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RECOMMENDATION APPROVED AND
RESOLUTION NO. 13-7574 ADOPTED
BY THE BOARD OF HARBOR COMMISSIONERS

November 7, 2013


ACTING SECRETARY



Executive Director's
Report to the
Board of Harbor Commissioners

DATE: OCTOBER 16, 2013
FROM: CONTRACTS AND PURCHASING
SUBJECT: RESOLUTION NO. 13-7574 - INCREASE THE CONTRACTING
AUTHORITY OF THE EXECUTIVE DIRECTOR PURSUANT TO LOS
ANGELES ADMINISTRATIVE CODE SECTION 10.1.1

SUMMARY:

Los Angeles City Charter Sections 506(c) and 604(c) empowers the Board of Harbor Commissioners (Board) to authorize the general manager to contract on behalf of the City of Los Angeles Harbor Department (Harbor Department) where the contract does not involve payment or receipt of money or consideration reasonably valued in excess of a monetary limit and a time limit provided by ordinance. That ordinance is codified in Los Angeles Administrative Code (LAAC) Section 10.1.1.

The Harbor Department executes annual procurement contracts to purchase business required materials, supplies and services to support Harbor Department operations. These annual procurement contracts are typically under \$100,000 each and are awarded for a term of one year, plus two, one-year renewal options. Execution of the renewal options extends the contracts past one-year; therefore, Board approval is required to execute the renewal options.

In order to administer these smaller procurement contracts more efficiently, the Board previously requested that the Office of the City Attorney draft an ordinance to amend Section 10.1.1 subsection (a) of the LAAC to increase the contracting authority of the Executive Director for procurement contracts. The amendment to the LAAC gives the Executive Director the authority to execute procurement contracts that do not exceed \$150,000 annually, and are for a term of three years or less. On July 10, 2013, the City Council approved Ordinance 182594 which authorized the Board to increase the contracting authority of the Executive Director. Although the Board previously requested that this Ordinance be prepared and approved by the City Council, this subsequent Board action is required to effectuate the increase in contracting authority of the Executive Director.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Rescind Resolution 5983 which authorizes the Executive Director to execute (a) contracts or agreements that do not exceed \$150,000 and have a term of one-year or less; and (b) construction contract change orders which do not cumulatively exceed twenty-five percent (25%) of the contract amount so long as no individual change order exceeds \$150,000;

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2. Rescind all prior Resolutions defining the Executive Director's contracting authority;
3. Authorize the Executive Director, or designee, to execute personal service agreements that do not exceed \$150,000 for any one project and have a term of one-year or less, including all amendments, without further Board approval;
4. Authorize the Executive Director, or designee, to execute procurement contracts that do not exceed \$150,000 annually, and are for a term of three years or less, pursuant to Los Angeles Administrative Code Section 10.1.1 subsection (a);
5. Authorize the Executive Director, or designee, to enter into construction contract change orders which do not cumulatively exceed twenty-five percent (25%) of the contract amount, or a lesser percentage specified in the construction contract, so long as no individual change order exceeds \$150,000, and provided the underlying construction contract was awarded by the Board prior to or after the adoption of this resolution, unless the contract specifically provides otherwise; and
6. Adopt Resolution No. 137574

DISCUSSION:

Background/Context - Currently, the contracting authority of the Executive Director is defined by Resolution No. 5983 adopted by the Board of Harbor Commissioners on April 25, 2001 (Transmittal 1). Resolution 5983 authorizes the Executive Director to execute (a) contracts or agreements that do not exceed \$150,000 and have a term of one-year or less; and (b) construction contract change orders which do not cumulatively exceed twenty-five percent (25%) of the contract amount so long as no individual change order exceeds \$150,000. Resolution 5983 does not distinguish between personal service contracts and procurement or purchasing contracts.

Each fiscal year, the Contracts and Purchasing Division (CPD) receives requests from various Harbor Department Divisions to establish annual procurement contracts. These contracts enable Harbor Department staff to purchase commodities and supplies, including, but not limited to, tires, batteries, paint, electrical supplies, and fuel, and to obtain various repair services. As CPD receives requests to establish contracts, CPD determines the lowest price through a competitive bid process, or through cooperative agreements based on contracts established by a City, County, State or other municipality.

These annual procurement contracts are typically under \$100,000 each and are awarded for a term of one year, plus two, one-year renewal options. Due to the small dollar value of these contracts, it is more cost-effective to award them for multi-year periods, which results in considerable savings in staff administrative hours.

Compliance - Historically, the Executive Director would enter into annual procurement contracts for a term of one year, with two, one-year renewal options. The renewal

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options were considered to be a new contract and not an extension of the existing authority; therefore, the Executive Director was continuing to enter into these annual procurement contracts under the authority of Article 1, Section 10.1.1 (a) of the LAAC. In 2009, the Office of the City Attorney opined that any contract or agreement with the same vendor, for a period of more than one year, which did not undergo a new competitive bid process, must be approved by the Board. As a result, the Executive Director executes these contracts when awarded; however, upon expiration of the initial term, Board approval is required to exercise the renewal options.

Due to the number of annual procurement contracts (approximately 180), small dollar values associated with each contract, and the various expiration dates, CPD submits these annual procurement contracts in aggregate to the Board for approval each fiscal year. In 2012, the Office of the City Attorney opined that it was inappropriate for CPD to submit an annual report to the Board requesting approval to execute the renewal options for several contracts. According to the City Attorney, each annual procurement contract should be transmitted to the Board in a separate report requesting authorization to execute the renewal options.

In December 2011, the City Council approved an Ordinance which increased the contracting authority of the Executive Director of the Los Angeles World Airports. Rather than hire additional staff to administratively process these annual procurement contracts, CPD recommended that the Harbor Department pursue a similar amendment to the LAAC. At the December 6, 2012, Board meeting, the Board approved Resolution 12-7419 which requested the Office of the City Attorney to draft an Ordinance to amend the LAAC to increase the contracting authority of the Executive Director. On May 14, 2013, the recommendation was forwarded to the City Council for consideration. On July 9, 2013, the City Council approved Ordinance 182594 which amends Section 10.1.1 (a) of the LAAC to authorize the Executive Director of the Harbor Department to enter into procurement contracts that are \$150,000 per year for a period not-to-exceed three years (Transmittal 2). The Ordinance became effective on July 29, 2013. Pursuant to the Ordinance, Board action is now required to effectuate the increase in contracting authority of the Executive Director.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a resolution to increase the contracting authority of the Executive Director for procurement contracts. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act in accordance with Article II Section 2 (f) of the Los Angeles City CEQA Guidelines.

ECONOMIC IMPACT:

This Board action will have no direct employment effect, but will improve the efficiency of CPD operations by reducing the workload required to administratively process annual procurement contracts.

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FINANCIAL IMPACT:

The proposed Board action recommends that the contracting authority of the Executive Director be increased, pursuant to Ordinance 182594 which amended Section 10.1.1 (a) of the LAAC. Approval of the recommendations will result in administrative efficiencies for CPD staff. Authority to expend funds will be subject to each fiscal year's Board adopted budget.

Should the recommendations not be approved, there will be a negative financial impact on the Harbor Department inasmuch as CPD will require additional staff to administratively process annual procurement contracts, per the Office of the City Attorney. On average, CPD will be required to prepare and process approximately 50 Board reports each fiscal year. It is anticipated that CPD would require two (2) Procurement Analysts and one (1) Management Analyst to absorb the increased workload at an annual cost of approximately \$356,964 for salaries and benefits.

CITY ATTORNEY:

Assistant City Attorney Christopher B. Bobo has reviewed this resolution and approved it as to form and legality.

TRANSMITTAL(S):

- 1. Resolution 5983
- 2. Ordinance 182594

FIS Approval:  (initials)
 CA Approval:  (initials)


 GLENN R. ROBISON
 Director of Contracts & Purchasing


 MOLLY CAMPBELL
 Deputy Executive Director

APPROVED:


 GERALDINE KNATZ, Ph.D.
 Executive Director

GR/tc
 Author: TCarey

RESOLUTION NO. 5983DEFINING THE HARBOR DEPARTMENT EXECUTIVE DIRECTOR'S
CONTRACTING AUTHORITY PURSUANT TO
CHARTER SECTION 604(c) AND ORDINANCE NO. 173186

Recitals

- A. Los Angeles Charter Section 604(c) authorizes the City Council to adopt an ordinance allowing the boards of the proprietary departments, including the Harbor Department, to set the Executive Director's contracting authority within certain limits defined in the ordinance.
- B. By Ordinance No. 170313, as amended by Ordinance No. 173186, the Council has authorized proprietary boards to empower their Executive Directors to enter into contracts in amounts not to exceed One Hundred Fifty Thousand Dollars (\$150,000). These ordinances are codified in Los Angeles Administrative Code ("LAAC") Section 10.1.1.
- C. By Resolution No. 5921 adopted by the Board on September 29, 2000, the Board authorized the Executive Director to enter into new contracts in amounts not to exceed \$150,000 per contract.
- D. Prior to September 29, 2000, the Board has approved various construction contracts which set the Executive Director's change order authority at twenty-five percent (25%) of the contract amount provided that no one change order could exceed \$100,000 without Board approval.
- E. This resolution restates the Executive Director's contract authority in order to conform the Executive Director's change order authority to the same level as the Executive Director's authority for new contracts.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Harbor Commissioners does hereby authorize and empower the Executive Director of the Harbor Department to do all things necessary and proper to award contracts involving an expenditure of One Hundred Fifty Thousand Dollars (\$150,000) or less where funds have been appropriated upon the following conditions:

1. The total contract dollar amount awarded to any one person or entity in any 12-month period for any one project shall not exceed \$150,000 without further Board approval. As to change orders related to construction contracts awarded by the Board, the Executive Director shall have the authority to enter into contract change orders which do not cumulatively exceed twenty-five percent (25%)

of the contract amount so long as no individual change order exceeds \$150,000. This authority shall apply to all Board-approved construction contracts which are currently outstanding and all future contracts unless such future contracts otherwise provide.

2. The total contract period for contracts granted by the Executive Director to a contractor for any one project, including amendments, shall not exceed 12 months without Board approval.

BE IT FURTHER RESOLVED, that all prior resolutions related to the Executive Director's contracting authority are repealed.

I HEREBY CERTIFY that the foregoing Resolution was adopted by the Board of Harbor Commissioners of the City of Los Angeles at its meeting held APR 25 2001.

Rose M. Dworschak
AUDREY H. YAMAKI
for Board Secretary

APPROVED AS TO FORM

4/16, 2001
JAMES K. HAHN, City Attorney

By *R. Bender*
RAYMOND P. BENDER, Assistant

RPB:cp
4/16/01

ORDINANCE NO. 182594

An ordinance amending Subsection (c) of Section 10.1.1 of Article 1, Chapter 1 of Division 10 of the Los Angeles Administrative Code to allow the Board of Harbor Commissioners to authorize the General Manager of the Harbor Department to enter into multi-year contracts, up to three years, that would otherwise require approval by the Board of Harbor Commissioners.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Subsection (c) of Section 10.1.1 of Article 1, Chapter 1 of Division 10 of the Los Angeles Administrative Code is amended to read as follows:

(c) Notwithstanding the provisions of Subsection (a) of this Section, the Board of Harbor Commissioners and the Board of Airport Commissioners may authorize the respective General Managers of those Departments to enter into contracts on behalf of the Department that satisfy all of the following:

- (1) The contract is not for personal services; and
- (2) The contract does not obligate the City for a term of longer than three years including all extensions, renewals and amendments; and
- (3) The contract does not involve consideration reasonably valued in excess of One Hundred Fifty Thousand Dollars (\$150,000) annually.


The Harbor Department and the Department of Airports shall each submit a report quarterly to the Board of Harbor Commissioners and the Board of Airport Commissioners, respectively, identifying all contracts, including the dollar value involved in each contract, authorized by the General Manager of the Department pursuant to the provisions of this Subsection.

Three years after the effective date of this Subsection, January 22, 2012, the Harbor Department and the Department of Airports shall each submit a report to the Mayor and the City Council evaluating the effects and benefits of the authority granted by the provisions of this Subsection, and include a recommendation regarding whether to continue the provisions of this Subsection.

Sec. 2. The City Clerk shall certify to passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of JUN 19 2013.

JUNE LAGMAY, City Clerk

By  _____ Deputy

Approved JUN 25 2013 _____

 _____ Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By  _____

Date April 30, 2013 _____

File No. 13-0624 _____