

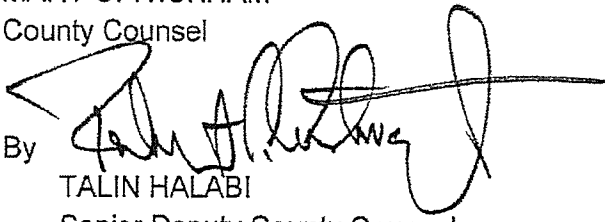
ANALYSIS

This ordinance amends Chapter 2.18 of Title 2 – Administration – of the Los Angeles County Code in accordance with recent changes in State law, as follows:

(1) the monetary authority of the Director of the Department of Public Works ("Director") to enter into contracts for architectural, engineering and related services is increased to a cap of \$330,000; (2) the monetary authority of the Director to amend contracts for architectural, engineering and related services entered into by the Board is increased to a cap of \$330,000, or ten percent of the original contract amount, whichever is less; (3) the monetary authority of the Director to award construction contracts (and to take actions related thereto) is increased to a cap of \$330,000; (4) the monetary authority of the Director to amend construction contracts awarded by the Board is increased to a cap of \$330,000, or ten percent of the original contract amount, whichever is less; (5) clarifications are made concerning the authority of the Director to take certain actions relative to compliance with the California Environmental Quality Act ("CEQA") for construction-contract procurements not exceeding \$330,000; (6) clarifications are made concerning the authority of the Director to reject non-responsive bids and to waive inconsequential and nonmaterial deficiencies relative to bids for construction-contract procurements not exceeding \$330,000; (7) the Director is authorized to designate materials and products by brand or trade name pursuant to Public Contract Code Section 3400 for construction-contract procurements not exceeding \$330,000; and (8) certain terms used in this chapter are updated and clarified.

MARY C. WICKHAM
County Counsel

By


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Senior Deputy County Counsel
Public Works Division

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Requested: 3/13/2020
Revised: 5/5/2020
HOA.102823475.1

ORDINANCE NO. _____

An ordinance to amend Chapter 2.18 of Title 2 – Administration – of the Los Angeles County Code in accordance with recent changes in State law, as follows:

(1) the monetary authority of the Director of the Department of Public Works ("Director") to enter into contracts for architectural, engineering and related services is increased to a cap of \$330,000; (2) the monetary authority of the Director to amend contracts for architectural, engineering and related services entered into by the Board is increased to a cap of \$330,000, or ten percent of the original contract amount, whichever is less; (3) the monetary authority of the Director to award construction contracts (and to take actions related thereto) is increased to a cap of \$330,000; (4) the monetary authority of the Director to amend construction contracts awarded by the Board is increased to a cap of \$330,000, or ten percent of the original contract amount, whichever is less; (5) clarifications are made concerning the authority of the Director to take certain actions relative to California Environmental Quality Act ("CEQA") compliance for construction-contract procurements not exceeding \$330,000; (6) clarifications are made concerning the authority of the Director to reject non-responsive bids and to waive inconsequential and nonmaterial deficiencies relative to bids for construction-contract procurements not exceeding \$330,000; (7) the Director is authorized to make a finding that a particular material, product, thing, or service will be designated by a specific brand or trade name pursuant to Public Contract Code Section 3400 for construction-contract procurements not exceeding \$330,000; and (8) certain terms used in the provisions of this chapter are updated and clarified.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 2.18.030 is hereby amended to read as follows:

2.18.030 Director—Delegation of Additional Duties.

A. The director is authorized to perform any or all acts or actions permitted or required of the board of supervisors to enter into contracts for architectural, engineering and related services where the amount of the contract does not exceed ~~\$75,000~~\$330,000. The director is further authorized to enter into amendments to such contracts entered into by the board where the amount of any amendment does not exceed 10 percent of the amount of the original contract or ~~\$75,000~~ \$330,000, whichever is less. The aggregate total amount of such amendments to an original contract may not exceed 25 percent of the amount of the original contract.

B. The director shall exercise his authority in conformance with the following procedures:

1. On projects, studies and reports with an estimated cost of less than \$25,000, the director shall:

- a. Prepare a work statement;
- b. Select a service provider from a list maintained by the department of public works, or solicit requests for proposals in the event a list does not exist in the specific service category to be contacted. Selection of the service provider is to be based on professional expertise, specific project requirements, time commitments and fee schedules, if any on file with the department;

c. Negotiate a fair and reasonable fee with the service provider, including a maximum cost, using established departmental procedures, fee schedules and project requirements; and

d. Execute the service contract, subject to approval as to form by county counsel and receipt of appropriate insurance certificate from the service provider.

2. On projects, studies and reports with an estimated cost between \$25,000 and ~~\$75,000~~ \$330,000, the director shall:

a. Prepare a work statement;

b. Solicit requests for proposals, which shall be evaluated by the public works department service contractor selection committee;

c. Select a service provider on the basis of professional expertise in the area of service need, organization, experience, ability to meet county needs and time commitment;

d. Negotiate a fair and reasonable not-to-exceed fee with the service provider; and

e. Execute the service agreement, subject to approval as to form by county counsel and receipt of appropriate insurance certificate from the service provider.

3. On amendments to existing service contracts entered into by the board ~~which~~that individually do not exceed 10 percent of the original contract or ~~\$75,000~~\$330,000, whichever is less, the director shall:

- a. Determine that such additional work is necessary;
- b. Negotiate a fair and reasonable fee for the additional work;
- c. Execute an amendment to the original contract, subject to approval as to form by county counsel.

4. The director will maintain as a public record, documentation of staff recommendations and support materials for all actions taken under this delegation of authority.

SECTION 2. Section 2.18.040 is hereby amended to read as follows:

2.18.040 Construction eContracts—~~\$75,000~~ \$330,000 or Less.

A. Pursuant to the authority granted by ~~California~~ Public Contract Code Sections 20142 and 20145, the director is authorized to perform any or all acts or actions permitted or required of the board of supervisors by Article 3.5, Chapter 1, Part 3, Division 2, of the ~~California~~ Public Contract Code, commencing with Section 20120, with respect to contracts or changes or alterations to contracts within the monetary limits set forth in Sections 20142 and 20145. This authorization includes the authority to adopt and advertise plans and specifications, award contracts, approve bonds or order the change or alteration of contracts, with respect to original contracts that do not exceed the total amount of ~~\$75,000~~ \$330,000 or with respect to changes or alterations to original contracts entered into by the board of supervisors within the monetary limits set forth in Public Contract Code Sections 20142 and 20145. In exercising the authority delegated pursuant to this section, the director shall determine whether the California Environmental Quality Act is applicable to the proposed activities.

and, as appropriate, prior to approving the activities, the director shall make exemption findings for activities that constitute a project, or the director shall make a finding that the proposed activities are within the scope of an environmental document that was previously considered and approved by the board of supervisors under the California Environmental Quality Act. As applicable, if the proposed activities constitute a project and are not determined by the director to be exempt, or if the proposed activities are not determined by the director to be within the scope of an environmental document that was previously considered and approved by the board of supervisors, the director shall recommend necessary findings under the California Environmental Quality Act to the board of supervisors when project approval is recommended.

B. The director shall exercise his/her authority in conformance with the following procedures:

1. Adoption of Drawings and Specifications. The director may act in place of the supervisors in adopting the drawings and specifications pursuant to Public Contract Code Section 20124. The specifications shall conform to the standard general conditions and supplementary conditions utilized in specifications adopted by the board of supervisors. Such specifications shall contain a provision requiring a minimum of five percent retention of progress payments withheld pursuant to Public Contract Code Section 9203. The specifications adopted by the director shall also establish construction times and completion dates, based upon historic experience on similar types of work and on industry guidelines. The director is authorized to include in the specifications provisions for liquidated damages pursuant to Government Code Section

~~53069.85. All specifications shall be submitted to the county counsel for approval as to form before their adoption by the director.~~ Adoption of plans and specifications shall be effective at the time that the director signs a letter to the clerk of the board of supervisors indicating the adoption of the plans and specifications.

2. Advertisement for Bids. The director shall advertise for bids in conformance with Public Contract Code Sections 20125 and 20127, and Government Code Section 53068.

3. Receipt of Bids and Relief of Low Bidder. The director is authorized to receive and open bids in the manner authorized by law and to allow substitution of subcontractors and relief of bidders upon demonstration of the grounds set forth in Public Contract Code Sections 4100 et seq. and 5100 et seq. The director is further authorized to make a determination that a bid is non-responsive, and to reject a bid on that basis, and to waive inconsequential and nonmaterial deficiencies in bids submitted, in the manner authorized by law.

4. Preference for Materials. The director is authorized to make a finding, to be described in the invitation for bids, that a particular material, product, thing, or service will be designated by a specific brand or trade name on the grounds set forth in Public Contract Code Section 3400.

45. Award of Contract. The director shall award the contract to the lowest responsible bidder with a responsive bid, in accordance with Public Contract Code Section 20128. In the case of identical low bids, the director shall award the contract in conformance with Government Code Section 53064.

56. Construction Bonds. The director shall require that the person to whom the contract is awarded shall execute a bond in the standard forms as required by Public Contract Code Section 20129 and ~~Section 3247 of the Civil Code~~ Section 9550.

67. Supplemental Agreements. The director is authorized to enter into supplemental agreements in accordance with Public Contract Code Section 20145 in contracts where the original contract amount does not exceed ~~\$75,000~~ \$330,000. In addition, the director may enter into supplemental agreements in accordance with Public Contract Code Sections 20142 and 20145 for changes and alterations in original contracts approved by the board of supervisors where the changes or alterations do not exceed 10 percent of the amount of the original contract or ~~\$75,000~~ \$330,000, whichever is less. The aggregate total amount of such changes or alterations to the original contract may not exceed 25 percent of the amount of the original contract within the monetary limits set forth in Public Contract Code Sections 20142 and 20145.

78. Acceptance of Project. The director is authorized to accept projects upon their final completion where the original contract amount does not exceed ~~\$75,000~~ \$330,000. The director may authorize the release of the retention money withheld pursuant to Public Contract Code Sections 9203 and 7107, as permitted by law. The director is further authorized to grant extensions of time on the project for delay beyond the contractor's control and to assess liquidated damages as authorized by Government Code Section 53069.85 and the contract specifications.

89. Emergencies. In cases where the director, with the concurrence of the county counsel, determines that an great emergency exists within the meaning of Public

Contract Code Section 20134 and when it would be impractical for the board of supervisors to act, the director may exercise the emergency powers of the board of supervisors pursuant to Sections 20134 and 22050 where the total estimated cost of the work does not exceed \$75,000.00; provided, however, that the chief ~~administrative~~executive officer must first certify the availability of funds for the work. Any such action by the director shall be promptly reported to the board of supervisors.

SECTION 3. Section 2.18.050 is hereby amended to read as follows:

2.18.050 Construction eContracts over ~~\$75,000~~ \$330,000.

Pursuant to the authority granted by ~~California~~ Public Contract Code Sections 20142 and 20145, the director is authorized to perform the following acts or actions permitted or required of the board of supervisors by Article 3.5, Chapter 1, Part 3, Division 2, of the ~~California~~ Public Contract Code, commencing with Section 20120, with respect to contracts or changes or alterations to contracts within the monetary limits set forth in Sections 20142 and 20145.

1. Advertisement for Bids.

a. The director is authorized to amend plans and specifications adopted by the board of supervisors prior to the closing time for receipt of bids, provided such amendment does not cause the estimated cost of construction to be increased so as to exceed the amount budgeted. Notice of such amendment shall be published in accordance with the requirements of publication of the invitation for bids.

b. The director is authorized to extend bid periods up to a maximum of three weeks by publishing an amendment to the bidding documents.

2. Reallocation of Budgeted Funds. The director is authorized to reallocate funds within a capital project at no increase in the overall cost of the project.

3. Receipt of Bids and Relief of Low Bidder. The director is authorized to receive and open bids in the manner authorized by law and to allow substitution of subcontractors and relief of bidders upon demonstration of the grounds set forth in Public Contract Code Sections 4100 et seq. and 5100 et seq.

4. Supplemental Agreements. The director may enter into supplemental agreements in accordance with Public Contract Code Sections 20142 and 20145 for changes or alterations in original contracts approved by the board of supervisors within the monetary amounts set forth in Sections 20142 and 20145.

5. Acceptance of Project. The director is authorized to accept projects upon their final completion. The director may authorize the release of the retention money withheld pursuant to Public Contract Code Sections 9203 and 7107, as permitted by law. The director is further authorized to grant extensions of time on the project for delay beyond the contractor's control, and to assess liquidated damages as authorized by Government Code Section 53069.85 and the contract specifications.

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