

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

C.F. No. 13-1526-S1

Date: October 19, 2016

To: Honorable Mayor Eric Garcetti
Honorable City CouncilFrom: Ron Galperin, City Controller
Miguel A. Santana, City Administrative OfficerSubject: **REVISED CONTRACT LANGUAGE FOR BOND FINANCED PROJECTS**

The Controller's Office issued an audit on June 29, 2016 of the Proposition O Clean Water General Obligation (GO) Bond (Prop O) Program (C.F. 13-1526-S1). One of the audit findings noted the requirement to have full cash on hand at the time of contract execution as a practice that has led to an accumulation of large cash balances for projects and interest being paid on said funds.

Following the release of this audit, our offices have worked together to review policies for all bond financed projects in the City of Los Angeles. Both offices have concluded to develop new practices to ensure that large cash balances of unexpended bond proceeds do not accumulate over time, as noted in the audit. Specifically, our offices have reviewed the longstanding City policy that required the City to have enough cash on hand to pay for all obligations incurred via a contract, at the time of contract award and execution. The City Attorney has determined that there are no legal obstacles to amending this practice, for partial funding of such contracts providing the contracts acknowledge the need for further appropriation. The City Attorney has drafted a model contract provision (attached) which can be tailored and included into specific contracts, utilizing that tool as appropriate going forward. The CAO will also include this new interpretation in its annual bond training with City staff.

This language will allow for contracts to be awarded and executed without the need to have all cash on hand. For projects that are bond-funded, this means that the City will not have to issue all of the bonds required for the entire project at one-time. This change will greatly improve the cash flow management of projects. It will also ensure that large cash balances do not accumulate and that bond proceeds are expended in a timely manner. Finally, this shift in policy will be more cost effective, and more so reflect common business practices.

Our offices are available to answer any questions or provide additional information about this change.

Attachment

cc: All Departments

Attachment

Sample Contract language:

The City will pay the Contractor a total amount not to exceed _____ for the complete and satisfactory performance of the Contract. Of this total amount, _____ has been currently appropriated. The City is not obligated to pay Contractor any sum beyond what has been appropriated unless and until additional funds have been appropriated by City Council. The Contractor is not obligated to perform any work for which funds have not been appropriated.