

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: TRACY DUENAS, SUPERVISING ENGINEER
TRANSPORTATION AND PUBLIC WORKS DEPARTMENT

SUBJECT: AMENDMENTS TO SANTA ROSA CITY CODE CHAPTER 3-44,
PUBLIC WORKS CONTRACT POLICY

AGENDA ACTION: INTRODUCTION OF ORDINANCE

RECOMMENDATION

It is recommended by the Transportation and Public Works Department that the Council introduce an ordinance, amending Sections 3-44.020, 3-44.070, and 3-44.080; repealing Sections 3-44.160 and 3-44.180; and adding Section 3-44.210 to Chapter 3-44 of the Santa Rosa City Code.

EXECUTIVE SUMMARY

The purpose and intent of these changes is to: a) enhance City employees' ability to perform maintenance and repair work; b) formally enact a prevailing wage ordinance governing all City public works contracts equal to the requirements imposed by the provisions of the California Prevailing Wage Law; and c) remove specific public works contract terms from the City Code.

BACKGROUND

1. City Code Chapter 3-44, Public Works Contract Policy, establishes City policies for the letting of public works contracts. Section 3-44.050 states that except as provided by the City Charter or City ordinance, certain City Directors may establish public works written contract requirements. Sections 3-44.160 and 3-44.180 include both mandatory and permissive contract requirements.
2. The City of Santa Rosa Public Works Invitation for Bids (IFB) sets forth contract terms between the City and contractors performing all public works projects. The IFB includes general contract specifications and special provisions, payment terms and all other contract terms. The IFB is comprised of boilerplate language that has been approved and is maintained by the City Attorney's Office.

3. On October 13, 2013, the state approved SB 7, adding section 1782 to the state Labor Code pertaining to the payment of prevailing wages. Labor Code section 1782 provides that a charter City may not receive or use state funding or financial assistance for a construction project if the City has a charter provision or ordinance that authorizes a contractor to not comply with state prevailing wage law on any public works contract. However, a charter City is not disqualified from receiving or using state funding or financial assistance for its construction projects if the charter City has a local prevailing wage ordinance for all its public works contracts that includes requirements that in all respects are equal to or greater than the requirements imposed by state prevailing wage law and that do not authorize a contractor to not comply with such laws.

4. Section 51 of the City Charter states that the City is subject to the general laws of the State of California that are not in conflict with the City Charter or the City Code. California Public Contract Code section 20162 provides that when the expenditure required for a public project exceeds five thousand dollars (\$5,000), it shall be contracted for and let to the lowest responsible bidder after notice.

PRIOR CITY COUNCIL REVIEW

Not applicable

ANALYSIS

The changes recommended by the Transportation and Public Works Department for City Code 3-44, Public Works Contract Policy, and the rationale for these recommendations are listed below:

Amendment to Section 3-44.020.

This section of the Code is amended to change the definition of day work to mean “*maintenance or repair work performed by City employees*” and to add definitions of the terms ‘Maintenance’ and ‘Repair’. ‘Maintenance’ is defined in part as ‘*...recurrent, periodical or scheduled work required to preserve a public improvement.*’ ‘Repair’ is defined in part as ‘*...restoration of a public improvement or components to such condition that it may be used effectively for its designated purpose.*’ These recommended changes are intended to permit the performance of maintenance and repair work over \$5,000 by City employees which currently must be ‘contracted for’ under Public Contract Code section 20162.

Amendment to Section 3-44.070.

This amendment is intended to create a conflict between the City Code and Public Contract Code section 20162 so that the City Code will control over state law, permitting the City to perform ‘day work,’ over \$5,000 by City employees.

Amendment to Section 3-44.080.

This amendment adds an exemption for contracting and competitive bidding of 'Day Work', as described above.

Repeal of Section 3-44.160.

This current section of the Code describes bonding, insurance, prevailing wage and payment requirements for all major contracts. Staff recommends this Code section be repealed given bonding, insurance and payment requirements are already included in the City's IFB General Specifications section. Prevailing wage requirements are proposed to be changed and amended through added Section 3-44.210.

Repeal of Section 3-44.180.

This current section of the Code describes bonding, bid security and insurance requirements for minor contracts. The Code further describes that the Director *may* require the Contractor to comply with California Prevailing Wage Law. The Code also prohibits any payments to be issued to the Contractor until the Contract is complete. Staff recommends this Code Section be repealed given bonding, insurance and payment requirements are already included in the City's IFB General Specifications section. Repealing this Section will also allow the City to make progress payments on minor contracts (the same as major contracts). Lastly, repealing this Section will require the Contractor to comply with California Prevailing Wage Law, as described in Section 3-44.210.

Addition of Section 3-44.210 to the City Code.

The addition of this Section establishes that City Code prevailing wage requirements for all City public works contracts are equal to that of California Prevailing Wage Law.

FISCAL IMPACT

Approval of this action does not have a fiscal impact on the General Fund.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable

NOTIFICATION

Not applicable

ATTACHMENTS

- Attachment 1 – Ordinance - Redlined Version

CONTACT

Tracy Duenas, tduenas@srcity.org, (707) 543-3952