

**CITY OF PALMDALE
COUNTY OF LOS ANGELES, CALIFORNIA
ORDINANCE NO. 1333**

**AN ORDINANCE OF THE CITY OF PALMDALE AMENDING CHAPTER 2.50 TO
TITLE 2 OF THE PALMDALE MUNICIPAL CODE REQUIRING CITY CONTRACTORS
TO ADHERE TO SPECIFIC HIRING PROCEDURES ESTABLISHED BY UNITED
STATES IMMIGRATION AND CUSTOMS ENFORCEMENT**

WHEREAS, Federal law regulates immigration and justifiably requires that certain conditions be met before a person is authorized to work in the United States;

WHEREAS, Local governmental entities should promote compliance with Federal immigration law and should act as an example to those businesses within their jurisdiction;

WHEREAS, The welfare of the public is served and promoted by governmental policies and procedures that deter and prevent unauthorized employment;

WHEREAS, A set of policies and procedures designed to prevent unauthorized employment has been developed by United States Immigration and Customs Enforcement and are included in its "IMAGE" Program;

WHEREAS, Ordinance 1325 established a requirement that the City of Palmdale adhere to the policies and procedures of the United States Immigration and Customs Enforcement's "IMAGE" Program; and

WHEREAS, the requirements established by Ordinance 1325 should apply to those individuals and entities that receive compensation from the City of Palmdale for goods provided and services rendered.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PALMDALE DOES ORDAIN AS FOLLOWS:

Ordinance No. 1333
Page 2 of 5

Section 1. Chapter 2.50 of the Palmdale Municipal Code (“Hiring Practices”) is amended to read as follows:

Chapter 2.50

Hiring Practices

Sections:

- 2.50.010 Definitions.
- 2.50.020 City enrollment in IMAGE Program.
- 2.50.030 Prohibitions on Public Contracts for Services.
- 2.50.040 Enforcement of contract terms.

2.50.010 Definitions.

A. “Contractor” shall mean a person, employer, or business entity that enters into a contract or an agreement with the City to perform any work or service in exchange for valuable consideration. No governmental agency shall be considered a Contractor for purposes of this Chapter.

B. “Enrolled in E-Verify” shall mean registration with E-verify, including entering into a Memorandum of Understanding with the Department of Homeland Security and the Social Security Administration, or registration with an E-Verify Designated Agent.

C. “Enrolled in the IMAGE Program” shall mean acceptance into the IMAGE Program by United States Immigration and Customs Enforcement and participation therein.

D. “E-Verify” shall mean the Internet based employment eligibility verification system operated by the Department of Homeland Security in partnership with the Social Security Administration. The term “E-Verify” shall also include its former names Basic Pilot Program and Employment Eligibility Verification Program, and shall include any successor program established by the federal government.

E. “IMAGE Certification” shall mean the designation of the Office of Investigations of the United States Immigration and Customs Enforcement for those entities that have enrolled in the IMAGE Program and successfully implemented its “Best Hiring Practices”.

F. “IMAGE Program” shall mean the “ICE Mutual Agreement between Government and Employers” program established by the Office of Investigations of the United States Immigration and Customs Enforcement, or any successor program established by the federal government.

G. “Public Contract for Services” shall mean any agreement, exceeding \$50,000, between the City and a Contractor for the procurement of any manner of construction, remodel, landscape, maintenance or repair services. “Public Contract for Services” shall not include any agreement between the City and a Contractor for the procurement of professional services related to construction, remodeling, landscaping, maintenance or repair. Professional services shall include, but not be limited to, those services normally provided by engineers, construction management consultants, architects,

Ordinance No. 1333

Page 3 of 5

geologists, hydrologists, land surveyors, landscape architects and assayers; real estate appraisers, licensed environmental assessors, ecologists, accountants and financial consultants.

H. "Subcontractor" shall mean any person, employer, or business entity that enters into a contract or an agreement, exceeding \$50,000, with a Contractor to perform any work or service pursuant to a Public Contract for Services.

I. "Unauthorized Alien" shall mean any alien not authorized for employment in the United States as defined by United States Code Title 8, section 1324a(h)(3).

2.50.020 City participation in the IMAGE Program. A. The City shall enroll and participate in the IMAGE Program.

B. The City Manager, or his designee, shall oversee the City's participation in the IMAGE Program and shall ensure that the City obtains, and thereafter maintains, IMAGE Certification.

C. This Section shall not apply if the IMAGE Program is discontinued or if the Office of Investigations of the United States Immigration and Customs Enforcement, or any successor agency, is unable to fulfill its responsibilities, contributions, or requirements under the IMAGE Program.

2.50.030 Prohibitions on Public Contracts for Services.

A. The City shall not enter into, or renew, a Public Contract for Services with a Contractor that is not Enrolled in E-Verify.

B. The City shall not enter into, or renew, a Public Contract for Services with a Contractor that is not IMAGE Certified or Enrolled in the IMAGE Program. This subsection shall not apply if the IMAGE Program is discontinued or if the Office of Investigations of the United States Immigration and Customs Enforcement, or any successor agency, is unable to fulfill its responsibilities, contributions, or requirements under the IMAGE Program.

C. Each Public Contract for Services shall include provisions to effectuate the intent of this Chapter, including, but not limited to, the following provisions:

1. The Contractor is IMAGE Certified, or currently Enrolled in E-Verify and currently Enrolled in the IMAGE Program with the intent of becoming IMAGE Certified.
2. The Contractor has verified, through participation in the IMAGE Program and E-Verify, that the Contractor does not employ any Unauthorized Aliens and certifies that it will not knowingly employ, or contract with, any Unauthorized Alien to perform any work under the Public Contract for Services.
3. The Contractor shall continue its participation in E-Verify and the IMAGE Program through the term of the Public Contract for Services.
4. The Contractor shall not enter into a contract with a Subcontractor that is not IMAGE Certified, or currently Enrolled in E-Verify and currently Enrolled in the IMAGE Program with the intent of becoming IMAGE

Ordinance No. 1333
Page 4 of 5

Certified, to perform any services under the Public Contract for Services.

5. The Contractor shall comply with any reasonable request made by the City in the course of any investigation to determine compliance with Palmdale Municipal Code Chapter 2.50.
6. Any violation of this contract relating to the enrollment and participation in E-Verify and/or the IMAGE Program shall constitute a material breach of this contract.

D. All requests for bids by the City shall include specific written notice that the bidder, and all of its Subcontractors under the Public Contract for Services, must be Enrolled in E-verify prior to the effective date of any Public Contract for Services that may result from the bid process and continue its participation in E-Verify through the term of the Public Contract for Services.

E. All requests for bids by the City shall include specific written notice that the bidder, and all of its Subcontractors under the Public Contract for Services, must be IMAGE Certified or Enrolled in the IMAGE Program prior to the effective date of any Public Contract for Services that may result from the bid process and continue its participation in the IMAGE Program through the term of the Public Contract for Services. This subsection shall not apply if the IMAGE Program is discontinued or if the Office of Investigations of the United States Immigration and Customs Enforcement, or any successor agency, is unable to fulfill its responsibilities, contributions, or requirements under the IMAGE Program.

2.50.040 Enforcement of contract terms.

A. The City Manager shall take any and all actions necessary to implement and enforce the requirements of this chapter.

B. The City shall investigate all credible written complaints alleging noncompliance with this chapter. However, no complaint shall be investigated if its allegations are solely based on national origin, ethnicity, race or any other classification deemed suspect by the City or any agency or court.

C. The City shall, within five business days of receipt of any written complaint alleging noncompliance with this chapter, request information from the Contractor demonstrating the Contractor's compliance with the Public Contract for Services.

D. If the Contractor is found to have violated the terms of the Public Contract for Services relating to the requirements of this chapter, the City shall invoke any available remedy at law, including, but not limited to, the imposition of penalties or liquidated damages, and termination of the Public Contract for Services.

Section 2. Construction. The requirements and obligations of this Chapter shall be implemented in a manner fully consistent with federal law including but not limited to those laws regulating immigration and protecting the civil rights of all citizens and documented residents and workers.

Ordinance No. 1333

Page 5 of 5

Section 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

Section 4. This ordinance shall not be operative or effective until July 1, 2008 and shall not apply to any Public Contract for Services entered into, or renewed, on or before June 30, 2008.

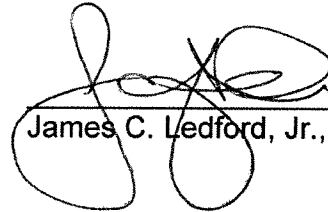
Section 5. The City Clerk shall certify to the adoption of this ordinance and shall cause this ordinance to be published or posted as required by law.

PASSED, APPROVED and ADOPTED this 7th day of November, 2007 by the following vote:

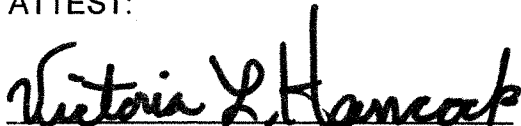
AYES: Mayor Ledford and Councilmembers Lackey, Knight, Hofbauer, and Dispenza

NOES: None

ABSTAIN: None ABSENT: None


James C. Ledford, Jr., Mayor

ATTEST:


Victoria L. Hancock, CMC, City Clerk

APPROVE AS TO FORM:


City Attorney