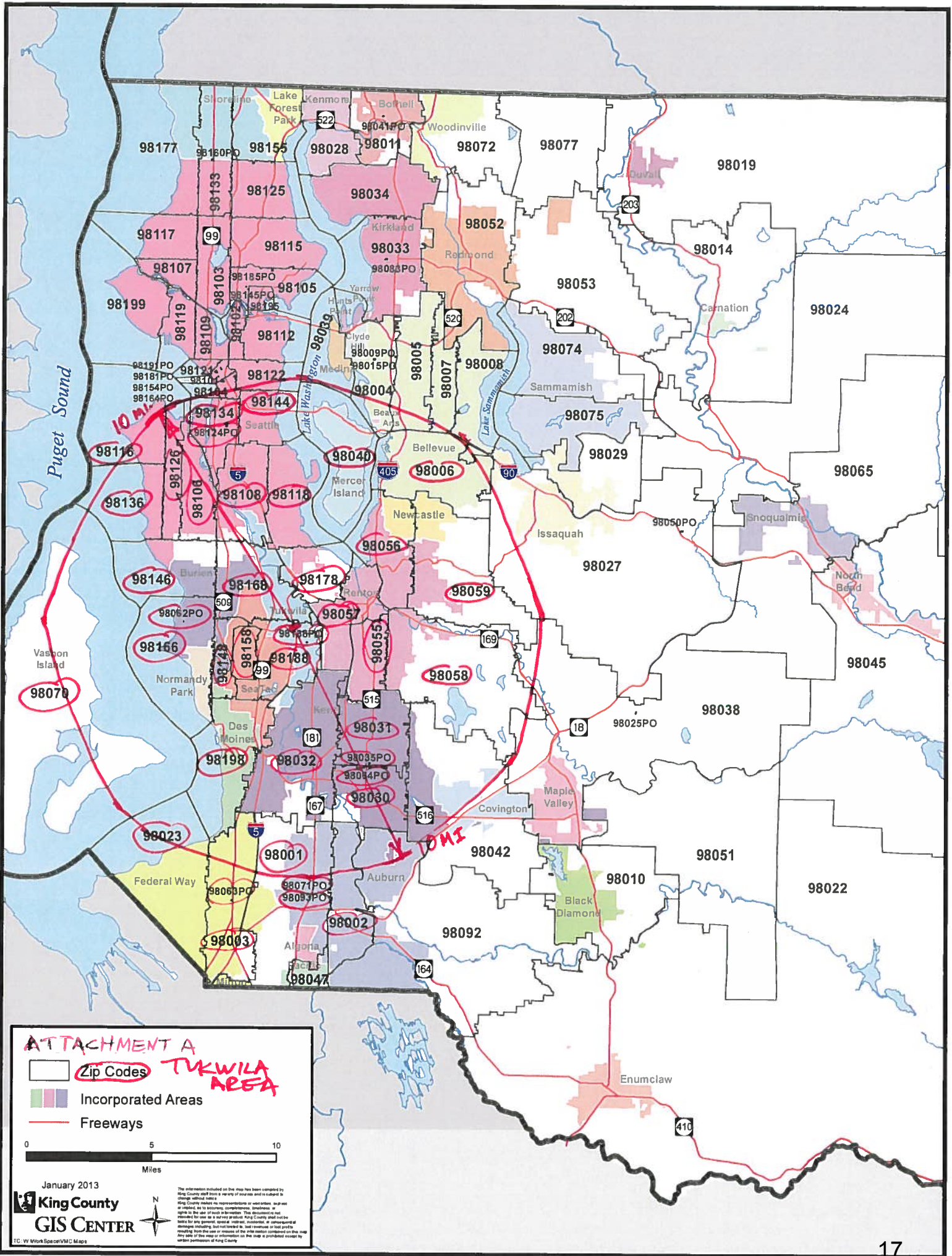
Section 4. Contractor's Responsibilities.

The Contractor must satisfy the following requirements:

- a. Immediately after bid award of the contract, the Contractor shall submit a letter specifying details for each DBE he/she intends to use to satisfy the DBE goal or a good faith effort to explain why the goal could not be reached.
- b. DBE prime Contractors may receive credit toward the DBE goal for work performed by his/her own forces and work subcontracted to DBEs. A DBE prime must make a good faith effort to meet the goals. In the event a DBE prime subcontracts to a non-DBE, that information must be reported.
- c. A Contractor who cannot meet the contract goal, in whole or in part, shall make adequate good faith efforts to obtain DBE participation. A "good faith" effort means the contractor will take the following or similar actions to recruit and maintain DBEs as part of the construction workforce:
- 1) Contact local DBE sources to identify qualified DBE firms;
 - 2) Advertise for qualified DBEs in trade papers and newspapers of general circulation in the Area, unless time limits imposed by City do not permit such advertising;
 - 3) Host a job fair for prospective DBE participants; and
 - 4) Develop a written plan to attract DBEs as part of the construction workforce.
- f. The Contractor shall not terminate for convenience a DBE subcontractor named in the bid documents. Prior to terminating or removing a DBE subcontractor named in the bid documents, the Contractor must have a written consent from the City of Tukwila.
- g. The Contractor shall also make a good faith effort to replace a DBE subcontractor that is unable to perform successfully with another DBE, to the extent needed to meet the contract goal.

Section 7. Records and Reports.

- a. The Contractor shall submit monthly reports, after work begins, on DBE payments to meet the DBE goal and for DBE or HUB race-neutral participation. Report payments made to non-DBE HUBs. The monthly report is to be sent to the Area Engineer. These reports will be due within 15 days after the end of a calendar month. These reports will be required until all DBE subcontracting or material supply activity is completed.
- b. DBE subcontractors and/or material suppliers should be identified on the monthly report by Vendor Number, name, and the amount of actual payment made to each during the monthly period. Negative reports are required when no activity has occurred in a monthly period.
- c. All such records must be retained for a period of 3 years following completion of the contract work, and shall be available at reasonable times and places for inspection by authorized representatives of the Department or the DOT. Provide copies of subcontracts or agreements and other documentation upon request.
- d. Prior to receiving final payment, the Contractor shall submit a final DBE utilization report. If the DBE goal requirement is not met, documentation supporting Good Faith Efforts, as outlined in Section 1.A.3.c of this Special Provision, must be submitted with the "DBE Final Report."



ATTACHMENT A
 Zip Codes **TUKWILA AREA**
 Incorporated Areas
 Freeways



January 2013
King County GIS CENTER
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