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**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**FROM:** Department of Facilities Management

**SUBMITTAL DATE:**  
September 15, 2003

**SUBJECT:** Revision of Board Policy B-11, Award of Public Works Contracts Pertaining to County Facilities; and Resolution 2003-23, Delegation Authority to Order Emergency Action Pertaining to County Facilities under the California Public Contract Code

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the attached proposed revision of Board Policy B-11 and Award of Public Works Contracts Pertaining to County Facilities, attachment A.
2. Approve Resolution No. 2003-23, Delegation of Authority to Order Emergency Action Pertaining to County Facilities under the California Public Contract Code, attachment B.
3. Direct all County departments, agencies, special districts and authorities to comply with the revised Board Policy B-11.

**BACKGROUND:** On July 2, 2002, the Board directed staff to prepare a draft of the Board's Response to the Grand Jury's Report regarding the Riverside County Capital Improvement Program. On August 27, 2002, Minute Order 3.6 the Board approved the Executive Office response to the Grand Jury Finding No. 1, stating Board Policy B-11 was last updated in 1993, needed to conform to all the recent additions and changes in the Public Contract Code including the California Uniform Public Construction Cost Accounting (UPCCA) procedures authorized by

(Continued on Page 2)

MJS:DMP

*Michael J. Sylvester*  
MICHAEL J. SYLVESTER, Director  
Department of Facilities Management

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:
	Current F.Y. Net County Cost:	\$	Budget Adjustment:
	Annual Net County Cost:	\$	For Fiscal Year:

<b>SOURCE OF FUNDS:</b>	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**  
**APPROVE**

**County Executive Office Signature** *[Signature]*

FORM APPROVED  
COUNTY COUNSEL

SEP 30 2003  
BY *[Signature]*

Policy  
 Consent  
 Policy  
 Consent  
 Dept's Recomm.:  
 Per Exec. Ofc.:

Prev. Agn. Ref.: M.O. 3.6, 8/27/02 | District: All | Agenda Number:

3.23

BOARD OF SUPERVISORS

Form 11: Revision of Board Policy B-11, Award of Public Works Contracts Pertaining to County Facilities; and Resolution No. 2003-23, Delegation of Authority to Order Emergency Action Pertaining to County Facilities under the California Public Contract Code.

September 13, 2003

Page 2

**BACKGROUND (continued):**

Assembly Bill No. 1666, under the Public Contracts Code Section 22000, modification of the delegation of change order authority for contracts exceeding \$250,000 as described in California Public Contract Code Section 20142, and the inclusion of language that authorizes the Board, or its delegated County officer, to proceed at once to make necessary emergency repairs to any County facility without giving notice to bids in association with the Capital Improvement Program. This Form 11 recommends the attached revised Board Policy B-11 and Board Resolution No. 2003-23.

The recommended revised Board Policy B-11 incorporates the Grand Jury's recommendation and has the following new language:

- States the Public Works Contract cost requiring Board approval is \$100,000. The previous version stated \$10,000 or more.
- States the Director of Facilities Management is the authority to conduct all Public Works facility projects, under the direction of the Board, and in accordance with the State of California Public Contract Code and Board Policy.
- \* Updated the Change Order section to reflect the current values of up to \$250,000. The previous version was outdated and referred to values of 50,000 or less, \$50,000 to \$250,000.
- References new Board Resolution 2003-23, Delegation of Authority to Order Emergency Action Pertaining to County Facilities under the California Public Contract Code.

Board Resolution No. 2003-23, complies with Chapter 2.5, Emergency Contracting Procedures, of the California Public Contract Code. The Director of Facilities Management, a non-elected agency officer, will have the authority to order immediate emergency action to repair or replace a public facility, and the ability to procure the necessary equipment, services and supplies for those purposes, without giving notice for bids to let contracts by that emergency.

2 **RESOLUTION 2003-23**  
3 **DELEGATION OF AUTHORITY TO ORDER EMERGENCY-ACTION PERTAINING TO**  
4 **COUNTY FACILITIES UNDER THE CALIFORNIA PUBLIC CONTRACT CODE.**

5 WHEREAS, section 20134 and section 22035, of the California Public Contract Code  
6 authorize a public agency to proceed at once to replace or repair any public facility without  
7 adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let  
8 contracts. The work may be done by day labor under the direction of the governing body, by  
9 contractor, or by a combination of the two. In case of an emergency, if notice for bids to let  
10 contracts will not be given, the Board shall comply with Chapter 2.5, (commencing with Section  
11 2.5); and

12 WHEREAS, Chapter 2.5, Emergency Contracting Procedures, of the California Public  
13 Contract Code, commencing with Section 22050, authorizes a public agency, by a four-fifths  
14 vote of the governing body, may repair or replace a public facility, take any directly related and  
15 immediate action required by that emergency, and procure the necessary equipment, services  
16 and supplies for those purposes, without giving notice for bids to let contracts. Before the Board  
17 takes any action, it shall make a finding, based on substantial evidence set forth in the minutes  
18 of the meeting, that the emergency will not permit a delay resulting from a competitive  
19 solicitation for bids, and that the action is necessary to respond to the emergency.

20 WHEREAS, Chapter 2.5, of the California Public Contract Code, commencing with  
21 Section 22050, authorizes a public agency, by a four-fifths vote, may delegate by resolution or  
22 ordinance, to the appropriate county administrative officer, or other nonelected agency officer,  
23 the authority to order any action directly related and immediate action required by that  
24 emergency. If a person with delegated authority orders any action specified in Chapter 2.5, of  
25 the California Public Contract Code, that person shall report to the Board, at its next meeting, no  
later than 14 days after the action, the reason justifying why the emergency will not permit a

1 delay resulting from a competitive solicitation for bids and why the action is necessary to  
2 respond to the emergency. The Board will review the emergency action every 14 days  
3 thereafter, until the action is terminated, to determine, by a four-fifths vote, that there is a need  
4 to continue the action, unless the person with delegated authority has terminated that action  
5 prior to the Board of Supervisors reviewing the emergency action. When the Board reviews the  
6 emergency action, it shall terminate the action at the earliest possible date that conditions  
7 warrant so that the remainder of the emergency action may be completed by giving notice for  
8 bids to let contracts.

9           NOW, THEREFORE, BE IT RESOLVED, DETERMEINED AND ORDERED by the  
10 Board of Supervisors of the County of Riverside, State of California, in regular session  
11 assembled on October 7, 2003, that the Board does hereby delegate to the Director,  
12 Department of Facilities Management, authority for emergency repairs and replacement within  
13 County facilities without giving notice for bids to let contracts subject to the requirements and  
14 reporting procedures contained in Chapter 2.5 of the California Public Contract Code  
15 commencing with Section 22050.

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**COUNTY OF RIVERSIDE, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

<b>Subject:</b>	<b><u>Policy Number</u></b>	<b><u>Page</u></b>
<b>AWARD OF PUBLIC WORKS CONTRACTS PERTAINING TO COUNTY FACILITIES AND CERTAIN OTHER IMPROVEMENTS</b>	<b>B-11</b>	<b>1 of 5</b>

**Policy:**

This policy provides specific guidance for the approval and award of public facilities contracts and certain improvements or work under the purview of the Riverside County Board of Supervisors; and, vests the authority for its implementation with certain officers, departments, and bodies established by the Board. Public facilities projects, as herein defined, is work which involves the erection, construction, alteration, painting, repair or improvement of any county structure, building or facility. This policy applies to departments, agencies, districts and authorities that are governed by the Board of Supervisors unless specifically exempted by the Board. This policy is not intended for capital projects carried out in the normal course of business by the Riverside County Flood and Water Conservation District, Parks and Recreation District, Housing Authority, or the Redevelopment Agency. These agencies and districts must adhere to specific government statutes for their public works projects.

It is the intent of this policy to implement or otherwise to be consistent with provisions of the California Public Contract Code, Uniform Public Construction Cost Accounting Act (UPCCA) procedures, other applicable State Codes, and Ordinances, Resolutions or Policies of the County which may govern the approval of projects and contracts for erection, construction, alteration, repair or improvement of county structures, buildings, or facilities.

The Director of Facilities Management is an officer of the county reporting to the County Executive Officer. This position serves as the designated building official for County owned facilities and has the responsibility to support other County departments and agencies by administering the countywide facilities management program, which includes public facilities construction. A Capital Improvement Program (CIP) Team consisting of members from the Executive Office, Facilities Management, and the Economic Development Agency has been created to oversee the stewardship of the County's capital improvement plan (Board Policy B-22).

**I. Project Management**

The designated Project Manager is responsible for the management and oversight of all assigned capital facilities projects. The Project Manager will continuously maintain and make available for reporting and administrative review, a check-list to ensure that all critical tasks are accomplished during the life of a project. Among other things, this list will include the program document, EIR reports, life safety approvals, geological testing, special site requirements, various inspections, program verification, architect selection, ADA review, budget tracking, schedule verification, CIP reviews and approvals, and all construction related tasks. The Project Manager is responsible for making sure that all critical tasks related to the specific project have been identified and are tracked on the check-list throughout the duration of the project.

## II. Program Development

The success of a project is directly tied to the quality of the planning effort that is put forth at the beginning of the project. Therefore it is important that the Project Manager, working with the user department, develop a comprehensive program to identify why the project is needed and exactly how the new or remodeled facility will meet the needs of the user department(s). On smaller projects, this can be a simple one or two page document. On larger projects, this includes a comprehensive study of site constraints and impacts, site-related design guidelines, diagrammatic floor and stacking plans, space planning, a summary schedule and cost model. The programming phase should also include a funding strategy. No project can move forward into the design phase until the programming document is complete and signed off by the Director of Facilities Management and the user department(s).

## III. Design Phase

The next step in the important planning process is the design phase of the project. Careful consideration must be made in the selection of the architectural/engineering A/E consultant to ensure that the best qualified firm is selected for the project (Board Policy H-7). It is the responsibility of the A/E firm to follow the program objectives and to develop cost estimates at various stages of the design phase to ensure that the final design is consistent with the overall project budget. In addition, the A/E firm should be developing alternative solutions that meet the needs of the user department while conforming to the County's design guidelines. On all projects where the construction cost is estimated to exceed \$3,000,000, the Department of Facilities Management will engage the services of a qualified construction cost estimating consultant. The consultant will review the A/E design documents and develop an independent probable construction cost estimate. This estimate will be compared to the A/E estimate. If the two estimates are not in reasonable parity, the project shall not proceed to the next phase until the disparity is resolved.

## IV. Award of Contracts

- A. Public facilities projects of twenty-five thousand dollars (\$25,000) or less may be performed by Facilities Management employees or initiated by the Project Manager on a purchase order let by the County Purchasing Agent as set forth in Section 22032 of the California Public Contract Code.
- B. Public facilities projects of one hundred thousand dollars (\$100,000) or less may be let to contract on behalf of the Project Manager by the County Purchasing Agent following "informal bidding procedures" as set forth in Section 22034 of the California Public Contract Code. Contracts with construction costs of \$100,000 or less do not require specific Board approval. However, the following provisions do apply:
  - 1. The program, plans, specifications and project budget must be approved by the Director of Facilities Management.
  - 2. The project budget must include a contingency allowance equal to at least 5% but not more than 10% of the construction cost estimate.
  - 3. The plans must incorporate the County's Design Standards for materials and equipment.

C. Public facilities projects of more than one hundred thousand dollars (\$100,000) must be approved by the Board of Supervisors and will, except as otherwise provided in this policy, be let to contract utilizing "formal bidding procedures" as specified in Section 22036, et seq of the California Public Contract Code.

1. Where a public works project is to be performed, a notice inviting formal bids shall be mailed by the Clerk of the Board to all construction trade journals. The notice shall be published at least 14 calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in Riverside County. The notice will state the time and place for the receiving and opening of sealed bids and distinctly describe the capital facilities project. In addition to notice specified, the Clerk may also give such other notice as it is directed by the Board.
2. The plans and specifications for all projects must be presented to the Board of Supervisors prior to the initiation of the formal bidding process. Board approval of the plans, specifications and project budget will constitute authority for the Clerk of the Board to advertise for bids and for the Chairman to sign a construction contract with the successful low bidder, provided that the lowest bid from a responsible bidder is within the total approved project budget approved by the Board, and the bid is fully responsive to the bidding documents. All contract documents are to be approved as to form by County Counsel.
3. The project plans and specifications, approved by the Board will be made available for general public and bidder review.
4. All formal process bids are to be opened by the Clerk of the Board. If the low bid is within the total approved project budget, a contract with the low bidder, approved for form by County Counsel, will be submitted to the Chairman of the Board for signature on the County's behalf. However, the Director of Facilities Management must submit the contract via a Form 11 to the Board for action when:
  - The low bid exceeds the estimated construction cost thus causing the total project cost to exceed the total approved project budget.
  - There is a formal protest by an unsuccessful bidder(s).
  - The low bidder is disqualified.
  - If two or more bids are the same and the lowest.
  - Whenever a bidder requests relief from his/her bid due to an error.
  - Anytime the Chairman decides that further Board action is warranted.
5. If no bids are received through the formal procedure, the Director of Facilities Management is to report this outcome to the Board via a Form 11 and request authorization to have the project performed by employees of the County by force account, or to negotiate a contract consistent with the project budget without further bidding.
6. The Director of Facilities Management may submit to the Board of Supervisors recommendations for rejection of any capital project bids presented with a recommendation to either:

- Abandon the capital project or re-notice an invitation for bids in the manner described by this policy;
- Adopt a resolution (requiring a four-fifths vote of the Board), which declares that the project can be performed more economically by employees of the County, having the project carried out by force account.

## V. Changes and Additions

- A. Change orders are generally costly and require an inordinate amount of management effort. Therefore, it is the intent of this policy that change orders be held to a minimum and normally used to deal with unforeseen circumstances and constructability problems. Change orders are not normally to be used for elective changes that are not critical to function or costs.
- B. Whenever the Board enters into a contract for the erection, construction, alteration, or repair of any public building or other structure, the contract is not to be altered or changed in any manner except:
- By order adopted by two-thirds vote of the Board, and the consent of the contractor;
  - As provided for in the contract itself, or specifications; or
  - By adoption of an ordinance, resolution, or board order, authorizing the Director of Facilities Management, to order changes or additions in the work being performed under construction contracts.
- C. When so authorized by the Board, changes or additions in the work may be ordered in writing by the Director of Facilities Management (or designated party). Any changes or additions will be in accordance with written contract procedures for changed work and be an integral part of the contract work, which cannot be accomplished feasibly and economically by separate contract. Delegated change order authority to the Director of Facilities Management shall be in accordance with Public Contract Code 20142 as follows:
- Up to 10 percent of the amount of any original contract that does not exceed two hundred fifty thousand dollars (\$250,000).
  - For contracts whose original cost exceeds two hundred fifty thousand dollars (\$250,000), the extra cost for any change or addition to the work so ordered will not exceed: Twenty-five thousand dollars (\$25,000), plus 5 percent of the amount of the original contract cost in excess of two hundred fifty thousand dollars (\$250,000) to a maximum of \$150,000.

## VI. Emergency Action

In the case of an emergency (as defined by Public Contract Code Section 1102, "... [which] means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services"), the Board of Supervisors may by four-fifths vote (in accordance with Public Contract Code Section 2250) repair or replace a public facility, take any directly related

and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes. The Board by four-fifths vote may elect to delegate by resolution or ordinance, to an appropriate non-elected County officer, authority to order the preceding actions on its behalf.

Through Resolution No. 2003-23, the Board delegated to the Director of Facilities Management, authority for emergency repairs and replacement within the County facilities without giving notice for bids to let contracts subject to the requirements and reporting procedures described in Chapter 2.5 of the California Public Contract Code, commencing with Section 22050.

Reference:

- Minute Order 3.20 dated 9-3-85
- Minute Order 3.17 dated 5-2-89
- Minute Order 3.17 dated 9-11-90
- Minute Order 3.34 dated 5-12-92
- Minute Order 3.21 dated 4-6-93