Article 2: Administrative Code

Division 32: Contracts for Personal Services, Goods, and Consultants

§22.3224 Contractor Standards

(a) Prior to awarding a *contract* greater than $50,000, the City shall make a determination that the *bidder* has the capability to fully perform the contract requirements and the business integrity to justify the award of public tax dollars. Among the factors to be considered are: (1) financial resources, including financial sufficiency under California Labor Code Section 2810; (2) technical qualifications; (3) experience; (4) material, equipment, and expertise necessary to carry out the work; (5) a satisfactory record of performance; and (6) a satisfactory record of compliance with applicable statutes and regulations.

(b) As part of its bid, proposal, or other application for a *contract*, a *bidder* will be required to submit a response, under penalty of perjury, that will seek to determine if the *bidder* meets the standards set forth in paragraph (a) of this Section.

(c) During the term of a *contract*, the contractor shall comply with all applicable local, state and federal laws, including health and safety, labor and employment, and licensing laws, that affect the employees, worksite or performance of the *contract*. Each contractor shall notify the Purchasing Agent within fifteen calendar days upon receiving notification that a government agency has begun an investigation of the contractor that may result in a finding that the contractor is or was not in compliance with said laws, or that there has been a finding by a government agency or court of competent jurisdiction of a violation of such laws by the contractor. Initiation of an investigation is not, by itself, a basis for a determination of non-responsibility by an awarding authority.

(d) Upon *award,* amendment, renewal, or extension of a *contract*, contractors shall complete a Pledge of Compliance attesting under penalty of perjury to compliance with this section. Contractors shall ensure that their subcontractors whose subcontracts are greater than $50,000 in value complete a Pledge of Compliance attesting under penalty of perjury to compliance with this section.

(e) Violations of this Article may be reported to the City Manager who shall investigate such complaint. Whether based upon such complaint or otherwise, if the City has determined that the contractor has violated any provision of this Article, the City shall issue a written notice to the contractor that the violation is to be corrected within ten calendar days from receipt of notice. In the event the contractor has not corrected the violation, or taken reasonable steps to correct the violation within ten calendar days, then the City Manager may do one or both of the following:

(1) Declare a material breach of the *contract* and exercise its contractual remedies thereunder, which are to include but not be limited to termination of the *contract*; or

(2) Declare the contractor to be non-responsible in accordance with the procedures set forth in subsection (f) of this section.

(f) Before declaring a contractor non-responsible, the City Manager shall notify the contractor of the proposed determination of non-responsibility, serve a summary of the information upon which the determination is based, and provide the contractor with an opportunity to be heard in accordance with applicable law. Upon request, the contractor is entitled to a hearing before the City's Budget and Finance Committee. At such hearing, the contractor will be allowed to rebut adverse information and to present evidence that the contractor has the necessary quality, fitness and capacity to perform the work. The Budget and Finance Committee shall make a determination upholding or rejecting the City Manager's declaration, and shall forward its determination to the City Council for review and approval or rejection. A determination by the City Council shall be final and constitute exhaustion of the contractor's administrative remedies.

(g) The Purchasing Agent shall maintain a list of contractors that have been determined to be non-responsible by the City. After two years from the date the contractor has been determined to be non-responsible, the contractor may request removal from the list by the City Manager. If the contractor can satisfy the City Manager that the contractor has the necessary quality, fitness, and capacity to perform work in accordance with the criteria set forth in subsection (a) of this section, its name shall be removed from the list. Unless otherwise removed from the list by the City Manager, names shall remain on the list for five years from the date of declaration of non-responsibility.

(h) This section applies to all *contracts*, *Consultant* agreements, *Maintenance Contracts* and *Public Works Contracts*

(Added 5-24-2005 by O-19383 N.S.)
(Amended 11-24-08 by O-19808 N.S; effective 12-24-2008.)