

W.3.F.1.

AGENDA COVER MEMO

AGENDA DATE: May 7, 2008
Memorandum Date: April 18, 2008

TO: LANE COUNTY BOARD OF COMMISSIONERS

DEPARTMENT: LANE COUNTY OFFICE OF LEGAL COUNSEL

PRESENTED BY: H. Andrew Clark, Assistant County Counsel *[Signature]*

AGENDA ITEM TITLE: IN THE MATTER OF AMENDING CHAPTER 21 OF LANE MANUAL TO REVISE PROVISIONS PERTAINING TO COUNTY ADMINISTRATOR AUTHORITY TO EXECUTE CONTRACTS FOR CAPITAL IMPROVEMENT PROJECTS (LM 21.145(1)(k))

I. MOTION
I MOVE TO APPROVE CHANGES TO THE LANE MANUAL REGARDING THE PROVISIONS COVERING DELEGATION OF AUTHORITY TO EXECUTE CONTRACTS AND AMENDMENTS.

II. AGENDA ITEM SUMMARY

The Board is being asked to approve amendments to Chapter 21 of the Lane Manual to revise provisions that pertain to delegation of authority to the County Administrator to execute contracts and amendments.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History Each year, typically in May, the Board reviews for approval the following four public improvement project lists: (1) the Public Works five-year Capital Improvement Program list, (2) the Parks Capital Improvement Program priorities list, and (3) the Public Works and Management Services public improvement lists prepared for filing with the Commissioner of the Bureau of Labor and Industries (BOLI) pursuant to ORS 279C.305. As part of its orders approving the project lists, the Board has seen fit to delegate authority to the County Administrator to sign contracts implementing the various projects. The standard delegation language in these Board orders references Lane Manual (LM) 21.145. Upon review, it is apparent that the delegation language may not provide the full authority that was intended. The proposed Lane Manual amendment is intended to address this issue.

B. Policy Issues Efficient use of public funds, efficient contracting practices and compliance with state law are policy issues addressed with this amendment to the Lane Manual.

C. Board Goals The proposed amendment would carry out the intent to streamline the public improvement process and thereby furthers the County's goals of protecting public assets and providing efficient County administration.

D. Financial and/or Resource Considerations The amendment increases County efficiency and commensurate costs in its handling of public improvement projects.

E. Analysis My understanding is that the delegation contained in the orders approving the Capital Improvement Program lists and BOLI lists was intended to authorize the County Administrator to sign any contract that implemented a project identified on the 5-year CIP priorities list or on the 1-year BOLI list. The orders typically incorporate LM 21.145 as defining the extent of the delegation. The language of LM 21.145, however, may be inconsistent with the intended delegation.

An example of typical wording from a Board order approving a Public Works CIP priorities list reads:

“ORDERED, that the County Administrator be delegated authority as described in LM 21.145 to execute contracts and agreements for any projects as attached hereto in Attachment A and/or Attachment B.”

Attachments A and/or B describe five years worth of planned public capital improvement projects. The relevant portion of LM 21.145 referenced in the order provides:

“21.145 Delegation of Authority to Execute Contracts.

(1) The County Administrator is delegated authority to execute the following types of contracts:

* * *

(k) All contracts implementing projects listed on the public improvements project list adopted pursuant to ORS 279C.305, including those reflecting the County paid portion of the project, those reflecting any amount to be paid by other governmental agencies or housing development entities for assisted housing projects, and those covering environmental mitigation responsibility.”

Accordingly, the Board’s delegation to the County Administrator is tied to LM 21.145, which, in turn, is tied to ORS 279C.305. The project list identified in ORS 279C.305 is the BOLI list of public improvement projects the county intends to fund for the upcoming budget year only.¹ In effect, the delegation to the County Administrator is limited to contracts that implement projects on the 1-year BOLI list.

The purpose of the proposed Lane Manual amendment is to make it clear that the Board is delegating to the County Administrator the authority to execute all contracts that implement projects on either the 5-year CIP lists or the 1-year BOLI lists. The draft amendment to LM 21.145(1)(k) will achieve that objective.

¹ ORS 279C.305 provides, in relevant part, as follows:

(1) It is the policy of the State of Oregon that contracting agencies shall make every effort to construct public improvements at the least cost to the contracting agency.

(2) Not less than 30 days prior to adoption of the contracting agency’s budget for the subsequent budget period, each contracting agency shall prepare and file with the Commissioner of the Bureau of Labor and Industries a list of every public improvement known to the contracting agency that the contracting agency plans to fund in the budget period, identifying each improvement by name and estimating the total on-site construction costs.

F. Alternatives/Options The Board could choose to leave the language as it is or could choose to implement the revisions as recommended.

IV. TIMING/IMPLEMENTATION Effective immediately upon approval.

V. RECOMMENDATION I recommend the Board adopt the proposed changes.

VI. ATTACHMENTS Board Order with LM pages attached.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AMENDING CHAPTER 21 OF LANE
MANUAL TO REVISE PROVISIONS PERTAINING TO
COUNTY ADMINISTRATOR AUTHORITY TO EXECUTE
CONTRACTS FOR CAPITAL IMPROVEMENT PROJECTS
(LM 21.145(1)(k))

The Board of County Commissioners of Lane County orders as follows:

Lane Manual Chapter 21 is hereby amended by removing, substituting and adding the following section:

REMOVE THESE SECTIONS

21.145
as located on page 21-30
(a total of 1 page)

INSERT THESE SECTIONS

21.145
as located on page 21-30
(a total of 1 page)

Said section is attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to revise provisions pertaining to delegation of authority to the County Administrator to execute contracts and amendments (LM 21.145)

Adopted this _____ day of _____ 2008.

Chair, Lane County Board of Commissioners

APPROVED AS TO FORM

Date 4/29/08 Lane County

OFFICE OF LEGAL COUNSEL

**DELEGATION OF AUTHORITY TO EXECUTE CONTRACTS AND
AMENDMENTS**

21.145 Delegation of Authority to Execute Contracts.

(1) The County Administrator is delegated authority to execute the following types of contracts:

(a) All contracts which have been competitively bid and awarded by the Board.

(b) All contracts and agreements not exceeding \$100,000 nor three years in length.

(c) Subcontracts and subgrants not exceeding \$100,000 which implement grants.

(d) Amendments to contracts or modifications to grants, subgrants, and subcontracts as described in LM 21.147.

(e) All computer software licenses not exceeding a purchase price of \$100,000 with a potential term exceeding three years and which may be terminated upon discontinued use of software; and any accompanying computer maintenance agreements not exceeding \$100,000, if the vendor is a sole source.

(f) Insurance nonwaiver agreements and insurance endorsements to original policies.

(g) Land use improvement agreements, Building Program Quick Start Agreements and acceptance and release of land use performance bonds.

(h) Real property leases, licenses and permits, caretaker agreements involving the lease of property, and concessionaire agreements, not exceeding \$100,000 nor three years in length.

(i) Emergency contracts which do not exceed \$100,000, and which are executed within 60 days of the declaration of the emergency, except as provided in LM 20.255

(j) Contracts and assignments for the collection of County judgments.

(k) All contracts with terms of three years or less that implement public improvement projects described on the adopted Public Works five-year Capital Improvement Program list, the adopted Parks Capital Improvement Program priorities list, and the Public Works and Management Services public improvement lists prepared for filing with the Commissioner of the Bureau of Labor and Industries (BOLI) pursuant to ORS 279C.305. This delegation includes, without limitation, those contracts reflecting the County paid portion of the project, those reflecting any amount to be paid by other governmental agencies or housing development entities for assisted housing projects, and those covering environmental mitigation responsibility.

(l) All projects, services, materials/product purchases, contracts specifically listed as part of budget adoption order, or a supplemental budget adoption order.

(m) Any other type of contract the award of which has been expressly approved by the Board.

(2) The Department Directors are delegated authority to execute contracts, grant application, and acceptance documents equal to or less than \$5,000 and not exceeding 3 years in length, subject to compliance with any contract procedures established by the County Administrator. *(Revised by Order No. 98-12-2-4, Effective 12.2.98; 04-6-30-12, 6.30.04; 05-2-16-8, 2.28.05)*

DELEGATION OF AUTHORITY TO EXECUTE CONTRACTS AND AMENDMENTS

21.145 Delegation of Authority to Execute Contracts.

(1) The County Administrator is delegated authority to execute the following types of contracts:

(a) All contracts which have been competitively bid and awarded by the Board.

(b) All contracts and agreements not exceeding \$100,000 nor three years in length.

(c) Subcontracts and subgrants not exceeding \$100,000 which implement grants.

(d) Amendments to contracts or modifications to grants, subgrants, and subcontracts as described in LM 21.147.

(e) All computer software licenses not exceeding a purchase price of \$100,000 with a potential term exceeding three years and which may be terminated upon discontinued use of software; and any accompanying computer maintenance agreements not exceeding \$100,000, if the vendor is a sole source.

(f) Insurance nonwaiver agreements and insurance endorsements to original policies.

(g) Land use improvement agreements, Building Program Quick Start Agreements and acceptance and release of land use performance bonds.

(h) Real property leases, licenses and permits, caretaker agreements involving the lease of property, and concessionaire agreements, not exceeding \$100,000 nor three years in length.

(i) Emergency contracts which do not exceed \$100,000, and which are executed within 60 days of the declaration of the emergency, except as provided in LM 20.255

(j) Contracts and assignments for the collection of County judgments.

(k) All contracts with terms of three years or less that implement public improvement projects described on the adopted Public Works five-year Capital Improvement Program list, the adopted Parks Capital Improvement Program priorities list, and the Public Works and Management Services public improvement lists prepared for filing with the Commissioner of the Bureau of Labor and Industries (BOLI) pursuant to ORS 279C.305. This delegation includes, without limitation, those contracts reflecting the County paid portion of the project, those reflecting any amount to be paid by other governmental agencies or housing development entities for assisted housing projects, and those covering environmental mitigation responsibility.

~~All contracts implementing projects listed on the public improvements project list adopted pursuant to ORS 279C.305, including those reflecting the County paid portion of the project, those reflecting any amount to be paid by other governmental agencies or housing development entities for assisted housing projects, and those covering environmental mitigation responsibility.~~

(l) All projects, services, materials/product purchases, contracts specifically listed as part of budget adoption order, or a supplemental budget adoption order.

(m) Any other type of contract the award of which has been expressly approved by the Board.

At right margin indicates changes
Bold indicates material being added
~~Strikethrough~~ indicates material being deleted
21.145

**LEGISLATIVE
FORMAT**

Lane Manual

21.145

(2) The Department Directors are delegated authority to execute contracts, grant application, and acceptance documents equal to or less than \$5,000 and not exceeding 3 years in length, subject to compliance with any contract procedures established by the County Administrator. *(Revised by Order No. 98-12-2-4, Effective 12.2.98; 04-6-30-12, 6.30.04; 05-2-16-8, 2.28.05)*