

Ordinance Fact Sheet

TO: CITY COUNCIL DATE: July 26, 2004

FROM: CITY ATTORNEY

SUBJECT: AN ORDINANCE OF THE CITY OF PASADENA AMENDING CHAPTER 4.08 OF THE PASADENA MUNICIPAL CODE (COMPETITIVE BIDDING AND PURCHASING) TO ADOPT LOCAL PREFERENCE PROVISIONS AND A SMALL/MICRO BUSINESS PREFERENCE POLICY FOR CERTAIN CITY PROCUREMENTS

TITLE OF PROPOSED ORDINANCE:

AN ORDINANCE OF THE CITY OF PASADENA AMENDING CHAPTER 4.08 OF THE PASADENA MUNICIPAL CODE (COMPETITIVE BIDDING AND PURCHASING) TO ADOPT LOCAL PREFERENCE PROVISIONS AND A SMALL/MICRO BUSINESS PREFERENCE POLICY FOR CERTAIN CITY PROCUREMENTS

BACKGROUND:

At its regular meeting of June 28, 2004, the City Council directed the City Attorney's Office to prepare this ordinance to increase the participation of local businesses, small businesses and microbusinesses in City procurement for purchases under \$25,000 as well as those procurements subject to competitive selection through the Request for Proposal Process. These preferences will not apply to procurements subject to competitive bidding, such as contracts for material or for construction in excess of \$25,000. The reason for this is that the City Charter requires that certain contracts in excess of \$25,000 be awarded to the low bidder and prevents the application of preferences for local or small businesses.

At present, the City has a 5% local preference for purchases under \$25,000 as well as those subject to competitive selection (i.e., the RFP process). This proposed ordinance would add small/micro business preferences in addition to the existing local preference therefore providing local small/micro businesses a 10% preference for purchases less than \$25,000 as well as those subject to competitive selection.

MEETING OF 7/26/2004

AGENDA ITEM NO. 9.A.1.

As staff indicated to City Council on June 28, while the proposed 5% addition for small/micro business preference would not be exclusive to local businesses, it would provide an additional opportunity for local firms meeting the definition set forth in California Government Code Section 14837, copy attached. Under state law, "small businesses" are defined, essentially, as those with 100 or fewer employees and average annual gross receipts of ten million dollars (\$10,000,000) or less and microbusinesses have average annual gross receipts of two million five hundred thousand (\$2,500,000) or less.

Although this is a race-neutral program which meets the requirements of the State constitution, many firms owned by women and minorities fit the definition of small and/or micro-business. At present, there are 49 small and micro-Pasadena businesses listed on the State's database, 19 of which are currently listed on the City's vendor list. Of these, 12 or 63% are woman or minority owned.

PURPOSE OF ORDINANCE:

The purpose of this proposed ordinance is to amend the City's Competitive Bidding and Purchasing Ordinance to provide a mechanism by which the City may give preference to local and small/micro business when contracting for the City's purchasing needs.

REASON WHY LEGISLATION IS NEEDED:

The Pasadena Municipal Code may only be amended by ordinance.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED:

The Purchasing Division of the Department of Finance will be primarily affected by this proposed ordinance, but all departments preparing purchase orders or service contracts for firms providing labor or services to the City will also be affected. Further, businesses which desire to contract with the City will be affected by this ordinance.

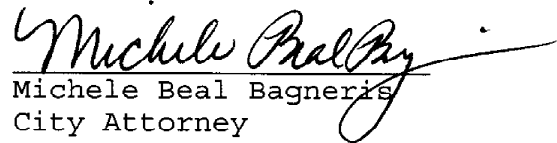
ENVIRONMENTAL IMPACT:

The proposed ordinance is exempt from the California Environmental Quality Act (CEQA) under the General Rule that CEQA applies only to activities which may have a significant effect on the environment (Section 15061(b)(3)).

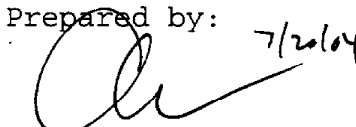
FISCAL and SERVICE IMPLICATIONS:

It is anticipated that the proposed ordinance will increase the amount of City procurement dollars expended with local businesses.

Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:

 7/26/04

Nicholas George Rodriguez
Assistant City Attorney

Concurrence:

 for

Cynthia J. Kurtz
City Manager

Introduced by

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA AMENDING CHAPTER 4.08 OF THE PASADENA MUNICIPAL CODE (COMPETITIVE BIDDING AND PURCHASING) TO ADOPT LOCAL PREFERENCE PROVISIONS AND A SMALL/MICRO BUSINESS PREFERENCE POLICY FOR CERTAIN CITY PROCUREMENTS

The People of the City of Pasadena ordain as follows:

SECTION 1. Section 4.08.020 of the Pasadena Municipal Code is hereby amended by adding subparagraph N to read as follows:

“N. For the purposes of this chapter, 'small business' and 'microbusiness' shall be any business which has been certified by the state of California or by the city, under purchasing procedures adopted by the city manager, as meeting the definitions set forth in California Government Code Section 14837, or any successor provision.”

SECTION 2. Section 4.08.030 of the Pasadena Municipal Code is hereby amended to read as follows:

"4.08.030 Bidding--Not required when.

The city manager shall establish procedures for procurements excluded from competitive bidding requirements under Section 1002 of the city charter. These procedures shall include requiring city departments to seek quotes from local vendors, as shall be defined in the procedures, prior to obtaining quotes from non-local vendors and to purchase goods and service locally where commercially reasonable. When the material or service is in fact a single purchase, it shall not be divided into parts for the purpose of reducing the amount of the contract below the sum of the \$25,000."

SECTION 3. Section 4.08.048 of the Pasadena Municipal Code is hereby amended to read as follows:

"4.08.048 Local and small/micro business preference for competitively selected contracts.

For contracts of \$25,000 or more that are subject to competitive selection, local businesses shall receive a preference equal to 5% of the overall evaluation. In addition, small businesses and microbusinesses shall receive a preference equal to 5% of the overall evaluation. The city manager may modify or eliminate ~~this~~ the local, small or micro business preference where it is in conflict with federal or state laws or regulations."

SECTION 4. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published in full text.

SECTION 5. This ordinance shall take effect upon publication.

Signed and approved this _____ day of _____, 2004.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting regular held the ____ day of _____, 2004 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Date Published:

JANE L. RODRIGUEZ, CMC
CITY CLERK

APPROVED AS TO FORM: *7/20/04*

Nicholas George Rodriguez
Assistant City Attorney