

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 2.85 RELATING TO PROCUREMENT DURING A PROCLAIMED EMERGENCY OR DISASTER

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 2.85 is hereby added to the Long Beach Municipal Code to read as follows:

Chapter 2.85

PROCUREMENT DURING A PROCLAIMED EMERGENCY OR DISASTER

2.85.010 Purpose.

This ordinance establishes the City’s procurement practices to be followed in the event of an emergency or disaster, such that the City is able to effectively obtain the goods or services required in such circumstances.

2.85.020 Definitions.

A. “Proclaimed Emergency or Disaster” as defined in this Chapter means the President or Governor has declared or proclaimed a State of Emergency for an area that includes the geographic territory of the City; or a local emergency has been proclaimed and is currently in effect, as provided in the City of Long Beach Municipal Code, Chapter 2.69 - Civil Defense.

B. “Public Exigency or Emergency” as defined in this Chapter

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
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1 means a situation, related to a Proclaimed Emergency or Disaster, which
2 demands immediate aid or action and/or presents an immediate threat to
3 public health, life safety, or improved property, as further defined in
4 administrative regulations or policies.

5 C. "Purchase(s)" as defined in this Chapter means the
6 purchase(s), rental(s) or lease(s) of goods or services related to a
7 Proclaimed Emergency or Disaster.

8 D. "Simplified Acquisition Threshold" means the dollar amount
9 below which a non-Federal entity may purchase property or services using
10 small purchase methods, as set forth in Title 2 of the Code of Federal
11 Regulations, Part 200, as it may be amended from time to time.

12 2.85.030 Purchasing authority during a Proclaimed Emergency or
13 Disaster.

14 In the event of a Proclaimed Emergency or Disaster, the following
15 purchasing authority is granted:

16 A. The department heads or their designees of the Police
17 Department, Fire Department, Public Works Department, Health
18 Department, and any other department designated by the City Manager,
19 have the authority to approve Purchases up to the Simplified Acquisition
20 Threshold, following the procedures in Section 2.85.040.

21 B. The Purchasing Agent or his or her designee has the authority
22 to approve Purchases up to five hundred thousand dollars (\$500,000),
23 following the procedures in Section 2.85.040. The Finance and
24 Administration Section Chief shall be a designee of the Purchasing Agent at
25 any time that the Purchasing Agent is not available to approve Purchases
26 or conduct procurements as allowed in this Chapter.

27 C. The City Manager or his or her designee has the authority to
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1 approve Purchases up to one million dollars (\$1,000,000), following the
2 procedures in 2.85.040.

3 D. Purchases that exceed one million dollars (\$1,000,000)
4 require the approval of a minimum of three (3) City Council members, or a
5 minimum of two (2) City Council members and the Mayor. Such Purchases
6 shall follow the procedures in Section 2.85.040.

7 2.85.040 Procurement procedures during a Proclaimed Emergency or
8 Disaster.

9 A. The regulations in Title 2 of the Code of Federal Regulations,
10 Part 200, as it may be amended from time to time, are incorporated herein
11 by reference.

12 B. Procedures for Competitive Procurements.

13 1. Competitive procurements for Purchases below the
14 Simplified Acquisition Threshold shall not be required to be formally bid.

15 2. Competitive procurements for Purchases equal to or
16 exceeding the Simplified Acquisition Threshold shall be conducted in
17 accordance with the following alternate purchasing procedures:

18 a. Public Announcement. For public posting of
19 requests for proposals or solicitation of bids, the Purchasing Agent may use
20 alternate posting requirements in lieu of normal requirements. Alternate
21 locations may include the Emergency Operations Center, City Hall, the
22 central library, or other locations as specified by the Purchasing Agent. The
23 Purchasing Agent may shorten the normal period for public announcement
24 period to expedite award, but such period shall be no less than twenty-four
25 (24) hours.

26 b. Adequate Sources. The Purchasing Agent shall
27 obtain competitive sealed bids or proposals from potential suppliers. The
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1 Purchasing Agent may use methods including but not limited to print,
2 telephonic email, or online/Internet outreach in order to obtain these
3 ~~bids~~responses. The Purchasing Agent may shorten the typical period for
4 ~~bids~~responses to be submitted to expedite award, but such period shall be
5 no less than twenty-four (24) hours. A minimum of three (3) ~~bids~~responses
6 from qualified sources shall be obtained. All bids or proposals received,
7 including those deemed non-responsive by the Purchasing Agent, shall be
8 counted toward meeting the minimum requirement.

9 C. Procedures for Noncompetitive Procurements.

10 1. Noncompetitive procurements may be used when one
11 or more of the following circumstances exist:

12 a. Public Exigency or Emergency will not permit a
13 delay resulting from competitive procurement;

14 b. The item is available only from a single source;

15 c. After solicitation of a number of sources,
16 competition is determined inadequate; or

17 d. The Federal awarding agency or pass-through
18 entity expressly authorizes noncompetitive proposals in response to a
19 written request from the non-Federal entity.

20 2. The authorized purchaser shall document the
21 justification for noncompetitive procurement in accordance with established
22 procedures.

23 3. When a noncompetitive procurement is used due to
24 Public Exigency or Emergency, the procurement shall be limited to that
25 portion of the work that must be performed immediately. Procurement for
26 any additional work shall be conducted through competitive procurement
27 procedures.

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2.85.050 Post-Award.

A. Bid Protests. The Purchasing Agent may alter and/or shorten the normal bid protest process if Emergency Circumstances will not permit a delay resulting from the normal bid protest process, but such period shall be no less than twenty-four (24) hours.

B. Posting of Contract Awards. All contracts awarded under this Chapter that would be presented to City Council under the normal award process shall be presented to the City Council at the next practicable opportunity for receive and file, and thereafter shall be publicly posted within sixty (60) days of the award.

C. Authority to Cancel Procurements. The City Manager or his or her designee has the authority to rescind a Purchase contract for non-performance within twenty-four (24) hours when a contractor or vendor, once awarded a contract, is unable to immediately perform under the terms of the contract.

D. Administrative Regulations or Policies. The Director of Financial Management or his or her designee shall create written administrative regulations or policies to implement this Chapter, which shall include procedures requiring immediate notification to City Council if a disaster is declared by other than City Council and shall include mechanisms for notifying City Council of any purchases made (after the fact) that would have required City Council approval if there had not been an emergency.

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the

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1 Mayor.

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7 I hereby certify that the foregoing Ordinance was adopted by the City
8 Council of the City of Long Beach at its meeting of _____, 2016,
9 by the following vote:

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11 Ayes: Councilmembers: _____

12 _____

13 _____

14 _____

15 Noes: Councilmembers: _____

16 _____

17 Absent: Councilmembers: _____

18 _____

19 _____

20 _____

21 _____

City Clerk

22 _____

23 _____

24 Approved: _____

(Date)

Mayor

25 _____

26 _____

27 _____

28 _____