

CITY OF SANTA CRUZ

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE W

AUTHORIZING "BEST VALUE" CONTRACTING FOR PUBLIC WORKS CONSTRUCTION

If adopted, the proposed measure would authorize the City of Santa Cruz to use "best value" contracting for public works construction.

BACKGROUND

In California, cities may be organized under either the general laws of the State or under a charter adopted by the local voters. General law cities have less autonomy than those that adopt their own charter. Charter cities may adopt their own procedures for matters that are considered "municipal affairs." Santa Cruz is a charter city.

MEASURE W

Currently, Charter Section 1415 "Contracts for Public Works" specifies how the City contracts for construction projects, like paving streets, replacing worn out water and sewer pipelines, or constructing new or refurbishing existing buildings and facilities. It requires all contracts for these projects to be awarded under a traditional three-step "design-bid-build" process, in which design, procurement and construction proceed sequentially, with the City contracting with engineering, architectural and construction companies separately for each phase. The architect or engineer first prepares detailed plans and specifications. The City then advertises a "call for bids" and sets a date for bid submittal. Interested contractors then evaluate the bid specifications, estimate the cost of constructing the project, and prepare bids that take into account cost plus some profit margin. If a bid is too low, it may cost the contractor more to construct than the amount of its bid, and the contractor will lose money. If a bid is too high, it likely will not be competitive or may exceed the City's project budget. After bids are submitted, the bids are examined, and a construction contract is awarded to the contractor that submits the lowest bid that conforms to the bid specifications. The contractor is then required to build the project in accordance with the previously prepared design specifications.

Over the past several years, cities and public agencies have begun utilizing other approaches to public works contracting, most commonly recognized as "design-build" or "best value" project delivery methods. Best value project delivery is different from the conventional design-bid-build method because, unlike the three-step design-bid-build process, a single contract is awarded to a consortium of engineering, architectural and construction companies (a "design-build entity") that work collaboratively during all phases of engineering, design and construction, at a guaranteed maximum price. The City would contract with a design-build entity that is selected through a competitive request-for-proposal process that the City determines presents the "best value," considering such factors as price, anticipated time for completion, innovative design features and functionality.

If approved by the voters, the proposed Charter amendment would enable the City to use design-build or other best value project delivery methods in addition to the traditional design-bid-build process for public works construction. The City Council unanimously approved placing this measure on the ballot.

The above statement is an impartial analysis of the Measure W.

Date: December 13, 2019

/s/
Tony Condotti, City Attorney