

PURCHASING

§ 38.35 SHORT TITLE.

The provisions of this subchapter shall be known as the “Purchasing Ordinance of the City of Hollywood.”

('72 Code, § 11½-27) (Ord. O-75-18, passed 2-19-75)

§ 38.36 PURPOSE.

The purpose and intent of this subchapter shall be to prescribe the manner in which the city shall control the purchase of materials, supplies, equipment and certain contractual services, and to maintain a high ethical standard for all officers and employees of the city in connection therewith. This subchapter shall be applied consistent with the city's Local Minority Business Enterprise and Local Small Business Enterprise Program, which is set forth in § 38.92, and with the city's Minority/Women's Business Enterprise program.

('72 Code, § 11½-28) (Ord. O-75-18, passed 2-19-75; Am. Ord. O-95-19, passed 4-4-95; Am. Ord. O-2005-20, passed 10-11-05)

§ 38.37 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHIEF ADMINISTRATOR. The City Manager of the City of Hollywood, Florida.

COMMISSION. The Commission of the City of Hollywood, Florida.

COMPETITIVE NEGOTIATION. A procedure whereby:

(1) The city shall negotiate a contract for construction services for a project with a firm authorized by competitive selection at compensation determined to be fair and reasonable, to provide for profit, overhead, and direct management costs plus actual costs not to exceed a guaranteed maximum price;

(2) Should the city be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the city determines to be fair and reasonable, negotiations with that firm shall be formally terminated. The city shall then undertake negotiations with the second most qualified firm and thereafter if necessary with the third;

(3) Should the city be unable to negotiate a satisfactory contract with any of the selected firms, additional firms shall be selected in accordance with competitive selection; and

(4) Negotiations shall continue until an agreement is reached.

COMPETITIVE PROPOSALS. Sealed documents submitted in response to a request for proposals, request for qualifications, or request for letters of interest to be opened at the time and place stated in the public notice of the request for proposals, request for qualifications, or request for letters of interest.

COMPETITIVE SELECTION. A procedure whereby:

(1) A selection committee appointed by the City Manager shall evaluate statements of qualification data submitted by firms proposing to provide construction services for a project, such evaluation to include discussions with no fewer than three firms regarding their qualifications, approach to the project and ability to furnish the required services;

(2) The selection committee shall determine the relative ability of each firm to perform the services required for the project;

(3) The selection committee shall recommend to the City Commission no fewer than three firms in order of preference, deemed to be most highly qualified to perform the required services; and

(4) The City Commission shall select no fewer than three firms in order of preference, deemed to be most highly qualified to perform the required services.

CONSTRUCTION MANAGEMENT AT RISK. A method of construction contracting whereby the prime contractor is selected by competitive selection and competitive negotiation to provide design phase consulting services, management and contractual responsibility for the total construction project. A fee is negotiated for profit, overhead and direct management costs. All subcontracts are awarded by the prime contractor based on competitive bids received in response to invitations

to bid issued by him/her. A guaranteed maximum price is provided by the prime contractor and the total price paid to the prime contractor is either the fee plus the actual construction cost or the guaranteed maximum price, whichever is less.

CONTRACTUAL SERVICES. Include, without limitation, the purchase of insurance; printing; gas; electricity; fuel; towel and cleaning services; purchase; installation; rental; repair and maintenance of equipment; machinery; and other personal property; and all other contractual services not specifically excluded from the requirements of this subchapter.

DESIGN PROFESSIONAL. An individual or entity licensed by the state who holds a current certificate of registration under F.S. Chapter 481 to practice architecture or landscape architecture, under F.S. Chapter 472 to practice land surveying and mapping, or under F.S. Chapter 471 to practice engineering, and who enters into a professional services contract.

DIRECTOR. The Director of Procurement Services of the city or such other officer or employee of the city as determined pursuant to § 38.41.

DIVISION. The Division of Procurement Services of the city.

PROFESSIONAL SERVICES CONTRACT. A written or oral agreement relating to the planning, design, construction, administration, study, evaluation, consulting, or other professional and technical support services furnished in connection with any actual or proposed construction, improvement, alteration, repair, maintenance, operation, management, relocation, demolition, excavation, or other facility, land, air, water, or utility development or improvement.

REVERSE AUCTION. A type of auction in which (i) the city puts a contract for supplies or contractual services out to bid, (ii) bidding is performed in real-time via the Internet with bidders unable to see the bids of their competitors during the auction, and (iii) the auction progresses with the intent that the price will decrease as bidders compete to offer lower bids than their competitors.

SHALL. Is always mandatory and not merely directory.

SUPPLIES. Include all supplies, materials and equipment.

USING AGENCY. Any department, agency, commission, bureau or other entity in the city government when procuring supplies or contractual services as provided in this subchapter. ('72 Code, § 11½-30) (Ord. O-75-18, passed 2-19-75; Am. Ord. O-95-19, passed 4-4-95; Am. Ord. O-99-47, passed 12-15-99; Am. Ord. O-2004-24, passed 9-29-04; Am. Ord. O-2005-20, passed 10-11-05; Am. Ord. O-2009-11, passed 5-6-09; Am. Ord. O-2011-08, passed 3-16-11)

§ 38.38 DIVISION OF PROCUREMENT SERVICES.

There is hereby established the Division, which shall be under the supervision of the Director of the Office of Budget and Procurement Services.

('72 Code, § 11½-29) (Ord. O-75-18, passed 2-19-75; Am. Ord. O-93-33, passed 7-21-93; Am. Ord. O-95-19, passed 4-4-95; Am. Ord. O-95-67, passed 11-1-95; Am. Ord. O-2004-24, passed 9-29-04)

§ 38.39 DIRECTOR; POWERS AND DUTIES.

(A) The Director shall be the head and have general supervision of the Division. The Director shall perform all duties required of a division head by law and by directive of the City Manager and shall have the powers and duties prescribed by this subchapter. The Director shall:

(1) Contract for purchases of all supplies and contractual services required by any office, department or agency of the city government;

(2) Transfer to or between offices, departments or agencies, or sell surplus, obsolete or unused supplies, materials and equipment; and

(3) Manage any inventory necessary to stock the city's warehouse.

('72 Code, § 11½-31)

(B) (1) *Purchasing power.* The Director shall have the power to purchase or contract for all supplies, materials, equipment, contractual services needed by all of the departments, institutions, boards, commissions and other agencies which derive their support wholly, or in part, from city funds, and which are hereinafter referred to as the "using agencies." The Director shall have the power to transfer all supplies, materials and equipment, from one department to another, as may be deemed advisable by the City Manager. The Director shall have the power to sell, exchange or trade any supplies, materials and equipment which have become unsuitable for public use.

(2) *Unauthorized purchases.* Except as herein provided, it shall be unlawful for any city

officer, employee or other person to order the purchase of any materials or supplies, or make any contract for municipal materials, supplies or services within the purview of this subchapter other than through the Division; and the city shall not be bound by any purchase order or contract made contrary to the provisions herein.

(3) *Other powers and duties.* In addition to the purchasing authority conferred in division (B)(1) above, and in addition to any other powers and duties conferred by this subchapter, the Director shall:

(a) Be responsible to the Director of the Office of Budget and Procurement Services for the effective administration of the Division and all activities assigned thereto.

(b) Keep informed as to current practices consistent with sound purchasing principles. The Director shall inaugurate, with the approval of the Director of the Office of Budget and Procurement Services, such new practices as appear to be of benefit to the service and to the public.

(c) Provide for the promulgation of rules and regulations for city purchasing, which shall be reviewed and amended from time to time.

(d) Submit periodic reports of activities of the Division to the Director of the Office of Budget and Procurement Services or other competent authority designated by the Director of the Office of Budget and Procurement Services.

(e) Establish and maintain a system in sufficient detail to furnish all information necessary for proper control of divisional activity and to form a basis for the periodic reports to the Director of the Office of Budget and Procurement Services.

(f) Recommend the appointment, promotion, demotion and removal of subordinate employees to the Director of the Office of Budget and Procurement Services, subject to civil services rules and regulations.

(g) Be responsible for the proper maintenance of all city property and equipment of the Division.

(h) Act to procure for the city the appropriate quality and quantity in supplies and contractual services at the least expense to the city.

(i) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.

(j) Recommend to the Office of Budget and Procurement Services for the adoption of all rules and regulations authorized by this subchapter and any other necessary to its operation.

(k) Keep informed of current developments in the field of purchasing; prices, market conditions and new products; and secure for the city the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition and by private businesses and organizations.

(l) Prescribe and maintain such forms as he shall find necessary to the operation of this subchapter.

(m) The Director shall, where possible, establish sets of standards and specifications to control all purchases by the city, and he or she shall prepare and recommend to the Office of Budget and Procurement Services such standards as to quality, size and variety of articles, equipment and supplies used by the offices and departments of municipal government as will make possible uniform purchasing for all city departments and offices when consistent with efficiency.

(n) Prepare, adopt and maintain a current vendors' file, which shall contain a description of vendors' commodities, prices and discounts and a history of vendors' prior performance on city contracts.

(o) Exploit the possibility of buying "in bulk" so as to take full advantage of discounts.

(p) Act so as to procure for the city all federal and state sales tax exemptions to which it is entitled.

(q) Have the authority, subject to the approval of the Director of the Office of Budget and Procurement Services, to declare vendors who default on their quotations irresponsible bidders, and to disqualify them from receiving any business from the city for a stated period of time, up to two years, after giving proper notice and holding an administrative hearing on such charges.

(r) Maintain a warehouse stock of commonly used items and a catalogue system for the use

of city departments and offices.

('72 Code, § 11½-32)

(Ord. O-75-18, passed 2-19-75; Am. Ord. O-93-33, passed 7-21-93; Am. Ord. O-95-19, passed 4-4-95; Am. Ord. O-95-67, passed 11-1-95; Am. Ord. O-2004-24, passed 9-29-04; Am. Ord. O-2005-20, passed 10-11-05; Am. Ord. O-2012-10, passed 5-2-12; Am. Ord. O-2015-17, passed 8-26-15)

§ 38.40 COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS REQUIRED; EXCEPTIONS.

(A) All purchases of, and contracts for, supplies and contractual services, when the estimated annual cost thereof shall exceed \$50,000, shall, except as specifically provided herein, be based, wherever possible, on competitive bids. ('72 Code, § 11½-33)

(B) When the Director determines that the use of competitive bidding is not practicable for a purchase of, or contract for, supplies and/or contractual services with an estimated annual cost in excess of \$50,000, such supplies and/or contractual services shall be purchased by competitive proposals. A request for proposals shall be issued. To assure full understanding of and responsiveness to the solicitation requirements and full understanding of proposals, discussions may be conducted with qualified offerors who submit proposals. The offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted through negotiations prior to award for the purpose of obtaining best and final offers. The award shall be made to the responsible offeror whose proposal is determined to be the most advantageous to the city.

(C) Only the following situations are exempt from the competitive bid and competitive proposal requirements of this subchapter:

(1) *Emergency purchases.* In urgent cases of compelling emergency which require the immediate purchase of supplies or contractual services, the City Manager is empowered to authorize the Director to secure by open market procedure as herein set forth, at the lowest obtainable price, any supplies or services meeting the competitive bid requirement. All such emergency purchases must receive prior approval of the City Commission, except for the most urgent situation presenting a clear and present substantial threat to life or property where immediate action is required and a quorum of the Commission for an emergency special meeting cannot be obtained before the deadline for action. For those contracts which the City Manager is otherwise authorized to award, he/she may waive competitive bidding under this paragraph without receiving the City Commission's prior or subsequent approval.

(2) *Professional services.* Contracts for professional services involving peculiar skill, ability, experience or expertise, which are in their nature unique and not subject to competitive bidding or competitive proposals, are exempt from this subchapter; however, state laws, such as the Consultants' Competitive Negotiation Act, to the extent applicable, shall be followed.

(3) *Sole-source supplies and services.* Sole-source supplies and services, such as unique, patented, or franchised supplies or services, are exempt if the Director determines, after conducting a good faith review of available sources, that the particular supply or service is available from only one source; however, such purchases with an estimated annual cost in excess of \$50,000 require a formal written contract approved by the Commission.

(4) *Disaster preparedness.* Contracts for the supply of foods, goods and services made in contemplation and preparation for the occurrence of a natural or man-made disaster or of civil unrest, where availability rather than price is the controlling factor, are exempt from this subchapter; however, all such contracts shall receive the approval of the Commission.

(5) When it is in the best interest of the city, the Director may procure, without following formal contract procedure, all supplies, materials, equipment and contractual services which are the subject of contracts with the state, its political subdivisions, the United States government, other governmental entities, or a corporation not for profit whose members are governmental entities, public officers, or any combination thereof; provided, however, that this subsection shall apply only if (i) the supplies, materials, equipment or contractual services are the subject of a price schedule negotiated by the state or the United States government, or (ii) the supplies, materials, equipment or contractual services are the subject of a contract with another governmental entity or a corporation not for profit whose members are governmental entities, public officers, or any combination thereof, which contract is based strictly on competitive bids or competitive proposals

and not on any preference.

(6) *Construction services.* Purchases of construction services are exempt from this subchapter. However, any such purchase which would otherwise be required to be based on competitive bids or competitive proposals and which is not based on competitive bids or competitive proposals shall be based on design-build, as regulated by the state law known as the "Consultants' Competitive Negotiation Act," or "construction management at risk." The City Manager or his/her designee shall be authorized to determine whether to use competitive bids, competitive proposals, design-build or "construction management at risk". At the conclusion of whichever process is selected by the City Manager or his/her designee, the purchase must receive prior approval of the City Manager, for those contracts which he/she is otherwise authorized to approve, or the City Commission, for all other contracts.

(7) *Tangible personal property that goes into or becomes a part of public works.* Purchases of tangible personal property that is installed by contractors or subcontractors and that goes into or becomes a part of city property or city facilities are exempt from the competitive bid and competitive proposal requirements of this subchapter; provided, however, that this exemption shall apply only when the contractor is obligated, by the terms of the contract, not only to install the tangible personal property but also, on behalf of the city, to take all actions necessary and appropriate to cause the purchase to be made. For all purchases exempt under this paragraph, the separate approval of the City Commission shall not be required. Contractors include, but are not limited to, persons engaged in building, electrical, plumbing, heating, painting, decorating, ventilating, paperhanging, sheet metal, roofing, bridge, road, waterworks, landscape, pier, or billboard work.

(8) *Best interest of the city.* Purchases of, and contracts for, supplies or contractual services, when the Commission declares by a five-sevenths (5/7ths) affirmative vote that competitive bidding and competitive proposals are not in the best interest of the city, are exempt from this subchapter. The Commission shall not use this exemption in an arbitrary or capricious manner but shall use it only in rare situations after making specific factual findings that support its determination that competitive bidding and competitive proposals are not in the best interest of the city. In the event that competitive bidding and competitive proposals are waived under this paragraph, the open market procedure set forth in § 38.43 shall be utilized. For those contracts which the City Manager is otherwise authorized to award, he/she may waive competitive bidding and competitive proposals under this paragraph.

(9) *Insurance.* Purchases of insurance through the city's agent of record are exempt from the competitive bid and competitive proposal requirements of this subchapter; however, such purchases with estimated annual cost in excess of \$50,000 require prior approval of the governing body. For purposes of this paragraph, "insurance" shall include third party administrative services in situations in which the city is self-insured.

(10) *Other contractual services not subject to competitive procurement requirements.*

(a) Software licensing and maintenance with the company from which the software was purchased, as set forth in § 38.42 or § 38.43, or its authorized representative;

(b) Servicing or warranty work of equipment by the authorized dealer or manufacturer's representative, when required to maintain a warranty in full force and effect, or when considered to be in the best interest of the city and recommended by the using department, and the services to be performed are by the equipment manufacturer, manufacturer's service representative, or a distributor of the manufacturer's equipment;

(c) Advertising in newspapers, periodicals, television, radio, billboards or other formal advertising media;

(d) Educational books, technical publications or other type trade journals;

(e) Utilities, including but not limited to, electric, water, storm water, sewer; and

(f) Governmental, professional or organizational membership dues or fees;

(g) Shipping, freight and postage charges;

(h) Artistic, academic and entertainment performances, including entertainment, lectures, seminars, speeches, cultural and artistic presentations; excluding production companies.

(D) Any other provision of Chapter 38 to the contrary notwithstanding, city purchasing shall be

conducted in accordance with applicable provisions of F.S. §§ 180.24 and 255.20.

('72 Code, § 11½-37)

(Ord. O-75-18, passed 2-19-75; Am. Ord. O-83-40, passed 7-20-83; Am. Ord. O-85-29, passed 9-4-85; Am. Ord. O-87-18, passed 4-1-87; Am. Ord. O-89-11, passed 3-1-89; Am. Ord. O-95-19, passed 4-4-95; Am. Ord. O-96-11, passed 5-1-96; Am. Ord. O-98-01, passed 1-21-98; Am. Ord. O-98-09, passed 5-20-98; Am. Ord. O-99-24, passed 9-8-99; Am. Ord. O-99-47, passed 12-15-99; Am. Ord. O-2004-28, passed 11-3-04; Am. Ord. O-2005-20, passed 10-11-05; Am. Ord. O-2009-11, passed 5-6-09; Am. Ord. O-2011-08, passed 3-16-11; Am. Ord. O-2015-17, passed 8-26-15; Am. Ord. O-2016-18, passed 8-31-16)

§ 38.41 CONTRACTS NOT UNDER DIRECTOR'S JURISDICTION.

The Director of Procurement Services shall have no jurisdiction over public works and utilities construction or improvement contracts, and professional services contracts with design professionals. Construction contracts shall be under the supervision of the City Engineer or the Director of Design and Construction Management. Utilities contracts shall be under the supervision of the Director of Public Utilities. All other pertinent provisions of this subchapter shall fully cover and govern such contracts. Except as otherwise provided in the city's code, all other contracts not qualifying under the categories specified above shall be supervised and administered by the Director of Procurement Services in accordance with the provisions of this subchapter.

('72 Code, § 11½-34) (Ord. O-75-18, passed 2-19-75; Am. Ord. O-91-72, passed 10-16-91; Am. Ord. O-93-33, passed 7-21-93; Am. Ord. O-95-19, passed 4-4-95; Am. Ord. O-99-33, passed 10-20-99; Am. Ord. O-2005-20, passed 10-11-05; Am. Ord. O-2009-11, passed 5-6-09)

§ 38.42 FORMAL CONTRACT PROCEDURE.

All supplies and contractual services, except as otherwise provided herein, when the estimated annual cost thereof shall exceed \$50,000, shall be purchased by formal written contract after due public notice, as provided herein, inviting bids or proposals.

(A) *Advertisement for bids required, amount.* When any goods, supplies, materials or contractual services for city purposes or uses shall be purchased and when the estimated annual amount to be paid by the city shall be more than \$50,000, notice thereof shall be advertised at least one time in a newspaper of general circulation published in the city, calling for sealed bids upon the work to be done under the proposed contract, to be received not earlier than ten days from the first publication of notice. At the option of the Director, unless any provision of law provides to the contrary, the city may satisfy any city requirement of public advertisement, public notice and public mailing of invitations to bid requests for proposals, requests for letters of interest and other solicitations electronically. Electronic notice shall specify that receipt of bids, proposals or other offers shall be received not earlier than ten days from the first announcement or posting of such electronic notice.

(B) *Surety.*

(1) *Bid deposits.* When deemed necessary by the Director, bid deposits shall be prescribed in the public notice inviting bids. Unsuccessful bidders shall be entitled to return of surety where the Director has required such. A successful bidder shall forfeit any surety required by the Director upon failure on his or her part to enter a contract within 15 days after the award.

(2) *Sureties on performance.* For all bids and/or proposals seeking goods or services in excess of \$200,000, the Director, City Engineer, Director of Public Utilities or appropriate staff person shall include as a requirement of such advertised bids and/or proposals, a performance bond, in the total contract amount. The City Manager shall have the discretion to waive this requirement in the event of an undue hardship or emergency. Any bonding company used must be listed on the United States Department of the Treasury's Circular 570. Additionally, the bonding company must be rated at least "A," Class X, by "Best's Key Rating Guide," published by A.M. Best Company, and authorized to do business under the laws of the state.

(C) *Bid opening procedure.*

(1) Unless submitted pursuant to subsection (7) below, bids shall be submitted sealed to the City Clerk and shall be identified as bids on the envelope.

(2) Bids shall be opened in public at the time and place stated in the public notice, and the Clerk shall witness the openings unless any other person is designated by the Director, Clerk, or

the City Manager.

(3) A tabulation of all bids received shall be posted for public inspection.

(4) No late bids shall be accepted or opened, and, if received after the date and time called for in the bid notice, returned unopened to bidder.

(5) Failure to sign bids, as required by the bid documents, shall invalidate them and they shall not be considered. The bid documents may allow for digital signature by the bidder.

(6) The bids opened shall contain a copy to be filed in the Clerk's office.

(7) Unless otherwise provided by law, the City may receive bids, proposals and other offers electronically in lieu of the foregoing procedures.

(8) Unless otherwise provided by law, the City may purchase supplies and contractual services through the process of reverse auction.

(D) *Rejection of bids.* When any goods, supplies, materials, or contractual services other than professional services shall be purchased and the estimated annual amount to be paid therefor by the city shall be more than \$25,000 but not more than \$50,000, the Director shall have the authority to recommend to the Manager the rejection of all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract when the public interest will be served thereby. When any goods, supplies, materials or contractual services shall be purchased and the estimated annual amount to be paid therefor by the city shall be more than \$50,000, and when any professional services shall be purchased and the estimated annual amount to be paid therefor by the city shall be more than \$25,000, the Director shall have the authority to recommend to the Manager for City Commission action the rejection of all bids, parts of all bids or all bids for any one or more supplies or contractual services included in the proposed contract when the public interest will be served thereby. The Director shall not accept the bid of a contractor who is in default on the payment of taxes, licenses or other moneys due the city.

(E) *Award of contract.*

(1) When any goods, supplies, materials or contractual services other than professional services shall be purchased and the estimated annual amount to be paid therefor by the city shall be more than \$25,000 but not more than \$50,000, the Director shall have the authority to recommend the award of a contract to the Manager. When any goods, supplies, materials or contractual services shall be purchased and the estimated annual amount to be paid therefor by the city shall be more than \$50,000, and when professional services shall be purchased and the estimated annual amount to be paid therefor by the city shall be more than \$50,000, the Director shall have the authority to recommend the award of a contract to the Manager for Commission action.

(2) Contracts shall be awarded to the lowest responsive, responsible bidder. In determining the "lowest responsive, responsible bidder," in addition to price, the Director shall consider:

(a) The ability, capacity and skill of the bidder to perform the contract or provide the service required.

(b) Whether the bidder can perform the contract or provide the service promptly or within the time specified, without delay or interference.

(c) The character, integrity, reputation, judgment, experience and efficiency of the bidder.

(d) The quality of performance of previous contracts of services, including, but not limited to, city contracts.

(e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.

(f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.

(g) The quality, availability and adaptability of the supplies, or contractual services to the particular use required.

(h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.

(i) The number and scope of conditions attached to the bid.

(j) The overall cost to the city.

(k) The bidder's compliance with all requirements of applicable laws and ordinances and the

bid documents.

(l) The best interest of the city.

(3) Notice of intent to award a contract based on competitive bids shall be publicly posted for a period of at least five business days prior to award, and notice of the posting thereof shall be mailed, by electronic or regular mail, to each bidder at least five business days prior to award.

(4) When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the Director and filed with the other papers relating to the transaction.

(5) Tie bids.

(a) If the determination of lowest responsive, responsible bidder results in a tie, the contract may be split when it is to the city's advantage.

(b) Where division (E)(5)(a) above is not in effect, the contract shall be awarded by drawing lots.

(6) The Director shall have the authority to require a performance bond, before entering a contract, in such amount as he or she shall find reasonably necessary to protect the best interest of the city.

(F) *Prohibition against subdivision.* No contract of purchase shall be subdivided to avoid the requirements of the first paragraph of § 38.42.

(G) *Bidder's list.* The Director shall also solicit sealed bids from those responsible prospective suppliers who have requested their names to be added to a "bidder's list" which the Director shall maintain, by sending them a copy of such notice as will acquaint them with the proposed purchase or sale. In any case, invitations sent to the vendors of the bidder's list shall be limited to vendors offering commodities that have been identified by them and that are applicable to the city's requirements.

(H) *Inspection of bids.* Inspection of the city's formal bids and proposals shall be conducted in accordance with F.S. § 119.07, as amended from time to time.

(I) *City Attorney to review and approve form of purchasing contracts.* Pursuant to the City Charter § 7.02(b)(2), the City Attorney shall review all contracts awarded under this subchapter and shall approve said contracts as to form prior to their execution by the appropriate city officials.

('72 Code, §11½-35)

(Ord. O-75-18, passed 2-19-75; Am. Ord. O-89-11, passed 3-1-89; Am. Ord. O-93-33, passed 7-21-93; Am. Ord. O-93-62, passed 11-3-93; Am. Ord. O-94-17, passed 5-4-94; Am. Ord. O-95-19, passed 4-4-95; Am. Ord. O-98-09, passed 5-20-98; Am. Ord. O-2001-40, passed 10-17-01; Am. Ord. O-2004-28, passed 11-3-04; Am. Ord. O-2005-20, passed 10-11-05; Am. Ord. O-2009-11, passed 5-6-09; Am. Ord. O-2011-08, passed 3-16-11; Am. Ord. O-2015-17, passed 8-26-15)

§ 38.43 OPEN MARKET PROCEDURE.

All purchases of supplies and contractual services of less than the estimated annual value of \$50,000 shall be purchased either in the open market, without newspaper advertisement and without observing the procedures prescribed by § 38.40(A) and (B) above, or in accordance with the procedures prescribed by § 38.40(A) and (B) above, as deemed appropriate by the Director, for the awards of formal contracts. All sales of personal property which has become obsolete and unusable, of not more than the estimated value of \$25,000, shall be sold in the open market, without newspaper advertisement and without observing the procedures prescribed by § 38.40(A) and (B) above.

(A) *Notice inviting bids.* When using the open market procedure, the Director may solicit bids by any of the following methods:

- (1) Direct mail requests to prospective vendors;
- (2) By telephone;
- (3) By public notice;
- (4) By facsimile;
- (5) By electronic means on the internet;
- (6) By cable television on the local public service channel;

(B) *Recording.* The Director shall keep a record of all open market orders and the bids submitted in competition thereon and such records shall also be open to public inspection.

('72 Code, § 11½-36) (Ord. O-75- 18, passed 2-19-75; Am. Ord. O- 89-11, passed 3-1-89; Am. Ord. O- 95-19, passed 4-4-95; Am. Ord. O- 96-11, passed 5-1-96; Am. Ord. O-98-09, passed 5-20-98; Am. Ord. O-2001-40, passed 10-17-01; Am. Ord. O-2004-28, passed 11-3-04; Am. Ord. O-2009-11, passed 5-6- 09; Am. Ord. O-2015-17, passed 8-26-15)

§ 38.44 INSPECTION, TESTING OF PURCHASED ITEMS OR SERVICES.

Except as otherwise provided in division (A) of this section, the Director shall inspect or supervise the inspection of all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract.

(A) *Inspection by using agency.* The Director shall have the authority to authorize using agencies having the staff and facilities for adequate inspection to inspect all deliveries made to such using agencies under rules and regulations which the Director shall prescribe.

(B) *Testing.* The Director shall have the authority to require chemical and physical test of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests the Director shall have the authority to make use of laboratory facilities of any agency of the city government or of any outside laboratory.

('72 Code, § 11½-38) (Ord. O-75-18, passed 2-19-75; Am. Ord. O-89-11, passed 3-1-89; Am. Ord. O-95-19, passed 4-4-95; Am. Ord. O-2005-20, passed 10-11-05)

§ 38.45 SURPLUS STOCK.

All using agencies shall submit to the Director, at such times and in such form as the Director shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.

(A) *Transfer.* The Director shall have the authority to transfer surplus stock to other using agencies.

(B) *Sell.* The Director shall have the authority to sell all supplies which are unsuitable for public use or to exchange the same for or trade in the same for new supplies.

(C) *Competitive bidding or public auction.* Sales of surplus property valued in excess of \$25,000 shall be made to the highest bidder by competitive bids in conformance with § 38.42 or by public auction. The Director shall have the authority to decide which method to use based on his or her determination as to which method would be most advantageous to the city.

(D) *Procedures for public auctions.* The procedures for any public auction authorized by this section shall be as follows:

(1) The auction may be conducted as an electronic auction.

(2) Any surplus property proposed to be sold by public auction pursuant to this section shall be appraised by two independent appraisers who are duly qualified, if the property is estimated to have a value which exceeds \$100,000. If the property is estimated to have a value which exceeds \$25,000 but does not exceed \$100,000, one appraisal shall be required.

(3) The auction shall be conducted as a reserve auction. If one appraisal is required, the reserve price shall be equal to 85% of the appraisal price. If two appraisals are required, the reserve price shall be equal to 85% of the average of the two appraisal prices.

(4) At the discretion of the Director or auctioneer, the Director or auctioneer may announce a suggested opening bid before bids are accepted. If a suggested opening bid is announced, the suggested opening bid shall be the reserve price.

(E) *Donation of surplus property.* Surplus property valued at \$25,000 or less shall be sold in conformance with § 38.43. If no acceptable bid is received within a reasonable time, such property may be offered to private nonprofit organizations by sale or donation. Notwithstanding the foregoing, any surplus motor vehicle valued at \$10,000 or less may be donated to a permanent resident of the city who received public assistance within one year of the date of donation and is employed on the date of donation. Prior to making any such donation, the Director shall require documentation establishing, to the satisfaction of the Director, that the proposed recipient is eligible to receive such donation.

('72 Code, § 11½-39) (Ord. O-75-18, passed 2-19-75; Am. Ord. O-89-11, passed 3-1-89; Am. Ord. O-95-19, passed 4-4-95; Am. Ord. O-98-09, passed 5-20-98; Am. Ord. O-2009-11, passed 5-6-09)

§ 38.46 COOPERATIVE PURCHASING.

The Director shall have the authority to join with other governmental entities in cooperative purchasing plans when the best interests of the city would be served thereby.
(72 Code, § 11½-40) (Ord. O-75-18, passed 2-19-75; Am. Ord. O-89-11, passed 3-1-89; Am. Ord. O-95-19, passed 4-4-95)

§ 38.47 CHANGE ORDERS.

(A) **CHANGE ORDER** means changes, due to unanticipated conditions or developments, made to an executory contract, which are reasonably and conscientiously viewed as being in fulfillment of the original scope of the contract and/or matters directly related thereto.

(B) (1) *City Manager's authority.* Subject to the restrictions contained in division (2) below, the City Manager is hereby authorized to approve and initiate work on the following types of change orders determined in his or her judgment, to be in the public interest, as follows:

(a) All change orders decreasing the cost of the contract to the city which do not materially alter the character of the work contemplated by the contract.

(b) A change order, consisting of one or more changes permitted by subsection (A) above, where the net change, taking into account both increases and decreases in cost, increases the cost of the contract to the city by an amount not in excess of \$50,000.

(c) A change order extending the contract completion date by not more than 90 calendar days.

(2) Notwithstanding the provisions of division (1) above, the City Manager is not authorized to approve a change order under either of the following conditions:

(a) Where the sum of all change orders issued under the contract exceeds \$100,000 or 10% of the original contract amount, whichever is greater.

(b) Where the cumulative effect of all approved change orders will result in the extension of a contract completion date by more than 180 calendar days.

(C) All change orders that the City Manager is not authorized to approve must be formally approved by the City Commission before work may be authorized to begin; and no claim against the city for extra work in furtherance of such change order shall be allowed unless said prior approval has been obtained, notwithstanding any other provision, contractual or otherwise.

(D) Change orders shall not artificially be distributed or divided so as to bring the amount within the approval level of the City Manager and any such proposed change order shall include within it all logically connected work required to be done at the time of the proposal.

(E) Notwithstanding the foregoing provisions, the following change orders relating to utility construction projects or design and construction management projects are authorized to be processed in the following manner:

(1) Construction changes which require timely and expedited action in the field and which do not exceed the total monetary value of \$5,000 may be authorized by the Manager of Engineering Support Services for utility construction projects and by the Senior Project Manager or Assistant Director for the Department of Design and Construction Management for design and construction management projects. For construction projects which include services provided by a construction manager engaged by the city, the Manager of Engineering Support Services or the Senior Project Manager or Assistant Director for the Department of Design and Construction Management must obtain the construction manager's written concurrence that a construction change is necessary and that such change is consistent with the project's original scope of services. A construction change as previously described may only occur when, prior to the commencement of any work, a written change order is executed by the individuals authorized herein and the construction contractor.

(2) Construction changes which require timely and expedited action in the field and which exceed \$5,000 but do not exceed \$10,000 may be authorized by the Director of Utilities or the Director of the Department of the Director of Design and Construction Management. For construction projects which include services provided by a construction manager engaged by the city, the Director of Utilities or the Director of Design and Construction Management must obtain the construction manager's written concurrence that a construction change is necessary and that such change is consistent with the project's original scope of services prior to the execution of a change order. A construction change, as previously described, may only occur when, prior to the

commencement of any work, a written change order is executed by the individuals authorized herein and the construction contractor.

(3) Construction changes which require timely and expedited action in the field and which exceed \$10,000 but do not exceed \$50,000, and upon the recommendation of the Director of Utilities or the Director of Design and Construction Management, may be authorized by the City Manager or his or her designated representative. For construction projects which include services provided by a construction manager engaged by the city, the Director of Utilities or the Director of Design and Construction Management must obtain the construction manager's written concurrence that a construction change is necessary and such change is consistent with the project's original scope of services prior to the execution of a change order. A construction change, as previously described, may only occur when, prior to the commencement of any work, a written change order is executed by the individuals authorized herein and the construction contractor.

(4) All change orders authorized in accordance with this division (E) are subject to the written confirmation or approval as to the availability of sufficient funding for each change order by the official authorizing such change orders.

(F) On a monthly basis, all change orders authorized in accordance with subdivision (B)(1) which exceed 10% of the original contract amount and all change orders authorized in accordance with division (E) shall be presented to the City Commission for informational purposes.

('72 Code, § 11½-42) (Ord. O-75-18, passed 2-19-75; Am. Ord. O-89-11, passed 3-1-89; Am. Ord. O-93-33, passed 7-21-93; Am. Ord. O-95-19, passed 4-4-95; Am. Ord. O-98-09, passed 5-20-98; Am. Ord. O-99-33, passed 10-20-99; Am. Ord. O-2005-20, passed 10-11-05; Am. Ord. O-2009-11, passed 5-6-09; Am. Ord. O-2011-18, passed 6-1-11)

§ 38.48 TERMINATION, EXTENSION AND RENEWAL OF CONTRACTS.

(A) *Termination.* The City Manager or his/her designee is hereby authorized to terminate any contract entered into by the city when he/she determines that a party to the contract has breached or failed to perform one or more of its obligations under the contract. Except in the case of an emergency, where such advance notice is not possible, or where the contract was entered into without City Commission approval, the City Manager or his/her designee must provide sufficient prior written notice to the Mayor and each Commissioner so that they can make any necessary inquiries at the next Commission meeting. When a contract is entered into by the city pursuant to City Commission approval and is terminable by the city without cause, only the City Commission is authorized to terminate the contract without cause; provided, however, that any termination without cause shall require at least a five-sevenths (5/7ths) affirmative vote of the City Commission. If the Mayor or any Commissioner desires that a contract be terminated without cause, he/she shall notify the City Manager in writing and request that the item be placed on the next Commission agenda.

(B) *Extensions.* The City Manager or his/her designee is hereby authorized to extend, for operational purposes only and for a maximum of 90 days, any contract entered into by the city pursuant to City Commission approval. Any further extensions of such contract require the approval of the City Commission.

(C) *Renewals.*

(1) *General.* When a contract entered into by the city pursuant to City Commission approval provides for one or more renewals by affirmative action of the city and the estimated annual cost of a renewal exceeds \$250,000, only the City Commission is authorized to approve such renewals. When a contract entered into by the city pursuant to City Commission approval provides for one or more renewals by affirmative action of the city and the estimated annual cost of a renewal of the contract does not exceed \$250,000, the Director shall have the authority to recommend to the City Manager approval or rejection of the renewal if it is the first, second, or third renewal of the contract, but only the City Commission is authorized to approve any subsequent renewal.

(2) *Automatic.* When a contract is entered into by the city pursuant to City Commission approval and provides for one or more automatic renewals unless one party notifies the other of its intent not to renew, only the City Commission is authorized to decide not to renew the contract; provided, however that any decision not to renew such a contract shall require at least a five-

sevenths (5/7ths) affirmative vote of the City Commission.

(D) *Employment contracts.* The provisions of this section shall not apply to the employment contracts of the City Manager, City Attorney and contractual employees.

(E) *Conflicting contractual provisions.* Specific provisions of contracts and ordinances that conflict with the provisions of this section shall control over this section.

(F) *Application to existing and future contracts.* The provisions of this section shall apply to every contract in existence on the effective date of this section and every contract entered into thereafter.

(Ord. O-97-43, passed 11-5-97; Am. Ord. O-2000-14, passed 3-22-00; Am. Ord. O-2009-11, passed 5-6-09; Am. Ord. O-2015-17, passed 8-26-15)

§ 38.49 PURCHASES OF REAL PROPERTY.

(A) In every instance in which the city seeks to acquire by purchase real property, every appraisal, offer and counter-offer shall be in writing. The city shall maintain complete records of every appraisal, offer and counteroffer.

(B) The selection of an appraiser for the purposes of this section shall be made by the Director of the city pursuant to the open market procedure set forth in § 38.43 herein.

(C) By the adoption of this section, the Commission reserves the rights set forth in F.S. § 166.045 with respect to exercising the limited exemptions from public disclosure of certain documents under the Public Records Act.

(‘72 Code, § 11½-44) (Ord. O-90-49, passed 10-17-90; Am. Ord. O-95-19, passed 4-4-95; Am. Ord. O-97-43, passed 11-5-97; Am. Ord. O-2000-14, passed 3-22-00; Am. Ord. O-2009-11, passed 5-6-09; Am. Ord. O-2011-17, passed 5-18-11)

§ 38.50 PREFERENCES FOR LOCAL BIDDERS.

(A) For the purpose of this section, unless the context clearly indicates or requires a different meaning, “local Hollywood vendor” shall mean a business entity which has maintained a permanent place of business with full-time employees within the City limits for a minimum of one year prior to the date of issuance of a bid or proposal solicitation. The permanent place of business must be the primary place of business of the entity and may not be a post office box or a personal residence. The business must actually distribute goods or services from the permanent place of business. The business must have a current local business tax receipt from the City of Hollywood and must not be publicly traded.

(B) For the purpose of this section, unless the context clearly indicates or requires a different meaning, “set-aside” shall mean a contract practice restricting eligibility for the competitive award of a contract or other competitive procurement opportunity solely to local Hollywood vendors as defined in § 38.50(A.)

(C) *Process.*

(1) Competitive bid. For bid evaluation purposes, a local Hollywood vendor shall be given a 5% evaluation credit. This shall mean that if a local Hollywood vendor submits a bid that is within 5% of the lowest bid submitted by a responsive, responsible bidder, the local Hollywood vendor shall have an option to submit another bid which is at least 1% lower than the lowest responsive, responsible bid. If the local Hollywood vendor submits a bid which is at least 1% lower than the lowest responsive, responsible bid, then the award will go to the local Hollywood vendor. If not, the award will be made to the bidder that submits the lowest responsive, responsible bid. If the lowest responsive, responsible bidder is a local Hollywood vendor, the award will be made to that vendor and no other bidders will be given an opportunity to submit additional bids as described herein.

(2) If multiple local Hollywood vendors submit bids which are within 5% of the lowest bid submitted by a responsive, responsible bidder, then all those local Hollywood vendors within 5% will be asked to submit a sealed best and final offer to the City Clerk’s Office, at a date and time to be assigned by the Director. The award will be made to the local Hollywood vendor submitting the lowest best and final offer, providing that the best and final offer is at least 1% lower than the lowest bid submitted by a responsive, responsible bidder in the original solicitation. If no local Hollywood vendor beats the lowest bid by at least 1% of the lowest responsive, responsible bid submitted in the original solicitation, the award will be made to the lowest responsive, responsible

bidder in the original solicitation regardless of geographic location of the business.

(D) *Competitive proposal.* For evaluation purposes, status as a local Hollywood vendor shall be a criterion for award in any Request For Proposals unless specifically exempted by the City Manager or the City Commission.

(E) *Set-aside bids.* Electrical, fencing, janitorial, landscaping, painting, sprinkler/irrigation, and welding services are shall be procured by set-aside when the estimated annual cost does not exceed \$100,000. No procurement shall be done as a set-aside unless there are a minimum of three local Hollywood vendors that appear to be capable of providing the services to be procured. If a procurement is done as a set-aside and the bids are not economically comparable to non-set-aside market pricing, the procurement shall be canceled.

(F) *Exceptions.* No local Hollywood vendor preference will be included in the following solicitations.

(1) A cooperative purchase.

(2) A purchase with respect to which the use of local Hollywood vendor preference is prohibited by law.

(3) A purchase funded in whole or in part by a governmental entity, where the applicable laws, rules, regulations or policies prohibit the use of local preferences.

(4) A local Hollywood vendor which is non-responsive or non-responsible.

(5) A purchase exempt, under § 38.40(C), from the competitive bid and competitive proposal requirements of the Purchasing Ordinances.

(6) Any solicitation exempted by the City Manager and/or the City Commission from local Hollywood vendor preference.

(G) *Additional restrictions.* No local Hollywood vendor shall receive more than three set-aside bid award contracts in a fiscal year. A local Hollywood vendor that has received at least one set-aside bid award contract in each of three consecutive fiscal years subsequent to fiscal year 2012 shall not be eligible to participate in set-aside bids for the following fiscal year.

(Ord. O-94-63, passed 12-7-94; Am. Ord. O-97-43, passed 11-5-97; Am. Ord. O-98-09, passed 5-20-98; Am. Ord. O-2004-28, passed 11-3-04; Am. Ord. O-2007-07, passed 4-18-07; Am. Ord. O-2012-10, passed 5-2-12)

§ 38.51 PROTESTS.

(A) After a notice of intent to award a contract is posted, any actual or prospective bidder who is aggrieved in connection with the pending award of the contract or any element of the process leading to the award of the contract may protest to the Director. A protest must be filed within five business days after posting or any right to protest is forfeited. The protest must be in writing, must identify the name and address of the protester, and must include a factual summary of, and the basis for, the protest. Filing shall be considered complete when the protest, including the deposit described in division (F) below, is received by the Division.

(B) Upon receipt of a protest of the pending award of a contract, a copy of the protest shall promptly be forwarded to the City Attorney. The City Attorney shall thereupon review the charge to determine its sufficiency, including whether the protest was timely filed. If upon review the City Attorney determines that the charge is insufficient, the City Attorney may issue a summary dismissal of the protest. If upon review the City Attorney determines that the charge is sufficient, a hearing of the protest committee shall be scheduled.

(C) A protest committee shall have the authority to review, settle and resolve the protest. The committee shall consist of three members appointed by the City Manager. Each member of the committee shall be either the director of an administrative department established by § 37.01(A) of the Code of Ordinances or the director of a special office established by the City Manager pursuant to § 37.01(C) of the Code of Ordinances. The committee's review shall be informal. At the time the City Manager appoints the committee, he or she shall designate one member to serve as the chairperson of the committee. The City Attorney or designee shall be counsel to the committee.

(D) If the protest committee determines that the pending award of a contract or any element of the process leading to the award involved a significant violation of law or applicable rule or regulation, all steps necessary and proper to correct the violation shall be taken. If the committee determines that the protest is without merit, the Director shall promptly issue a decision in writing

stating the reason for the decision and furnish a copy to the protester and any other interested party, and the process leading to the award shall proceed forthwith.

(E) In the event of a timely protest, the Director shall stay the award of the contract unless after consulting with the City Attorney and the using agency, he or she determines that the award of the contract without delay is necessary to protect substantial interests of the city.

(F) The Division shall require a deposit from a protester to compensate the city for the expenses of administering the protest. If the protest is decided in the protester's favor, the entire deposit shall be returned to the protester. If the protest is not decided in the protester's favor, the deposit shall be forfeited to the city. The deposit shall be in the form of cash or a cashier's check and shall be in the amount of 1% of the amount of the pending award, with a minimum deposit of \$250 and a maximum deposit of \$1,000.

(Ord. O-95-19, passed 4-4-95; Am. Ord. O-96-32, passed 9- 18-96; Am. Ord. O-97-43, passed 11-5-97; Am. Ord. O-2005- 20, passed 10-11-05; Am. Ord. O-2009-11, passed 5-6-09; Am. Ord. O-2011-08, passed 3-16-11; Am. Ord. O-2012-10, passed 5-2-12)

§ 38.52 PREVAILING RATE OF WAGES AND FRINGE BENEFITS ON CITY CONSTRUCTION CONTRACTS.

(A) *Establishment of minimum wages.* Every construction contract in excess of the dollar amount set by resolution of the City Commission to which the city is a party, shall include a provision that the rate of wages and fringe benefits, or cash equivalent, for all laborer, mechanics and apprentices employed by any contractor or subcontractor on the work covered by the contract shall be not less than the prevailing rate of wages and fringe benefit payments or cash equivalent for similar skills or classifications of work as established by the General Wage Decision by the United States Department of Labor for Broward County, Florida that is in effect prior to the date the city issues its invitation for bids. If the General Wage Decision fails to provide for a fringe benefit rate for any worker classification, then the fringe benefit rate applicable to the worker classification shall be the fringe benefit rate applicable to the worker classification with a fringe benefit rate that has a basic hourly wage closest in dollar amount to the worker classification for which no fringe benefit rate has been provided.

(B) *Notice requirement.* Upon commencement of work on a construction contract to which this section applies, the contractor and all subcontractors shall post a notice in a prominent place at the work site stating the requirements of this section.

(C) *Preempting by federal funding.* When construction contracts involve federal funding or are otherwise subject to the provisions of the Davis-Bacon Act (40 U.S.C. § 276 (a), as amended from time to time), this section shall not apply, and the minimum wages to be paid to the various classes of laborers, mechanics and apprentices shall be based upon the wages determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. § 276 (a), as amended from time to time).

(D) *Exceptions.* The provisions of this section shall not apply to any city construction project when the contractor for the project has been terminated for any reason, when a project is re-bid for any reason or when a project uses a design-build contract. The provisions of this section shall also not apply to any off-site improvements to be made by a developer as required by the city as a condition of the issuance of a development permit or to any construction project performed by the city utilizing its own employees.

(E) If any question should arise concerning the application of this section, which is not specifically addressed, then the Director may, but is not required to rely on rules, regulations, practices, administrative rulings and court decisions governing application of the Davis-Bacon Act.

(F) Every contractor and subcontractor required to pay prevailing wages as established by this section shall submit to the city on a regular basis, but not less than monthly, payroll sheets, which have been certified under oath by the contractor and/or subcontractor as to their accuracy and compliance with the provisions of this section. The certified payroll sheets shall contain the following: name and address of each employee; his/her current classification; rate of pay (including rates of contributions for, or costs assumed to provide, fringe benefit(s); daily and weekly number of hours worked; deductions made; and actual wages paid. Such records shall be maintained by the contractor and subcontractor for a period of at least one (1) year following completion of the

work.

(G) The Director may withhold, or cause to be withheld from the contractor, so much of any requisitioned payment as may be considered necessary to pay laborers, mechanics and apprentices the full amount of wages required by this section. The Director or his/her designee, may enter on the job site and conduct such inquiries of the contractor's workers and any subcontractor's workers to determine whether this section is being complied with. If any contractor or subcontractor fails to pay any laborers, mechanic or apprentice employed or working on the job site all or part of the wages required by this section, then the Director may, after written notice to the contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have been ceased. If the violations are not corrected, the city may terminate the contractor's right to proceed with the work for which there has been a failure to pay the required wages and take such steps as are necessary to complete the work, whereupon the contractor and its sureties shall be liable to the city for all excess costs incurred by the city.

(H) The contractor shall insert in any subcontracts such language as is necessary to require all subcontractors to comply with the requirements of this section. The contractor shall be responsible for noncompliance by any subcontractor. This section shall be deemed part of any contract entered into between the city and any contractor and between a contractor and any subcontractors covered by this section.

(I) Any person, corporation, entity or firm found guilty of violating the provisions of this section shall be punished as provided in § 10.99.

(Ord. 0-99-31, passed 9-22-99; Am. Ord. O-2009-11, passed 5-6-09)