

Agenda Report

FEBRUARY 7, 2000

TO: City Council

THROUGH: Finance Committee

FROM: City Manager

SUBJECT: APPROVAL OF AN ORDINANCE OF THE CITY COUNCIL
AMENDING THE CITY'S COMPETITIVE BIDDING ORDINANCE TO
PROVIDE FOR THE SOLICITATION AND ENTERING INTO OF
FINANCIAL INSTRUMENTS DESIGNED TO OFFSET, HEDGE, OR
REDUCE INTEREST RATES, PAYMENT, AND OTHER RISKS AND
IMPROVE NET COSTS

RECOMMENDATION

It is recommended that the City Council approve an Ordinance amending the City's competitive bidding ordinance to provide for the solicitation of and entering into financial instruments designed to offset, hedge or reduce interest rates, payment, and other risks and improve net costs.

Background

Under the current provisions of Chapter 4.08 of the Pasadena Municipal Code (the "competitive bidding ordinance"), the City has prescribed a procedure for the competitive bidding of certain contracts to be furnished to the City. The specific provision which needs changing concerns the award of contracts. The code states, "The contract shall be awarded by the board to the lowest and best bidder. The board may authorize any contract to be memorialized by purchase order rather than by contract, where appropriate." This provision does not contemplate bids that involve public finance where the bid is received at a predetermined time and place and because of market conditions an award must be made within minutes.

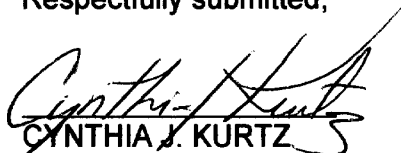
The recommended amendment will add Section 4.08.055 "Alternate Competitive Financing Process for Bonds, Contracts to Place on Interest Rate, Currency, Cash-Flow and Other Basis" to the City's Municipal Code. This will permit the City Manager or his/her designee to exercise the authority granted to the City pursuant to Sections 5920 et. Seq. of the

California Government Code. This will allow the City Manager or her designee to enter into contracts to reduce the amount or duration of payment, currency, rate, spread, or similar risk or result in a lower cost of borrowing when used in combination with the issuance or carrying of bonds. These transactions will still require City Council approval but will not require the final award to be approved by the City Council.


Fiscal Impact

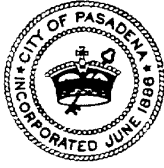
Approving this Ordinance amendment does not have any fiscal impact. The specific transactions that might result from this action will have fiscal impacts and will be described in the respective agenda reports.

Respectfully submitted,


CYNTHIA J. KURTZ
City Manager

Approved:


JAY M. GOLDSTONE
Director of Finance



Ordinance Fact Sheet

FEBRUARY 7, 2000

TO: City Council

THROUGH: Finance Committee

FROM: Cynthia J. Kurtz, City Manager

SUBJECT: AN ORDINANCE OF THE CITY OF PASADENA AMENDING THE CITY'S COMPETITIVE BIDDING ORDINANCE TO PROVIDE FOR THE SOLICITATION AND ENTERING INTO OF FINANCIAL INSTRUMENTS DESIGNED TO OFFSET, HEDGE, OR REDUCE INTEREST RATES, PAYMENT, AND OTHER RISKS AND IMPROVE NET COSTS

TITLE OF PROPOSED ORDINANCE:

AN ORDINANCE OF THE CITY OF PASADENA AMENDING THE CITY'S COMPETITIVE BIDDING ORDINANCE TO PROVIDE FOR THE SOLICITATION AND ENTERING INTO OF FINANCIAL INSTRUMENTS DESIGNED TO OFFSET, HEDGE, OR REDUCE INTEREST RATES, PAYMENT, AND OTHER RISKS AND IMPROVE NET COSTS

PURPOSE OF ORDINANCE:

The Department of Finance wishes to be able to seek alternative investment and financing options in order to reduce the City's boring cost and cannot meet the market requirements under the City's current Competitive Bidding Ordinance. This amendment will authorize the City Manager or her designee to award a contract to the lowest responsible bidder without having to return to the City Council for final approval. This change accommodates the requirement to be able to award the contract within minutes of opening bids.

MEETING OF 02/07/00

AGENDA ITEM NO. 9.A.1.

REASON WHY LEGISLATION IS NEED:

Under the current provisions of Chapter 4.08 of the Pasadena Municipal Code (the “competitive bidding ordinance”), the City has prescribed a procedure for the competitive bidding of certain contracts to be furnished to the City. The specific provision of concern relates to the award of contracts and it states, “The contract shall be awarded by the board to the lowest and best bidder. The board may authorize any contract to be memorialized by purchase order rather than by contract, where appropriate.”

This provision does not contemplate bids which involve public finance where the bid is received at a predetermined time and place and because of market conditions an award must be made within minutes. The recommended amendment will add Section 4.08.055 “Alternate Competitive Financing Process for Bonds, Contracts to Place on Interest Rate, Currency, Cash-Flow and Other Basis” to the City’s Municipal Code. This will permit the City Manager or his/her designee to exercise the authority granted to the City pursuant to Sections 5920 et. Seq. Of the California Government Code to enter into contracts designed to reduce the amount or duration of payment, currency, rate, spread, or similar risk or result in a lower cost of borrowing when used in combination with the issuance or carrying of bonds and will not require the final award to be approved by the City Council.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED:

The only department affected by the enactment of this Ordinance will be the Department of Finance.

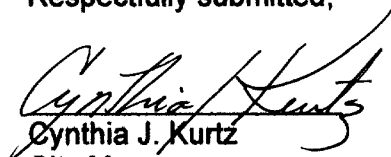
FISCAL IMPLICATIONS

Approving this Ordinance amendment does not have any fiscal impact. The specific transactions that might result from this action will have fiscal impacts and will be described in the respective agenda reports.

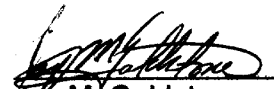
POLICY CHANGES:

The proposed Ordinance permits the City Manager or her designee to enter into a contract which is designed to reduce the amount or duration of payment, currency, rate, spread, or similar risk or result in a lower cost of borrowing when used in combination with the issuance or carrying of bonds and will not require the final award to be approved by the City Council as is the case with other competitively bid contracts over \$75,000.

Respectfully submitted,


Cynthia J. Kurtz
City Manager

Approved:


Jay M. Goldstone
Director of Finance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA
AMENDING THE CITY'S COMPETITIVE BIDDING
ORDINANCE TO PROVIDE FOR THE SOLICITATION AND
ENTERING INTO OF FINANCIAL INSTRUMENTS
DESIGNED TO OFFSET, HEDGE, OR REDUCE INTEREST
RATES, PAYMENT, AND OTHER RISKS AND IMPROVE
NET COSTS

WHEREAS, pursuant to Article X of the Charter (the "Charter") of the City of Pasadena (the "City"), the City Council of the City (the "City Council") is authorized to prescribe by ordinance a system of competitive bidding for all contracts, subject to certain specified exceptions, for supplies, materials, labor or other valuable consideration to be furnished to the City; and

WHEREAS, pursuant to the City's competitive bidding ordinance, codified as Chapter 4.08 of the Pasadena Municipal Code (the "competitive bidding ordinance"), the City has prescribed a procedure for the competitive bidding of certain contracts to be furnished to the City; and

WHEREAS, the City is authorized pursuant to Section 5920 *et seq.* of the California Government Code in connection with, or incidental to, the issuance or carrying of bonds, or acquisition or carrying of any investment or program of investment, to enter into any contract which the City determines to be necessary or appropriate to place the obligation or investment of the City, as represented by the bonds, investment or program of investment and the contract or contracts, in whole or in part, on the interest rate, currency, cash-flow, or other basis desired by the City, including without limitation, contracts commonly known as interest rate swap agreements, currency swap agreements, forward payment conversion agreements, futures, or contracts providing for payments based on levels of, or changes in, interest rates, currency exchange rates, stock or other indices, or contracts to exchange cash flows or a series of payments, or contracts, including, without limitation, interest rate floors or caps, options, puts or calls to hedge payment, currency rate, spread, or similar exposure, subject to the provisions of said California Government Code Section 5920 *et seq.*; and

WHEREAS, the City Council has determined to authorize the City to exercise the authority granted to the City pursuant to the Section 5920 *et seq.* of the California Government Code in accordance with such competitive financing procedures as are to be established in a resolution of the City Council authorizing any such contract;

NOW, THEREFORE, the People of the City of Pasadena ordain as follows:

Section 1. Determinations; Findings. The City Council hereby finds and determines that the City's existing competitive bidding procedures established pursuant to Chapter 4.08 of the Pasadena Municipal Code may not provide sufficient flexibility to permit the City to avail itself of the various financial contracts authorized by Section 5920 *et seq.* of the California

Government Code, and it is in the best interest of the City to explicitly provide for a process that will allow this flexibility.

Section 2. Amendment of Competitive Bidding Ordinance. The competitive bidding ordinance is hereby amended to add thereto the following:

"Section 4.08.055. Alternate Competitive Financing Process for Bonds: Contracts to Place on Interest Rate, Currency, Cash-Flow and Other Basis. In lieu of the competitive bidding process specified in this chapter, the city council may direct a competitive financing process for any contract authorized under Sections 5920 *et seq.* of the California Government Code and any successor provisions thereof. The competitive financing process shall include, at a minimum, the following elements: (i) a notice of request for such contract shall be published at least once, no fewer than 10 days prior to the date of receipt of quotations for the contract in a financial publication generally circulated throughout the State of California reasonably designed to reach potential providers; (ii) no fewer than three qualified providers shall be issued a request for the contract; (iii) firm price quotations shall be requested in the time frame and manner reasonably designed to foster competition, to prevent fraud and collusion and to secure the most favorable price for the city; (iv) the contract shall be awarded to the qualified provider quoting the lowest and best quote to the city as reasonably determined in accordance with the criteria specified by the city; and (v) the results of the competitive financing process shall be reported to the finance committee of the city council following the award of the contract. All other administrative procedures governing any particular financing and the award of any particular contract may be set forth in a resolution adopted by the city council otherwise consistent with state law, the city Charter and this code.

Section 3. Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published once in a newspaper of general circulation published daily in said City.

Section 4. Effective Date. This Ordinance shall take effect on the date of publication pursuant to Section 3.

Signed and approved this ____ day of _____, 2000.

Mayor of the City of Pasadena, California

I HEREBY CERTIFY that the foregoing Ordinance was adopted by the City Council of the City of Pasadena at its regular meeting held _____, 2000, by the following vote:

Ayes:

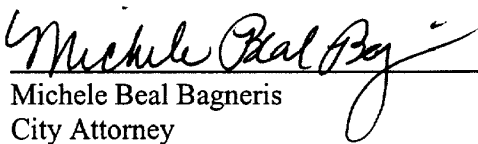
Noes:

Absent:

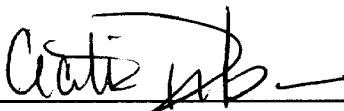
Published: _____, 2000

APPROVED AS TO FORM:

By: _____
Jane L. Rodriguez
City Clerk

By: 
Michele Beal Bagneris
City Attorney

APPROVED AS TO FORM:

By: 
Cecilia Dyba
Brown & Wood LLP
Bond Counsel