

ORDINANCE NO. 1166/WWD-11/CDA-07

A JOINT ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SIMI VALLEY AND THE BOARDS OF DIRECTORS OF THE VENTURA COUNTY WATERWORKS DISTRICT NO. 8, AND SIMI VALLEY COMMUNITY DEVELOPMENT AGENCY ADDING ARTICLE 5 TO CHAPTER 9 OF TITLE 2 OF THE SIMI VALLEY MUNICIPAL CODE RELATING TO VERIFICATION OF AUTHORIZATION TO WORK FOR CERTAIN PUBLIC CONTRACTS

THE CITY COUNCIL OF THE CITY OF SIMI VALLEY AND THE BOARDS OF DIRECTORS OF THE VENTURA COUNTY WATERWORKS DISTRICT NO. 8, AND SIMI VALLEY COMMUNITY DEVELOPMENT AGENCY DO ORDAIN AS FOLLOWS:

SECTION 1: Article 5 of Chapter 9 of Title 2 of the Simi Valley Municipal Code is hereby added as follows:

ARTICLE 5. VERIFICATION OF AUTHORIZATION TO WORK FOR CERTAIN CITY CONTRACTS

Sec. 2-9.501. Definitions.

For purposes of this article, unless otherwise apparent from the context of this article, certain words and phrases used in this article are defined as follows:

- (a) "City" shall mean and include the City of Simi Valley, the Ventura County Waterworks District No. 8, the Simi Valley Community Development Agency, and such other districts, authorities, or agencies as may be governed by members of the Council.
- (b) "Contractor" shall mean a person, firm, employer or business entity that enters into a public contract for services with the City to perform any work or service in exchange for valuable consideration. No governmental agency shall be considered a contractor for purposes of this article.
- (c) "E-Verify" shall mean the Internet-based employment eligibility verification system operated by the Department of Homeland Security in partnership with the Social Security Administration. The term "E-Verify" shall also include its former names Basic Pilot Program and Employment Eligibility Verification Program, and shall include any successor program established by the federal government.
- (d) "Public contract for services" shall mean any agreement, exceeding \$50,000, between the City and a contractor for the procurement of any manner of construction, remodel, landscape, maintenance, or repair services. "Public contract for services" shall not include agreements for the purchasing or licensing of equipment or merchandise. "Public contract for services" shall not include any agreement between the City and a contractor for the procurement of professional services related to construction, remodeling, landscaping, maintenance or repair. Professional services shall include, but not be limited to, those services normally provided by engineers, construction management consultants, architects, geologists, hydrologists, land surveyors, landscape architects and assayers; real estate appraisers, licensed environmental assessors, ecologists, accountants, and financial, technological, and communications consultants.

- (e) “Unauthorized alien” shall mean any alien not authorized for employment in the United States as defined by United States Code Title 8, Section 1324a(h)(3).

Sec 2-9.502. Program Requirements.

- (a) The City shall not enter into, or renew a public contract for services, with a contractor that is not enrolled in the E-Verify program.
- (b) As a condition for the award or renewal of any public contract for services, the contractor shall enroll in the E-Verify program or its successor, and shall thereafter provide the City documentation affirming its enrollment and participation in the E-Verify program. The contractor shall be required to continue its participation in the E-Verify program throughout the term of the public contract for services with the City.
- (c) The City shall include specific written notices in all requests for bids and services that contractors will be required to enroll in the E-Verify program pursuant to this article prior to the effective date of any public contract for services, and that participation in the E-Verify program shall continue throughout the term of the public contract for services.
- (d) Each public contract for services shall include provisions to effectuate the intent of this article, including, but not limited to the following provisions:
 - 1. The contractor has enrolled in the E-Verify program and will continue to participate in the E-Verify program throughout the term of the public contract for services.
 - 2. The contractor has verified, through participation in the E-Verify program, that the contractor does not employ any unauthorized aliens and certifies that it will not knowingly employ, or contract with, any unauthorized alien to perform any work under the public contract for services.
 - 3. The contractor shall comply with any reasonable request made by the City in the course of any investigation or audit to determine compliance with this article.
 - 4. Any violation of the contract relating to enrollment and participation in the E-Verify program shall constitute a material breach of the contract.

Sec. 2-9.503. Enforcement of Program.

- (a) The City Manager shall require not less than an annual audit of a random sampling of public contracts for service to determine compliance with the provisions of this article.
- (b) The City shall implement procedures necessary to implement and enforce the requirements of this article into all public contracts for service the City enters into with contractors.
- (c) The City shall investigate all credible written complaints alleging noncompliance with this article. However, no complaint shall be investigated if its allegations are solely based on national origin, ethnicity, race, or any other classification deemed suspect by the City or any agency or court.

- (d) If a contractor is found to have violated the provisions of this article, the City shall invoke all available remedies at law, including, but not limited to the imposition of penalties or liquidated damages, and termination of the public contract for services.

SECTION 2: If any section, subsection, sentence, clause, or phrase in this article is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this article. The City Council, District Board, and Agency Board hereby declare they would have passed this article, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases is declared invalid or unconstitutional.

SECTION 3: The City Clerk shall cause this ordinance or a summary hereof to be published in a newspaper of general circulation, published in the County of Ventura and circulated in the City, and if applicable, to be posted, in accordance with Section 36933 of the California Government Code; shall certify to the adoption of this ordinance and shall cause a certified copy of this ordinance, together with proof of publication, to be filed in the Office of the Clerk of this City.

SECTION 4: This ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

PASSED and ADOPTED this 11th day of October 2010.

Attest:

/s/

 Wendy Green
 Assistant City Clerk/District
 Secretary/Agency Secretary

/s/

 Paul Miller
 Mayor of the City of Simi Valley/
 Chair of the Simi Valley Community
 Development Agency/Chair of the
 Ventura County Waterworks District
 No. 8

Approved as to Form:

Approved as to Content:

/s/

 Tracy M. Noonan, City Attorney/
 District Counsel/Agency Counsel

/s/

 Mike Sedell, City Manager/
 District Manager/Executive Director