



City of Culver City

Mike Balkman
Council Chambers
9770 Culver Blvd.
Culver City, CA 90232
(310) 253-5851

Staff Report

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Item #: A-4.

CC - ACTION ITEM: Discussion and Direction of a Potential Transparency Ordinance Requiring Construction Contractors and Subcontractor Disclosures.

Meeting Date: October 28, 2024

Contact Person/Dept.: Tim Koutsouros/Planning & Development Department

Phone Number: (310) 253-5802

Fiscal Impact: Yes ☐ No ☒

General Fund: Yes ☐ No ☒

Attachments: Yes ☒ No ☐

Public Notification: (E-Mail) Meetings and Agendas - City Council (10/23/2024)

Department Approval: Mark Muenzer Planning & Development Director (10/1/2024)

RECOMMENDATION

Staff recommends the City Council discuss and provide direction for a potential transparency ordinance requiring contractors and subcontractor disclosures, and to consider the City of Carson's ordinance as a model ordinance.

BACKGROUND

On April 8, 2024, the City Council reached a consensus to agendize a discussion on transparency disclosures in construction permitting. Staff has further reviewed and is providing the following information for discussion purposes.

In the construction industry, wage and hourly violations are pervasive issues. In fiscal year 2023, the U.S. Labor Department secured over \$35.5 million in back wages < <https://www.dol.gov/agencies/whd/data/charts/low-wage-high-violation-industries> > for nearly 18,000 construction employees, more funds than any other U.S. industry. Wage and hour violations can manifest in various ways, such as the misclassification of employees or employees not reported by their employer. Such violations frequently lead to the denial of benefits and unpaid overtime, which adversely impact workers' livelihoods and undermine their right to fair compensation. The construction industry is labor intensive, paying workers with lower wages than properly classified and reported employees is an impetus for some contractors to gain an unfair bidding edge.

The California cities of Carson, San Diego, Irvine, Riverside, Santa Ana, and San Diego County have adopted ordinances requiring contractors and their subcontractors to disclose specific information when applying for permits for certain large projects. (Attachments 1-6).

In summary, the main intent of these ordinances is to encourage fair labor and business practices in the construction industry. It protects workers' rights, encouraging fair wages and insurance coverage. It also can help foster a culture of accountability and safety in the community. It recognizes that compliance with labor standards is in the best interest of the community. This is typically accomplished through the mandatory disclosure of licenses, insurance coverage, and past labor violations during the permitting process. It also establishes penalties for contractors and subcontractors who fail to comply.

Required Disclosures

The ordinances require contractor and subcontractor disclosure of:

- Any pending or final determinations of state or federal labor violations and any penalties paid to any government agencies related to such violations
- Workers compensation insurance
- State contractor license and license category
- City business license
- State and/or federal tax identification numbers

Disclosure thresholds

- The ordinances in Carson, San Diego, Riverside, and Santa Ana apply to commercial or industrial projects that are 20,000 sq. ft. or larger; or projects with 20 or more residential dwelling units.
- San Diego County's ordinance applies to all new commercial construction, tenant improvements more than 10,000 sq. ft., residential tracts (five or more lots), and multi-family construction projects (5 or more units).
- The City of Irvine's ordinance uses a project cost approach, applying to projects with projects costs exceeding \$8 million.
- The City of San Diego and San Diego County ordinances also apply to projects in the public right of way, excluding driveways and retaining walls.

Labor violation - Period of disclosure

Carson, Riverside, and Santa Ana require the contractor and subcontractor to disclose whether they had any labor violations and penalties that occurred within the prior five years of permit application. The City of Irvine requires seven years of disclosures. The City of San Diego and San Diego County do not set a limit on the disclosure period.

Disclosure non-compliance

Non-compliance with the disclosure requirements results in one or a collective of the following actions: stop work order, revocation of the permit, and penalties in the amount equal to the original permit fee.

DISCUSSION

Staff recommends the City Council discuss and provide possible direction for a potential transparency ordinance requiring contractors and subcontractor disclosures. If the City Council would like to adopt a transparency ordinance, staff recommends the City Council direct staff to prepare an ordinance similar to the City of Carson's ordinance.

The City's existing permit process includes verifying an applicant's contractor state license and a valid City business license before permit issuance. Requirements for an active state contractor license includes being bonded and carrying active workers' compensation insurance. The City's business license application process includes collecting tax identification numbers and verifying the contractor's state license. The City issues permits to contractors with an active state and a City business license but is presently unable to deny a permit based on violations or penalties.

Of the cities with transparency ordinances, Carson is the closest to Culver City in its geographic size, population, and location within Los Angeles County. Carson's ordinance contains requirements that would enhance the City's transparency during the permit process. The additional requirements include subcontractor disclosure of workers' compensation insurance, state contractor license, and City business license when obtaining a permit. Furthermore, both the contractor and subcontractor must disclose whether they have any pending and/or prior enforcement actions for labor violations and/or any paid penalties.

Carson's ordinance provides that an applicant who has not chosen a project contractor or subcontractor(s) during the permit application process may defer this disclosure to a later stage in the project timeline, provided it is done before work begins. Failure to disclose the information results in the issuance of a stop work order, revocation of the permit, or penalties.

Next Steps

- If desired, provide staff direction to bring back a transparency ordinance for further review and City Council action.
- If desired, provide staff with different direction as deemed appropriate.

FISCAL ANALYSIS

There is no fiscal impact to the discussion of this issue. If adopted in the future, staff and consultant time will be necessary to implement the ordinance with data collection, data management, and responding to public records requests.

ATTACHMENTS

1. City of Carson Ordinance
2. City of Irvine Ordinance
3. City of Riverside Ordinance

4. City of San Diego Ordinance
5. City of Santa Ana Ordinance
6. San Diego County Ordinance

RECOMMENDED MOTIONS

That the City Council:

1. Discuss and provide direction for a potential transparency ordinance requiring contractors and subcontractor disclosures; and
2. If desired, direct staff to prepare an ordinance similar to the City of Carson's ordinance; and
3. Provide direction to the City Manager as deemed appropriate.