

Introduced by Councilmember

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA AMENDING SECTIONS 4.08.130 AND 4.08.131 OF THE PASADENA MUNICIPAL CODE, AND ADDING A NEW CHAPTER 4.11 TO SAID CODE, ADOPTING THE PASADENA LIVING WAGE ORDINANCE.

WHEREAS, the city awards many contracts to private firms to provide services and labor to the public and to city government; and

WHEREAS, experience indicates that procurement by contract of services and labor can result in the payment by contractors to their employees of wages at or slightly above the minimum required by federal and state minimum wage laws; and

WHEREAS, such minimal compensation tends to inhibit the quantity and quality of services and labor rendered by such employees, to the city and to the public, and can foster high turnover; and

WHEREAS, the city intends to require contractors to provide a minimum level of compensation that will improve the level of services rendered to and for the city; and

WHEREAS, inadequate compensation fails to provide employees with resources sufficient to afford a decent standard of living in Pasadena; and

WHEREAS, it is unacceptable that contracting decisions involving the expenditure of city funds should foster conditions placing a burden on limited social services. The city, as a principal provider of social support services, has an interest in promoting an employment environment that protects such limited resources. In requiring the payment of a higher minimum level of compensation, this chapter benefits that interest; and

WHEREAS, based upon testimony and studies provided, the City Council finds that the wage levels set by this ordinance are minimum compensation levels required to afford a decent standard of living in Pasadena.

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

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

“SUMMARY

The purpose of this chapter, the Pasadena Living Wage Ordinance, is to establish a minimum compensation rate of \$7.25 per hour with medical benefits, or \$8.50 per hour without medical benefits, for employees of city service contractors providing labor or services to the city under a contract in excess of \$25,000.00. The ordinance establishes review, evaluation and enforcement

mechanisms and creates a private right of action for employees aggrieved under the ordinance.

Ordinance No. _____ shall take effect upon its publication by title and summary."

SECTION 2. Section 4.08.130 of the Pasadena Municipal Code is amended by adding section "J" to read as follows:

"J. Certification by bidder of compliance with the Pasadena Living Wage Ordinance, where applicable."

SECTION 3. Section 4.08.131 of the Pasadena Municipal Code, "Bidder responsibility and debarment," is amended by amending sections "A" and "G," only, to read as follows:

"A. For the purposes of this section, bidder responsibility includes those factors listed in subsections B, D, E, F, G, I and J of Section 4.08.130."

and

"G. The provisions of this section are in addition to and not in place of measures set forth as sanctions in either the affirmative action in contracting ordinance or the Pasadena living wage ordinance."

SECTION 4. The Pasadena Municipal Code is amended by adding a new chapter 4.11 entitled "Pasadena Living Wage Ordinance" to read as follows:

“Chapter 4.11

Pasadena Living Wage Ordinance.

Sections.

- Section 4.11.010 Definitions.**
- Section 4.11.020 Payment of minimum compensation to employees.**
- Section 4.11.040 Notifying employees of their potential right to the federal Earned Income Credit.**
- Section 4.11.050 Enforcement.**
- Section 4.11.060 Administration.**
- Section 4.11.080 Coexistence with other available relief for specific deprivations of protected rights.**
- Section 4.11.090 Expenditures covered by this chapter.**
- Section 4.11.100 Chapter applicable to new service contracts.**
- Section 4.11.110 Supersession by collective bargaining agreement.**
- Section 4.11.120 Severability.**

Section 4.11.010 Definitions.

The following definitions shall apply throughout this chapter:

(A) ‘City’ means the city of Pasadena and all those employed by the city who are authorized to award a service contract on behalf of the city, including those city departments which exercise independent control over their expenditure of funds, but excludes the Rose Bowl Operating Company (‘RBOC’) and the Pasadena Center Operating Company (‘PCOC’). The RBOC and PCOC are urged, however, to adopt a policy similar to that set forth in this chapter.

(B) ‘Employee’ means any individual employed by a service contractor on or under the authority of one or more service contracts and who expends any of his

or her time providing labor or delivering services to the city of Pasadena, including but not limited to: restaurant, food service or banquet employees, janitorial employees, security guards, parking attendants, health care employees, gardeners, waste management employees, and clerical employees.

(C) 'Health benefits' means the payment of no less than one dollar and twenty-five cents (\$1.25) per hour toward the cost of health and medical care insurance for employees and their dependents.

(D) 'Person' means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into contracts.

(E) 'Service contractor' means any person that enters into a contract directly with the city primarily for the furnishing of services or labor to or for the city (as opposed to the purchase of goods, material or other property or the leasing of property), that involves an expenditure in excess of twenty-five thousand dollars (\$25,000) and that is to be performed in the city of Pasadena. Governmental entities which enter into a contract directly with the City shall not be considered service contractors for purposes of this chapter.

Section 4.11.020 Payment of Minimum Compensation to Employees.

Wages. Service contractors shall pay their employees a wage of no less

than seven dollars and twenty-five cents (\$7.25) per hour if health benefits, as defined in this chapter, are paid to the employees or eight dollars and fifty cents (\$8.50) per hour if no such health benefits are paid.

Sec. 4.11.040 Notifying employees of their potential right to the federal earned income credit.

Service contractors shall inform employees making less than twelve dollars (\$12) per hour of their possible right to the federal Earned Income Credit ('EIC') under § 32 of the Internal Revenue Code of 1954, 26 U.S.C. § 32, and shall make available to employees forms informing them about the EIC and forms required to secure advance EIC payments.

Section 4.11.050 Enforcement.

(A) An employee claiming violation of this chapter may bring an action in the appropriate court having jurisdiction against an employer and may be awarded:

(1) For failure to pay minimum wages, the difference during the involved period between the minimum wage required herein and the amount actually paid.

(2) For failure to pay medical benefits, the difference during the involved period between the minimum wage required herein without benefits and such minimum wage with benefits.

(B) The court shall award reasonable attorney's fees and costs to an employee who prevails in any such enforcement action.

(C) Compliance with this chapter shall be required in all service contracts to which it applies, and such service contracts shall provide that violation of this chapter shall entitle the city to terminate the service contract and otherwise pursue legal remedies that may be available.

(D) An employee claiming retaliation for alleging non-compliance with this chapter may report such claimed retaliation to the purchasing administrator of the department of finance, who shall investigate such claim and report the results to the city manager. Service contracts shall expressly prohibit such retaliation.

(E) Notwithstanding any provision of this code or any other ordinance to the contrary, no criminal penalties shall attach for any violation of this chapter.

Section 4.11.060 Administration.

The purchasing administrator of the department of finance shall monitor compliance, including the investigation of claimed violations, and shall promulgate implementing regulations consistent with this chapter. Such regulations shall include, but not be limited to, determination whether particular persons shall be regarded as service contractors, the establishment of reporting requirements on employee compensation and on notification about and usage of

the federal earned income credit and establishing and applying definitions, consistent with this chapter for any terms under this chapter. The purchasing administrator shall report on compliance to the city council no less frequently than annually.

During the first, third, and seventh years of this chapter's operation, and every third year thereafter, the purchasing administrator shall conduct or commission an evaluation of this chapter's operation and effects. The evaluation shall specifically address, at least, the following matters: (a) the extent to which the benefits of this chapter are accruing to Pasadena residents; (b) the extent to which service contractors are complying with this chapter; (c) the manner in which this chapter is affecting the workforce composition of service contractors; (d) the manner in which this chapter is affecting productivity and service quality of service contractors; (e) the manner in which the additional labor costs required by this chapter have been distributed among employers, employees and the city. Within one hundred and twenty days of the adoption of this chapter, the purchasing administrator shall develop detailed plans for evaluation, including a determination of what current and future data will be needed for effective evaluation.

///

Section 4.11.080 Coexistence with other available relief for specific deprivations of protected rights.

This chapter shall not be construed to limit an employee's right to bring legal action for violation of other minimum compensation laws.

Section 4.11.090 Expenditures covered by this chapter.

To the maximum extent permitted by law, this chapter shall apply to the expenditure of funds entirely within the city's control and to other funds, such as federal or state grant funds, where the application of this chapter is consonant with the laws authorizing the city to expend such other funds; except that this chapter shall not apply to service contracts with other governmental entities. As to any grant or similar program, this chapter shall become applicable to the funds authorized by such program if and only if city purchasing administrator has obtained from the funding source either an opinion or other determination indicating such consonance or a judgment of compliance from a court of law or other tribunal, which procurement has been reported by memorandum to the city clerk.

Section 4.11.100 Chapter applicable to new service contracts.

The provisions of this chapter shall apply to, (a) service contracts for which the specifications are issued after the effective date of this chapter or, if no

specifications are required, service contracts awarded after the effective date of this chapter, and (b) to the maximum extent permitted by law, service contract amendments awarded after the effective date of this chapter.

Section 4.11.110 Supersession by collective bargaining agreement.

The terms of a collective bargaining agreement to which any person subject to this chapter is or may become a party shall supersede any requirements of this chapter which are inconsistent with the terms of such agreement.

Section 4.11.120 Severability.

If any provision of this chapter is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.”

SECTION 5. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 6. This ordinance shall take effect upon its publication.

Signed and approved this ____ day of _____, 1998.

Chris Holden
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 the ____ day of
_____, 1998, by the following vote:

Ayes:

Noes:

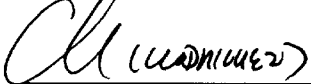
Absent:

Abstain:

Published:

Jane L. Rodriguez
City Clerk

APPROVED AS TO FORM:



for _____
Michele Beal Bagneris
City Attorney