

ORDINANCE NO. 2178

ORDINANCE REPEALING E-VERIFY REQUIREMENTS

[ORDINANCE REPEALING SELAH MUNICIPAL CODE (SMC) CHAPTER 1.62, ENTITLED "LAWFUL HIRING AND CONTRACTING REQUIREMENTS COMPLIANCE"; REPEALING PRIOR ORDINANCE NUMBER 1828; AND PROVIDING FOR AN EFFECTIVE DATE]

WHEREAS, there are still-on-the-books laws in the City, as part of the City's laws about hiring employees and engaging outside contractors, that would require the City to use the E-verify program to confirm the work eligibility statuses of prospective employees and contractors; and

WHEREAS, the City desires to formally repeal those City-specific laws, and to henceforth just endeavor to comply with whatever federal laws might apply; and

WHEREAS, one such defunct law is Selah Municipal Code (SMC) Chapter 1.62, entitled "Lawful Hiring and Contracting Requirements Compliance", which in full currently reads as follows¹:

1.62.010 Chapter name.

This chapter shall be known and cited as the city of Selah's "lawful hiring and contracting requirements compliance."

1.62.020 Definitions.

When used in this chapter the following, [sic] words, terms and phrases shall have the meanings ascribed to them herein, and shall be construed to be consistent with state and federal law; including federal immigration laws.

"Business entity" means any person or group of persons engaging in any enterprise, profession or occupation for gain, benefit, advantage or livelihood, whether for profit or not for profit within the city. The term business entity shall include, but not be limited to, any self-employed individual, partnerships, corporations, contractors and subcontractors doing business with the city.

"City" means the city of Selah.

"Contract" means all types of agreements, including but not limited to, state grants; orders for purchase or disposal of supplies, services, construction or any other item; awards; contracts or [sic] a fixed price, cost or incentive type; contracts calling for the issuance of

¹ Editing marks of "[sic]" have been added to account for typos included in the original source documents, specifically the online published version of SMC Chapter 1.62 and prior Ordinance Number 1828 which created such chapter.

job or task orders; letters of contract; master price agreements; agency price agreements; and construction management contracts.

“Contractor” means a person, employer, or business entity that enters into a contract or an agreement with the city to perform any services or work or to provide a certain product in exchange for valuable consideration. This definition shall include, but not be limited to, a subcontractor, contract employee, or a recruiting or staffing entity. No governmental agency shall be considered a contractor for purposes of this chapter.

“E-verify” means the electronic verification of work authorization program of the Illegal Immigration and Reform and Immigration Responsibility Act of 1996, as amended and operated by the Department of Homeland Security, or a successor electronic verification or [*sic*] work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees pursuant to Immigration Reform and Contract Act of 1986.

“Unauthorized alien” means a person who is unauthorized to be lawfully employed in the United States pursuant to 8 U.S.C. Section 1324a(h)(3). The city shall not conclude that a person is an unauthorized alien until an authorized representative of the city has verified with the federal government pursuant to 8 U.S.C. Section 1373(c), that the person is an unauthorized alien.

“Work” means any job, task, labor, employment, personal services, or any other activity for which valuable consideration is provided, expected or due, including provided to the city [*sic*] all activities conducted by business entities or contractors.

1.62.030 Application requirements.

(a) The city shall enroll in and participate in E-verify. The mayor or designee shall oversee the city’s participation in this program and shall ensure that it is applied to all persons to be hired by the city as employees.

(b) As a condition for an award of any city contract, gift, contribution or grant to a business entity or contractor, the business entity or contractor shall enroll in E-verify and thereafter shall provide the city documentation affirming its enrollment and participation in the program. The business entity or contractor shall be required to continue its participation in the program throughout the course of its business relationship with the city.

(c) As a condition of the award of [*sic*] renewal of any city franchise or contract the business entity shall provide documentation affirming its enrollment and participation in the E-verify program prior to the award of such franchise or renewal. The business entity shall be required to continue its participation in the program throughout the course of its business relationship with the city.

(d) If a business entity or contractor uses a subcontractor in connection with the performance of a contract, the subcontractor shall verify, as a condition of contract, to the business entity or contractor, in a manner that does not violate federal law, that the subcontractor has enrolled in and is participating in the E-verify program and will not knowingly employ of [sic] contract with an unauthorized alien. This certification will be provided to the city within three working days of the date the business entity or contractor procured the services of the subcontractor.

(e) The city shall include specific written notice in all requests for bids that business entities and any subcontractors are required to enroll in the E-verify program pursuant to subsection (b) above. Business entities are exempt from subsection (b) if they receive requests for bids not containing such notice.

(f) Notwithstanding the provisions of this chapter, it shall not apply to any city purchases of goods where no labor or service is provided as an element of the contract or purchase of those items.

1.62.040 Enforcement of contract terms.

(a) The mayor or designee shall implement procedures necessary to implement and enforce the requirements of this chapter into all contracts into which the city has entered with business entities or contractors. These procedures shall ensure that no business entity or contractor engages in discrimination based on national origin, ethnicity, race or any other classification deemed suspect by the city or any agency or court.

(b) The city shall suspend a contract with a business entity or contractor that the United States Attorney General or Secretary of Homeland Security has found to have been in violation of 8 U.S.C. 1324a.

(c) The city may suspend a contract with any business entity or contractor that fails to correct a violation of 8 U.S.C. 1324a within thirty business days of notification of the violation by the United States Attorney General or Secretary of Homeland Security.

(d) The city shall not suspend the contract of any business entity or contractor if, prior the date of violation, the business entity or contractor had verified the work authorization of the alleged unlawful workers using the E-verify program and demonstrated the same to the city.

(e) Every contract entered into by the city shall provide that the suspension [sic] noncompliance with this chapter shall terminate one business day after a legal representative of the business entity or contractor submits to the city a declaration signed under the penalty of perjury stating that the violation of federal law has ended.

; and

WHEREAS, a second such defunct law is the entirety of prior Ordinance Number 1828 from the year 2011, which created said SMC Chapter 1.62; and

WHEREAS, as previously stated above and repeated here for clarity, the City desires to repeal each and all of the above-quoted and above-mentioned defunct laws;

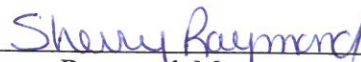
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Repeal of Defunct E-Verify Requirements. The following laws that are still on the books are recognized as being defunct and, thus, are hereby repealed:

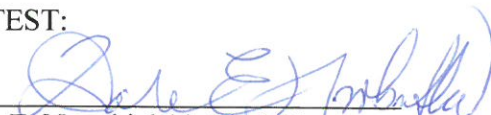
- a. SMC Chapter 1.62. The entirety of SMC Chapter 1.62, entitled "Lawful Hiring and Contracting Requirements Compliance".
- b. Ordinance No. 1828. The entirety of Ordinance Number 1828.

Section 2. Effective Date and Summary Publication. The instant Ordinance shall take effect and be in full force five days after a summary publication of the Ordinance is published in the City's official newspaper.

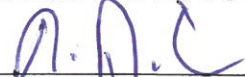
PASSED by the City Council of the City of Selah this 8th day of November, 2022.


Sherry Raymond, Mayor

ATTEST:


Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:


Rob Case, City Attorney