



OFFICE OF THE CITY ATTORNEY  
Long Beach, California

**ORD-22**

CHARLES PARKIN  
City Attorney

MICHAEL J. MAIS  
Assistant City Attorney

MONTE H. MACHIT  
Assistant City Attorney

PRINCIPAL DEPUTIES

Dominic Holzhaus  
Anne C. Lattime

DEPUTIES

C. Geoffrey Allred  
Gary J. Anderson  
Richard F. Anthony  
William R. Baerg  
Kendra L. Carney  
LaTasha N. Corry  
Charles M. Gale  
Haleh R. Jenkins  
Michele L. Levinson  
Barbara J. McTigue  
Howard D. Russell  
Arturo D. Sanchez  
Tiffany L. Shin  
Linda T. Vu  
Amy R. Webber  
Theodore B. Zinger

January 5, 2016

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 2.85 relating to procurement during a proclaimed emergency or disaster, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION:

Pursuant to your request on December 22, 2015, this ordinance has been prepared and is submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By

AMY R. WEBBER  
Deputy City Attorney

ARW:bg A15-02915  
L:\Apps\CityLaw32\WPDocs\D030\PO25\00586906.DOC

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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 means a situation, related to a Proclaimed Emergency or Disaster, which

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

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

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

11 2.85.030 Purchasing authority during a Proclaimed Emergency or  
12 Disaster.

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

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

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

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

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

5     2.85.040     Procurement procedures during a Proclaimed Emergency or  
6                 Disaster.

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

10          B.     Procedures for Competitive Procurements.

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

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

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

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

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

5 C. Procedures for Noncompetitive Procurements.

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

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

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

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

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

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

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

24 2.85.050 Post-Award.

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

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

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

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

19  
20           Section 2.    The City Clerk shall certify to the passage of this ordinance by  
21 the City Council and cause it to be posted in three (3) conspicuous places in the City of  
22 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the  
23 Mayor.

24    ///  
25    ///  
26    ///  
27    ///  
28    ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664