



The City of San Diego

Staff Report

DATE ISSUED: May 18, 2022
TO: City Council
FROM: Office of Mayor Todd Gloria
SUBJECT: Contractor Transparency Amendment to the Municipal Code

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Council District(s): Citywide

OVERVIEW:

The Contractor Transparency Amendment will amend the Municipal Code to comply with state law requirements while also working to promote transparency for construction permits and right-of-way permits by requiring contractors to disclose subcontractor information on projects permitted by the City of San Diego. The goal of this ordinance is to create a culture of safety and legal compliance citywide while ensuring that labor standards are upheld. This ordinance seeks to advance the protection of workers' rights; end labor exploitation by rooting out labor violations and unqualified operators; protect law-abiding contractors; and provide economic justice in the contracting process.

PROPOSED ACTIONS:

Approve the proposed Contractor Transparency Amendment to the Municipal Code

DISCUSSION OF ITEM:

The Land Development Code (LDC) of the San Diego Municipal Code (SDMC) provides the City's regulations for the development and use of property within the City of San Diego and provides information on zoning, subdivisions, grading and other related land use activities. The LDC is updated regularly through comprehensive updates that promote in-fill development and streamline the permitting process, and through single-issue or topic-specific updates as needed.

The California Business and Professions Code Division 3, Chapter 9 requires all persons performing contracting work on any project valued at \$500 or more in combined labor and material costs to be licensed by the Contractors State Licensing Board. Exceptions are made for property owners performing their own work, known as an "owner-builder." These state law requirements are not currently reflected in the City's Municipal Code.

The proposed Contractor Transparency Amendment would codify the state regulations into the City's Municipal Code and ensure that contractors and subcontractors have all required certifications, trainings,

and insurance by amending Chapter 12, Article 9, Division 1. The new regulations will be codified as SDMC as Section 129.0121, "License and Insurance Requirements for Contractors and Subcontractors" and will apply to applications for building, electrical, plumbing/mechanical, demolition/removal, grading, public right-of-way and fire permits for the following development activities:

- Residential and mixed-use development consisting of or involving twenty or more dwelling units, including single dwelling unit subdivisions.
- Commercial or industrial development that proposes 20,000 square feet or more of tenant improvements or 20,000 square feet of additional gross floor area.
- Any development that requires a Public Right-of-Way Permit.

To demonstrate compliance with the regulations, the applicant will be required to provide the following:

- A list of all project contractors and subcontractors that includes the following information for each contractor and subcontractor:
 - Valid worker's compensation insurance information, including policy number and expiration date;
 - State contractor license number, license category, and license expiration date;
 - City business license number and expiration date;
 - State and federal tax identification numbers; and
 - Whether the contractor or subcontractor has any pending and/or prior enforcement actions for any state or federal labor violations or paid any penalties to a government agency related to the provisions of the California Labor Code.
- For Public Right-of-Way Permits, the applicant shall also state whether the work to be performed requires safety certifications, safety trainings, professional certifications, or professional licenses. If any of these apply, the applicant shall provide the following:
 - A list of the certifications, trainings, and/or licenses required for the work; and
 - Confirmation that the applicant's employees or the employees of the relevant contractor, subcontractor, or agent have the required certifications, trainings and/or licenses, specifying the contractor, subcontractor, or agent if applicable.

Applicants will be required to provide the information at the time of application submittal or permit issuance. If the applicant is unable to provide the information prior to permit issuance, or in the event the permit holder adds or changes contractors or subcontractors following permit issuance, the applicant will be required to provide the information prior to the new contractor or subcontractor starting work. In the event that any of the required information changes for any of the contractors or subcontractors, the applicant will be required to provide the information prior to the contractor or subcontractor undertaking any further work on the project.

Compliance with the Contractor Transparency Amendment will be enforced by the Development Services Department at the time of permit issuance and will document any submitted changes following permit issuance. Any work performed without satisfying the requirements of the regulations shall be deemed performed without the required construction permit and shall be subject to code enforcement actions and remedies. The Office of Labor Standards and Enforcement will provide additional oversight through a stakeholder working group.

According to the Contractors State Licensing Board, unlicensed contractors lack accountability and have a high rate of involvement in construction scams. Additionally, unlicensed contractors are unfair competition

for licensed contractors who operate with bonds, insurance, and other responsible business practices. In addition to enforcing the requirements of the California Business and Professions Code, the Contractor Transparency Amendment furthers the City's commitment to transparency, safety, and accountability; protection of workers' rights; rooting out labor violations and unqualified operators; and the protection of consumers and law abiding contractors.

The Contractor Transparency Amendment was presented to stakeholder groups that included City staff in implementing departments, construction industry, building industry, labor and union stakeholders. Per SDMC Section 111.0107(a)(2), because the proposed amendments do not include amendments to the City's zoning regulations, a review and recommendation by the Planning Commission is not required.

The Contractor Transparency Amendment implements California state Business and Professions Code requirements that requires an applicant to provide licensing and insurance information for contractors. The Contractor Transparency Amendment will amend the Municipal Code to implement and comply with state law while also working to promote transparency for building permits and right-of-way permits by requiring contractors to disclose subcontractor information on projects permitted by the City of San Diego. The goal of this ordinance is to create a culture of safety and legal compliance citywide while ensuring that labor standards are upheld. This ordinance seeks to advance the protection of workers' rights; end labor exploitation by rooting out labor violations and unqualified operators; protect law-abiding contractors; and provide economic justice in the contracting process. Therefore, staff recommends that the City Council approve the proposed Contractor Transparency Amendment to the Municipal Code.

City of San Diego Strategic Plan :

The Contractor Transparency Amendment directly supports the Strategic Plan's Priority Areas: Create Homes for All of Us, Protect and Enrich Every Neighborhood, and Foster Regional Prosperity by ensuring that residential, non-residential and infrastructure projects are constructed efficiently and safely by qualified contractors and subcontractors.

Fiscal Considerations:

None. Costs associated with implementation of this ordinance would be covered by project applicants.

Charter Section 225 Disclosure of Business Interests:

N/A; there is no contract associated with this action.

Environmental Impact:

The CEQA and Environmental Policy Section of the Planning Department has reviewed the Contractor Transparency amendments and has determined that this activity is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(2) as the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment.

Climate Action Plan Implementation:

Equal Opportunity Contracting Information:

Previous Council and/or Committee Actions:

This item will be heard at the Land Use and Housing Committee prior to Council.

Planning Commission Action:

N/A

Key Stakeholders and Community Outreach Efforts:

Key Stakeholders include neighborhood and community planning groups, residents, property owners, business owners, and contractors, subcontractors and their workers.

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