

ORDINANCE NO. 03-662

AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD REQUIRING CITY CONTRACTORS TO PROVIDE EQUAL BENEFITS TO DOMESTIC PARTNERS OF THEIR EMPLOYEES AND AMENDING THE WEST HOLLYWOOD MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 3, Chapter 3.08, Part A of the West Hollywood Municipal Code is amended by adding thereto a new Section 3.08.035 to read:

3.08.120 NON-DISCRIMINATION IN BENEFITS

(a) Definitions. For the purposes of this section:

1. "Contract" means a legal agreement between the City and a contractor for services, purchase of supplies, equipment or material, or for construction of public works for which the consideration is in excess of \$25,000. "Contract" does not include subcontracts or subcontractors of any contract or contractor.
2. "Contractor" means any private party or entity that enters into a contract with the City. In the event the contractor is an entity that has been formed exclusively to provide services to the City or within the State of California, then the term "contractor" shall also include that entity's parent company(ies).
3. "Contract Awarding Authority" means the City Council or the individual authorized by the City Council to enter into contracts on behalf of the City.
4. "Domestic partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
5. "Employee benefits" means the provision of any benefit provided to spouses of employees or provided to an employee on account of the employee having a spouse and which benefit is provided by the City of West Hollywood and covers the domestic partners of its employees, including; bereavement leave; family medical leave, and health insurance benefits, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

(b) Every contract, and every amendment to or extension of a contract, to which the City is a party shall provide that the contractor shall not discriminate in the provision of employee benefits between an employee with a spouse and an employee with a domestic partner, subject to the following:

1. In the event that the contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of employee benefits if the contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.
2. The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular employee benefit to domestic partners, so long as the contractor provides the employee with a cash payment equal to the contractor's cost of providing the benefit to an employee's spouse.

(c) The requirements of this section shall apply to the provision of benefits to all of a contractor's employees within the United States, the territories of the United States and the District of Columbia.

(d) A contractor that does not comply with the requirements of this section shall not be considered eligible or qualified. Refusal of a contractor to agree to the contract provision described in subsection (b) of this section shall be grounds for rejection of a bid or proposal as non-responsive. Failure of a contractor to comply with the contract provision described in subsection (b) of this section shall be grounds for termination of the contract and disqualification from entering into future contracts with the City.

(e) The contract awarding authority may waive the requirements of subsection (b) of this section under the following circumstances:

1. Award of the contract is necessary to respond to an emergency;
2. The contractor is a sole source;
3. No compliant contractors are capable of providing goods or services that respond to the City's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;

5. The City is purchasing through a cooperative or joint purchasing agreement.

(f) The City Manager shall have the authority to promulgate rules, regulations and procedures as may be necessary to effectuate the purpose of this section.

SECTION 2. The requirements of this Ordinance shall not be applicable to contracts executed, amended or renewed prior to the effective date of this ordinance, or any competitive or sealed bids received by the City prior to the effective date of this Ordinance, unless an addendum has been issued to all prospective bidders prior to the date the bids are due amending the request for bids to require compliance with the terms of this Ordinance; provided, however, that this Ordinance shall be applicable to contracts amended after the effective date of this Ordinance.

PASSED, APPROVED AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting the 7th day of July, 2003, by the following vote:

AYES:	Councilmember:	Guarriello, Heilman, Land, Mayor Pro Tempore Duran and Mayor Prang.
NOES:	Councilmember:	None.
ABSENT:	Councilmember:	None.
ABSTAIN:	Councilmember:	None.


JEFFREY PRANG, MAYOR

ATTEST:

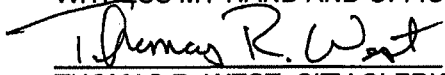

THOMAS R. WEST, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST HOLLYWOOD)

I, THOMAS R. WEST, City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 03-662 was duly passed, approved and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 7th day of July, 2003, after having its first reading at the regular meeting of said City Council on the 23rd day of June, 2003.

I further certify that this ordinance was posted in three public places as provided for in Resolution No. 5, adopted the 29th day of November, 1984.

WITNESS MY HAND AND OFFICIAL SEAL THIS 7th DAY OF JULY, 2003.


THOMAS R. WEST, CITY CLERK