



## Legislation Text

File #: 2023-0527, Version: 1

### Report to Mayor and City Council

Tuesday, July 18, 2023

Discussion

#### SUBJECT:

**CONSIDER ADOPTING ORDINANCE NO. 23-2307 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING SECTION 2612 (CONTRACTS FOR PUBLIC PROJECT) OF CHAPTER 6 (PURCHASING SYSTEM) OF ARTICLE II (ADMINISTRATION) OF THE CARSON MUNICIPAL CODE TO AMEND THE DEFINITION OF MAINTENANCE WORK AS IT PERTAINS TO RESURFACING OF STREETS AND HIGHWAYS (CITY COUNCIL)**

#### **I. SUMMARY**

The Public Works Director is requesting that the City Council adopt the attached Ordinance No. 23-2307 which would change the definition of maintenance for resurfacing of streets and highways so that it is defined as resurfacing of streets and highways at up to two (2) inches, rather than less than one (1) inch which is how it is currently defined. Doing so will allow City streets to be maintained in a more meaningful way that will significantly increase the lifespan of the streets.

#### **II. RECOMMENDATION**

TAKE the following actions:

1. INTRODUCE for first reading "ORDINANCE NO. 23-2307 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING SECTION 2612 (CONTRACTS FOR PUBLIC PROJECT) OF CHAPTER 6 (PURCHASING SYSTEM) OF ARTICLE II (ADMINISTRATION) OF THE CARSON MUNICIPAL CODE TO AMEND THE DEFINITION OF MAINTENANCE WORK AS IT PERTAINS TO RESURFACING OF STREETS AND HIGHWAYS"

#### **III. ALTERNATIVES**

TAKE another action the City Council deems appropriate, consistent with the

requirements of the law.

#### **IV. BACKGROUND**

Public Works anticipates it will soon initiate a citywide program for maintenance of streets.

The City of Carson ("City") became a charter city as of November 6, 2018. All charter cities have the right to adopt and enforce ordinances, regulations and laws regarding municipal affairs, subject only to conflicting provisions in the federal and state Constitutions and to preemptive state law (California Constitution, Article XI, Section 5; *Domar Elec. Inc. v. City of Los Angeles*, 9 Cal.4th 161 (1994)). The expenditure of city funds on a city's public works project is a "municipal affair" and moreover, street work within a municipality and the making of contracts therefor on the part of the municipality are "municipal affairs" within the meaning of Article XI, Section 5 of the California Constitution (*Domar Elec Inc. v. City of Los Angeles*, 9 Cal.4th 161 (1994); *Loop Lumber Co. v. Van Loben Sels*, 173 Cal. 228 (1916)).

By City Council's adoption of Resolution No. 17-012, the City elected to become subject to the Uniform Public Construction Cost Accounting Act ("UPCCAA") under Public Contract Code Section 22000 *et seq.*, which provides regulations and bidding procedures for public projects. Section 22003 of the Public Contract Code, as part of UPCCAA's regulations, provides that a public agency such as the City which has, by resolution, elected to become subject to UPCCAA, may utilize the bidding procedures set forth under UPCCAA when contracting for "maintenance work," as such term is defined in Public Contract Code Section 22002. As reflected in Section 2612 of the City's Municipal Code, the City elected to utilize UPCCAA's bidding procedures for purposes of "maintenance work" as defined in Public Contract Code Section 22002.

"Maintenance work" under Public Contract Code Section 22002(d)(3) includes "resurfacing of streets and highways at less than one inch." The Public Works Director is requesting that the City Council adopt the attached Ordinance No. 23-2307 which would change the definition of maintenance for resurfacing of streets and highways so that it is defined as resurfacing of streets and highways at up to two (2) inches. Public Works believes it is necessary to resurface streets up to 2 inches in order to properly maintain the streets in a more meaningful way that will significantly increase the lifespan of the streets. Without changing the definition of maintenance work, resurfacing of streets and highways at one inch or more would be considered a construction project under UPCCAA's regulations. This would make it difficult and impractical to bid out the project because construction projects require staff to identify up front the scope of the project which would result in very limited flexibility that hinders staff's efforts to retain the latitude required to direct when, where and if certain streets will need to be serviced which is critical to any city endeavor to maintain streets on a citywide basis.

#### **V. FISCAL IMPACT**

There is no known fiscal impact associated with adoption of Ordinance No. 23-2307.

## VI. EXHIBITS

1. Ordinance No. 23-2307.

Prepared by: City Attorney's Office and Arlington Rodgers Jr., MPA, Director of Public Works