

Introduced by: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 4, CHAPTER 4.08 OF THE PASADENA MUNICIPAL CODE, THE PURCHASING ORDINANCE

The People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and corresponding cost of publication, will be published by title and summary as permitted in Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

“Summary

This proposed ordinance amends a variety of provisions of Chapter 4.08 of the Pasadena Municipal Code, the Purchasing Ordinance. Of note, this ordinance requires that all contracts in excess of \$250,000 be approved by the City Council, and makes other revisions to the Purchasing Ordinance.

Ordinance No. _____ shall take effect upon publication.”

SECTION 2. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.010 is amended to read as follows:

“4.08.010 – Short title.

This chapter shall be known as the “purchasing ordinance.””

SECTION 3. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.020, subdivision (I) to the conclusion of the Section is amended to read as follows:

I. “MWBE” means a business owned and controlled by a woman, minority or a group of women or minorities or other individual or group.

J. “Owned or Controlled” means owning at least 51 percent of the business and having management control of the business.

K. “Operating company” means or refers to any non-profit public benefit corporation established by the city, which includes the Rose Bowl Operating Company, Pasadena Center Operating Company, and Pasadena Community Access Corporation.

L. “Operating company chief executive” means or refers to the operating company’s highest ranking executive in charge of day-to-day operations.

M. “Public works” means all fixed works for the construction, alteration, repair, improvement, reconstruction, or demolition of any public improvement, including, but not limited to, constructed for public use or protection, including but not limited to, bridges, waterworks, sewers, electric works, public buildings or facilities, street improvements, and park or open space improvements.”

N. "Purchase order" means a written authorization by the issuing party for the recipient to provide labor, materials or services, for which the issuing party agrees to pay.

O. "Services" means, but is not limited to, rental, repair and maintenance of equipment, machinery and other personal property, and professional services, but does not include public works.

P. 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 4. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.025 is amended to read as follows:

"4.08.025 - Contracts requiring city council approval.

A. Pursuant to Section 1001 of the Charter, all contracts shall be approved by the city council except contracts of a total value equal to or less than \$250,000, except contracts of the city's operating companies as set forth in Section 4.08.026, and contracts that have been exempted from this chapter by ordinance or resolution of the city council. The total value for a contract shall include the value of all potential extensions, renewals, and options contemplated by the contract award.

B. The city manager is authorized to approve contracts not reserved to the city council by the Charter or this chapter, unless otherwise authorized by ordinance or resolution of the city council. The city manager may delegate the authority to make purchases and awards, with such authority to be in writing and on file with director of finance.

C. The city manager, without further city council approval and assuming there remain sufficient funds for the procurement, may increase the value of existing (not expired) contracts previously authorized by the city council to amounts not to exceed \$250,000. The director of finance shall maintain a list of any such contracts amended to increase the contract value, as set forth in this subdivision. This subdivision shall sunset on December 31, 2028.

SECTION 5. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.026, title and first paragraph, are amended to read as follows, with the remainder of the section unchanged:

"4.08.026 - Contracts of the City's Operating Companies.

All contracts of the City's operating companies shall be signed on behalf of the city by the operating company's chief executive and approved as to form by the city attorney. The operating company's chief executive may award contracts within the amount specified in Section 4.08.025(A) which conform to the requirements of this chapter and which are reflected in any budget approved by the city council. The city council shall approve all operating company contracts in excess of the amount specified in Section 4.08.025(A), unless prescribed by ordinance, resolution, or contract."

SECTION 6. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.027 is amended to read as follows:

“4.08.027 - Authority of the City’s Operating Companies.

For all competitive bidding and purchasing processes which it undertakes pursuant to this chapter, the operating companies shall have all authority granted to the city council under this chapter except as explicitly reserved to the city council in Sections 4.08.025, 4.08.026 and 4.08.155 or otherwise reserved by the Charter. The operating company’s chief executive shall have all authority granted to the city manager and director of finance under this chapter, except as explicitly reserved in Section 4.08.180.”

SECTION 7. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.030 is 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 Charter. These procedures shall include requiring city departments to consider quotes from local vendors, as shall be defined in the procedures, prior to considering 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 \$75,000.”

SECTION 8. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.035, subdivision (A)(1) is amended to read as follows:

“Contractor certifies and represents that, during the performance of this contract, the contractor and any other parties with whom it may subcontract shall adhere to equal opportunity employment practices to assure that applicants and employees are treated equally and are not discriminated against because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decision making, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status, or any other class protected by Government Code Section 12940, subdivision (a). Contractor further certifies that it will not maintain any segregated facilities.”

SECTION 9. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.035, subdivision (C) is amended to read as follows:

“C. For contracts in excess of the competitive bidding threshold of Section 4.08.045 involving the provision of labor or services, the contractor shall submit information requested on a form provided by the city which, among other requested information, specifies the number of minority, women, and city of Pasadena residents who are

employed by contractor and the number of minority owned, women owned, and local business subcontractors.”

SECTION 10. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.040 (Purchases not subject to preaudit) is hereby repealed.

SECTION 11. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.045, is amended to read as follows:

“4.08.045 - Bidding—Competitive.

The bidding procedure specified in this chapter shall be required for all contracts of \$725,000 or more for supplies, materials, labor or other valuable consideration, to be furnished to the city, except for contracts otherwise excluded from competitive bidding requirements by the city council; or by a provision of the city Charter or state law. Where not otherwise provided by this chapter, the city manager shall establish procedures for bid openings and for the preparation and execution of bids, ~~purchase orders and contracts.~~”

SECTION 12. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.046, is amended to read as follows:

“4.08.046 - Local preference for competitively bid contracts.

For competitively bid contracts for the purchase of goods and materials of a total value in excess of the amount specified in Section 4.08.045 where it has been determined that the city will receive a return of sales and use tax, a preference to local businesses equal to the amount the city will receive in sales and use tax revenue shall be provided. The city manager may modify or eliminate this preference where it is in conflict with federal or state laws or regulations.”

SECTION 13. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.047, is amended to read as follows:

“4.08.047 - Competitive selection.

For contracts of a total value in excess of the amount specified by Section 4.08.045 that are not required to be competitively bid, a competitive selection process shall be provided which will be open to all persons qualified to perform such service. Competitive selection is a process where factors in addition to cost are weighed, where a contract can be awarded to other than the proposer with the lowest price and shall be based upon a written request for proposals or qualifications approved as to form by the city attorney and the director of finance. Competitive selection of professional service firms shall be evaluated and determined on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.”

SECTION 14. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.048, is amended to read as follows:

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

For contracts that are subject to competitive selection as required by Section 4.08.047, local businesses shall receive a preference equal to 5 percent of the overall evaluation. In addition, small businesses and microbusinesses shall receive a preference equal to 5 percent of the overall evaluation. The city manager may modify or eliminate the local, small or micro business preference where it is in conflict with federal or state laws or regulations.”

SECTION 15. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.049 is amended to read as follows:

“A. The following contracts are exempt from the competitive selection process upon a determination by the director of finance or purchasing administrator that the facts support the exemption:

1. Contracts for labor or services rendered by any city officer or employee.
2. Contracts for labor, material, supplies or services furnished by one city department to another department.
3. Contracts with other governmental entities.
4. Contracts for legislative liaison and lobbying services.
5. Contracts relating to the acquisition, disposal or lease of real property.
6. Contracts for labor, material, supplies or services for actual emergency work.

B. Contracts may be exempted from the competitive selection process where a determination is made that the best interests of the city are served by a direct award of a contract without a competitive selection process. The city council (by resolution or motion) shall have the authority to make such an exemption for all contracts authorized by Section 4.08.025(A), and the city manager shall have the authority for all contracts authorized by Section 4.08.025(B).”

SECTION 16. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.050, is amended to read as follows:

“4.08.050 - Informal selection.

For contracts with a total value less than \$75,000, an informal selection process shall be provided which will be open to all persons qualified to provide the required labor, material, supplies or services. Where appropriate the selection process may consider factors other than cost. The informal selection process for purchases in excess of \$10,000 shall include the solicitation of no fewer than three vendor quotes unless otherwise exempted by this chapter.”

SECTION 17. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.051, is amended to read as follows:

“4.08.051 - Exemptions from informal selection.

Exemptions from the informal selection process shall be the same as those stated in Section 4.08.049. The director of finance may approve all exemptions under \$75,000.”

SECTION 18. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.060, is amended to read as follows:

“4.08.060 - Notice inviting bids.

For contracts subject to competitive bidding, a notice inviting bids shall be published for at least one day in at least one of the following: (1) a newspaper of general circulation in the city; or (2) a trade journal reaching the industry that may bid on the procurement, and shall fix a period during which such bids will be received, which shall be for at least 10 calendar days after the first publication of the notice. The notice shall include a general description of the material, services or public works to be purchased or contracted for, and shall state where bid forms and specifications may be obtained and shall specify the time and place for receiving and opening of bids.”

SECTION 19. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.065 (Charge for specifications) is hereby repealed.

SECTION 20. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.070, is amended to read as follows:

“4.08.070 - Approval of specifications.

Specifications shall be approved as to form by the city attorney prior to publication.”

SECTION 21. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.090, is amended to read as follows:

“4.08.090 - Bid opening.

All bids shall be sealed and submitted to the city in the form and manner as specified in the notice inviting bids. Bids shall be opened at the time stated in said notice. Any bid that does not conform to the requirements of this chapter, the specifications, or notice inviting bids shall be rejected.”

SECTION 22. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.100, is amended to read as follows:

“4.08.100 - Contract award.

For contracts subject to competitive bidding, the contract shall be awarded by the city council to the lowest and best bidder.

SECTION 23. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.110, is amended to read as follows:

“4.08.110 - Return of bid securities.

The city shall promptly return to the unsuccessful bidders their bid security. The city shall retain the bid security of the successful bidder until after execution of the contract and approval of the bonds or other security furnished by the bidder for the faithful performance of the contract, and then shall return such bid security to the successful bidder.”

SECTION 24. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.135, subdivision (A) is amended to read as follows:

“A. Competitive bidding for a project may be completed in a two-part bidding process, including a request for qualifications element, when approved by the city manager and approved as to form by the city attorney prior to publication.”

SECTION 25. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.150, is amended to read as follows:

“4.08.150 - Emergency purchases.

In case of actual emergency which requires immediate purchase of material or services, the director of finance or his authorized representative with the approval of the city manager may secure without competitive bidding, at the lowest obtainable price, any material or services regardless of the amount of the expenditure. A full report of the circumstances of any such emergency purchase shall be filed with the city manager, and, where the expenditure exceeds \$250,000, with the city council.”

SECTION 26. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.151, is amended to read as follows:

“4.08.151 - Monitoring and reporting.

The director of finance shall report annually on the past fiscal year's procurement activity. Such annual report shall include a statistical report on all procurements awarded to minority business enterprises, women business enterprises, and local businesses.”

SECTION 27. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.155, is amended to read as follows:

“4.08.155 - Emergency purchases by operating companies.

In case of actual emergency which requires immediate purchase of materials or services by an operating company’s chief executive, with the approval of the chair or president of the operating company’s board of directors, an operating company may secure, without competitive bidding, at the lowest obtainable price, any material or service regardless of the amount of the expenditure. A full report of the circumstances of any such emergency purchase shall be filed with the operating company’s board of directors, and, where the expenditure exceeds the contracting threshold set forth in Section 4.08.026, with the city council and the operating company’s board of directors.

SECTION 28. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.175, is added to read as follows:

“4.08.175 - Exemption from public contract code.

A. Pursuant to California Public Contract Code Section 1100.7, the City of Pasadena, as a charter city, is exempt from the provisions of the Public Contract Code, except as provided by ordinance, agreement, or where the city chooses, in its discretion, to follow portions of the Public Contract Code.

B. When public works projects or other applicable contracts are funded by state or federal sources, including but not limited to, loans or grants, the city shall comply with any contract solicitation, bidding, evaluation and award rules or regulations required in order to receive such state or federal funds.”

SECTION 29. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.180, is amended to read as follows:

“4.08.180 - Availability of department funds.

Except for emergency purchases and except where the amount of the purchase is under the amount specified in Section 1004 of the Charter, no contract shall be awarded and no purchase order issued until the director of finance or his authorized representative shall have certified after preaudit that there is a sufficient unencumbered appropriated balance, in excess of all unpaid obligations, to defray the amount of the proposed expenditure.”

SECTION 30. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.182 (Powers and responsibilities), subdivisions (A), (B), and (E) is amended to read as follows:

“A. The city council shall approve all policies and regulations related to broad outreach efforts and data reporting requirements for MWBE.

B. The city manager shall be responsible for the administration of the MWBE program and assuring its implementation by city agencies and departments.

* * *

E. The city manager shall develop rules and regulations to implement the provisions of this chapter, shall function as the MWBE contract compliance officer for purposes of enforcing the provisions of this chapter and its accompanying rules and regulations, and shall monitor program compliance and produce the required audits and reports required under this chapter and its rules and regulations.”

SECTION 31. Pasadena Municipal Code, Title 4, Chapter 4.08 (Competitive Bidding and Purchasing), Section 4.08.184, is amended to read as follows:

“4.08.184 - Rules and regulations.

The city manager shall promulgate rules and regulations to carry out the provisions of this chapter and shall generate or collect statistics on the representation of women and minorities identified by race, color, national origin or sex within the relevant labor market for various job classification groupings. Such rules and regulations shall be reviewed and approved as to form by the city attorney prior to submission to the city council, to assure that they are compatible with the city's contracting practices, this chapter and local, state and federal law. Such rules and regulations shall be submitted to the city council and shall not become operative or effective until approved and ordered filed by the city council.”

SECTION 32. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 33. This ordinance shall take effect upon publication.

Signed and approved this _____ day of _____, 2024.

Victor Gordo
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 held this _____ day of _____ 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Date Published:

Mark Jomsky
City Clerk

Approved as to form:



Javan N. Rad
Chief Assistant City Attorney