



COUNCIL AGENDA SYNOPSIS

-----Initials-----			
Meeting Date	Prepared by	Mayor's review	Council review
03/26/18	RB	<i>CS</i>	<i>Ln</i>
04/02/18	RB	<i>CS</i>	<i>Ln</i>

ITEM No.

5.B.

ITEM INFORMATION

STAFF SPONSOR: RACHEL BIANCHI		ORIGINAL AGENDA DATE: 3/26/18	
AGENDA ITEM TITLE Public Safety Plan Disadvantaged Businesses, Apprenticeship and Local Hire Utilization			
CATEGORY <input checked="" type="checkbox"/> Discussion Mtg Date 03/26/18	<input type="checkbox"/> Motion Mtg Date	<input checked="" type="checkbox"/> Resolution Mtg Date 4/2/18	<input type="checkbox"/> Ordinance Mtg Date
<input type="checkbox"/> Bid Award Mtg Date	<input type="checkbox"/> Public Hearing Mtg Date	<input type="checkbox"/> Other Mtg Date	
SPONSOR <input type="checkbox"/> Council <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> HR <input type="checkbox"/> DCD <input type="checkbox"/> Finance <input type="checkbox"/> Fire <input type="checkbox"/> TS <input type="checkbox"/> P&R <input type="checkbox"/> Police <input type="checkbox"/> PW <input type="checkbox"/> Court			
SPONSOR'S SUMMARY Staff is seeking Council direction on how the City will incorporate disadvantaged businesses, and local hire utilization in the Public Safety Plan. Apprenticeship utilization goals were previously identified by the Council in Resolution #1814.			
REVIEWED BY <input type="checkbox"/> C.O.W. Mtg. <input type="checkbox"/> CDN Comm <input type="checkbox"/> Finance Comm. <input checked="" type="checkbox"/> Public Safety Comm. <input type="checkbox"/> Trans & Infrastructure <input type="checkbox"/> Arts Comm. <input type="checkbox"/> Parks Comm. <input type="checkbox"/> Planning Comm.			
DATE: 3/19/18		COMMITTEE CHAIR: HOUGARDY	

RECOMMENDATIONS:

SPONSOR/ADMIN. **Mayor's Office**

COMMITTEE **Unanimous Approval; Forward to C.O.W.**

COST IMPACT / FUND SOURCE

EXPENDITURE REQUIRED \$	AMOUNT BUDGETED \$	APPROPRIATION REQUIRED \$
Fund Source: PUBLIC SAFETY BONDS		
Comments:		

MTG. DATE	RECORD OF COUNCIL ACTION
3/26/18	Forward to Regular Meeting with Resolution
MTG. DATE	ATTACHMENTS
3/26/18	Informational Memorandum dated 3/12/18, plus attachments (updated after PS Com)
	Minutes from the Public Safety Committee meeting of 3/19/18
4/2/18	Resolution in strike-thru, underlined format based on housekeeping changes



INFORMATIONAL MEMORANDUM

TO: Public Safety Committee

FROM: Rachel Bianchi, Communications and Government Relations Manager

CC: Mayor Ekberg

DATE: March 12, 2018

SUBJECT: Local hiring, apprenticeship and disadvantaged business enterprises direction for the Public Safety Plan (*updated after C.O.W.*)

ISSUE

Staff is seeking direction from the Council regarding use of disadvantaged businesses (DBEs), local hire priority and apprenticeship programs in the implementation of the Public Safety Plan.

Housekeeping edits have been made to the proposed policies since the March 26 Committee of the whole meeting. In addition, Steve Goldblatt, the Council's PMQA Consultant provided staff edits to the proposed policy that align them with the GCCM delivery.

At the March 19 Public Safety Committee meeting the members unanimously recommended moving the pilot policy for DBE and local hire utilization rates for the Public Safety Plan forward to Committee of the Whole. An updated version of the policy is attached, reflecting the agreed-upon goals identified by Lydig Construction, the City's GCCM for the fire stations. The City will achieve its apprenticeship goals through Resolution #1814, outlining 10% apprenticeship goals for all Public Works projects in excess of \$1 million. Should there be consensus at the March 26 Committee of the Whole meeting on this recommendation, staff will return with a Resolution to allow the Council to formally adopt the pilot policies.

BACKGROUND

In 2017 the Public Safety Committee reviewed options to achieve the shared goal of ensuring participation of DBEs, apprenticeships and local hires in the construction of Tukwila's Public Safety facilities. The Committee reviewed the following options:

- The City could implement a policy for the Public Safety Plan that sets out specific goals for the projects for utilization of DBEs, apprenticeships and local hires, presented in May of 2017; or
- Implement a more prescriptive Community Workforce Agreement/Project Labor Agreement (CWA/PLA) to achieve these goals as drafted and presented to the Public Safety Committee in October of 2017.

Attached to this memo are the previous memos that reviewed both options highlighted above. Also included are the draft documents that would implement either option.

Both of these routes are available to the Council to achieve the goal of ensuring participation of DBEs, apprenticeships and local hires. One other option also exists, which is to work with the City's Program Management Consultant, Shielz Oblatz Johnsen and project contractors to identify project-by-project goals for the fire stations, justice center and public works facility separately. As an example, Lydig Construction, the General Contractor/Construction Management firm for the Fire Stations outlined the following targets for the fire stations:

- Apprenticeship: 10%
- Local Hire: 20%
- DBE Utilization: 17%

Attached is Lydig's memo outlining these goals and how they would work to achieve them.

RECOMMENDATION

The Administration recommends implementing the proposed policy for the use of DBEs, local hires and apprenticeship programs that would provide targets we would expect each of the contractors to achieve for the projects. Implementing the policy would allow the City to ensure standard expectations across all projects. It recommends that the Public Safety Plan staff work closely with each contractor to achieve these goals, but that they not be codified in a prescriptive CWA/PLA. The Council's Program Management Quality Assurance consultant concurs with this recommendation.

Staff is looking for direction from the Council and asks that the Committee provide their recommendation to the entire Council for discussion and, if resolved at that time, for consensus at the March 26, 2018 Council meeting.

ATTACHMENTS

May 10, 2017 Public Safety Committee Memo
Proposed policies for DBE and local hiring
October 10, 2017 Public Safety Committee Memo
Draft CWA/PLA
November 15, 2017 Public Safety Committee Memo
Lydig Memo

DRAFT

NOTE: Strike-through/underline text reflects changes made (beyond other housekeeping-type revisions) since the policies were reviewed at the 3-26-18 C.O.W. Meeting.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, ADOPTING POLICIES IN CONJUNCTION WITH CITY OF TUKWILA PUBLIC SAFETY PLAN CONSTRUCTION PROJECTS, SPECIFICALLY A DISADVANTAGED BUSINESS ENTERPRISE POLICY AND A LOCAL HIRING POLICY.

WHEREAS, the City Council recognizes that societal, environmental, and legal factors, both historic and present day, have resulted in inequitable access to opportunities for some individuals and groups of people; and

WHEREAS, policies related to disadvantaged business enterprises and local hiring will help firms owned and controlled by individuals who are determined to be socially and economically disadvantaged compete fairly for contracts in conjunction with the construction projects related to the City's Public Safety Plan; and

WHEREAS, it is the responsibility of the City Council of the City of Tukwila to provide policy direction through the passage of motions and ordinances and the adoption of resolutions;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. DBE Policy Adopted. A Disadvantaged Business Enterprise Policy for City of Tukwila Public Safety Plan Construction Projects is hereby adopted to read as follows:

Disadvantaged Business Enterprise (DBE) Policy for City of Tukwila Public Safety Plan Construction Projects.

A. **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 compete fairly for contracts. As a pilot project, 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 DBE goal of 17% participation.

B. Definitions.

1. *"Construction Contract"* means a City of Tukwila Public Safety Plan construction project valued at over \$1,000,000, which is awarded by contract.

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

3. *"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.

4. *"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.

C. Process.

1. 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.

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

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

4. By signing a contract proposal, the Contractor 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 Contractor will provide acceptable evidence of good faith effort to meet the commitment.

D. Contractor's Responsibilities. The Contractor must satisfy the following requirements:

1. ~~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. The Contractor shall submit to the City an outreach plan to achieve the DBE goals.~~

2. DBE prime Contractors may receive credit toward the DBE goal for work performed by its 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.

3. 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:

- a. Contact local DBE sources to identify qualified DBE firms,
- b. 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;
- c. Host a job fair for prospective DBE participants; and
- d. Develop a written plan to attract DBEs as part of the construction workforce.

4. 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.

5. 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.

E. Records and Reports.

1. The Contractor shall submit monthly reports, after work begins, on DBE payments to meet the DBE goal and for DBE participation. The monthly report is to be sent to the City. These reports will be due within 30 days after the end of a calendar month. These reports will be required until all DBE subcontracting or material supply activity is completed.

2. 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.

3. All such records must be retained for a period of 6 years following completion of the contract work, and shall be available at reasonable times and places for inspection by authorized representatives of the City of Tukwila. Copies of subcontracts or agreements and other documentation shall be provided upon request.

4. 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 herein, must be submitted with the "DBE Final Report."

Section 2. Local Hiring Policy Adopted. A Local Hiring Policy for City of Tukwila Public Safety Plan Construction Projects is hereby adopted to read as follows:

Local Hiring Policy for City of Tukwila Public Safety Plan Construction Projects.

A. **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 20% of the contractor's total construction workforce, including any Subcontractor workforce, measured in labor work hours, is comprised of Tukwila Area residents. If the GC/CM delivery method is chosen instead of traditional bidding, the good faith effort certification will be adjusted to reflect corresponding milestones. Any GC/CM selection process will include local hiring.

B. Definitions.

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

1. **"Construction 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.

2. **"Days"** means calendar days unless otherwise specified.

3. **"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 or 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.

4. **"Tukwila Area"** means 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."

5. **"Construction Project."** A City of Tukwila Public Safety Plan construction project valued at over \$1,000,000, which is awarded by contract.

6. **"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.

7. **"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.

C. Exceptions.

1. The provisions of this policy 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 the Tukwila Municipal 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.

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

D. Requirements for Contractors Submitting Bids.

1. A Contractor submitting a formal bid or proposal 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 20% of the Contractor's total construction workforce, including any Subcontractor workforce, measured in labor work hours, is comprised of Tukwila Area residents.

2. 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:

a. Contact local recruitment sources to identify qualified individuals who are Tukwila Area residents; and

b. Advertise for qualified Tukwila Area residents in trade papers and newspapers of general circulation in the Area, unless time limits imposed by the City do not permit such advertising; and

c. If portions of the work are to be performed by subcontractors, identify qualified subcontractors whose workforce includes Tukwila Area residents; and

d. Host a job fair for prospective local applicants; and

e. Develop a written plan to recruit Tukwila Area residents as part of the construction workforce.

3. Every Contractor 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.~~

4. The Contractor shall include in each and 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 policy.

5. Prior to submitting bids, bidders shall ensure that any and all subcontractors listed in their bids are not disqualified pursuant to Section 2, paragraph I, "Disqualification."

6. Contractors who have been disqualified 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.

E. Requirements for Prospective Subcontractors.

1. Any Subcontractor for work, laborers or materialmen relating to a project subject to this policy will be required, in its contract with the prime contractor, to promise to make a good faith effort to hire qualified individuals who are residents of the Tukwila Area.

2. 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.

3. Subcontractors who have been disqualified pursuant to Section 2, paragraph I, "Disqualification," 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.

F. Non-responsive Bids.

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

1. 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

2. If a bidder fails to comply with the good faith effort requirements set forth herein; or

3. If a bidder or a Subcontractor listed by the bidder has been disqualified pursuant to Section 2, paragraph I, "Disqualification."

G. 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 any and all subcontractors on the project to maintain records of the same information for subcontractors' workforce on the project and shall require Subcontractors 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.

H. **Forms Submitted Under Penalty of Perjury.** All forms required under this policy shall be attested to as true as to the information set forth therein and shall be submitted under penalty of perjury.

I. **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 2, paragraph D.2., 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 year from the date of the City's disqualification. The City of Tukwila will keep a current list of all disqualified contractors and subcontractors on file.

J. **Records Retention.** The Contractor shall retain all documentation required per Section 2, paragraph G., for a period of 6 years following completion of the contract work, and those records shall be available at reasonable times and places for inspection by authorized representatives of the City of Tukwila. Copies of subcontracts or agreements and other documentation shall be provided upon request.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2018.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

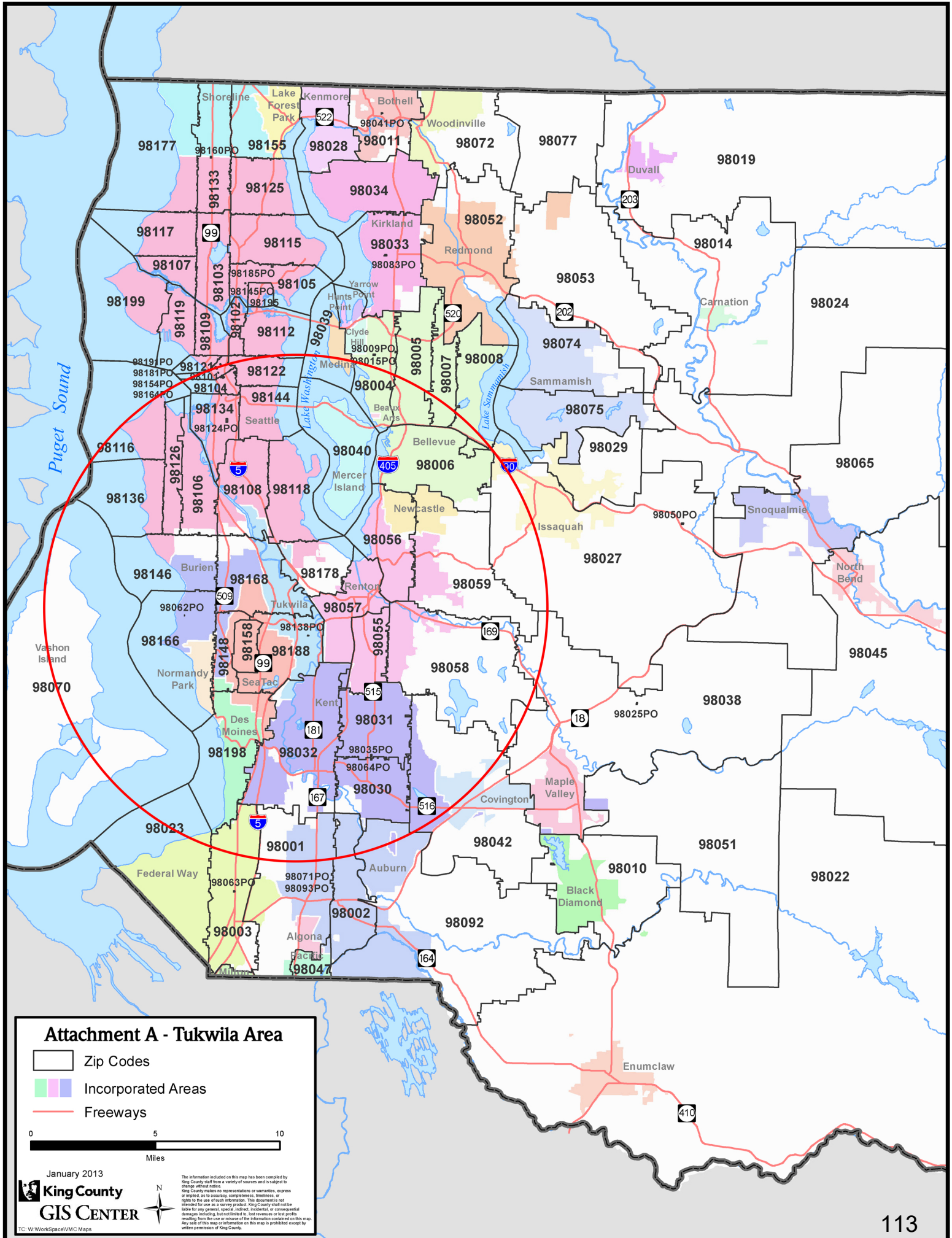
Verna Seal, Council President

APPROVED AS TO FORM BY:




Rachel B. Turpin, City Attorney

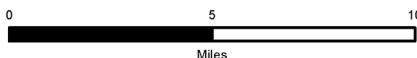
Filed with the City Clerk: _____
Passed by the City Council: _____
Resolution Number: _____

Attachment A, "Tukwila Area Zip Codes"



Attachment A - Tukwila Area

-  Zip Codes
-  Incorporated Areas
-  Freeways



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