
Date: March 17, 2020

Item Number: _____
Resolution Number: _____

☐ 4/5 Vote Required

**Concurrent Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California,
And The Boards Of Directors Of The Russian River County Sanitation District, Sonoma Valley County
Sanitation District, Occidental County Sanitation District, South Park County Sanitation District, and
Sonoma County Water Agency, Increasing The Delegated Change Order Authority Of Certain
Department Heads And The Sonoma County Water Agency General Manager Up To The Dollar Limits
Set Forth In The California Public Contract Code**

Whereas, by Resolution No. 04-0547, adopted on June 8, 2004, the Board of Supervisors, in a concurrent action with the Boards of Directors of the Sonoma County Water Agency ("Sonoma Water"), the Russian River County Sanitation District, the Sonoma Valley County Sanitation District, the Occidental County Sanitation District, and the South Park County Sanitation District (collectively referred to herein as the "Boards of Directors" and together with the Board of Supervisors as the "Boards"), authorized the County Administrator, the Director of Transportation and Public Works, the Director of General Services, the Director of Regional Parks, and Sonoma Water General Manager (on behalf of Sonoma Water and the above-listed sanitation districts managed by Sonoma Water) (collectively, the "Department Heads" and individually a "Department Head") to approve written change orders to construction contracts and amendments to construction-related professional services agreements approved by the Boards subject to the following limitations:

(a) the amount of the change order or amendment does not exceed \$5,000 for contracts up to \$50,000, 10% for contracts up to \$250,000, and \$25,000 plus 5% of the original contract amount for contracts over \$250,000, not to exceed a maximum amount of \$50,000;

(b) the Department Head makes findings that: (i) the change order or amendment does not affect the material character of the work; and (ii) the need for the change order or amendment results from unforeseen matters which are discovered after the contract was awarded and such modifications are necessary or advisable to complete the project in a timely and efficient manner; and

(c) there is a sufficient appropriation for the change order or amendment, and, for road construction projects, appropriations are defined as the budgeted project schedule included in the recap of Road Cost Centers; and

Whereas, due to inflation of construction costs for public works projects, the \$50,000 maximum limit for change orders and amendments is no longer adequate to meet the original intent of the Boards, which was to expedite the change order process in order to avoid costly construction delays, and to minimize the number and cost of routine agenda items; and

Whereas, California Public Contract Code Section 20142 allows the Board of Supervisors to

authorize officers of the County to order written changes or additions in the work being performed under construction contracts provided that the extra cost to the County for any change or addition to the work so ordered does not exceed \$5,000 when the total amount of the original contract does not exceed \$50,000, nor 10 percent of the amount of any original contract over \$50,000 and not exceeding \$250,000, and for contracts whose original cost exceeds \$250,000, the extra cost for any change or addition to the work so ordered does not exceed \$25,000, plus 5 percent of the amount of the original contract cost in excess of \$250,000, but not to exceed a maximum amount of \$210,000; and

Whereas, California Public Contract Code Section 20395(d) allows the Board of Supervisors to authorize the Director of Transportation and Public Works to order written changes or additions in contracts for work upon County highways provided that the extra cost to the County for any change or addition to the work so ordered does not exceed \$5,000 when the total amount of the original contract does not exceed \$50,000, nor 10 percent of the amount of any original contract over \$50,000 and not exceeding \$250,000, and for contracts whose original cost exceeds \$250,000, the extra cost for any change or addition to the work so ordered does not exceed \$25,000, plus 5 percent of the amount of the original contract cost in excess of \$250,000, but not to exceed a maximum amount of \$210,000; and

Whereas, California Public Contract Code Section 20405(d) allows the Board of Supervisors to authorize the Director of Transportation and Public Works to order written changes or additions in contracts for construction, maintenance and repair of a County bridge provided that the extra cost to the County for any change or addition to the work so ordered does not exceed \$5,000 when the total amount of the original contract does not exceed \$50,000, nor 10 percent of the amount of any original contract over \$50,000 and not exceeding \$250,000, and for contracts whose original cost exceeds \$250,000, the extra cost for any change or addition to the work so ordered does not exceed \$25,000, plus 5 percent of the amount of the original contract cost in excess of \$250,000, but not to exceed a maximum amount of \$210,000; and

Whereas, the Boards desire to increase the delegated authority of the Department Heads for individual written change orders and amendments to construction-related professional services up to the maximum amounts established under the California Public Contract Code, as such amounts may be adjusted by the State Legislature from time to time; and

Whereas, the Boards desire to authorize the Department Heads, and registered engineers under the supervision of the Department Heads, to exercise discretionary authority to approve modifications to plans, specifications and designs adopted by the Boards in connection with the written change orders and amendments authorized under this Resolution.

Now, Therefore, Be It Resolved that:

I. Authority to Order Written Changes to Certain Contracts.

1. The County Administrator, the Director of Transportation and Public Works, the Director of General Services, and the Director of Regional Parks are authorized to order individual written change orders on construction contracts approved by the Board of Supervisors up to the maximum amounts allowed under Section 20142 (or any successor statute) of the California Public Contract Code, as such amounts may be adjusted by the State Legislature from time to time.

2. The Sonoma Water General Manager or designee on behalf of Sonoma Water and the Russian River County Sanitation District, the Sonoma Valley County Sanitation District, the Occidental County Sanitation District, and the South Park County Sanitation District, is authorized to order individual written change orders on construction contracts approved by the Boards of Directors up to the dollar thresholds established under Section 20142 (or any successor statute) of the California Public Contract Code, as such amounts may be adjusted by the State Legislature from time to time.
 3. The Director of Transportation and Public Works is authorized to order individual written change orders on contracts approved by the Board of Supervisors for work upon a County highway up to the maximum amounts allowed under Section 20395(d) (or any successor statute) of the California Public Contract Code, as such amounts may be adjusted by the State Legislature from time to time.
 4. The Director of Transportation and Public Works is authorized to order individual written change orders on contracts approved by the Board of Supervisors for construction, maintenance and repair of a County bridge up to the maximum amounts allowed under Section 20405(d) (or any successor statute) of the California Public Contract Code, as such amounts may be adjusted by the State Legislature from time to time.
- II. **Authority to Execute Amendments to Certain Construction-Related Professional Services Agreements.** The Department Heads are authorized to execute amendments to construction-related professional services agreements (including but not limited to, design, engineering, and inspection services) up to the dollar thresholds established under Section 20142 (or any successor statute) of the California Public Contract Code, as such amounts may be adjusted by the State Legislature from time to time.
- III. **Authority to Exercise Discretion to Approve Modifications to Plans, Specifications and Designs.** The Department Heads, and registered engineers under the supervision of the Department Heads, are authorized to exercise discretionary authority to approve modifications to plans, specifications and designs adopted by the Boards in connection with the written change orders and amendments authorized under this Resolution. The intent of the Boards is that this delegation of authority be broadly interpreted for the purpose of establishing the discretionary approval element of a design immunity defense under Government Code Section 830.6 (or any successor statute).
- IV. **Limitations on Authorization to Order Changes and Amendments.** Prior to exercising the delegated authority set forth in this Resolution, the Department Head shall make findings that: (a) the change order or amendment does not affect the material character of the work; (b) the need for the change order or amendment results from unforeseen matters which are discovered after the contract was awarded and such modifications are necessary or advisable to complete the project in a timely and efficient manner; and (c) there is a sufficient appropriation for the change order or amendment.

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Be It Further Resolved that this Resolution supersedes Resolution No. 04-0547.

Supervisors / Directors:

Rabbitt:

Zane:

Gore:

Hopkins:

Gorin:

Ayes:

Noes:

Absent:

Abstain:

So Ordered.

Sonoma Valley County

Sanitation District Directors:

Gorin:

Hopkins:

Harvey:

Ayes:

Noes:

Absent:

Abstain:

So Ordered.