

1 ORDINANCE NO.
2

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

8
9 The City Council of the City of Long Beach ordains as follows:

10
11 Section 1. Chapter 2.85 is hereby added to the Long Beach Municipal
12 Code to read as follows:

13 Chapter 2.85

14 PROCUREMENT DURING A PROCLAIMED EMERGENCY OR DISASTER

16 2.85.010 Purpose.

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

20 2.85.020 Definitions.

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

27 B. "Public Exigency or Emergency" as defined in this Chapter
28 means a situation, related to a Proclaimed Emergency or Disaster, which

demands immediate aid or action and/or presents an immediate threat to public health, life safety, or improved property, as further defined in administrative regulations or policies.

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

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

2.85.030 Purchasing authority during a Proclaimed Emergency or Disaster.

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

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

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

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

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

2.85.040 Procurement procedures during a Proclaimed Emergency or Disaster.

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

B. Procedures for Competitive Procurements.

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

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

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

b. Adequate Sources. The Purchasing Agent shall obtain competitive sealed bids or proposals from potential suppliers. The Purchasing Agent may use methods including but not limited to print, telephonic email, or online/Internet outreach in order to obtain these responses. The Purchasing Agent may shorten the typical period for

1 responses to be submitted to expedite award, but such period shall be no
2 less than twenty-four (24) hours. A minimum of three (3) responses from
3 qualified sources shall be obtained. All bids or proposals received, including
4 those deemed non-responsive by the Purchasing Agent, shall be counted
5 toward meeting the minimum requirement.

6 C. Procedures for Noncompetitive Procurements.

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

9 a. Public Exigency or Emergency will not permit a
10 delay resulting from competitive procurement;

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

12 c. After solicitation of a number of sources,
13 competition is determined inadequate; or

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

17 2. The authorized purchaser shall document the
18 justification for noncompetitive procurement in accordance with established
19 procedures.

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

25 2.85.050 Post-Award.

26 A. Bid Protests. The Purchasing Agent may alter and/or shorten
27 the normal bid protest process if Emergency Circumstances will not permit
28 a delay resulting from the normal bid protest process, but such period shall

1 be no less than twenty-four (24) hours.

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

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

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

20
21 Section 2. The City Clerk shall certify to the passage of this ordinance by
22 the City Council and cause it to be posted in three (3) conspicuous places in the City of
23 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
24 Mayor.

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

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____ (Date) _____ Mayor